

COMMISSION ON STATE MANDATES

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June 10, 2009

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Enclosed is the Commission on State Mandates' Report to the Legislature required by Government Code section 17600. The Commission is required to report to the Legislature on the number of mandates it has found, the estimated statewide cost of each mandate, and the reasons for recommending reimbursement.

If you have questions regarding this report, you may contact me at (916) 323-8210.

Sincerely,

PAULA HIGASHI
Executive Director

Enclosure

cc: w/encl.

Honorable Christine Kehoe, Chair, Senate Appropriations Committee
Honorable Denise Ducheny, Chair, Senate Budget and Fiscal Review Committee and
Chair, Joint Legislative Budget Committee
Honorable Kevin De Leon, Chair, Assembly Appropriations Committee
Honorable Noreen Evans, Chair, Assembly Budget Committee
Mr. Mac Taylor, Legislative Analyst
Ms. Victoria Bradshaw, Cabinet Secretary, Governor's Office
Ms. Diane Anderson, Legislative Counsel

ARNOLD SCHWARZENEGGER
GOVERNOR



STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

January 1, 2009 – March 31, 2009

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EXECUTIVE SUMMARY

State law requires the Commission on State Mandates to report to the Legislature on the number of mandates it has found, the estimated statewide costs of these mandates, and the reasons for recommending reimbursement. This report fulfills that requirement.

New Mandates

Between January 1, 2009 and March 31, 2009, the Commission adopted six statewide cost estimates totaling **\$73,460,533**. This amount is not proposed for appropriation in the 2009-2010 Budget.

Pending Statewide Cost Estimates

There are currently 23 approved mandates for which statewide cost estimates are pending.

I. INTRODUCTION

Statewide Cost Estimates

The Commission on State Mandates (Commission) is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.¹

After the Commission submits its semiannual report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether the mandate should be repealed, funded, suspended, or modified.

Upon receipt of the report submitted by the Commission pursuant to Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.²

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodology, and adopted statewide estimate of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodology, and adopted statewide estimate of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.³

Jointly Developed Statewide Estimate of Costs

In 2007, AB 1222 (Statutes 2007, chapter 329) was enacted to provide an alternate process for determining the costs of mandated programs. Under AB 1222, local governments and the Department of Finance may jointly develop reimbursement methodologies and statewide estimate of costs for mandated programs for approval by the Commission. Jointly developed statewide estimate of costs that are approved by the Commission will be included in the Commission's Annual Reports to the Legislature.

Mandate Funding Provisions

If the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.⁴

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller's Office (SCO) shall include accrued interest at the Pooled Money Investment Account rate.⁵

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the SCO will prorate the claims.⁶ If the deficiency funds are not

¹ Government Code section 17600.

² Government Code section 17612, subdivision (a).

³ Government Code section 17612, subdivision (b).

⁴ Government Code section 17612, subdivision (c).

⁵ Government Code section 17561.5, subdivision (a).

⁶ Government Code section 17567.

appropriated in the Budget Act, the SCO reports this information to the legislative budget committees and the Commission.

Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act, the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

The following table shows the six statewide cost estimates that have been adopted during the period of January 1, 2009 through March 31, 2009.

**Statewide Cost Estimates (SCE) Adopted
During the Period of January 1, 2009 – March 31, 2009**

Date SCE Adopted ⁷	Test Claim	Period of Reimbursement (Fiscal Years)	Estimated Costs		
			Education	Non- Education	Totals
01/30/09	<i>Fire Safety Inspections of Care Facilities,</i> 01-TC-16	7/1/00 – 6/30/08		\$631,411	\$631,411
3/27/09	<i>Mentally Disordered Offenders: Treatment as a Condition of Parole,</i> 00-TC-28, 05-TC-06	7/1/00 – 6/30/09		\$4,872,312	\$4,872,312
3/27/09	<i>Racial Profiling: Law Enforcement Training,</i> 01-TC-01	7/1/00 – 6/30/05		\$9,175,357	\$9,175,357
3/27/09	<i>Domestic Violence Arrests and Victim Assistance</i> 98-TC-14	7/1/98 – 6/30/09		\$11,110,949	\$11,110,949
3/27/09	<i>National Norm-Referenced Achievement Test (formerly STAR),</i> 05-PGA-03 (04-RL-9723-01)	7/1/04 – 6/30/08	\$10,809,432		\$10,809,432
3/27/09	<i>Pupil Expulsions from School: Additional Hearing Costs for Mandated Recommendations of Expulsion for Specified Offenses,</i> 05-PGA-04 (CSM-4455)	7/1/93 – 6/30/08	\$36,861,072		\$36,861,072
TOTALS			\$47,670,504	\$25,790,029	\$73,460,533

⁷ If payment for an initial reimbursement claim is made more than 365 days after adoption of the statewide cost estimate, the Controller shall include accrued interest at the Pooled Money Investment Account rate. (Gov. Code, § 17561.6, subd. (a).)

II. NEW MANDATES

Adopted: January 30, 2009

STATEWIDE COST ESTIMATE

Health and Safety Code Section 13235, Subdivision (a)
Statutes 1989, Chapter 993

Fire Safety Inspections of Care Facilities 01-TC-16

Test Claim Filed: June 30, 2002

Reimbursement Period for this Estimate: July 1, 2000 through June 30, 2008

Eligible Claimants: Any city, county, city and county, and any fire protection district or other district performing fire protection services at the local level, formed pursuant to Health and Safety Code sections 13800 et seq., that is subject to the tax and spend limitations of articles XIII A and XIII B

The statewide cost estimate includes eight fiscal years for a total of **\$631,411**. This averages to \$78,926 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2000-2001	3	\$ 49,598
2001-2002	6	67,137
2002-2003	7	50,259
2003-2004	9	73,370
2004-2005	11	86,329
2005-2006	12	83,450
2006-2007	13	107,673
2007-2008	N/A	113,595
TOTAL	61	\$631,411

Summary of the Mandate

Health and Safety Code section 13235, subdivision (a), requires local fire departments to perform fire safety inspections of all community care facilities, residential care facilities for the elderly, and child daycare facilities. Upon receipt of a request from a prospective licensee, the local fire department, or State Fire Marshal, whichever has primary jurisdiction, is required to conduct a preinspection of the facility prior to the fire clearance approval. At the time of the preinspection, the applicable fire enforcing agency will provide consultation and interpretation of the fire safety regulations that are to be enforced in order to obtain the clearances necessary to obtain a license.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities* test claim, finding that Health and Safety Code section 13235, subdivision (a), constitutes a new program or higher level of service and imposes a state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 30, 2002. The Commission adopted a Statement of Decision on March 29, 2006, and the parameters and guidelines on March 28, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by October 1, 2008, and late claims by October 1, 2009.

