CALIFORNIA CODE OF REGULATIONS

TITLE 2. ADMINISTRATION

DIVISION 2. FINANCIAL OPERATIONS

CHAPTER 2.5. COMMISSION ON STATE MANDATES

Article 1. General

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

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

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

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

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

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

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

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

(5) Other parties may file comments on an appeal, which shall be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations.

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

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

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

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

§ 1181.2. Definitions.

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

(a) "Affected state agency" means a state department or agency that is responsible, in whole or in part, for implementation, enforcement, or administration of any statutes or executive orders that are the subject of a matter.

(b) "Amendment" of a test claim means the addition of new allegations based on new statutes or executive orders to an existing test claim. The addition or substitution of parties and supporting declarations based on the original statutes or executive orders alleged in an existing test claim is not an "amendment."

(c) "Claimant" means the local agency or school district filing a test claim or incorrect reduction claim. "Test claimant" means the local agency or school district filing a test claim.

(d) "Commission staff" means the executive director, legal counsel, or other Commission employee authorized by the Commission or the executive director to represent the Commission on a specific claim or request, or to receive filings at the Commission office.

(e) ~~"Completed" means that all general and specific requirements for a new filing have been satisfied by the claimant or requester.~~

~~(f)~~ "Filing date" means the date a filing is received at the Commission's office ~~during normal business hours by any of the methods~~ provided that it is found to not contain personal identifying information as described in section 1181.3 of these regulations. ~~"Normal business hours" means from 8 a.m. until 5 p.m. of each day from Monday to Friday, inclusive, other than state holidays, as provided by Government Code section 11020(a).~~

(f~~g~~) "Incorrect reduction claim" means a claim alleging that the Office of State Controller incorrectly reduced the reimbursement claim of a local agency or school district.

(g~~h~~) "Informational hearing" means any hearing designed to gather and assess information to assist the Commission in formulating policies, informing the public of Commission actions, or obtaining public comment and opinion.

(h~~i~~) "Interested party" means a local agency~~,~~ or school district~~, or state agency,~~ with subvention rights in the matter under article XIII B, section 6, of the California Constitution~~a beneficial interest in the matter~~.

(i~~j~~) "Interested person" means anyone ~~individual, local agency, school district, state agency, corporation, partnership, association, or other type of entity,~~ who ~~has an interest in a matter before the Commission, but~~ is not a party or interested party with respect to that matter.

(j) "Matter" means test claims, proposed parameters and guidelines, requests to amend parameters and guidelines, incorrect reduction claims, requests to approve a joint reasonable reimbursement methodology and statewide estimate of costs, joint requests for early termination of a joint reasonable reimbursement methodology, requests for

inclusion or removal from the State Mandates Apportionment System, requests for review of apportionment or base year entitlement for programs included in the State Mandates Apportionment System, requests for review of the Office of State Controller's claiming instructions, requests for mandate redetermination, and a legislatively determined mandate which are all subject to article 7 of these regulations.

(k) "New filing" means a test claim, incorrect reduction claim, request to amend parameters and guidelines, joint request for reasonable reimbursement methodology and statewide estimate of costs, request for review of claiming instructions, request for removal or inclusion of a program in the State Mandates Apportionment System, request for review of the apportionment or base year entitlement of a program in the State Mandates Apportionment System, request for mandate redetermination, or a legislatively determined mandate.

(*l*) "Party" includes a party's representative of record who is expressly authorized in writing to act on the party's behalf. A party's representative may be an individual, firm or organization. When a party authorizes a firm or organization to represent them in writing, any current member of the firm or organization may act on the party's behalf without requiring a separate authorization. Party means the following for each matter as specified below:

(1) "Party to a Test Claim" means the test claimant, the Department of Finance, and other affected state agencies.

(2) "Party to an Incorrect Reduction Claim" means the claimant and the Office of State Controller.

(3) "Party to a Request to Amend Parameters and Guidelines" means the requester, the Department of Finance, the Office of State Controller, affected state and local agencies, and affected school districts.

(4) "Party to a Joint Request for Reasonable Reimbursement Methodology" and "Party to a Jointly Proposed Request for Early Termination of Reasonable Reimbursement Methodology" means the test claimant and the Department of Finance.

(5) "Party to a Request for Review of Claiming Instructions" means the requester and the Office of State Controller.

(6) "Party to a Request for Removal or Inclusion in State Mandates Apportionment System" and "Party to a Request for Review of the Apportionment or Base Year Entitlement of a Program in the State Mandates Apportionment System" means the requester, the Department of Finance, and the Office of State Controller.

(7) "Party to a Request for Mandate Redetermination" means the requester, the Department of Finance, the Office of State Controller, affected state and local agencies, and affected school districts.

(m) ~~"Real Party in Interest" means any person or entity whose interest will be directly affected by the resolution of the matter.~~ "Requester" means the local agency, school district, or state agency filing a request to amend parameters and guidelines, joint request for reasonable reimbursement methodology and statewide estimate of costs, request for review of claiming instructions, request for removal or inclusion of a program

in the State Mandates Apportionment System, request for review of the apportionment or base year entitlement of a program in the State Mandates Apportionment System, request for mandate redetermination, or a legislatively determined mandate.

(n) "Rulemaking proceeding" means any hearing designed to adopt, amend, or repeal any rule, regulation, or standard of general application that implements, interprets, or makes specific any provision of Title 2, Division 4, Part 7, beginning with Government Code section 17500 or any other statute enforced or administered by the Commission.

(o) "Statewide cost estimate" means the approximate sum of money that local agencies or school districts may have incurred to implement a state-mandated program or any increased level of service of an existing mandated program. A statewide cost estimate prepared by a test claimant pursuant to Government Code section 17553(b)(1)(E) shall be an estimate of the first full fiscal year of actual or estimated costs based on the statutes and executive orders alleged in a test claim. In adopting a statewide cost estimate pursuant to Government Code section 17553(a), which shall be an estimate for the initial period of reimbursement to be reported to the Legislature, the Commission may consider the statewide cost estimate prepared by the test claimant, the initial reimbursement claim data, and other relevant information regarding potential mandated local costs, as applicable.

(p) "Statewide estimate of costs" is based on a joint reasonable reimbursement methodology proposed by a test claimant and the Department of Finance pursuant to Government Code section 17557.1, that is adopted by the Commission and reported to the Legislature pursuant to Government Code section 17557.2.

(q) "Subsequent change in law" pursuant to Government Code 17570 means a change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Government Code section 17514, or is not a cost mandated by the state pursuant to Government Code section 17556, or a change in mandates law. Amendments to article XIII B, section 6 of the California Constitution that were approved by the voters on November 2, 2004 and changes in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to Government Code section 17551(a) are not a "subsequent change in law."

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

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

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

Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code. Reference: Sections 11020(a), 11123, 17516-17521, 17527(c), 17529, 17530, 17531,

17551, 17553, 17555, 17557, 17557.1, 17557.2, 17558, 17558.5, 17558.7, 17558.8, 17559, 17561, 17561.5, 17570, 17572, 17573, 17600 and 17612, Government Code; *Redevelopment Agency v. Commission on State Mandates* (1996) 43 Cal.App.4th 1188; and *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802.

§ 1181.3. ~~Certification, Formatting,~~ Filing~~, and Service of~~ Written Materials and New Filings.

(a) Certification. Filers will certify compliance with subdivisions (b), (c), and (d) as part of electronic filing (or e-filing) with the Commission via the Commission's e-filing system, available on the Commission's website~~All new filings and written materials filed with the Commission shall be signed at the end of the document, under penalty of perjury, with the declaration that the filing is true and correct to the best of the declarant's personal knowledge, information, or belief. The date of signing, the declarant's title, address, telephone number, and email address, if applicable, shall be included~~.

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

(c) Signatures. Any document requiring a signature may be signed by any mechanism that does not result in a locked PDF. Commission forms shall be digitally signed, using the digital signature technology and authentication process contained within the Commission forms. The completed digital form shall not be converted to PDF and shall be e-filed separately from any accompanying documents.

(d) Formatting~~, Filing, and Service. New filings and written materials shall be filed as described in this subdivision~~.

