

COMMISSION ON STATE MANDATES

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August 5, 2005

Mr. David Scribner
Executive Director
Scribner Consulting Group, Inc.
3840 Rosin Court, Suite 190
Sacramento, CA 95834

And Affected State Agencies and Interested Parties (See Enclosed Mailing List)

Re: Draft Staff Analysis and Proposed Parameters and Guidelines

The Stull Act, 98-TC-25

Education Code Sections 44660 – 44665 (formerly Ed. Code §§ 13485-13490)
Statutes 1975, Chapter 1216; Statutes 1983, Chapter 498; Statutes 1986, Chapter 393;
Statutes 1995, Chapter 392; Statutes 1999, Chapter 4
Denair Unified School District and Grant Joint Union High School District, Claimants

Dear Mr. Scribner:

The draft staff analysis and proposed parameters and guidelines are enclosed for your review and comment.

Written Comments

Any party or interested person may file written comments on the draft staff analysis and proposed parameters and guidelines by **August 25, 2005**. You are advised that the Commission's regulations require comments filed with the Commission to be simultaneously served on other interested parties and to be accompanied by a proof of service. If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

Hearing

This matter is tentatively set for hearing on **September 27, 2005**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

Mr. David Scribner

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Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

If you have any questions, please contact Cathy Cruz at (916) 323-8218.

Sincerely,



PAULA HIGASHI
Executive Director

Enclosures

MAILLED: Mail List
FAXED:
INITIAL: VS
DATE: 8/9/05
FILE:
CHRON:
WORKING BINDER:
atrans.doc

**DRAFT STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES**

Education Code Sections 44660-44665
(Former Ed. Code, §§ 13485-13490)

Statutes 1975, Chapter 1216
Statutes 1983, Chapter 498
Statutes 1986, Chapter 393
Statutes 1995, Chapter 392
Statutes 1999, Chapter 4

The Stull Act (98-TC-25)

Denair Unified School District and Grant Joint Union High School District, Claimants

EXECUTIVE SUMMARY

The Executive Summary will be included in the Final Staff Analysis.

STAFF ANALYSIS

Claimant

Denair Unified School District and Grant Joint Union High School District

Chronology

05/27/04 Commission on State Mandates (Commission) adopted Statement of Decision
06/17/04 Claimant submitted proposed parameters and guidelines
08/02/04 The State Controller's Office (SCO) submitted comments
08/13/04 Grant Joint Union High School District added as a co-claimant to test claim
09/29/04 The Department of Finance (DOF) submitted comments
08/05/05 Draft staff analysis issued

Summary of the Mandate

On May 27, 2004, the Commission adopted the Statement of Decision for *The Stull Act* test claim, finding that Education Code sections 44660-44665 (formerly Ed. Code, §§ 13485-13490) constitute a new program or higher level of service and impose a state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Accordingly, the Commission approved this test claim for the following reimbursable activities:

- Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives. (Ed. Code, § 44662, subd. (b), as amended by Stats. 1983, ch. 498.)

Reimbursement for this activity is limited to the review of the employee's instructional techniques and strategies and adherence to curricular objectives, and to include in the written evaluation of the certificated instructional employees the assessment of these factors during the following evaluation periods:

- Once each year for probationary certificated employees;
 - Every other year for permanent certificated employees; and
 - Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified (as defined in 20 U.S.C. § 7801), and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.
- Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils towards the state adopted academic content standards as measured by state adopted assessment tests. (Ed. Code, § 44662, subd. (b), as amended by Stats. 1999, ch. 4.)

Reimbursement for this activity is limited to the review of the results of the STAR test as it reasonably relates to the performance of those certificated employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11, and to include in the written evaluation of those certificated employees the assessment of the employee's performance based on the STAR results for the pupils they teach during the evaluation periods specified in Education Code section 44664, and described below:

- Once each year for probationary certificated employees;
 - Every other year for permanent certificated employees; and
 - Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified (as defined in 20 U.S.C. § 7801), and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.
- Assess and evaluate permanent certificated, instructional and non-instructional, employees that perform the requirements of educational programs mandated by state or federal law and receive an unsatisfactory evaluation in the years in which the permanent certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664 (i.e., every other year). The additional evaluations shall last until the employee achieves a positive evaluation, or is separated from the school district. (Ed. Code, § 44664, as amended by Stats. 1983, ch. 498.) This additional evaluation and assessment of the permanent certificated employee requires the school district to perform the following activities:
 - Evaluate and assess the certificated employee performance as it reasonably relates to the following criteria: (1) the progress of pupils toward the standards established by the school district of expected pupil achievement at each grade level in each area of study, and, if applicable, the state adopted content standards as measured by state adopted criterion referenced assessments; (2) the instructional techniques and strategies used by the employee; (3) the employee's adherence to curricular objectives; (4) the establishment and maintenance of a suitable learning environment, within the scope of the employee's responsibilities; and, if applicable, (5) the fulfillment of other job responsibilities established by the school district for certificated non-instructional personnel (Ed. Code, § 44662, subds. (b) and (c));
 - The evaluation and assessment shall be reduced to writing. (Ed. Code, § 44663, subd. (a).) The evaluation shall include recommendations, if necessary, as to areas of improvement in the performance of the employee. If the employee is not performing his or her duties in a satisfactory manner according to the standards prescribed by the governing board, the school district shall notify the employee in writing of that fact and describe the unsatisfactory performance (Ed. Code, § 44664, subd. (b));
 - Transmit a copy of the written evaluation to the certificated employee (Ed. Code, § 44663, subd. (a));