Reimbursable Activities

The Commission approved the following reimbursable activities relating to the preinspection of the facility:

1. the preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. the consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

Inspection activities relating to the final fire clearance approval are not reimbursable.

Statewide Cost Estimate

Commission staff reviewed the claims data submitted by 11 cities and four fire protection agencies, and compiled by the SCO. The actual claims data showed that 61 claims were filed between fiscal years 2000-2001 and 2006-2007 for a total of \$517,816.⁸ Based on this data, the following assumptions were made and the following methodology was used to develop a statewide cost estimate for this program. The Commission will report the adopted statewide cost estimate to the Legislature along with the assumptions and methodology.

Assumptions

1. *The actual amount claimed may increase if late or amended claims are filed.*

Only 15 cities and fire protection agencies in California filed 61 reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining cities or fire protection agencies, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims for 2000-2001 through 2006-2007 may be filed until October 2009.

2. *The actual amount claimed for reimbursement may increase if the number of community care facilities, residential care facilities for the elderly, and child daycare facilities increases, and local fire departments are required to conduct preinspections of the facilities prior to the fire-clearance approval.*
3. *Non-claiming cities and fire protection agencies did not file claims because they did not incur more than \$1000 in increased costs for this program.*

Most cities and fire protection agencies will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims for the following reasons:

- a. the fee authority provided to claimants for this program (\$50 per facility for medium facilities, and \$100 for large facilities) is sufficient to cover the costs of the program for many agencies; and
 - b. some cities do not allow these type of facilities within their boundaries.
4. *The cities and fire protection agencies that have filed reimbursement claims will continue to incur costs over \$1,000 and will continue to file reimbursement claims.*
 5. *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.*

⁸ Claims data reported as of November 6, 2008.

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Methodology

Fiscal Years 2000-2001 through 2006-2007

The statewide cost estimate for fiscal years 2000-2001 through 2006-2007 is based on 61 unaudited actual reimbursement claims filed with the SCO for these years.

Fiscal Year 2007-2008

Fiscal year 2007-2008 costs were estimated by multiplying the 2006-2007 estimate by the implicit price deflator for 2007-2008 (5.5%), as forecast by Department of Finance.

The statewide cost estimate includes eight fiscal years for a total of \$631,411. This averages to \$78,926 annually in costs for the state.

Conclusion

The Commission adopted the statewide cost estimate of **\$631,411** (\$78,926 in annual costs) for costs incurred in complying with the *Fire Safety Inspections of Care Facilities* program.

Adopted: March 27, 2009

STATEWIDE COST ESTIMATE

Penal Code Section 2966

Statutes 1985, Chapter 1419

Statutes 1986, Chapter 858

Statutes 1987, Chapter 687

Statutes 1988, Chapter 658

Statutes 1989, Chapter 228

Statutes 1994, Chapter 706

*Mentally Disordered Offenders:
Treatment as a Condition of Parole*
00-TC-28, 05-TC-06

Test Claims Filed: July 5, 2001 and March 2, 2006

Reimbursement Period for this Estimate: July 1, 2000 through June 30, 2009

Eligible Claimants: Cities and Counties

The statewide cost estimate includes nine fiscal years for a total of **\$4,872,312**. This averages to \$541,368 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2000-2001	1	\$235,446
2001-2002	1	565,634
2002-2003	1	757,835
2003-2004	1	396,893
2004-2005	1	368,055
2005-2006	1	627,286
2006-2007	1	608,914
2007-2008	N/A	644,840
2008-2009	N/A	667,409
TOTAL	7	4,872,312

Summary of the Mandate

The test claim statutes set forth procedures for civil court hearings that are initiated by a prisoner or parolee who wishes to contest a finding, made at the time of parole that he or she meets the mentally disordered offender criteria, as defined in Penal Code section 2962. Once the petition for civil hearing is filed, the superior court shall conduct such a hearing; the district attorney is required to represent the people; and the public defender is required to represent the petitioner if he or she is indigent.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Mentally Disordered Offenders: Treatment as a Condition of Parole* program, finding that Penal Code section 2966 constitutes a new program or higher level of service and imposes a state-mandated program upon counties within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The claimant filed the test claim on July 5, 2001. The Commission adopted a Statement of Decision on July 28, 2006 and the parameters and guidelines on January 31, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by August 4, 2008, and late claims by August 4, 2009.

Reimbursable Activities

The Commission approved the following reimbursable activities:

One-time Activity

1. Initial training of employees on policies and procedures for mandated Penal Code section 2966 activities (one time per employee). Training for psychiatrists and psychologists is not reimbursable.

On-going Activities

The following activities conducted by attorneys, investigators, and paralegal and secretarial staff:

2. Review relevant documentation, which includes: the petition appealing the Board of Prison Terms (BPT) decision; the decision of the BPT commissioner and the recording of the BPT hearing with supporting documentation; pertinent prison, parole and medical records; Conditional Release Program records; police and probation reports; criminal histories; the evaluations by CDC, DMH and BPT evaluators; and records of prior MDO proceedings.
3. Prepare and file motions with the Superior Court.
4. Retain necessary experts, investigators, and professionals to prepare for and testify at the civil trial conducted pursuant to Penal Code section 2966.
5. Travel to and from state hospitals, prisons and county jails where detailed medical records and case files are maintained.
6. Travel to and from state hospitals, prisons and county jails by the defense counsel in order to meet with the prisoner client.
7. Transport to and from the court facility, and care, and custody only during the civil hearing of each Penal Code section 2966 petitioner by the County Sheriff's Department. Reimbursement for this activity is limited to incarcerated prisoners that requested Penal Code section 2966 hearings.
8. Prepare and represent the people or the indigent prisoner or parolee in a trial to determine whether or not the petitioner meets the criteria to be committed under Penal Code section 2966.

Statewide Cost Estimate

Staff reviewed the claims data submitted by one county and compiled by the SCO. The actual claims data showed that seven claims were filed between fiscal years 2000-2001 and 2006-2007 for a total of \$3,560,063.⁹ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

⁹ Claims data reported as of January 27, 2009.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

This program primarily affects only two counties because most mentally disordered offenders are placed in Patton State Hospital in San Bernardino County or Atascadero State Hospital in San Luis Obispo County.

Only San Bernardino County filed reimbursement claims for this program. Claimant representatives indicate that San Luis Obispo will file late claims for this program. Thus, if San Luis Obispo County files reimbursement claims, the amount of reimbursement claims may exceed the statewide cost estimate.