(1) Formatting For All New Filings and Written Materials. ~~All new filings and written materials, except for supporting documents that were either not created by the party or were originally created by the party for a purpose other than providing evidence to the Commission,~~All documents created by the filer for the purpose of providing evidence to the Commission shall conform to all of the following accessibility~~document formatting~~ requirements.

(A) All text shall be written in a sans-serif font with a~~Arial font,~~ minimum 12-point font size. The use of Arial font is strongly encouraged.

(B) Color is strongly discouraged, and shall not be used as the sole means to emphasize or convey information. If color is used to emphasize or convey information, there shall be additional distinguishing marks, such as underlining or asterisks, to differentiate areas where color is used.

(C) Lists shall use an ordered or unordered formatting style such as bullet points, letters, or number~~sing, or an ordered list~~.

(D) Headings shall use heading styles to identify the headings' correct order of diminishing hierarchy.

(E) Hard returns shall not be used to break up lines of text. Instead, space between lines of text shall be made using paragraph spacing or the space after paragraph function.

(F) If columns are used, the columns shall be formatted using the word processing software's columns function.

(G) Tables shall use a simple table structure without split or merged cells, nested tables, or blank columns or rows. Rows shall not be broken across multiple pages. One table header row is allowed per table, which shall be repeated at the top of each page if the table spans multiple pages.

(H) Hyperlinks shall be named in a manner that is clear, concise and meaningful out of context. Bare URLs are not allowed, except as part of a formal citation to a web-based source.

(I) Images shall include alternative text that describes the image, unless the image has no informational value because it is purely decorative or the information it provides is redundant to the main body of text.

(2) Formatting For All E-Filed Documents~~E-Filing~~. ~~Except as provided in subdivision (c)(3) of this section, a~~All e-filed documents including new filings, ~~and~~ written materials, and ~~shall be electronically filed (or e-filed) with the Commission via the Commission's e-filing system, available on the Commission's website. S~~supporting documents that were not created by the filer~~party~~ or were created for a different purpose than to provide evidence to the Commission shall: ~~still be required to follow the formatting requirements found in subdivisions (c)(2)(B)(i)-(iii) of this section.~~

(A) be in unlocked PDF file format, to allow Commission staff to process the filing; and~~Any new filing required to be filed on a form prescribed by the Commission shall be digitally signed, using the digital signature technology and authentication process contained within the Commission forms. The completed digital form shall not be converted to PDF and shall be e-filed separately from any accompanying documents. Accompanying documents shall be e-filed together in accordance with the requirements of subdivisions (c)(2)(B) and (C) of this section.~~

(B) ~~Documents e-filed with the Commission. All e-filed documents, other than forms prescribed by the Commission, shall:~~

~~(i) be in unlocked PDF file format, to allow Commission staff to electronically date stamp the document and append additional pages for posting on the Commission's website with a proof of service for e-service by the Commission, in lieu of the filer serving the document to the entire mailing list for the matter; and~~

~~(ii) include a scanned copy of the signed signature page, rather than a digitally signed document. The scanned copy shall be in black and white (not gray scale or color).~~

~~(iii)~~ be in a legible and searchable format using a "true PDF" (i.e., documents digitally created in PDF, converted to PDF or printed to PDF) or optical character recognition (OCR) function, as necessary.

(e~~C~~) E-Filing Large Documents. E-filed documents larger than 500 megabytes shall be e-filed in multiple volumes and labeled as such (i.e., "Volume I, Volume II" etc.) and

shall, in that case, include a table of contents with electronic bookmarks which at minimum link to each document within the exhibits, and for documents created for the purpose of filing with the Commission also link to each heading, subheading, and component (including but not limited to the table of contents, declarations, exhibits, proof of service) of the document. ~~Filing of color documents is strongly discouraged. However, if a color image(s) is necessary for readability or comprehension, the color image(s) shall be e-filed in a separate and final volume of exhibits. Documents not available or obtainable in electronic form may be scanned and OCRed and e-filed in a separate volume, however it is prohibited to e-file scanned documents that are available or obtainable electronically. E-filed documents that must be scanned, shall be scanned in black and white (not gray scale or color).~~

(f) E-Filing. Except as provided in subdivision (j) of this section, all new filings and written materials shall be electronically filed (or e-filed) with the Commission via the Commission's e-filing system, available on the Commission's website.

(1~~D~~) The filer is responsible for maintaining the signed original new filing or written material for the duration of the process for the matter, including any period of appeal ~~(this may be an electronic document, depending on how the filer creates and maintains its records)~~.

(2~~E~~) An automated notice that the document was successfully sent is immediately available to the filer using the Commission's e-filing system and should be saved or printed for the filer's records.

(3) Commission staff shall also reply by e-mail confirming actual receipt of the legible, searchable document by the Commission within two business days of receipt. In the absence of a confirmation e-mail from Commission staff, it is the responsibility of the filer to obtain confirmation that the Commission actually received the filing.

(4) "Failure of e-filing" occurs when the filer receives notification, in any manner, of non-receipt of an e-filed document or of any other inability of Commission staff to access the document, including the failure to meet the requirements of subdivisions (b), (c), and (d) of this section.

(5~~F~~) ~~By using e-filing, the filer agrees, i~~In the event of failure of e-filing, the filer shall~~to~~ re-file the document no later than the business day after the business day on which notice of the failure of e-filing is received by the filer. The filer may re-file by any means authorized by these rules, in order to maintain the original filing date. ~~"Failure of e-filing" occurs when the filer receives notification, in any manner, of non-receipt of an e-filed document or of any other inability of Commission staff to access the document, including the failure to meet the requirements of subdivisions (c)(2)(B)(i)-(iii) of this section.~~

~~(G) Documents e-filed with the Commission are served by Commission staff to persons who have provided an e-mail address for the mailing list for the matter in accordance with section 1181.4 of these regulations. E-filed documents do not need to be served by the filer and proof of service does not need to be provided by the filer for persons who have provided an e-mail address for the mailing list in accordance with section 1181.4. Nothing in this regulation excuses a filer from serving hard copies of written material on~~

~~persons who appear on the mailing list and have not provided an e-mail address for the mailing list, or from providing a proof of service with the e-filing to the Commission for the service of the document on those persons.~~

(g) Time of Filing. New filings or written materials filed with the Commission before midnight are deemed filed on that business day. New filings or written materials filed with the Commission on a Saturday, Sunday, or state holiday, are deemed filed on the following business day.

(h) Review.

(1) All new filings and written materials filed with the Commission will be deemed received until reviewed for compliance with the ban against containing personal identifying information pursuant to subdivision (b) of this section. If personal identifying information is found in the filings or written materials, they will be rejected and no filing date will be assigned.

(2) All new filings and written materials filed with the Commission that have been found to comply with subdivision (b) of this section will be reviewed for compliance with subdivisions (c) and (d) of this section. If the filings or written materials do not comply, they will be deemed to be a failure of e-filing pursuant to subdivision (f)(4) and the filer may correct and refile pursuant to subdivision (f)(5) of this section.

(3) All new filings filed with the Commission that have been found to comply with subdivisions (c) and (d) of this section, will be reviewed for completeness pursuant to these regulations. Any filing deemed incomplete will be returned to the filer who may correct and refile within 30 calendar days to retain the original filing date.

(4) Commission staff will issue its notice of complete filing to the filer for all new filings that have been found to comply with subdivisions (b), (c) and (d) and which have been found to be complete.

(i) Service.

(1~~H~~) Upon ~~confirmation of actual receipt~~review of the e-filed document pursuant to subdivision (h) of this section, Commission staff shall serve~~notify~~ all persons who have provided an e-mail address for~~on~~ the mailing list for the matter in accordance with section 1181.4 of these regulations~~that written material may be viewed on the Commission's website~~.

(2) For all ~~"~~new filings~~"~~ as defined by section 1181.2(k) of these regulations, Commission staff shall notify all persons on the mailing list, prepared pursuant to section 1181.4 of these regulations, of the availability of those filings on the Commission's website when Commission staff issues its notice of complete filing to the filer.

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

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

(j~~3~~) Hard Copy Filing and Service in Cases of Undue Hardship or Significant Prejudice.