- Attach any written reaction or response to the evaluation by the certificated employee to the employee's personnel file (Ed. Code, § 44663, subd. (a)); and
- Conduct a meeting with the certificated employee to discuss the evaluation (Ed. Code, § 44553, subd. (a).)

The Commission further found that the activities listed above do not constitute reimbursable state-mandated programs with respect to certificated personnel employed in local, discretionary educational programs.

Finally, the Commission found that all other statutes in the test claim not mentioned above are not reimbursable state-mandated programs within the meaning of article XIII B, section 6 and Government Code section 17514.

Discussion

Staff reviewed the claimant's proposed parameters and guidelines and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

Substantive changes were made to the following sections of the claimant's proposed parameters and guidelines.

III. Period of Reimbursement

The claimant proposed a reimbursement period beginning on or after July 1, 1998, for costs incurred in compliance with the mandate. The adopted Statement of Decision states that the claimant filed the test claim on July 7, 1999; however, staff clarifies that the test claim was originally filed on June 30, 1999. On July 7, 1999, the claimant submitted a corrected test claim form. Accordingly, the test claim is deemed filed on June 30, 1999, and a reimbursement period beginning July 1, 1997, was established.

Therefore, the costs incurred for compliance with Statutes 1975, chapter 1216; Statutes 1983, chapter 498; Statutes 1986, chapter 393; and Statutes 1995, chapter 392 are eligible for reimbursement on or after July 1, 1997. Statutes 1999, chapter 4 was an urgency statute operative March 15, 1999; therefore, costs incurred for compliance with Statutes 1999, chapter 4 are eligible for reimbursement on or after March 15, 1999.

IV. Reimbursable Activities

The claimant's proposed reimbursable activities mirrored those in the Commission's Statement of Decision. In its comments to the claimant's proposal, the SCO suggested a technical change to number the activities rather than using bullets. The DOF stated that the claimant's proposal did not provide guidance on which educational programs mandated by state or federal law the activities were limited to, and argued that the clarification was needed to ensure that offsetting funding is applied to the reimbursement claims.

Staff notes that the test claim draft staff analysis was issued on March 19, 2004, with a request to the parties for additional briefing on the following two issues:

1. Are there any sources of state or federal funds appropriated to school districts that can be applied to the activities identified in the draft staff analysis as reimbursable state-mandated activities for the evaluation of certificated personnel under the Stull Act?

2. Are the state-mandated activities identified in the draft staff analysis reimbursable under article XIII B, section 6 of the California Constitution for the evaluation of certificated personnel employed in local, discretionary educational programs?

Commission staff did not receive any comments. Thus, based on the *Department of Finance v. Commission on State Mandates* case, staff limited the reimbursable activities to the evaluations of certificated personnel that perform the requirements of educational programs mandated by state or federal law. Because the parties did not file comments in response to the request for additional briefing, the Statement of Decision stated that "...the determination of the certificated employees performing mandated functions for which school districts are eligible to receive reimbursement will be addressed during the parameters and guidelines phase."¹

However, none of the parties submitted comments that identified the mandated educational programs. Thus, staff recommends that for purposes of claiming reimbursement, eligible claimants must identify the state or federal law mandating the educational program being performed by the certificated employees. Staff added this language after the applicable activities.

In addition, because of the complex nature of this particular program, staff finds that training is reasonably necessary to carry out the mandate. Thus, staff proposes that one-time training per employee on the implementation of the reimbursable activities listed in section IV be reimbursable.

V. Claim Preparation and Submission

In its comments to the claimant's proposed parameters and guidelines, DOF recommended that the training component under section V.A. be deleted because training was not found to be a reimbursable activity by the Commission. However, because staff included one-time training as a reimbursable activity, the training component was not deleted from this section.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, beginning on page 7.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

¹ Exhibit A, page 116.