2. *An average of 565 prisoners or parolees will continue to request the County of San Bernardino to conduct the civil hearings each year.*

This program requires eligible counties to conduct civil court hearings at the request of prisoners and parolees. San Bernardino County has conducted 3,958 hearings during the initial reimbursement period as shown below:

Table 1. Number of Hearings Conducted

Fiscal Year	Number of Hearings
2000-2001	448
2001-2002	711
2002-2003	762
2003-2004	191
2004-2005	100
2005-2006	811
2006-2007	520
2007-2008	415
Total	3,958
Average # of Hearings Per year	565

3. *The county that filed reimbursement claims will continue to incur costs over \$1,000 and will continue to file reimbursement claims.*
4. *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.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Methodology

Fiscal Years 2000-2001 through 2006-2007

The statewide cost estimate for fiscal years 2001-2002 through 2006-2007 is based on the seven unaudited actual reimbursement claims filed with the SCO for these years.

Fiscal Year 2007-2008

Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2007-2008 (5.9%), as forecast by Department of Finance.

Fiscal Year 2008-2009

Staff estimated fiscal year 2008-2009 costs by multiplying the 2007-2008 estimate by the implicit price deflator for 2008-2009 (3.5%), as forecast by Department of Finance.

The statewide cost estimate includes nine fiscal years for a total of **\$4,872,312**. This averages to \$541,368 annually in costs for the state.

Conclusion

The Commission adopted the statewide cost estimate of **\$4,872,312** (\$541,368 in annual costs) for costs incurred in complying with the *Mentally Disordered Offenders: Treatment as a Condition of Parole* program.

Adopted: March 27, 2009

STATEWIDE COST ESTIMATE

Penal Code Section 13519.4

Statutes 2000, Chapter 684

Racial Profiling: Law Enforcement Training 01-TC-01

Test Claim Filed: August 13, 2001

Reimbursement Period for this Estimate: July 1, 2000 through June 30, 2005

Eligible Claimants: Any city, county, or city and county,

The statewide cost estimate includes five fiscal years for a total of **\$9,175,357** for the *Racial Profiling: Law Enforcement Training* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2000-2001	1	\$4,292
2001-2002	10	\$70,053
2002-2003	68	\$2,764,216
2003-2004	95	\$6,210,441
2004-2005	13	\$126,355
TOTAL	187	9,175,357

Summary of the Mandate

This test claim statute prohibits law enforcement officers from engaging in racial profiling and establishes racial profiling training requirements for law enforcement officers, with the curriculum developed by the Commission on Peace Officer Standards and Training (POST).

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Racial Profiling: Law Enforcement Training* program (01-TC-01). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The Commission further found that Penal Code section 13519.5, subdivision (i), which requires the two-hour refresher racial profiling training, does not impose a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, because it does not impose “costs mandated by the state.”

The claimant filed the test claim on August 13, 2001. The Commission adopted a Statement of Decision on October 26, 2006 and the parameters and guidelines on March 28, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by October 1, 2008, and late claims by October 1, 2009.

Reimbursable Activities

The Commission approved reimbursement for *up to five hours* of initial racial profiling training for incumbent law enforcement officers under the following conditions.

1. the training is provided to incumbent law enforcement officers who completed basic training on or before January 1, 2004;
2. the training is certified by POST;
3. the training is attended during the officer's regular work hours, or training is attended outside the officer's regular work hours *and* there is an obligation imposed by an MOU existing on January 1, 2001, which requires that the local agency pay for continuing education training; and
4. the training causes the officer to exceed his or her 24-hour continuing education requirement, when the two-year continuing education cycle that included the initial five-hour racial profiling training occurs between January 1, 2002 and July 2004, and the continuing education for that cycle was attended *prior to* the initial racial profiling course.

Statewide Cost Estimate

Staff reviewed the claims data submitted by 100 cities and 18 counties and cities and compiled by the SCO. The actual claims data showed that 187 claims were filed between fiscal years 2000-2001 and 2004-2005 for a total of \$9,175,357.¹⁰ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 480 cities and 58 counties in California. Of those, only 118 filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims are filed, the amount of reimbursement claims may exceed the statewide cost estimate.

However, under this program, reimbursement is only authorized for training incumbent peace officers who completed the training between 2002 and 2004. No reimbursement claims have been filed for any fiscal years after 2004-2005. Therefore, it is unlikely that further claims will be filed.

2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; (2) did not have supporting documentation to file a reimbursement claim; or (3) did not complete the training within the prescribed time period.*

This program limits reimbursement for incumbent peace officers who complete basic training prior to 2004, and who complete their 24-hour education requirements including racial profiling training, between 2002 and 2004. Therefore, while many local agencies may have provided racial profile training to all of their peace officers, only a limited number of local agencies met these narrow criteria and were eligible for reimbursement for a select number of peace officers.

3. *Claimants will not need to train new peace officers employed after January 1, 2004 under this program, because racial profiling training was included as part of their basic training on that date.*

¹⁰ Claims data reported as of December 8, 2008.

4. *There is a wide variation in costs among claimants.*

There is a wide variation in costs among claimants. For example, the City of Fairfield with 127 peace officers claimed approximately \$8,000, while the City of Orange, with 167 peace officers, claimed almost \$60,000. Following is a table showing a sample of claimants and their claimed amounts:

Table 1. COMPARISON OF COSTS CLAIMED

City or County	Number of Peace Officers Employed	Amount of Reimbursement Claim
City of Fairfield	127	\$8,041
City of Orange	162	\$59,928
City of Los Angeles	9,538	\$3,817,668
County of Los Angeles	9,278	\$1,569,364
City of Corona	181	\$9,199
City of Hayward	194	\$41,388
County of Santa Barbara	309	\$59,570
County of San Joaquin	296	\$94,195

The amount claimed for reimbursement varied among claimants with like numbers of peace officers because:

- Claimants had varying numbers of peace officers who completed the training prior to 2004.
- Claimants had varying numbers of peace officers who completed their continuing education requirements between 2002 and 2004.
- According to claimant representatives, some claimants chose not to train all peace officers.

5. *Because of the wide variation in costs claimed, an SCO audit of this program may be conducted.*
6. *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.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Methodology

Fiscal Years 2000-2001 through 2004-2005

The statewide cost estimate for fiscal years 2000-2001 through 2004-2005 was developed by totaling the 187 unaudited actual reimbursement claims filed with the SCO for these years.

No projections for future fiscal years were included because this program should have been completed on or before fiscal year 2004-2005.

The statewide cost estimate includes five fiscal years for a total of \$9,175,357. This averages to \$1,835,071 annually in costs for the state for this five-year period.

Conclusion

The Commission adopted the statewide cost estimate of **\$9,175,357** for costs incurred in complying with the *Racial Profiling: Law Enforcement Training* program.