If e-filing legible and searchable PDF documents, as described in subdivision (dc)(2) of this section, would cause the filer undue hardship or significant prejudice, filing may occur as provided below: by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director.

(1) Request. The filer shall request permission from the executive director to hard copy file and include a description of the undue hardship or significant prejudice e-filing would cause the filer.

(2A) Filing. If the executive director authorizes hard copy filing, the filer shall file the unbound original document with the Commission by first class mail, overnight delivery, or personal service, the filer shall file the unbound original document with the Commission.

(3B) Service. All hard copy filings will be served by Commission staff in accordance with subsection (i) of this section If written materials are filed in hard copy, the filing shall simultaneously be served on everyone on the mailing list using the same method used for the filing. Unless otherwise provided in this section, a proof of service shall be included with any written material filed with the Commission. Proof of personal service requires a declaration of the messenger of the time and place that the written material was served. Service is not required for new filings because mailing lists for matters are only prepared, pursuant to section 1181.4 of these regulations, after a new filing is deemed complete. Completed new filings will be served on the mailing list by Commission staff with the Notice of Complete Filing.

(4) Time of Filing. New filings or written materials filed with the Commission no later than 5 p.m. on a business day (i.e., Monday through Friday, except state holidays) are deemed filed on that business day. New filings or written materials filed with the Commission after 5 p.m. on a business day, or on a Saturday, Sunday, or state holiday, are deemed filed on the following business day.

Note: Authority cited: Sections 16.5, 17527(g), 17553(a), 17570(d) and 11104.5, Government Code. Reference: Sections 1633.1 et seq., and 1798 et seq., Civil Code; and Sections 7405, 11020(a), 17530, 17551, 17557(d), 17558.7, 17570, 17573(b), 17574(c) and 17573(g), Government Code.

§ 1181.4. Mailing Lists and Numbering of Matters.

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

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

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

(1) Test Claim (TC)

(2) Incorrect Reduction Claim (I)

(3) Request to Amend Parameters and Guidelines (PGA)

(4) Joint Request for Reasonable Reimbursement Methodology and Statewide Estimate of Costs (RRM)

(5) Request for Review of Claiming Instructions (RCI)

(6) Request for Removal, Inclusion, or Review of the Apportionment or Base Year Entitlement of a Program in State Mandates Apportionment System (SMAS)

(7) Legislatively Determined Mandate (LDM)

(8) Request for Mandate Redetermination (MR)

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

§ 1181.6. Development and Approval of Commission Forms.

(a) In consultation with anyone who expresses an interest in the Commission's process~~interested parties~~ and in accordance with applicable law and these regulations, the executive director shall develop the test claim form, incorrect reduction claim form, mandate redetermination form, and other forms, to simplify and improve the efficiency of the Commission's processes.

(b) The executive director shall conduct at least one workshop with anyone who expresses an interest in the Commission's process~~interested parties~~, Department of Finance, Office of the State Controller, and other affected state agencies~~, and interested persons~~ before approval of a form.

(c) Upon development of a new form, the executive director shall notice all persons on the mailing list prepared in accordance with section 1181.4 of these regulations~~notify claimants, interested parties, affected state agencies, and interested persons,~~ and shall disseminate copies at least 10 days before the operative date of a form.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17530, 17553, 17558.7(c), 17558.7(e) and 17570(d)(1), Government Code.

§ 1181.8. Commission Meeting Quorum and Voting Requirements.

(a) A majority of the existing membership of the Commission shall constitute a quorum.

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

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

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

(2) For a ~~"~~matter~~" as defined by 1187.1~~:

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

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

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

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

(a) Time and distribution. Notices and agendas of meetings shall be provided~~given~~ to all members, to all parties ~~and interested parties~~ to proceedings on the agenda, and to all persons on the mailing list prepared in accordance with section 1181.4 of these regulations~~who request them in writing~~. The notice and agenda shall be provided~~issued~~ and posted on the Commission's website no less than 10 days prior to the scheduled meeting.

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

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

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

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

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

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

§ 1181.10. Commission Meeting Procedures.

(a) Presiding Member. The chairperson shall preside over all meetings of the Commission when present. In the chairperson's absence, the vice chairperson shall preside. If neither the chairperson nor the vice chairperson is in attendance, the member present who has the greatest seniority on the Commission shall preside. The presiding member may yield the chair.

(b) Public Comments.

(1) Comments in Writing. Any person may submit comments in writing on any agenda item by ~~certifying, filing, and serving~~ them in accordance with 1181.3 of these regulations. ~~To be included as a part of the administrative record for the matter, comments must be provided to the Commission members and be made available for public review either before or at the Commission hearing on the matter.~~

(A) Comments filed~~received~~ at least 15 days in advance of the meeting shall be included in the Commission's meeting binders, a copy of which is available for public viewing at the Commission meeting.

(B) Comments filed~~received~~ more than five days in advance of the meeting shall be included in the Commission's meeting binders, if feasible, or shall be provided to the Commission when the item is called, unless otherwise agreed to by the Commission or the executive director.

(C) For written comments filed~~received~~ less than five days in advance of the meeting, ~~the commenter shall provide 12 copies to Commission staff at the in-person meeting. In the case of participation via teleconference,~~ a PDF copy shall be ~~filed via~~ electronically filed (or e-filed) with the Commission via the Commission's e-filing system, available on the Commission's website, ~~the Commission's dropbox~~ at least 24 hours prior to the meeting. Commission staff shall provide copies of the comments to the Commission and shall place a copy on a table for public review when the item is called or, in the case of participation via teleconference, shall provide an electronic copy to the Commission and post a copy on the Commission's website, and may share the document with the Commission and the public using the "share ~~screen~~" function.

(2) Oral Comments. Any person present and so desiring shall be given an opportunity to make oral comments on any agenda item, provided, however, that the presiding member may limit or preclude comments as necessary for the orderly conduct of business.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 11125.7, 17525 and 17526-17528, Government Code.

§ 1181.13. Commission Meeting by Teleconference.

The Commission may hold an open or closed meeting by teleconference ~~if it is difficult or impossible for the Commission to achieve a quorum. A meeting held by teleconference shall comply~~in compliance with the Bagley-Keene Open Meeting Act~~, including the requirements to provide notice of the teleconference locations and make them open to the public~~.

~~The Commission may also hold an open or closed meeting by teleconference under alternative provisions of the Act, with some members participating remotely from remote locations (which are not disclosable or open to the public) while a quorum of its members are physically present at the same teleconference location.~~

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 11123, 11123.2, 17526, 17527(b) and 17527(c), Government Code.

Article 3. Test Claims

§ 1183.1. Test Claim Filing.

(a) In order to obtain a mandate determination, a local agency or school district shall file a test claim with the Commission pursuant to Government Code sections 17551 and 17553 as follows:

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

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

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

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

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

(b) Claimants may agree to file a test claim as a joint effort if the claimants attest to all of the following in the test claim filing:

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

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

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

(c) ~~Otherwise, t~~The first claim filed on a statute or executive order by a ~~similarly situated~~ claimant is the test claim and no duplicate test claims will be accepted by the Commission. ~~Other similarly situated affected agencies may participate in the process by filing comments in writing on any agenda item as provided in section 1181.10 of these regulations, and may attend any Commission hearing on the test claim and provide written or oral comments to the Commission.~~ Interested parties whose~~Affected agencies that are not similarly situated, meaning~~ subvention rights under article XIIIB, section 6, of the California Constitution are not protected by the test claim filing~~that test claim statutes affect them differently~~, may file a test claim on the same statute or executive order as the first claim, but shall~~must~~ demonstrate in their filing how and why their subvention rights are not protected by the first test claim~~they are affected differently~~.

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

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

(fe) A test claim, or test claim amendment thereto, and accompanying documents shall be signed at the end of the document, under penalty of perjury by the claimant or its authorized representative, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge, information, or belief. The date of signing, the declarant's title, address, telephone number, facsimile machine telephone number, and electronic mail address shall be included. A test claim, or test claim amendment, shall be certified, filed, and served in accordance with section 1181.3 of these regulations. All representations of fact shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(gf) Within 10 days of receipt of a test claim, or amendment thereto, Commission staff shall notify the claimant if the test claim is complete or incomplete. Test claims will be considered incomplete if any of the requirements of Government Code section 17553 or this section are illegible, not included, or are not met. If a complete test claim is not received within 30 calendar days from the date the incomplete test claim was returned, the executive director may disallow the original test claim filing date. A and a new test claim may be accepted on the same statute or executive order alleged to impose a reimbursable state-mandated program.

