

**COMMISSION ON STATE MANDATES**

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August 12, 2014

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Division of Accounting and Reporting  
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*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Draft Proposed Statewide Cost Estimate, Schedule for Comments,  
and Notice of Hearing**

*Immunization Records - Pertussis, 11-TC-02*  
Health & Safety Code Section 120335  
Statutes 2010, Chapter 434 (AB 354)  
Twin Rivers Unified School District, Claimant

Dear Mr. Palkowitz and Ms. Kanemasu:

The draft proposed statewide cost estimate for the above-named matter is enclosed for your review and comment.

**Written Comments**

Written comments on this matter may be filed by **August 22, 2014**.

**Hearing**

This matter is set for hearing on **Friday, September 26, 2014** at 10:00 a.m. in Room 447, State Capitol, Sacramento, CA. The proposed statewide cost estimate will be issued on or about September 12, 2014. This matter is proposed for the Consent Calendar. Please let us know in advance if you oppose having this item placed on consent and wish to testify at the hearing or have a representative testify on your behalf, and if other witnesses will appear.

Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director

Item \_\_\_

**DRAFT PROPOSED STATEWIDE COST ESTIMATE**  
**\$8,560,777**

**(Approximate Prospective Cost of \$1,710,239 Annually)**

Health and Safety Code Section 120335

Statutes 2010, Chapter 434 (AB 354)

*Immunization Records – Pertussis*

11-TC-02

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

This program prohibits schools from admitting or advancing pupils to the 7th through 12th grade levels during the 2011-2012 fiscal year and, beginning in fiscal year 2012-2013, pupils entering or advancing to the 7th grade level, unless the pupil is fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age, or has documented a permanent medical exemption or a personal belief exemption to immunization against pertussis.

On July 26, 2013, the Commission on State Mandates (Commission) adopted a statement of decision<sup>1</sup> finding that Health and Safety Code section 120335(d), as added and replaced by the test claim statute, imposes a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Parameters and guidelines<sup>2</sup> were adopted on December 6, 2013 approving the reimbursable activities described below under the *Reimbursable Activities* section.

Eligible claimants were required to file initial reimbursement claims (for costs incurred for fiscal years 2011-2012 through 2012-2013) with the State Controller's Office (SCO) by July 15, 2014. Late initial reimbursement claims may be filed until July 15, 2015.

Eligible Claimants and Period of Reimbursement

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. Twin Rivers Unified School District filed the test claim on September 26, 2011, establishing eligibility for reimbursement for the 2010-2011 fiscal year. However, Health and Safety Code section

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<sup>1</sup> Exhibit A. Test Claim Statement of Decision.

<sup>2</sup> Exhibit B. Parameters and Guidelines.

120335(d) did not become operative until July 1, 2011. Therefore, costs incurred for the activities in the parameters and guidelines are eligible for reimbursement beginning July 1, 2011.

### **Reimbursable Activities**

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activities:

A. For fiscal year 2011-2012 only, for students entering the 7<sup>th</sup> through 12<sup>th</sup> grades:

- (1) Receive and review the following documents for all pupils entering the 7<sup>th</sup> through 12<sup>th</sup> grades to determine whether to unconditionally admit or conditionally admit the pupil:
  - a) A written record of the pertussis vaccination (Tdap booster) that contains the name of the pupil, birth date of the pupil, the date of the pertussis vaccination, and the name of the physician or agency administering the vaccine; *or*
  - b) Documentation showing a pupil's permanent medical exemption or personal beliefs exemption to immunization. A permanent medical exemption shall be granted upon the filing of a written statement from a licensed physician to the effect that the physical condition of the pupil or medical circumstances relating to the pupil are such that immunization is permanently not indicated. A personal beliefs exemption for the pertussis booster shall be granted upon the filing of a letter or affidavit from the pupil's parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of minor, or the person seeking admission if an emancipated minor, that such pertussis booster immunization is contrary to his or her beliefs; *or*
  - c) Documentation showing a pupil is temporarily exempted from immunization for medical reasons.

Pupils who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis shall be unconditionally admitted to grades 7 through 12. Pupils who have a temporary medical exemption shall be admitted to grades 7 through 12 on condition that the required immunization is obtained at the termination of the exemption.

*Reimbursement is not required to perform activities generally required to admit students since those activities are not new. Reimbursement is limited to receiving and reviewing the above documents.*

- (2) If it is determined that a pupil seeking admission lacks documentation that he or she has been fully immunized against pertussis, and does not have a permanent medical exemption or a personal belief exemption to the pertussis immunization, advise the pupil, or the parent or guardian, to contact a physician or agency that provides immunizations.
- (3) For any already admitted pupil found not to have received all immunizations for pertussis which are required before admission or advancement to grades 7 through 12, or who is found not to have complied with requirements for conditional admission, notify that pupil's parents or guardians of the requirement to exclude the pupil from

school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

- (4) Report to the attendance supervisor or building administrator any pupil excluded from further attendance who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