Adopted: March 27, 2009

STATEWIDE COST ESTIMATE

Penal Code Sections 264.2 and 13701
Statutes 1998, Chapters 698 and 702

Domestic Violence Arrests and Victim Assistance
98-TC-14

County of Los Angeles, Claimant

Test Claim Filed: May 21, 1999

Reimbursement Period for this Estimate: July 1, 1998 through June 30, 2009

Eligible Claimants: Any City, County, and City and County

The statewide cost estimate includes eleven fiscal years for a total of **\$11,110,949**. This averages to \$1,010,086 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
1998-1999	72	\$ 292,553
1999-2000	120	702,303
2000-2001	138	794,975
2001-2002	147	878,282
2002-2003	157	938,406
2003-2004	166	1,027,700
2004-2005	167	1,092,509
2005-2006	176	1,250,928
2006-2007	229	1,310,050
2007-2008	N/A	1,387,343
2008-2009 (estimated)	N/A	1,435,900
TOTAL	1372	\$11,110,949

Summary of the Mandate

Penal Code section 264.2 requires law enforcement officers who investigate and assist victims of specified sex crimes to, among other things, give the victim a Victim of Domestic Violence card (victim card). The test claim statute (Stats. 1998, ch. 698) amends section 264.2 to add two crimes for which a victim card is given: victims of spousal battery, and victims of corporal injury on a spouse or other specified victim.

The Commission on State Mandates (Commission) adopted its Statement of Decision that section 13701, subdivision (c)(9)(D) and (H) (as amended by Stats. 1998, ch. 702), and section 264.2, subdivision (a) (as amended by Stats. 1998, ch. 698), impose a reimbursable state-mandated program on local agencies within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514.

The claimant filed the test claim on May 21, 1999. The Commission adopted the Statement of Decision on December 4, 2004, and the parameters and guidelines on October 26, 2006. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by May 2, 2007, and late claims by May 2, 2008.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

A. One-Time Activities

1. Printing victim cards to add the following new information: a) phone numbers and/or local county hotlines of battered-women shelters; and b) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).
2. Adding to the domestic violence response policy two new crimes (Section 243, subd. (e), & 273.5) to those for which a victim card is given out (Pen. Code, § 13701, subd. (c)(9)(H)).
3. Adding the following to the description of the victim card in the domestic violence response policy: a) phone numbers and/or local county hotlines of battered-women shelters; and b) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).

B. Ongoing Activity

1. Providing victim cards to victims for the following crimes (Pen. Code, § 264.2, subd. (a)):
 - a) Penal Code section 243, subdivision (e) - battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and b) Penal Code section 273.5 - willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child.

Providing victim cards to victims include the following reimbursable activities:

- a. Obtaining the card.
- b. Giving the card to the victim.
- c. Explaining to the victim what the card is and how the victim could use the card.
- d. Addressing questions about the card and shelters.

If necessary, providing an interpreter at the scene to communicate with the victim.

An officer's time for investigating and arresting the accused is not reimbursable.

Statewide Cost Estimate

Staff reviewed the claims data submitted by cities and counties and compiled by the SCO. The actual claims data showed that 264 local agencies filed 1,623 claims between fiscal years 1998-1999 and 2007-2008, for a total of \$9,427,679.¹¹ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

¹¹ Claims data reported as of August 7, 2008.

Assumptions

Staff made the following assumptions:

- *The actual amounts claimed will not increase for fiscal years 1998-1999 through 2005-2006 because May 2, 2008 was the last day to file late or amended claims for the initial reimbursement period.*
- *The same cities and counties that filed initial reimbursement claims for fiscal year 2005-2006 will file claims for fiscal years 2006-2007 and beyond.*
- *Costs for fiscal years 2006-2007 and beyond may increase if new claimants file reimbursement claims.*

On average, half of counties (26 out of 58) and cities (238 out of 480) have filed reimbursement claims for this program since 2006-2007. This means that at least some of the remaining cities and counties may file claims in the future. Thus, if any of the remaining cities and counties file reimbursement claims for fiscal years 2006-2007 and beyond, the cost of the program could exceed the proposed statewide cost estimate.

- *Costs for fiscal years 2006-2007 and beyond may decrease over time because statewide, the number of domestic violence calls is decreasing.*

Department of Justice reports that domestic violence calls statewide have decreased from 1994 to 2004 by 26%.¹²

- *There is a wide variation in costs among claimants.*

There is a wide variation in costs among claimants. For example, for the 2006-2007 fiscal year, the City of Woodland claimed \$2,638 for 336 domestic violence-related service calls. In contrast, the City of Cupertino claimed \$2,786 for only 99 domestic violence-related service calls. Following is a table showing a sample of claimants and their claimed amounts:

TABLE 1. COMPARISON OF COSTS CLAIMED

City or County	2006-2007 Claim Total	Number of Domestic Violence-Related Service Calls in 2006¹³
Siskiyou County	\$1,316	106
City of Roseville	\$1,592	297
Calaveras County	\$2,096	167
City of Woodland	\$2,638	336
City of Cupertino	\$2,786	99
City of South Gate	\$4,559	235
Alameda County	\$5,409	1,545

¹² Information obtained from Department of Justice's Criminal Justice Center at <http://ag.ca.gov/cjsc/>.

¹³ Information obtained from Department of Justice's Criminal Justice Center at <http://ag.ca.gov/cjsc/>.

City of Antioch	\$10,821	618
San Bernardino County	\$11,357	2,687
Riverside County	\$17,954	3,849
Sacramento County	\$33,560	3,268

- *Because of the wide variation in costs claimed, an SCO audit of this program may be conducted.*
- *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.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Methodology

Fiscal Years 1998-1999 through 2006-2007

The statewide cost estimate for fiscal years 1998-1999 through 2005-2006 is based on the actual unaudited reimbursement claims filed with the SCO for these years.

Fiscal Year 2007-2008

Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2007-2008 (5.9%), as forecast by Department of Finance.

Fiscal Year 2008-2009

Staff estimated fiscal year 2008-2009 costs by multiplying the 2007-2008 estimate by the implicit price deflator for 2008-2009 (3.5%), as forecast by Department of Finance.

The statewide cost estimate includes eleven fiscal years for a total of **\$11,110,949**. This averages to \$1,010,086 annually in costs for the state.

Conclusion

The Commission adopted the statewide cost estimate of **\$11,110,949** (\$1,010,086 in annual costs) for costs incurred in complying with the *Domestic Violence Arrests and Victim Assistance* program.

Adopted: March 27, 2009

STATEWIDE COST ESTIMATE

Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, and 60641

Statutes 1997, Chapter 828

California Code of Regulations, Title 5, Sections 851, 852, 853, 855,
857, 858, 859, 861, 862, 863, 864, 865, 867, and 868

National Norm-Referenced Achievement Test
(formerly Standardized Testing and Reporting (STAR))
05-PGA-03 (04-RL-9723-01)

Test Claim Filed: June 30, 2002

Reimbursement Period for this Estimate: July 1, 2004 through June 30, 2008

Eligible Claimants: Any school district, except for Community Colleges

The proposed statewide cost estimate includes four fiscal years for a total of **\$10,809,432** for the *National Norm-Referenced Achievement Test* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with State Controller's Office	Estimated Cost
2004-2005	139	\$ 1,914,345
2005-2006	221	\$ 2,810,950
2006-2007	252	\$ 3,151,068
2007-2008	243*	\$ 2,933,069
Totals	855 claims	\$10,809,432
*Based on estimated claiming data.		