(hg) Any test claim, or portion of a test claim, that the Commission lacks jurisdiction to hear for any reason, including that the test claim was not filed within the period of limitation required by subdivision (c) of this section, may be rejected or dismissed by the executive director with a written notice stating the reason therefor. However, for an otherwise timely and complete test claim over which the Commission would have jurisdiction, except that it was filed by a local agency that is not eligible to seek reimbursement because it is not subject to the taxing and spending limitations of articles XIII A and B of the California Constitution, the Commission shall follow the process outlined in section 1187.14(b).

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

§ 1183.2. Review of Test Claim.

(a) Within 10 days of receipt of a completed test claim, or amendment thereto, Commission staff shall servemake a copy of the test claim or amendment available to

~~those named~~ to all persons on the mailing list prepared in accordance with section 1181.4 of these regulations and shall post it on the Commission's web-site.

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

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

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

(2) A copy of relevant portions of any documents not readily available online~~state constitutional provisions, federal statutes, and executive orders, and a copy of administrative decisions and court decisions that may impact the alleged mandate, unless the authorities are also cited in the test claim~~. The specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers shall be identified. ~~Published court decisions arising from state mandate determinations by the Board of Control and the Commission on State Mandates, article XIII B, section 6 of the California Constitution, and Government Code sections 17500 et seq., are exempt from the requirements of this subdivision.~~

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

§ 1183.3. ~~Claimant's~~ Rebuttal.

(a) Written rebuttals to ~~written~~ comments ~~concerning~~filed on a test claim, may be filed by parties or interested parties~~, and shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations within 30 days of service of the written comments.

(b) Content and Form.

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

(2) Include a copy of relevant portions of any documents not readily available online ~~state constitutional provisions, federal statutes, and executive orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal, unless the authorities are also cited in the test claim or any opposition thereto. Published court decisions arising from state mandate determinations by the Board of Control and the Commission on State Mandates, article XIII B, section 6 of the California Constitution, and Government Code sections 17500 et seq., are exempt from the requirement to include a copy~~. The specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of ~~the~~all authorities relied upon shall be identified ~~in the written rebuttal~~.

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

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

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

(a) Any motion to consolidate or to sever shall be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If written representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(b) Within 30 days after receipt of a motion to consolidate or sever, the executive director will grant or deny the motion with a written notice stating the reason therefor and will make any necessary changes to the names or numbering of the affected test claims~~may consolidate or sever any test claim~~.

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

§ 1183.5. Executive Director's Authority to Consolidate or Sever Test Claims.

(a) The executive director may consolidate part or all of any test claim with another test claim or sever a test claim, if necessary to ensure the complete, fair, or timely consideration of any test claim.

(b) At least 10 days before the action is taken, the executive director shall simultaneously serve on the parties and all persons~~interested parties~~ on the mailing list described in section 1181.4 of these regulations, and post on the Commission's website, a notice of any proposed action to consolidate or sever.

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

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

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

~~(b)~~ At least eight weeks before the hearing, or at a time required by the executive director or stipulated to by the parties, Commission staff shall prepare a draft proposed decision and ~~distribute it to the parties, interested parties, and~~serve it on all persons~~those~~ on the mailing list described in section 1181.4 of these regulations, and shall post it on the Commission's website.

(bc) Anyone may file written comments concerning the draft proposed decision. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations. Written comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations, by the date determined and noticed by the executive director, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision for the test claim.

(c) Before the hearing on the test claim, Commission staff shall prepare a proposed decision, which shall include a review of the entire record. The proposed decision shall describe and analyze the test claim to assist the Commission in determining whether the alleged statutes or executive orders contain a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution.

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

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

§ 1183.7. Content of Parameters and Guidelines.

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

(a) Summary of the Mandate. A summary of the Commission's findings and identification of reimbursable state mandated activitiesmandate identifying the statutes or executive orders that contain the mandate and the increased level of service and activities found to be required under those statutes or executive orders.

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

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

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

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

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

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

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

(1) Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate~~Dedicated state and federal funds appropriated for this program~~.

(2) Any reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes~~Non-local agency funds dedicated for this program~~.

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

~~(4) Service charge, fee, or assessment authority to offset part of the costs of this program.~~

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

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

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

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

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

§ 1183.8. Filing and Review of Proposed Parameters and Guidelines; Filing of Comments.

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

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

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

(d) Commission staff shall notify all persons on the mailing list~~recipients~~ that they shall have the opportunity to file written comments concerning the proposed parameters and guidelines within 15 days of service.

(e) Written comments shall be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(f) Within 15 days of service of the comments, anyone~~parties, interested parties, and interested persons~~ may file written rebuttals with the Commission~~. Rebuttals shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

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

§ 1183.9. Expedited Process for Proposed Parameters and Guidelines.

(a) After adoption of a decision on a test claim, but before claimant files proposed parameters and guidelines, Commission staff may expedite the parameters and guidelines process by preparing and issuing draft expedited parameters and guidelines to assist the claimant. The draft expedited parameters and guidelines shall be served to

all personseveryone on the mailing list described in section 1181.4 of these regulations, and shall be posted on the Commission's website.

In lieu of filing an original proposal pursuant to Government Code section 17557(a), the successful test claimant may file comments on the draft expedited parameters and guidelines with the Commission which may include proposed modifications. Such comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(b) AnyoneParties, interested parties, and interested persons may file comments on the draft expedited parameters and guidelines within 21 days of service of Commission staff's draft proposal. Such comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(c) Within 15 days of service of the comments filed pursuant to subdivision (b) of this section, anyoneparties, interested parties, and interested persons may file and serve rebuttals. Such rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

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

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

§ 1183.10. Reasonable Reimbursement Methodology.

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

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

(1) "Costs to implement the mandate in a cost-efficient manner" include only those costs for the activities that were determined to be reimbursable by the Commission in the decision on the test claim, and the costs of reasonably necessary activities to comply with the mandate pursuant to section 1183.7(d) of these regulations.

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

(c) An interested party may file cost information or other cost projections that can be the basis of a reasonable reimbursement methodology, and letters in support of a draft reasonable reimbursement methodology proposed pursuant to Government Code section 17557.1. Such information shall be ~~certified, filed and served~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. All representations of fact shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

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

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

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

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

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

(d) The test claimant and Department of Finance shall ~~certify, file, and serve~~ any filings made pursuant to Government Code section 17557.1 in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

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

(f) Written comments shall be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(g) Within seven days of service of the written comments, the test claimant and Department of Finance may file written rebuttals ~~which shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

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

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

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

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

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

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

(d) Proposed reasonable reimbursement methodologies and comments regarding those proposals shall be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(e) Within 15 days of service of the written comments prepared by other parties and interested parties, the party that proposed the reasonable reimbursement methodology may file a written rebuttal ~~with the Commission, and shall certify, file, and serve the rebuttal~~ in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

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

§ 1183.13. Adoption of Parameters and Guidelines.

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

(b) Written comments on the draft proposed decision and parameters and guidelines shall be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations, by the date noticed by the executive director, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations. ~~All written comments timely filed shall be reviewed by~~

~~Commission staff and may be incorporated into the proposed decision and parameters and guidelines.~~

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

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

(d~~e~~) Within 10 days after the adoption of the decision and parameters and guidelines, the executive director shall issue it to the Office of the State Controller and to all person~~everyone~~ on the mailing list described in section 1181.4 of these regulations, and shall post a copy on the Commission's website.

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

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

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

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

(c) Written comments shall be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(d) Within seven days of service of the written comments, the test claimant and Department of Finance may file written rebuttals ~~which shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(e) At least 10 days prior to the next hearing, Commission staff shall review comments and issue a recommendation on whether the Commission should approve the joint

request for early termination of a reasonable reimbursement methodology pursuant to Government Code section 17557.2(e).