PROPOSED PARAMETERS AND GUIDELINES

Education Code Sections 44660-44665
(Former Ed. Code, §§ 13485-13490)

Statutes 1975, Chapter 1216
Statutes 1983, Chapter 498
Statutes 1986, Chapter 393
Statutes 1995, Chapter 392
Statutes 1999, Chapter 4

The Stull Act (98-TC-25)

Denair Unified School District and Grant Joint Union High School District, Claimants

I. Summary of the Mandate

On May 27, 2004, the Commission on State Mandates ("Commission") adopted the Statement of Decision for *The Stull Act (98-TC-25)* test claim. The Commission found that Education Code sections 44660-44665 (formerly Ed. Code, §§ 13485-13490) constitute a new program or higher level of service and impose a state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Accordingly, the Commission approved this test claim for the following reimbursable activities:

- Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives. (Ed. Code, § 44662, subd. (b), as amended by Stats. 1983, ch. 498.)

Reimbursement for this activity is limited to the review of the employee's instructional techniques and strategies and adherence to curricular objectives, and to include in the written evaluation of the certificated instructional employees the assessment of these factors during the following evaluation periods:

- Once each year for probationary certificated employees;
 - Every other year for permanent certificated employees; and
 - Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified (as defined in 20 U.S.C. § 7801); and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.
- Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils towards the state adopted academic

content standards as measured by state adopted assessment tests. (Ed. Code, § 44662, subd. (b), as amended by Stats. 1999, ch. 4.)

Reimbursement for this activity is limited to the review of the results of the STAR test as it reasonably relates to the performance of those certificated employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11, and to include in the written evaluation of those certificated employees the assessment of the employee's performance based on the STAR results for the pupils they teach during the evaluation periods specified in Education Code section 44664, and described below:

- Once each year for probationary certificated employees;
 - Every other year for permanent certificated employees; and
 - Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified (as defined in 20 U.S.C. § 7801), and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.
- Assess and evaluate permanent certificated, instructional and non-instructional, employees that perform the requirements of educational programs mandated by state or federal law and receive an unsatisfactory evaluation in the years in which the permanent certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664 (i.e., every other year). The additional evaluations shall last until the employee achieves a positive evaluation, or is separated from the school district. (Ed. Code, § 44664, as amended by Stats. 1983, ch. 498.) This additional evaluation and assessment of the permanent certificated employee requires the school district to perform the following activities:
 - Evaluate and assess the certificated employee performance as it reasonably relates to the following criteria: (1) the progress of pupils toward the standards established by the school district of expected pupil achievement at each grade level in each area of study, and, if applicable, the state adopted content standards as measured by state adopted criterion referenced assessments; (2) the instructional techniques and strategies used by the employee; (3) the employee's adherence to curricular objectives; (4) the establishment and maintenance of a suitable learning environment, within the scope of the employee's responsibilities; and, if applicable, (5) the fulfillment of other job responsibilities established by the school district for certificated non-instructional personnel (Ed. Code, § 44662, subds. (b) and (c));
 - The evaluation and assessment shall be reduced to writing. (Ed. Code, § 44663, subd. (a).) The evaluation shall include recommendations, if necessary, as to areas of improvement in the performance of the employee. If the employee is not performing his or her duties in a satisfactory manner according to the standards prescribed by the governing board, the school district shall notify the employee in writing of that fact and describe the unsatisfactory performance (Ed. Code, § 44664, subd. (b));

- Transmit a copy of the written evaluation to the certificated employee (Ed. Code, § 44663, subd. (a));
- Attach any written reaction or response to the evaluation by the certificated employee to the employee's personnel file (Ed. Code, § 44663, subd. (a)); and
- Conduct a meeting with the certificated employee to discuss the evaluation (Ed. Code, § 44553, subd. (a).)

The Commission further found that the activities listed above do not constitute reimbursable state-mandated programs with respect to certificated personnel employed in local, discretionary educational programs.

Finally, the Commission found that all other statutes in the test claim not mentioned above are not reimbursable state-mandated programs within the meaning of article XIII B, section 6 and Government Code section 17514.

II. Eligible Claimants

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

III. Period of Reimbursement

Government Code section 17557 states that a test claim must be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on June-29-30, 1999. Therefore, the costs incurred for compliance with Statutes of 1975, Chapter 1216; Statutes of 1983, Chapter 498; Statutes of 1986, Chapter 393; and Statutes of 1995, Chapter 392; are eligible for reimbursement on or after July 1, 1997. Statutes of 1999, Chapter 4 was an urgency statute operative March 15, 1999; therefore, costs incurred for compliance with Statutes 1999, chapter 4 are eligible for reimbursement on or after July 1, 1998 March 15, 1999.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. Reimbursable Activities

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for the reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

A. Certificated Instructional Employees

1. Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives: (Ed. Code, § 44662, subd. (b), as amended by Stats. 1983, ch. 498.) Reimbursement for this activity is limited to:

- a. ~~the reviewing of~~ the employee's instructional techniques and strategies and adherence to curricular objectives, and ~~to~~
- b. including in the written evaluation of the certificated instructional employees the assessment of these factors during the following evaluation periods:
 - o ~~Once~~ each year for probationary certificated employees;
 - o ~~Every~~ other year for permanent certificated employees; and
 - o ~~Beginning~~ January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified (as defined in 20 U.S.C. § 7801), and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

Note: For purposes of claiming reimbursement, eligible claimants must identify the state or federal law mandating the educational program being performed by the certificated instructional employees.

2. Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils towards the state adopted academic content standards as measured by state adopted assessment tests: (Ed. Code, § 44662, subd. (b), as amended by Stats. 1999, ch. 4.) Reimbursement for this activity is limited to:

- a. ~~the reviewing of~~ the results of the Standardized Testing Aand Reporting test as it reasonably relates to the performance of those certificated employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11, and ~~to~~

b. ~~including~~ in the written evaluation of those certificated employees the assessment of the employee's performance based on the Standardized Testing And Reporting results for the pupils they teach during the evaluation periods specified in Education Code section 44664, and described below:

- o ~~Once~~ each year for probationary certificated employees;
- o ~~Every~~ other year for permanent certificated employees; and
- o ~~Beginning~~ January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified (as defined in 20 U.S.C. § 7801), and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

B. Certificated (Instructional and Non-Instructional) Employees

~~I. Assess and evaluate~~ and assess permanent certificated, instructional and non-instructional, employees that perform the requirements of educational programs mandated by state or federal law and receive an unsatisfactory evaluation in the years in which the permanent certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664 (i.e., every other year). The additional evaluations shall last until the employee achieves a positive evaluation, or is separated from the school district. (Ed. Code, § 44664, as amended by Stats. 1983, ch. 498-). This additional evaluation and assessment of the permanent certificated employee requires the school district to perform the following activities:

ea. ~~Evaluating~~ and assessing the certificated employee performance as it reasonably relates to the following criteria: (1) the progress of pupils toward the standards established by the school district of expected pupil achievement at each grade level in each area of study, and, if applicable, the state adopted content standards as measured by state adopted criterion referenced assessments; (2) the instructional techniques and strategies used by the employee; (3) the employee's adherence to curricular objectives; (4) the establishment and maintenance of a suitable learning environment, within the scope of the employee's responsibilities; and, if applicable, (5) the fulfillment of other job responsibilities established by the school district for certificated non-instructional personnel (Ed. Code, § 44662, subds. (b) and (c));

eb. ~~reducing~~ ~~The evaluation and assessment shall be reduced to writing.~~ (Ed. Code, § 44663, subd. (a)-). The evaluation shall include recommendations, if necessary, as to areas of improvement in the performance of the employee. If the employee is not performing his or her duties in a satisfactory manner according to the standards prescribed by the governing board, the school district shall notify the employee in writing of that fact and describe the unsatisfactory performance (Ed. Code, § 44664, subd. (b));

ec. ~~Transmitting~~ a copy of the written evaluation to the certificated employee (Ed. Code, § 44663, subd. (a));

ed. ~~Attaching~~ any written reaction or response to the evaluation by the certificated employee to the employee's personnel file (Ed. Code, § 44663, subd. (a)); and

ee. Conducting a meeting with the certificated employee to discuss the evaluation (Ed. Code, § 44553, subd. (a)-).

Note: For purposes of claiming reimbursement, eligible claimants must identify the state or federal law mandating the educational program being performed by the certificated, instructional and non-instructional, employees.

C. Training

1. Train staff on implementing the reimbursable activities listed in section IV of these parameters and guidelines. (One-time activity for each employee.)

V. Claim Preparation and Submission

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursable claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct cost are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1. Salaries and Benefits, for each applicable reimbursable activity.

6. Training

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

B. Indirect Cost Rates

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

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

School districts must use the J-380 (or subsequent replacement) nonrestrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) nonrestrictive indirect cost rate provisionally approved by the California Department of Education.

VI. **Record Retention**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documentation used to support the reimbursable

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. Offsetting Savings and Reimbursements

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandates 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.

VIII. State Controller's Claiming Instructions

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement no later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute, regulations, or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute notice of the right of local agencies and schools districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. Remedies Before the Commission

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (ad), and California Code of Regulations, title 2, section 1183.2.

X. Legal and Factual Basis for the Parameters and Guidelines

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

Commission on State Mandates

Original List Date: 7/7/1999
Last Updated: 6/14/2004
List Print Date: 08/05/2005
Claim Number: 98-TC-25
Issue: The Stull Act

Mailing Information: Draft Staff Analysis

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

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, § 1181.2.)

Mr. Steve Shields
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