Summary of the Mandate

On July 28, 2005, on reconsideration, the Commission found, effective July 1, 2004, that administering the California Achievement Tests, Sixth Edition Survey (CAT/6) in grades 3 and 7 imposes a reimbursable state mandate on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556. The Commission found that all the other activities were either federally mandated or no longer required, and thus, were not reimbursable.

Reimbursable Activities

The Commission approved the following reimbursable activities:

Training, Policies, and Procedures

Reviewing the requirements of the CAT/6 and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee per test site.)

Developing internal policies, procedures, and forms to implement the CAT/6. (One-time activity for school districts created after July 1, 2004.)

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

Pre-test and Post-test Coordination

1. Processing requests for exemption from the CAT/6 test filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
2. Designating a school district employee as a STAR program district coordinator. The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, & 868.) *This activity is reimbursable only to the extent that it applies to the CAT/6 test.*
 - Beginning July 1, 2004, the STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district CAT/6 testing.
3. Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, & 868.) *This activity is reimbursable only to the extent that it applies to the CAT/6.*
 - Beginning July 1, 2004, the STAR program test site coordinator, or the site principal or his or her designee, shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports related to the CAT/6 test.

STAR Program District Coordinator

Reimbursable activities performed by the STAR program district coordinator are limited to (only as applied to the CAT/6):

1. Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
2. Determining school district and individual CAT/6 and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
3. Overseeing the acquisition and distribution of CAT/6 tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b).)
4. Providing a signed receipt to the test publisher upon receipt of the CAT/6 testing materials. (Cal. Code Regs., tit. 5, § 865, subd. (a).)
5. Coordinating CAT/6 testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
6. Maintaining security over CAT/6 test material and test data. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
7. Overseeing the administration of the CAT/6 to eligible students. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
8. Overseeing the collection and return of all CAT/6 test materials and tests to the publisher. (Cal. Code Regs., tit. 5, § 857, subd. (b).)

9. Resolving any discrepancies in the quantity of CAT/6 test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, § 857, subd. (b), & 868.)
10. Certifying information with respect to the CAT/6 test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, § 857, subd. (c).)
11. Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, § 859.)

STAR Program Test Site Coordinator

Reimbursable activities performed by the STAR test site coordinator are limited to (*only as applied to the CAT/6*):

1. Determining CAT/6 site test and test material needs. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
2. Overseeing the acquisition and distribution of CAT/6 tests and test materials at the test site. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
3. Cooperating with the STAR program district coordinator to provide the CAT/6 testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
4. Maintaining security over CAT/6 test material and test data. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
5. Overseeing the administration of the CAT/6 to eligible students at the test site. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
6. Overseeing the collection and return of all CAT/6 testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
7. Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the CAT/6 test information and materials. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
8. Certifying CAT/6 information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
9. Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, § 859.)

CAT/6 Test Administration

1. Conducting and monitoring the CAT/6 test to all pupils in grades 3 and 7. (Ed. Code, §§ 60640, subds. (b) & (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, & 855.)

Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

Reporting and Record Keeping

1. Inclusion of CAT/6 test results in each pupil's record of accomplishment. (Ed. Code, §§ 60607, subd. (a), & 60641, subd. (a).)

2. Preparing and mailing reports of the individual results of the CAT/6 test to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subd. (a)(2); Cal. Code Regs., tit. 5, § 863.)
3. Reporting the results of the CAT/6 test to the school district governing board or county office of education on a districtwide and school-by-school basis. (Ed. Code, § 60641, subd. (a)(3); Cal. Code Regs., tit. 5, § 864.)
4. Submitting to the Superintendent of Public Instruction a report on the CAT/6 test. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)
5. Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the CAT/6 test. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

Repeal of the Program

Statutes 2008, chapter 757, effective September 30, 2008 deleted the CAT/6 mandate in Education Code section 60640, subdivision (b), thus ending the state-mandated program for administration of the CAT/6 tests in grades 3 and 7.

Statewide Cost Estimate

Staff reviewed the claims data submitted by school districts, and compiled by the State Controller's Office (SCO). The actual claims data showed that 855 claims were filed by school districts for fiscal years 2004-2005 through 2007-2008 for a total of \$10,809,432. Claims filed by charter schools are not included in the proposed statewide cost estimate.

Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed for fiscal year 2007-2008.*

The statewide cost estimate is based on claims data reported to the Commission as of May 16, 2008. All claims for fiscal years 2004-2005, 2005-2006, and 2006-2007 have been filed. The last day for filing late or amended claims for fiscal year 2007-2008 is February 15, 2009.

2. *Non-claiming school districts did not file claims because they did not incur more than \$1000 in increased costs for this program or did not have supporting documentation to file a reimbursement claim.*
3. *Claimants have accurately reported and deducted offsets.*

The parameters and guidelines for this program included the following standard and specific language regarding offsets:

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the

costs claimed. In addition, reimbursement for this mandate received 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.

In any fiscal year in which school districts are legally required to, they must reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from state and federal Title VI funds appropriated for STAR administration. School districts are not required to use Title I funds to offset administration of the CAT/6 exam. (Emphasis added.)

If offsets are not properly reported and deducted, the SCO may make adjustments. For purposes of this proposed statewide cost estimate, the claiming data used did not include review of offsets by Commission staff.

4. There is a wide variation in costs claimed for this program.

Staff selected 29 school districts filing reimbursement claims in fiscal year 2005-2006 for comparison purposes. Using data available from the CDE website, CAT/6 Survey Test Scores -2006,¹⁴ staff makes the following observations regarding the costs claimed by the sample districts:¹⁵

- The sample districts represent 10% of statewide reported grade 3 enrollment and 11% of statewide reported grade 7 enrollments.
- The sample districts represent 10.6% of total grade 3 and 7 students tested.
- The total amount claimed by sample districts ranged from \$1,282 to \$194,984.
- The average cost per pupil tested ranged from \$2.20 to \$166.10.
- The average statewide cost per pupil tested is \$10.52 (calculated by dividing the total amount claimed by the total number of pupils tested by the sample districts).
- The average of the average cost per pupil tested is \$21.79 (calculated by dividing the total of the average costs per pupil tested by the number of sample districts (29)).
- Fifteen (15) sample districts reported testing more than 2000 pupils; their average cost per pupil was \$8.32.
- Fourteen (14) sample districts reported testing less than 2000 pupils; their average cost per pupil was \$23.86, nearly three times higher than the larger districts.

5. Because of the wide variation in costs claimed, an SCO audit of this program is likely.

6. 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.

7. Claims filed for the period of July 1, 2008 to September 30, 2008 will be substantially less because the mandate was eliminated, effective September 30, 2008.