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

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

§ 1183.16. Expiration of a Joint Reasonable Reimbursement Methodology.

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

(1) Jointly propose amendments to the reasonable reimbursement methodology by filing: (A) the draft reasonable reimbursement methodology, (B) a description of the steps the test claimant and the Department of Finance undertook to determine the level of support by local agencies or school districts for the draft reasonable reimbursement methodology, (C) an agreement that the reasonable reimbursement methodology developed and approved under Government Code section 17557.2 shall be in effect for a period of five years unless a different term is approved by the Commission, and (D) an estimate of the mandate's annual cost for the subsequent budget year.

(2) Jointly propose that the reasonable reimbursement methodology remain in effect.

(3) Allow the joint reasonable reimbursement methodology to expire and notify the Commission that the test claimant will file proposed parameters and guidelines to the Commission pursuant to Government Code section 17557(a) and section 1183.8 of these regulations or request that Commission staff prepare expedited parameters and guidelines pursuant to section 1183.9 of these regulations to replace the joint reasonable reimbursement methodology.

(b) Copies of the proposals filed under subdivision (a) shall be filed and served in accordance with section 1181.3 of these regulations.

(c) The test claimant and the Department of Finance may jointly propose amendments to the joint reasonable reimbursement methodology or the continuation of a joint reasonable reimbursement methodology by filing a request made pursuant to Government Code section 17557.2(f), which shall be certified, filed, and served in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made,

they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(d) Commission staff shall notify all personseveryone on the mailing list described in section 1181.4 of these regulations that they shall have the opportunity to file written comments on the jointly proposed amendments or request for continuation of the joint reasonable reimbursement methodology within 30 days of service, and shall post a copy of the notice on the Commission's website.

(e) Written comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(f) Within 15 days of service of the written comments filed by other parties and interested parties, the test claimant and Department of Finance may file written rebuttals which shall be certified, filed, and served in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(g) At least 10 days prior to the next hearing, Commission staff shall review the comments and issue a recommendation on whether the Commission should approve the jointly proposed amendments or the continuation of a joint reasonable reimbursement methodology pursuant to Government Code section 17557.2(g).

(h) Within 10 days of the adoption of the jointly proposed amendment or continuation of a joint reasonable reimbursement methodology, the executive director shall issue the decision to the Office of the State Controller and to all personseveryone on the mailing list described in section 1181.4 of these regulations, and shall post it on the Commission's website.

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

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

§ 1183.17. Amendments to Parameters and Guidelines.

(a) All requests pursuant to Government Code section 17557 to amend parameters and guidelines shall include the proposed language for the specific sections of the existing

parameters and guidelines that are to be changed, and include a narrative explaining why the amendment is required.

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

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

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

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

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

(5) Add new reimbursable activities that are reasonably necessary for the performance of the original state-mandated program pursuant to section 1183.7(d) of these regulations.

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

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

(8) Amend the "boilerplate" language.

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

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

(d) A claimant or state agency requesting an amendment to existing parameters and guidelines shall ~~certify,~~ file~~, and serve~~ the request in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(e) Within 10 days of receipt of a request to amend parameters and guidelines, Commission staff shall issue a copy to all persons~~those who are~~ on the mailing list

described in section 1181.4 of these regulations, and shall post the request on the Commission's website.

(f) Commission staff shall notify all personsthose who are on the mailing list described in section 1181.4 of these regulations that they shall have the opportunity to file written comments concerning the proposed amendment of the parameters and guidelines within 21 days of service, and shall post a copy of the notice on the Commission's website.

(g) Anyone may file wWritten comments on the request to amend the parameters and guidelines shall be certified, filed, and served in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(h) Parties and interested parties may file wWritten rebuttals to the comments may be filed within 21 days of service of the comments. Written rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(i) After review of the entire recordproposed amendment to the parameters and guidelines, written comments, and rebuttals filed, Commission staff shall prepare and issue for comment a draft proposed decision recommending whether the requester's proposed amendment to the parameters and guidelines should be adopted.

(j) Written comments on the draft proposed decision and recommendation on the proposed amendment to the parameters and guidelines shall be certified, filed, and served in accordance with section 1181.3 of these regulations, by the date noticed by the executive director, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision and recommendation on the proposed amendment to the parameters and guidelines.

(k) It is the Commission's policy to discourage the introduction of late comments, exhibits, or other evidence filed after the three-week comment period described in subdivision (j) of this section. The Commission need not rely on, and staff need not

~~respond to, late comments, exhibits, or other evidence filed in response to a draft proposed decision after the comment period expires.~~

~~(f)~~ An amendment shall be made only after the Commission has conducted a hearing in accordance with article 7 of these regulations.

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

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

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

(a) Upon request of a local agency or school district, the Commission shall review claiming instructions issued by the Office of State Controller.

(b) A request to review claiming instructions shall include the following:

(1) A copy of the disputed claiming instructions issued by the Office of the State Controller pursuant to Government Code section 17558(b).

(2) If available, correspondence or other documentation that verifies the local agency or school district sought to resolve the dispute through the Office of State Controller.

(3) A narrative that details the suggested changes and the reasons why the local agency or school district finds the claiming instructions need to be modified to conform to the parameters and guidelines in accordance with Government Code section 17571.

(4) The name, address, telephone number, and e-mail address of the agency contact person.

(c) An original request to review claiming instructions shall be ~~certified,~~ filed~~, and served~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(d) Within 10 days of receipt of a request to review claiming instructions, Commission staff shall notify the local agency or school district that filed the request if the filing is complete or incomplete. A request to review the claiming instructions shall be considered incomplete if any of the elements required in subdivision (b) or (c) of this section are illegible or not included. Incomplete requests shall be returned to the local agency or school district. If a complete request is not received by the Commission within 30 days from the date the incomplete request was returned, the executive director may deem the request withdrawn.

(e) Within 10 days of receipt of a complete request to review claiming instructions, Commission staff shall issue a copy to all persons ~~who are~~ on the mailing list described in section 1181.4 of these regulations. Commission staff shall provide notice that written comments concerning the request to review claiming instructions may be filed within 30

days of service of the notice of complete filing. A copy of the notice shall also be posted on the Commission's website.

(f) Anyone may file written comments on the request~~Written comments shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(g) Within 30 days of service of the written comments, parties or interested parties~~the requester~~ may file a written rebuttal ~~to the Commission which shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(h) Before hearing a request to review claiming instructions, Commission staff shall prepare a draft proposed decision that shall include a review of the entire record~~request and any comments filed~~, and a staff recommendation on whether the request should be approved or denied.

(i) Anyone~~The requester and any state agency, or interested party~~ may file written comments on the draft proposed decision~~. Written comments shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, by the date determined and noticed by the executive director, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. ~~All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision on the request to review and modify the claiming instructions.~~

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

~~(k)~~ The Commission shall conduct a hearing in accordance with article 7 of these regulations on the request to review claiming instructions.

(k~~l~~) If the Commission determines that the claiming instructions need to be modified, the Commission shall direct the Office of State Controller to modify the claiming instructions to conform to the parameters and guidelines.

(~~l~~m) An approved change to the claiming instructions shall be subject to the following schedule:

(1) A request for review filed before the deadline for initial claims as specified in the claiming instructions shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines.

(2) A request for review filed after the initial claiming deadline shall~~must~~ be filed on or before the annual reimbursement claim filing deadline set out in Government Code section 17560 following a fiscal year to establish eligibility for reimbursement for that fiscal year.

(m~~n~~) A request to review claiming instructions may be withdrawn by written application to the executive director any time before a decision is adopted or by oral application at the time of hearing. The requester~~s~~ shall file ~~and serve~~ the written application in accordance with section 1181.3 of these regulations. Commission staff shall post a copy of the notice on the Commission's website for 60 days prior to dismissal of the request to review claiming instructions. If no other local agency or school district takes over the request to review claiming instructions by substitution of parties within 60 days of service and posting of the application to withdraw, the executive director shall issue a letter to all persons~~everyone~~ on the mailing list described in section 1181.4 of these regulations dismissing the request to review claiming instructions and shall post the letter on the Commission's website.

Note: Authority cited: Sections 17527(g) and 17527(h), Government Code. Reference: Sections 17530, 17558(b), 17560 and 17571, Government Code.