B. Beginning July 1, 2012, only for students entering the 7<sup>th</sup> grade:

- (1) Receive and review the following documents for all pupils entering the 7<sup>th</sup> grade to determine whether to unconditionally admit or conditionally admit the pupil:
  - a) A written record of the pertussis vaccination (Tdap booster) that contains the name of the pupil, birth date of the pupil, the date of the pertussis vaccination, and the name of the physician or agency administering the vaccine; *or*
  - b) Documentation showing a pupil's permanent medical exemption or personal beliefs exemption to immunization. A permanent medical exemption shall be granted upon the filing of a written statement from a licensed physician to the effect that the physical condition of the pupil or medical circumstances relating to the pupil are such that immunization is permanently not indicated. A personal beliefs exemption for the pertussis booster shall be granted upon the filing of a letter or affidavit from the pupil's parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of minor, or the person seeking admission if an emancipated minor, that such pertussis booster immunization is contrary to his or her beliefs.
  - c) Documentation showing a pupil is temporarily exempted from immunization for medical reasons.

Pupils who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis shall be unconditionally admitted to grade 7. Pupils who have a temporary medical exemption shall be admitted to grade 7 on condition that the required immunization is obtained at the termination of the exemption.

*Reimbursement is not required to perform activities generally required to admit students since those activities are not new. Reimbursement is limited to receiving and reviewing the above documents.*

- (2) If it is determined that a pupil seeking admission lacks documentation that he or she has been fully immunized against pertussis, and does not have a permanent medical exemption or a personal belief exemption to the pertussis immunization, advise the pupil, or the parent or guardian, to contact a physician or agency that provides immunizations.
- (3) For any already admitted pupil who is later found not to have complied with requirements for conditional admission, notify that pupil's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

- (4) Report to the attendance supervisor or building administrator any pupil excluded from further attendance who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

In addition, the following activities are specifically excluded from reimbursement: (1) reporting the immunization status of students to county health departments or the state; (2) recording and maintaining student immunization records; (3) periodically reviewing student immunization records to ensure compliance with the test claim statute. These activities are not required to implement the test claim statute and are instead addressed by the Department of Public Health regulations that were not properly pled and therefore beyond the Commission's jurisdiction.

### **Offsetting Revenues and Reimbursements**

The parameters and guidelines<sup>3</sup> provide:

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

To the extent that the claimant has used fees or any funds provided by the state or federal government, as opposed to proceeds of local taxes, to pay for the cost of the program, those costs are not reimbursable.

### **Statewide Cost Estimate**

#### Assumptions

Staff reviewed the reimbursement claims data submitted by approximately 228 school districts and compiled by the SCO.<sup>4</sup> The data showed that 397 initial claims were filed for fiscal years 2011-2012 through 2012-2013 for a total of \$8,560,777. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are currently 1050 school districts in California. Of those, only 228 school districts filed initial reimbursement claims totaling \$8,560,777 for this program for fiscal years 2011-2012 through 2012-2013. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late initial reimbursement claims for this program for fiscal years 2011-2012 through 2012-2013 may be filed until July 15, 2015. There also may be several reasons that non-claiming school districts did not file reimbursement claims, including but not limited to, (1) they did not incur more than \$1,000 in increased costs for this program and (2) they did not have supporting documentation to file a reimbursement claim.

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<sup>3</sup> Exhibit B. Parameters and Guidelines.

<sup>4</sup> Claims data reported as of July 24, 2014.

- *The annual costs of the program may vary depending on school district enrollment for students entering the 7<sup>th</sup> grade.*

The higher or lower the number of student enrollment year after year will directly correlate to the requirements for documentation of immunization.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable. Furthermore, there are certain requirements in Department of Public Health regulations related to this program that were not properly pled and were therefore not included as reimbursable activities. To the extent that a claimant has included these activities in its reimbursement claim, the SCO, in its capacity as an auditor, may reduce the amount claimed.

### Methodology

#### *Fiscal Years 2011-2012 through 2012-2013*

The statewide cost estimate for fiscal years 2011-2012 through 2012-2013 was developed by totaling the 228 reimbursement claims filed with the SCO for these years totaling \$8,560,777. The projected annual future cost of \$1,710,239 is based solely on the 2012-2013 fiscal year, because, beginning July 1, 2012, the reimbursable activities are limited to students entering the 7<sup>th</sup> grade only as opposed to grades 7 through 12 in the 2011-2012 fiscal year.

Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
2011-2012	225	\$6,850,538
2012-2013	172	\$1,710,239
<b>TOTAL</b>	<b>397</b>	<b>\$8,560,777</b>

### **Staff Recommendation**

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$8,560,777 (Approximate Prospective Cost of \$1,710,239 Annually)** for costs incurred in complying with the *Immunization Records - Pertussis* program.

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On August 5, 2014, I served the:

**Draft Proposed Statewide Cost Estimate, Schedule for Comments,  
and Notice of Hearing**

*Immunization Records - Pertussis, 11-TC-02*

Health & Safety Code Section 120335

Statutes 2010, Chapter 434 (AB 354)

Twin Rivers Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 5, 2014 at Sacramento, California.



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Heidi J. Palchik  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 8/8/14

**Claim Number:** 11-TC-02

**Matter:** Immunization Records - Pertussis

**Claimant:** Twin Rivers Unified School District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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