Methodology

Fiscal Years 2004-2005 through 2007-2008

The statewide cost estimate for fiscal years 2004-2005 through 2007-2008 is based on the total of 855 unaudited actual and estimated reimbursement claims filed with the SCO for these years.

¹⁴ See Exhibit C.

¹⁵ See Exhibit D.

Fiscal Year 2008-2009

No costs are estimated for fiscal year 2008-2009 because Statutes 2008, chapter 757 eliminated the CAT/6 test administration mandate effective September 30, 2008. Thus any claims filed for the period between July 1, 2008 and September 30, 2008 should be negligible.

The statewide cost estimate includes four fiscal years for a total of \$10,809,432 for the *National Norm-Referenced Achievement Test* program.

Conclusion

The Commission adopted the statewide cost estimate in the amount of **\$10,809,432** to implement the *National Norm-Referenced Achievement Test* for fiscal years 2004-2005 through 2007-2008.

Adopted: March 27, 2009

STATEWIDE COST ESTIMATE

Education Code Section 48915, subdivisions (a) and (b)
Statutes 1993, Chapters 1255 and 1256
Education Code Section 48918

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965;
Statutes 1978, Chapter 668; Statutes 1983, Chapters 498 and 1302;
Statutes 1985, Chapter 856; Statutes 1987, Chapter 134;
Statutes 1990, Chapter 1231; and Statutes 1994, Chapter 146

*Pupil Expulsions from School: Additional Hearing Costs for
Mandated Recommendations of Expulsion for Specified Offenses*

05-PGA-04 (CSM-4455)

Test Claim Filed: March 9, 1994 and April 7, 1995

Reimbursement Period for this Estimate: July 1, 1993 through June 30, 2008

Eligible Claimants: Any school district, except for Community Colleges and Charter

The statewide cost estimate includes 15 fiscal years for a total of **\$36,861,072** for the *Pupil Expulsions from School: Additional Hearing Costs for Mandated Recommendations of Expulsion for Specified Offenses* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with State Controller's Office	Estimated Costs
1993-1994	82	\$1,216,367
1994-1995	95	\$1,394,717
1995-1996	105	\$1,505,054
1996-1997	116	\$1,474,140
1997-1998	132	\$1,554,418
1998-1999	168	\$1,996,485
1999-2000	165	\$1,764,629
2000-2001	210	\$2,328,868
2001-2002	253	\$2,441,052
2002-2003	255	\$2,711,305
2003-2004	302	\$3,544,682
2004-2005	284	\$3,862,106
2005-2006	314	\$4,310,781
2006-2007	423	\$3,903,142
2007-2008	454	\$4,068,477
Total	3358	\$ 36,861,072

STAFF ANALYSIS

Background and Summary of the Mandate

In March 1994, claimant San Diego Unified School District (Claimant) filed a test claim with the Commission on State Mandates (Commission). As amended in April 1995, the test claim alleged a reimbursable state mandate for school districts to perform new activities in connection with the suspension and expulsion of public school students. The Commission

determined that Education Code section 48915 mandated immediate suspensions, recommendations for expulsion, and expulsions for specified offenses. However, the Commission did not approve reimbursement for the due process hearing costs resulting from the state-mandated recommendations for expulsion since the hearing procedures were required by federal due process law.

The claimant challenged the Commission's decision, and in October 1999, filed a petition for writ of mandate in San Diego County Superior Court. The claimant alleged that it was entitled to all costs for mandatory expulsions. The matter was litigated in the lower courts and decided by the California Supreme Court in August 2004. The Supreme Court ruled, as follows:

“We conclude that Education Code section 48915, insofar as it compels suspension and mandates a recommendation of expulsion for certain offenses, constitutes a ‘higher level of service’ under article XIII B, section 6, and imposes a reimbursable state mandate for *all* resulting hearing costs—even those costs attributable to procedures required by federal law.

“We also conclude that *no* hearing costs incurred in carrying out those expulsions that are discretionary under Education Code section 48915 – including costs related to hearing procedures claimed to exceed the requirements of federal law – are reimbursable. [. . .] to the extent that [section 48915] makes expulsions discretionary, it does not reflect a new program or a higher level of service related to an existing program. Moreover, even if the hearing *procedures* set forth in Education Code section 48918 constitute a new program or higher level of service, we conclude that *this* statute does not trigger any right to reimbursement, because the hearing provisions that assertedly exceed federal requirements are merely incidental to fundamental federal due process requirements and the added costs of such procedures are de minimis. For these reasons, we conclude such hearing provisions should be treated for purposes of ruling upon a request for reimbursement, as part of the nonreimbursable underlying *federal* mandate and not as a state mandate.” (Emphasis in original.) (*San Diego Unified School District, supra*, 33 Cal.4th 859, 867)

On November 1, 2004, the San Diego County Superior Court issued a peremptory writ of mandate, directing the Commission to amend its Statement of Decision dated August 10, 1998, in accordance with the ruling in *San Diego Unified School District*. The Supreme Court decision requires the state to reimburse school districts for “all resulting hearing costs —even those costs attributable to procedures required by federal law” for mandated “recommendations of expulsion for certain offenses,” back to the initial reimbursement period for the *Expulsions* test claim (1993).

On May 26, 2005, the Commission adopted its Amended Statement of Decision consistent with the Supreme Court's ruling in *San Diego Unified School District*. (*San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 867 (San Diego Unified School District).

Reimbursable Activities (Parameters and Guidelines)

On July 28, 2006, the Commission on State Mandates adopted two sets of parameters and guidelines to implement the Supreme Court Decision in the *Pupil Expulsions* case and to provide a more efficient process for school districts to claim additional hearing costs for

mandated recommendations of expulsion. The first set of parameters and guidelines allow school districts to claim costs of the new activities based on a reasonable reimbursement methodology and the second set amended the new activities and claiming methodology into existing parameters and guidelines, beginning fiscal year 2006-2007.

The reasonable reimbursement methodology is a cost allowance based on claimant and Los Angeles Unified School District's actual expulsion hearing costs for 2005-2006. To determine cost allowances for the prior years, the 2005-2006 cost allowances were adjusted back to fiscal year 1993-1994 by the Implicit Price Deflator for the Costs of Goods and Services to Governmental Agencies, as determined by the Department of Finance.¹⁶ Adoption of this reasonable reimbursement methodology allowed school districts to claim and be reimbursed for additional hearing costs for mandated recommendations of expulsion.

The Commission found that these activities are state-mandated and reasonably necessary to comply with the state-mandated expulsion hearings pursuant to Education Code section 48918. Therefore, these are the reimbursable activities:

A. Expulsion Hearings

If the expulsion hearing is for one of the following offenses:

- causing serious physical injury to another person, except in self defense;¹⁷
- possession of any firearm,¹⁸ knife,¹⁹ explosive,²⁰ or other dangerous object²¹ of no reasonable use to the pupil at school or at a school activity off school grounds;
- unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 1053) of Division 10 of Health and Safety Code,²² except for the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis; or
- robbery or extortion.²³

Then the following additional activities are reimbursable:

1. Preparation for Expulsion Hearing

- Preparing and reviewing documents to be used during the expulsion hearing.
- Arranging hearing dates and assigning panel members and translators as needed.