Article 5. Incorrect Reduction Claims

§ 1185.1. Incorrect Reduction Claim Filing.

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

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

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

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

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

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

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

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

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

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

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

(1) A copy of the Office of State Controller's claiming instructions that were in effect during the fiscal years of the reimbursement claims.

(2) A written detailed narrative that describes the alleged incorrect reductions. The narrative shall include a comprehensive description of the reduced or disallowed areas of costs and identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon.

(3) All representations of fact shall be supported by testimonial or documentary evidence in accordance with section 1187.5 of these regulations.

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

(5) A copy of the subject reimbursement claims the claimant submitted to the Office of State Controller.

(g) An incorrect reduction claim, or amendment thereto, and any accompanying documents, shall be ~~certified,~~ filed~~, and served~~ in accordance with section 1181.3 of these regulations.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17530, 17551(d), 17553(d), 17558.5(c) and 17558.7(a), Government Code.

§ 1185.2. Review of Incorrect Reduction Claims.

(a) Within 10 days of receipt of an incorrect reduction claim, Commission staff shall notify the claimant if the incorrect reduction claim is complete or incomplete. Incorrect reduction claims will be considered incomplete if any of the requirements of section

1185.1 are illegible or not included or if the requirements of those subdivisions are not met. Incomplete incorrect reduction claims shall be returned to the claimant. If a complete incorrect reduction claim is not received by the Commission within 30 days from the date the incomplete claim was returned to the claimant, the executive director shall deem the filing to be withdrawn.

(b) Any incorrect reduction claim, or portion of an incorrect reduction claim, that the Commission lacks jurisdiction to hear for any reason, including that the incorrect reduction claim was not filed within the period of limitation required by section 1185.1(c) of these regulations, may be rejected or dismissed by the executive director with a written notice stating the reason therefor.

(c) Within 10 days of receipt of a complete incorrect reduction claim, Commission staff shall provide a copy of the claim to the Office of State Controller.

(d) Commission staff shall notify the Office of State Controller that written comments and supporting documentation in connection with an incorrect reduction claim shall be filed no more than 90 days from the date the copy of the claim is provided to the Office of State Controller. Written comments and supporting documentation shall be ~~certified,~~ filed~~, and served~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

(e) Written rebuttals to the Office of State Controller's written comments may be filed by the claimant or interested persons in accordance with section 1181.3 of these regulations within 30 days of service of the written comments, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon.~~The claimant and interested parties may file written rebuttals to the Office of State Controller's comments within 30 days of service of the Office of State Controller's comments. Written rebuttals and supporting documentation shall be certified, filed, and served in accordance with section 1181.3 of these regulations.~~ If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

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

§ 1185.4. Joining a Consolidated Incorrect Reduction Claim.

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

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

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

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

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

(c~~4~~) The joining claimant shall ~~certify, file, and serve~~ one original notice of intent to join and accompanying documents in accordance with section 1181.3 of these regulations.

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

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

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

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

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

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

(b) No later than one year after opting out, or within the period of limitation under section 1185.1(c) of these regulations, whichever is later, a claimant that opts out of a consolidated claim shall file an individual incorrect reduction claim in accordance with

section 1185.1 of these regulations in order to preserve its right to challenge a reduction made by the Controller on that same mandate.

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

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

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

The executive director may consolidate or sever any incorrect reduction claim in part or whole, when necessary to ensure the complete, fair, or timely consideration of any incorrect reduction claim.

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

(b) During the 30-day notice period, a claimant may file a written request that an individual incorrect reduction claim be severed from a proposed consolidation, which shall be filed ~~and served,~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. Timely requests to sever shall be approved by the executive director.

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

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

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

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

(b) Before hearing an individual or consolidated incorrect reduction claim, Commission staff shall prepare a proposed decision for the incorrect reduction claim that shall include a review of the entire record~~incorrect reduction claim, comments and rebuttals filed on the claim and, to the extent that it is relevant to the claim, a review of the test claim decision and decision and parameters and guidelines~~. The proposed decision shall also include a staff recommendation on whether the claimant's reimbursement claim was incorrectly reduced.

(c) At least eight weeks before the hearing or at a time required by the executive director or stipulated to by the claimant and the Office of State Controller, Commission

staff shall issue the draft proposed decision to all persons~~those~~ on the mailing list described in section 1181.4 of these regulations.

(d) A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. Written comments may be filed ~~and shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, by the date determined and noticed by the executive director, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations. ~~All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision for the incorrect reduction claim.~~

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

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

§ 1185.8. Withdrawal of Incorrect Reduction Claims.

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

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

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

Article 6. State Mandates Apportionment System

§ 1186.2. Request for Inclusion.

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

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

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

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

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

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

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

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

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

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

§ 1186.4. Request for Removal.

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

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

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

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

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

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

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

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

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

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

§ 1186.6. Request for Review of an Apportionment or Base Year Entitlement.

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

(b) In order to obtain a review of an apportionment or base year entitlement a "Request for Review" shall be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations.

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

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

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

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

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

(d) Requests for review will be considered incomplete if any of the elements required in subdivision (c) of this section are illegible or not included. Incomplete requests for review shall be returned to the requester for completion. If a complete request is not

received by the Commission within 30 days from the date the incomplete request was returned, the Commission shall deem the request to be withdrawn.

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

Article 7. Quasi-Judicial Hearing Procedures and Decisions

§ 1187.1. Scheduling and Noticing the Hearing.

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

~~(b)~~ A matter is set for hearing when Commission staff issues its draft proposed decision. A written notice of the date, time, and place of hearing shall be issued to all personsevery one on the mailing list as described in section 1181.4 of these regulations and shall be posted on the Commission's website.

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

§ 1187.4. Informal Conference.

(a) An informal conference may be scheduled by the Commission or the executive director of their own accord or by request of a party or interested party to the matter in question. All persons on the mailing list prepared in accordance with section 1181.4 of these regulations~~The parties and interested parties to the matter~~ shall be invited to participate. With the consent of the parties, the informal conference may be a teleconference.

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

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

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

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

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

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

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

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

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

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

§ 1187.5. Evidence Submitted to the Commission.

(a) The hearings will not be conducted according to technical rules relating to evidence and witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(b) Oral or written representations of fact offered by any person at an article 7 hearing shall be under oath or affirmation. All written representations of fact submitted to the Commission shall~~must~~ be signed under penalty of perjury by persons who are authorized and competent to do so and shall~~must~~ be based upon the declarant's personal knowledge, information, or belief.

(c) Official notice may be taken in the manner and of the information described in Government Code Section 11515.

(d) Each party shall have the right to present witnesses, introduce exhibits, and propose to the chairperson questions for opposing witnesses. Evidence may be submitted to support or rebut any issue. If declarations are to be used in lieu of testimony, the party proposing to use the declaration shall comply with Government Code Section 11514 as follows:

(1) At least ten days before the hearing, the party proposing to use a declaration in lieu of testimony shall file in accordance with section 1181.3 of these regulations, a copy of any declaration which the party proposes to introduce in evidence, together with a notice as provided in subdivision (d)(2).

(2) The notice referred to in subdivision (d)(1) shall be substantially in the following form:

The accompanying declaration of (here insert name of declarant) will be introduced as evidence at the hearing in the matter of (here insert matter and case number). (Here insert name of declarant) will not be called to testify orally and you will not be entitled to

propose to the chairperson questions for the opposing witness unless you file in accordance with section 1181.3 of these regulations a request to cross-examine the declarant (here insert a date seven days after the date of filing and serving the declaration).

(3) Unless the opposing party, within seven days after service, files in accordance with section 1181.3 of these regulations a request to cross-examine the declarant, the opposing party's right to cross-examine the declarant is waived and the declaration, if introduced in evidence, shall be given the same effect as if the declarant had testified orally.

(4) If, however, notice in accordance with subdivision (d)(1) is not provided by the party proposing to use a declaration in lieu of testimony and an opportunity to cross-examine a declarant is not afforded to the opposing party, the declaration may be introduced in evidence but shall be given only the same effect as other hearsay evidence. In such cases, the declaration shall be electronically filed (or e-filed) with the Commission via the Commission's e-filing system, available on the Commission's website.

Note: Authority cited: Sections 17527(e), 17527(g), 17553, 17558.7, 17570, 17615.1 and 17615.8, Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Sections 11514, 11515, 17518.5, 17527(e), 17551, 17553, 17557, 17557.2, 17559, 17570, 17571 and 17615.7, Government Code.

§ 1187.6. Conduct of Hearing.

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

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

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

(d) The hearing will ordinarily proceed in the following manner. Commission staff will summarize the matter. The claimant or requester and aligned parties and interested parties will state their positions and present evidence. Opposing parties or interested parties will thereafter state their positions and present evidence. The claimant or requester will then be given an opportunity to reply.

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

(f) The Commission or the executive director may require that prepared written testimony, declarations, or other evidence be filed in advance of any hearing to facilitate the orderly consideration of issues at the hearing. A PDF copy of any prepared written testimony, declaration, or other documentary evidence shall be electronically filed (or e-filed) with the Commission via the Commission's e-filing system, available on the Commission's website, at least 24 hours prior to the hearing to be part of the record and considered by the Commission.

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

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

§ 1187.8. Representation at Hearing.

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

(b) A representative of a party shall be deemed to control all matters respecting the interest of that party in the proceeding. All correspondence and communications shall be issued to the authorized representative. Any current member of a designated firm or organization may appear as the party's representative, without requiring the party withdraw the designation and designate a new representative.

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

Note: Authority cited: Sections 17527(c), 17527(g), 17553(a), 17558.7, 17570, 17615.1 and 17615.8, Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Sections 17527(c), 17551, 17553, 17557, 17557.2, 17570, 17571 and 17615.7, Government Code.

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

(a) Requests for Extensions of Time to File Comments or Rebuttals

(1) ~~Any~~ party ~~or interested party~~ to a matter may request an extension of time. Parties are encouraged to meet and confer prior to requesting an extension to obtain a stipulation or to permit the granting of extensions for more than one party at a time. A request for an extension of time shall be made by filing a request with the executive director before the date set for filing of comments or rebuttals with Commission staff on

that matter. The request shall fully explain the reasons for the extension, propose a new date for filing, and be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations. If~~So long as~~ a postponement of a hearing would not be required, there is no prejudice to any party ~~or interested party~~, and there is no other good reason for denial, the request shall be approved. A party to a matter may request an extension of time that would necessitate rescheduling a hearing, but shall also include a request for postponement of the hearing, pursuant to subdivision (b) of this section. Within two business days of receipt of the request, the executive director shall determine whether the extension will be granted and notify all persons on the mailing list prepared pursuant to section 1181.4 of these regulations.

(2) An interested party to a matter may request an extension of time by filing a request with the executive director before the date set for filing of comments or rebuttals with Commission staff on that matter. The request shall fully explain the reasons for the extension, propose a new date for filing, and be filed in accordance with section 1181.3 of these regulations. If a postponement of a hearing would not be required, there is no prejudice to any party and there is no other good reason for denial, the request shall be approved. Within two business days of receipt of the request, the executive director shall determine whether the extension will be granted and notify all persons on the mailing list prepared pursuant to section 1181.4 of these regulations.

(b) Requests for Postponement of Hearing

A party to a~~n article 7~~ matter may request a postponement of a hearing on that matter, until the next regularly scheduled hearing. Although postponements of hearings are disfavored, each request for a postponement shall~~must~~ be considered on its own merits. The request shall fully explain the reasons for the postponement, and be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations. Within two business days of receipt of the request, the executive director shall determine whether the postponement will be granted and notify all persons on the mailing list prepared pursuant to section 1181.4 of these regulations. The executive director may postpone the matter only on an affirmative showing of good cause.

(1) Circumstances that may indicate good cause include:

(A) The unavailability of a party, party representative, or witness because of death, illness, or other excusable circumstances;

(B) The substitution of a party representative, but only where there is an affirmative showing that the substitution is required in the interests of justice;

(C) The addition of a new party if:

1. The new party has not had a reasonable opportunity to prepare for hearing; or

2. The other parties have not had a reasonable opportunity to prepare for hearing in regard to the new party's involvement in the matter;

(D) A party's excused inability to obtain essential testimony, documents, or other material evidence despite diligent efforts;

(E) A significant, unanticipated change in the status of the matter as a result of which the matter is not ready for hearing; or

(F) The number and complexity of the issues.

(2) Other factors to be considered: In determining whether to grant a postponement, the executive director shall consider the facts and circumstances that are relevant to the determination. These may include:

(A) The proximity of the hearing date;

(B) Whether there was any previous postponement, extension of time, or delay of hearing due to any party;

(C) The length of the postponement requested;

(D) The availability of alternative means to address the problem that gave rise to the request for a postponement;

(E) The prejudice that parties or witnesses will suffer as a result of the postponement;

(F) If the matter was granted expedited scheduling, the reasons for that status and whether the need for a postponement outweighs the need to avoid delay;

(G) The Commission's backlog of matters and the impact of granting a postponement on other pending matters;

(H) Whether the claimant or requester representative is engaged in a trial or other hearing that conflicts with the Commission hearing;

(I) Whether, pursuant to Government Code 17554, all parties have stipulated to a postponement; and

(J) Whether the interests of justice are best served by a postponement, by moving forward with the hearing on the matter, or by imposing conditions on the postponement.

(3) Approval of Requests for Postponement

(A) A request filed by a party~~the claimant or requester~~ at least 15 days before the hearing shall be approved by the executive director for good cause.

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

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

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

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

(c) Continuance of a Hearing

(1) Prior to the adoption of its written decision on the matter being heard, the Commission on its own motion, or upon a clear showing of good cause at the request of

a party, may continue a hearing to another time or place. Written notice of the time and place of the continued hearing, except as provided herein, shall be in accordance with section 1187.1 of these regulations. When a continuance is ordered during a hearing, oral notice of the time and place of the continued hearing may also be given to each party present at the hearing.

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

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

§ 1187.10. Decision; Action on Proposed Decision.

(a) The Commission shall adopt a decision for all matters subject to hearings and decisions under article 7 of these regulations.

(b) If a matter is heard before the Commission itself, the Commission may adopt the proposed decision on the same day as the hearing.

(c) If a matter is heard by a hearing panel or a hearing officer alone, the panel or hearing officer shall prepare a proposed decision that may be adopted as the decision of the Commission at the next Commission meeting.

(d) A copy of the proposed decision shall be served~~filed~~ by Commission staff ~~as a public record and a copy of the proposed decision shall be served by Commission staff on each party~~to all persons on the mailing list. The Commission ~~itself~~ may adopt the proposed decision or decide the case itself, provided that the Commission ~~itself~~ shall decide no matters provided for in this subdivision without affording the parties the opportunity to present either oral or written argument before the Commission.

(e) If the proposed decision of Commission staff is not adopted by the Commission, as provided in subdivisions~~sections~~ (b) or (c), the Commission shall direct appropriate modification of the proposed decision and thereafter adopt it as the Commission's decision.

(f) Except as provided for in subdivision (b), the proposed decision shall be prepared within a reasonable time following submission of the matter to the hearing officer or panel, and within a reasonable time after the evidentiary hearing, and served by Commission staff to all persons on the mailing list. ~~It shall be served on the parties promptly thereafter.~~

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

§ 1187.12. Withdrawal of a Matter.

A matter, or any portion of a matter, other than a test claim, may be withdrawn by written application of the claimant or requester any time before a decision is adopted, or by oral application at the time of hearing. A test claim, or portion thereof, may be withdrawn by the claimant upon written application to the executive director any time before a decision is adopted or after enactment of a legislatively determined mandate on the same statute or executive order pursuant to Government Code section 17574. The claimant or requester shall ~~certify, file, and serve~~ the written application in accordance with section 1181.3 of these regulations. Dismissal of items withdrawn pursuant to this section shall be in accordance with the procedures described in section 1187.14 of these regulations.