2. Conducting Expulsion Hearing

- Attendance of the hearing officer or review panel and other district employees required to attend the expulsion hearing.

¹⁶ Government Code section 17523.

¹⁷ Education Code section 48915, subdivision (a)(1).

¹⁸ Education Code section 48915, subdivision (c)(1).

¹⁹ Education Code section 48915, subdivision (a)(2).

²⁰ Education Code section 48915, subdivision (c)(5).

²¹ Education Code section 48915, subdivision (a)(2); the word "device" is replaced with "object" to conform with text of this section.

²² Education Code section 48915, subdivision (c)(3).

²³ Education Code section 48915, subdivision (a)(4).

3. Hearing Officer or Panel's Expulsion Recommendation to the Governing Board
 - Preparation and submission of the hearing officer or panel's findings of fact based solely on the evidence adduced at the hearing to recommend the expulsion of a pupil to the governing board.
4. Record of Hearing

Maintaining a record of the hearing by any means which would allow for a reasonably accurate and complete written transcript of the proceeding to be made.

Reasonable Reimbursement Methodology

The Commission adopted a reasonable reimbursement methodology to reimburse school districts for all direct and indirect costs, as authorized by Government Code section 17557, subdivision (b), in lieu of payment of total actual costs incurred for the reimbursable activities.

Uniform cost allowances for Fiscal Years 1993-94 through 2004-2005, are determined by adjusting the uniform cost allowance for Fiscal Year 2005-2006 by the Implicit Price Deflator referenced in Government Code section 17523. See attachment to the parameters and guidelines for the uniform cost allowances for Fiscal Years 1993-94 through 2004-2005.

The uniform cost allowances for reimbursement of activities identified above are as follows:

Reimbursable Component	Uniform Cost Allowances Fiscal Year 2005-2006
A.1 Preparation for Expulsion Hearing	\$157.00
A.2. Conducting Expulsion Hearing	\$196.16
A.3 Hearing Officer or Panel's Expulsion Recommendation to the Governing Board	\$232.00
A.4 Record of Hearing	\$2.00
Total	\$587.16

Reimbursement is determined by multiplying the uniform cost allowance for the appropriate fiscal year by the number of mandatory recommendations for expulsion that resulted in expulsion hearings. If a hearing does not result, claimant may still claim increased costs incurred to prepare for expulsion hearing.

Reimbursement Claims Filed with the State Controller's Office

The original claiming instructions set February 5, 2007 as the due date for initial reimbursement claims for actual costs incurred for expulsion hearings. Actual claims for the 2006-2007 fiscal year and estimated claims for the 2007-2008 fiscal year were filed on or before January 15, 2008. Staff reviewed the claims data submitted by school districts, and compiled by the SCO. The actual claims data showed that 2,498 claims were filed for fiscal years 1993-1994 through 2007-2008 for a total of \$30,335,839.²⁴ This actual claims data does not include 2006-2007 and 2007-2008 claiming data for expulsion hearing costs claimed under the consolidated parameters and guidelines for *Pupil Suspensions, Expulsions, and Expulsion Appeals*.

According to the SCO, *Pupil Suspensions, Expulsions, and Expulsion Appeals* programs, school districts claimed \$3,241,474 in 2005-2006. For 2006-2007 (the first year with the additional hearing costs included) school districts claimed \$7,140,095; and for 2007-2008, they claimed \$7,578,831. The additional hearing costs claimed are not separately reported by the SCO.

²⁴ See Exhibit B, Claims Data reported by State Controller's Office, March 4, 2009.

Table 1. Claims Data Reported by the State Controller’s Office As of May 16, 2008²⁵

Fiscal Year	Number of Claims Filed	Amount Claimed
1993-1994	82	\$1,216,367
1994-1995	95	\$1,394,717
1995-1996	105	\$1,505,054
1996-1997	116	\$1,474,140
1997-1998	132	\$1,554,418
1998-1999	168	\$1,996,485
1999-2000	165	\$1,764,629
2000-2001	210	\$2,328,868
2001-2002	253	\$2,441,052
2002-2003	255	\$2,711,305
2003-2004	302	\$3,544,682
2004-2005	284	\$3,862,106 ²⁶
2005-2006	314	\$4,310,781 ²⁷
2006-2007	12	\$152,334
2007-2008	5	\$78,901
Totals	2,498	\$ 30,335,839

Program costs for 2006-2007 and 2007-2008 that are reported by the SCO should have been claimed as part of the revised consolidated parameters and guidelines and reimbursement claims filed for *Pupil Suspensions, Expulsions, and Expulsion Appeals*.

Assumptions

Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for the expulsion hearings program:

1. Non-claiming school districts did not file claims for *Pupil Expulsions from School: Additional Hearing Costs for Mandated Recommendations of Expulsions for Specified Offenses* program (expulsion hearings) because they did not incur more than \$1000 in increased costs for this program or did not have supporting documentation to file a reimbursement claim.
2. The total amount of reimbursement for expulsion hearings may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.
3. The total amount of reimbursement for this program may increase if there is an increase in the number of mandated recommendations for expulsion and expulsion hearings, and number of school districts filing claims.
4. Claims filed for fiscal years 1993-1994 through 2006-2007 will not increase because the filing period has ended.
5. More school districts filed claims for fiscal years 2006-2007 and 2007-2008 on the revised consolidated claim for *Pupil Suspensions, Expulsions, and Expulsion Appeals* which now includes this program.

²⁵ Ibid.

²⁶ Staff adjusted the total by deducting amounts claimed by charter schools which are ineligible claimants pursuant to parameters and guidelines, Section II.

²⁷ Ibid.

6. Costs claimed for the activities in the original consolidated claim for *Pupil Suspensions, Expulsions, and Expulsion Appeals* will remain the same for 2006-2007 and 2007-2008.
7. The additional school districts that filed claims on the revised consolidated claim for *Pupil Suspensions, Expulsions, and Expulsion Appeals*, claimed costs for expulsion hearings.

Methodology

Fiscal Years 1993-1994 through 2005-2006

The statewide cost estimate for fiscal years 1993-1994 through 2005-2006 was developed by totaling the 2,481 unaudited actual reimbursement claims filed with the SCO for these years.

Fiscal Years 2006-2007 – 2007-2008

The DOF disagreed with the methodology in the draft staff analysis for estimating the statewide cost estimate for fiscal years 2006-2007 and 2007-2008. This methodology was based on the same number of claimants and unaudited amounts from 2005-2006. DOF believes that this estimate should be derived using actual, audited claims.