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

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

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

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

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

(2) Anyone may file w~~W~~ritten comments ~~shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

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

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

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

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

(a) Notwithstanding section 1187.11(b) of these regulations, the Commission may order a reconsideration or amend all or part of an adopted decision on a test claim (including a new test claim decision adopted pursuant to a mandate redetermination) or incorrect reduction claim on petition of any party, interested party, or Commission member only upon a showing of new or different facts, circumstances, or law, or a clerical error. The power to order a reconsideration or amend an adopted decision on a test claim or incorrect reduction claim shall expire 30 days after the adopted decision is served on the claimant or requester. If additional time is needed to evaluate a petition for reconsideration filed before the expiration of the 30-day period, the Commission may grant a stay of that expiration for no more than 30 days, solely for the purpose of considering the petition. A request for reconsideration shall be deemed automatically stayed for the 30-day period. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

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

(1) The name and address of the requester;

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

(3) A detailed statement of the clerical error or the new or different facts, circumstances, or law supporting the request, and all documentation ~~to support the request~~identifying the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. For the purposes of this section, an alleged new or different law shall not include a later enacted statute without a retroactive application.

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

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

(c) Commission member requests may be made orally during a regularly scheduled Commission meeting. Commission staff shall prepare the written request based on the elements specified in subsections (b)(1-5) above.

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

(e) Before the Commission considers the request for reconsideration, Commission staff shall prepare a written analysis that includes a review of the entire record~~request and~~

~~written comments filed by other state agencies, interested parties, and the requester~~. The written analysis shall address whether the request for reconsideration is timely, complete, diligent, and is based on a clerical error or new or different facts, circumstances, or law that is likely to support an amendment to the findings or conclusions in the adopted decision on the test claim or incorrect reduction claim, and include a recommendation on whether or not the request for reconsideration should be granted. The Commission shall consider the request for reconsideration and the written staff analysis at a scheduled meeting. Five affirmative votes shall be required to grant the request for reconsideration and schedule the request for a second hearing on the merits.

(f) If the Commission grants the request for reconsideration, a second hearing shall be conducted to determine if the adopted decision on a test claim or incorrect reduction claim shall~~must~~ be amended based on a clerical error or new or different facts, circumstances, or law.

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

(A) At least eight weeks before the Commission is scheduled to reconsider an adopted decision, or at another time determined by the executive director, Commission staff shall prepare a draft proposed decision and issue it to those on the mailing list for the matter established pursuant to section 1181.4 of these regulations.

(B) Anyone may file w~~W~~ritten comments~~ may be filed with the Commission~~ on the draft proposed decision. All representations of fact shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations. Written comments shall be ~~certified, filed, and served~~ in accordance with section 1181.3 of these regulations, and shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision presented to the Commission.

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

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

(h) Failure to seek Commission reconsideration of an adopted decision shall not affect a party's right to seek judicial review pursuant to Government Code section 17559(b).

(i) This section only applies to reconsiderations requested pursuant to Government Code section 17559(a); it does not apply to remands or reconsiderations directed by the courts or by statute.

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

Article 8. Rulemaking and Informational Hearings

§ 1188.1. Scheduling and Noticing of an Informational Hearing

(a) The Commission may, upon its own motion, set an informational hearing on any subject within its jurisdiction. Matters subject to informational hearings under article 8 of these regulations include: a proposed assignment of an article 7 matter to a hearing officer, a rulemaking proceeding, the adoption of a statewide cost estimate, and any other subject that meets the definition of "informational hearing" in section 1181.2 of these regulations and is not subject to hearings under article 7 of these regulations.

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

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

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

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

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

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

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

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

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

§ 1188.2. Rulemaking.

(a) Petitions:

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

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

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

(C) The reasons for the request; and

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

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

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

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

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

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

(c) Notice.

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

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

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

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

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

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

Article 10. Mandate Redetermination Process

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

(a) A local agency or a school district, statewide association of local agencies or school districts, the Department of Finance, Office of the State Controller, or other affected state agency, may file a request to adopt a new test claim decision to supersede a

previously adopted test claim decision by making a showing that the state's liability pursuant to Article XIII B, section 6(a) of the California Constitution for the previously adopted test claim decision has been modified based on a "subsequent change in law" as defined by Government Code section 17570(a)(2). Such a request is known as a "request for mandate redetermination."

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

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

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

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

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

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

(h) Any request for mandate redetermination that fails to allege a "subsequent change in law," as defined by Government Code section 17570, shall be returned by the executive director with a written notice stating the reason that the request is being returned. These filings may include, but are not limited to, requests that meet the requirements for a

proposed parameters and guidelines amendment or a new test claim filing.

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

§ 1190.2. Review and Response.

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

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

(2) Anyone may file w~~W~~ritten comments concerning the request for mandate redetermination ~~may be filed~~ within 30 days of the issuance of the notice and evidence may also be presented at the hearing on the request for mandate redetermination.

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

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

(2) A copy of relevant portions of any documents not readily available online~~state constitutional provisions, state and federal statutes, and executive orders, and a copy of administrative decisions and court decisions that may impact the alleged mandate, unless the authorities are also cited in the request to adopt a new test claim decision~~. The specific statutes and chapters, articles, sections, case law citations, and page numbers of all authorities relied upon shall~~must~~ be identified. ~~Published court decisions arising from state mandate determinations by the Board of Control and the Commission, article XIII B, section 6 of the California Constitution, and Government Code sections 17500 et seq., are exempt from the requirements of this subsection. When an omnibus bill is relevant to the response, only the relevant pages of the statute, including the Legislative Counsel's Digest and the specific statutory amendments at issue shall be filed.~~

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

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

§ 1190.3. Rebuttal.

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

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

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

(2) A copy of relevant portions of any documents not readily available online~~state constitutional provisions, federal statutes, and executive orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal, unless the authorities are also cited in the request to adopt a new test claim decision or any response thereto~~. The specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon shall be identified. ~~Published court decisions arising from state mandate determinations by the Board of Control and the Commission, article XIII B, section 6 of the California Constitution, and Government Code sections 17500 et seq., are exempt from the requirements of this subsection. When an omnibus bill is relevant to the rebuttal, only the relevant pages of the statute, including the Legislative Counsel's Digest and the specific statutory amendments at issue shall be filed.~~

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

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

§ 1190.4. Executive Director's Authority to Consolidate Requests for Mandate Redetermination.

(a) The executive director may consolidate two or more requests for mandate redetermination for the second hearing, if some or all of the same statutes, regulations or executive orders are at issue, if necessary to ensure the complete, fair, or timely consideration of any request for mandate redetermination.

(b) At least 10 days before the action is taken, the executive director shall serve on ~~the parties and interested parties~~all persons on the mailing list described in section 1181.4 of these regulations, and post on the Commission's website, a notice of any proposed action to consolidate.

Note: Authority cited: Section 17527(g), 17553(a) and 17570(d), Government Code. Reference: Sections 17530, 17554 and 17570, Government Code.

§ 1190.5. Hearing Process and Form of Decision.

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

(a) The First Hearing:

(1) The first hearing shall be limited to the issue of whether the requester has made an adequate showing that identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, which may modify the state's liability pursuant to article XIII B, section 6(a) of the California Constitution. The Commission shall find that the requester has made an adequate showing if it finds that

the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.

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

(3) Anyone may file w~~W~~ritten comments concerning the draft proposed decision ~~may be filed with the Commission. Written comments shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, by the date determined and noticed by the executive director, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations. ~~All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision of the request to adopt a new test claim decision.~~

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

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

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

(A) The requester has not made an adequate showing, when considered in light of all of the written comments, rebuttals and supporting documentation in the record and testimony at the hearing, that the request for mandate redetermination has a substantial

possibility of prevailing at the second hearing, the Commission shall issue a decision denying the request for mandate redetermination.

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

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

(b) The Second Hearing:

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

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

(3) Any~~one~~~~party or interested party~~ may file written comments concerning the draft proposed decision ~~with the Commission. Written comments shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations, by the date determined and noticed by the executive director, which shall include a copy of relevant portions of any documents not readily available online and shall identify the specific statutes and chapters, articles, sections, regulatory registers, case law citations, and page numbers of all authorities relied upon. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations. ~~All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision.~~

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

~~respond to, late comments, exhibits, or other evidence filed in response to a draft proposed decision.~~

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

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

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

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

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

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

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