For the final staff analysis, staff used a different methodology to estimate the costs claimed for expulsion hearings for fiscal years 2006-2007 and 2007-2008. This methodology is based on actual unaudited claims filed for the original and revised consolidated parameters and guidelines for *Pupil Suspensions, Expulsions, and Expulsion Appeals*.

Beginning in 2006-2007, the reasonable reimbursement methodology to claim expulsion hearing costs is included in the consolidated parameters and guidelines for *Suspensions, Expulsions and Expulsion Appeals* programs. For 2006-2007, 423 school districts filed reimbursement claims on the consolidated claim, and for 2007-2008, 454 school districts filed claims. For 2006-2007, the number of school districts filing reimbursement increased by about 35%. Staff used the following methodology for estimating costs that may be attributed to the increased costs for expulsion hearings.

Staff calculated an average claim amount (for the original parameters and guidelines) based on claims filed in 2003-2004, 2004-2005, and 2005-2006 for *Pupil Suspensions, Expulsions, and Expulsion Appeals*. These claims did not include costs for expulsion hearings.

Table 2. Calculation of Average Claim Amount

**Original Mandate: *Pupil Suspensions, Expulsions, and Expulsion Appeals*
2003-2004 through 2005-2006**

Fiscal Year	Number of Claims	Original Consolidated Claim Amount
2003-2004	377	\$ 4,119,873
2004-2005	366	\$ 2,368,664
2005-2006	360	\$ 3,241,474
	Average Claim Amount	\$ 3,243,337

The average claim amount (\$3,243,337) was multiplied by the implicit price deflator for 2006-2007 (4.5%), and 2007-2008 (5.9%).

- \$3,243,337 X 1.045 = \$3,389,287 (2006-2007)
- \$3,389,287 X 1.059 = \$3,589,255 (2007-2008)

To estimate expulsion hearing costs, staff subtracted the average claim amount calculated above from the total for the revised consolidated claims filed for 2006-2007 and 2007-2008.²⁸ The estimated expulsion hearing costs calculated for 2006-2007 and 2007-2008 were then adjusted by adding in the amounts that were erroneously claimed for expulsion hearings (\$152,334 and \$78,901) under the initial reimbursement claim forms and reported by the SCO.²⁹ The resulting total estimated hearing costs were then added to the statewide cost estimate for fiscal years 2006-2007 and 2007-2008. The statewide cost estimate, calculated as described above, is displayed in Table 4.

**Table 3. Calculation of Estimated Hearing Costs
Fiscal Years 2006-2007 and 2007-2008**

Fiscal Years	Number of Claims	Total Claimed Revised Consolidated Claim	Original Consolidated Claim (No Hearing Costs)	Estimated Hearing Costs	Adjustment Initial Claims	Total Estimated Hearing Costs
2006-2007	423 12	\$7,140,095	\$3,389,287 (4.5%)	3,750,808	\$152,334	\$3,903,142
2007-2008	454 5	\$7,578,831	3,589,255 (5.9%)	\$3,989,576	\$78,901	\$4,068,477

Table 4. Statewide Cost Estimate

Fiscal Year	Number of Claims Filed	Amount Claimed/Estimated Costs*
1993-1994	82	\$1,216,367
1994-1995	95	\$1,394,717
1995-1996	105	\$1,505,054
1996-1997	116	\$1,474,140
1997-1998	132	\$1,554,418
1998-1999	168	\$1,996,485
1999-2000	165	\$1,764,629
2000-2001	210	\$2,328,868
2001-2002	253	\$2,441,052
2002-2003	255	\$2,711,305
2003-2004	302	\$3,544,682
2004-2005	284	\$3,862,106
2005-2006	314	\$4,310,781
2006-2007	423	\$3,903,142
2007-2008	454	\$4,068,477
Total *Estimates calculated as described above	3358	\$36,861,072

Conclusion

The Commission adopted the statewide cost estimate of **\$36,861,072** for fiscal years 1993-1994 through 2007-2008. The estimated average annual cost to the state is \$2,457,405 for *Pupil Expulsions from School: Additional Hearing Costs for Mandated Recommendations of Expulsion for Specified Offenses* program.

²⁸ See Table 3.

²⁹ Ibid.

III. PENDING STATEWIDE COST ESTIMATES

	Local Agencies		School Districts
1.	<i>California Fire Incident Reporting System (CFIRS) Manual, 4419, 00-TC-02</i>	16.	<i>Pupil Expulsions II, Educational Services Plan for Expelled Pupils, and Pupil Suspensions II and Amendments, 96-358-03, 96-358-03A, 03B, 96-358-04, 96-358-04A, 04B, 97-TC-09, 98-TC-22, 98-TC-23, 01-TC-17, 01-TC-18*</i>
2.	<i>Interagency Child Abuse and Neglect (ICAN) Investigation Reports, 00-TC-22*</i>	17.	<i>Behavioral Intervention Plans, 4464*³⁰</i>
3.	<i>In-Home Supportive Services II, 00-TC-23</i>	18.	<i>Pupil Discipline Records & Notification to Teachers: Pupils Subject to Suspension or Expulsion, 00-TC-10; 00-TC-11</i>
4.	<i>Local Recreational Areas: Background Screenings, 01-TC-11</i>	19.	<i>CalSTRS Creditable Compensation, 01-TC-02; 02-TC-19</i>
5.	<i>Modified Primary Election, 01-TC-13*</i>	20.	<i>Tuition Fee Waivers, 02-TC-21*</i>
6.	<i>Fifteen Day Close of Voter Registration, 01-TC-15</i>	21.	<i>Reporting Improper Governmental Activities, 02-TC-24</i>
7.	<i>Prevailing Wage Rates, 01-TC-28*</i>	22.	<i>Cal Grants, 02-TC-28*</i>
8.	<i>Domestic Violence Background Checks, 01-TC-29*</i>	23.	<i>Comprehensive School Safety Plans II, 02-TC-33*</i>
9.	<i>Local Government Employment Relations, 01-TC-30*</i>		
10.	<i>Crime Statistic Reports for Department of Justice, 02-TC-04, 02-TC-11*</i>		
11.	<i>Crime Victims' Domestic Violence Incident Reports II, 02-TC-18*</i>		
12.	<i>Local Agency Formation Commissions, 02-TC-23*</i>		
13.	<i>Identity Theft, 03-TC-08*</i>		
14.	<i>Permanent Absent Voter II, 03-TC-11*</i>		
15.	<i>Voter Identification Procedures, 03-TC-23*</i>		

* Parameters and Guidelines Phase

³⁰Litigation is currently pending which enjoins the Commission from adopting parameters and guidelines for the *BIPs* program because Department of Finance and school officials have reached a settlement agreement on reimbursement for this program. Once this settlement has been ratified by the Legislature, *BIPs* will be removed the Commission's pending caseload.