CALIFORNIA CODE OF REGULATIONS

TITLE 2. ADMINISTRATION

DIVISION 2. FINANCIAL OPERATIONS

CHAPTER 2.5. COMMISSION ON STATE MANDATES

Article 1. General

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1181.2. Definitions.

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

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

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

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

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

(e) "Completed" means that all requirements for a new filing for a test claim, proposed parameters and guidelines, request to amend parameters and guidelines, request for reconsideration, request to review claiming instructions, incorrect reduction claim or request for mandate redetermination have been satisfied by the claimant or requester.

(f) "Filing date" means the date received at the Commission's office during normal business hours by any of the methods described in section 1181.3 of these regulations.

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

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

(i) "Interested party" means a local agency, school district, or state agency, with a beneficial interest in the matter.

(j) "Interested person" means any individual, local agency, school district, state agency, corporation, partnership, association, or other type of entity, having an interest in the activities of the Commission.

(k) "New filing" means a test claim, incorrect reduction claim, request to amend parameters and guidelines, joint request for reasonable reimbursement methodology, request for review of claiming instructions, request for removal or inclusion in State Mandates Apportionment System, or request for mandate redetermination.

(l) "Party" includes a party's representative of record who is expressly authorized to act on the party’s behalf. Party means the following for each matter as specified below:

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

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

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

affected school districts.

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

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

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

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

(m) "Real Party in Interest" means any person or entity whose interest will be directly affected by the resolution of the matter.

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

(o) "Statewide cost estimate" means the approximate sum of money that local agencies or school districts may have incurred to implement a state-mandated program or any increased level of service of an existing mandated program. A statewide cost estimate submitted by a test claimant shall be an estimate of the first full fiscal year of actual or estimated costs based on the statutes and executive orders alleged in a test claim, except as provided in Government Code section 17557.1(a). A statewide cost estimate adopted by the Commission shall be an estimate based on the Commission's determination of a test claim for the initial period of reimbursement to be reported to the Legislature.

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

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

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

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

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

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

-§ 1181.3. Filing and Service of Written Materials and New Filings.

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

(1) E-Filing. Submit the original to the Commission by saving the signed original in a PDF file and submitting it via the Commission's e-filing system, available on the Commission's website. Documents e-filed with the Commission must be in a legible and searchable format. The filer is responsible for maintaining the signed original for the duration of the process for the matter, including any period of appeal. Notwithstanding any other provision in these regulations, if a new filing or written material is e-filed, no additional copies shall be submitted to Commission staff. The following shall apply to e-filing:

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

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

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

(D) Documents e-filed with the Commission do not need to be served and proof of service does not need to be provided for persons that have provided an e-mail address for the mailing list. Nothing in this regulation excuses a filer from serving hard copies of written material on persons who appear on the mailing list and have not provided an e-mail address for the mailing list or

from providing a proof of service with the e-filing to the Commission for the service.

(E) Upon confirmation of actual receipt, Commission staff shall notify all persons on the mailing list for the matter that written material may be viewed on the Commission's website. For "new filings" -as defined by section 1181.2(k) of these regulations, Commission staff shall notify all persons on the mailing list prepared pursuant to section 1181.4 of these regulations, of the availability of those filings on the Commission's website when Commission staff sends its notice of complete filing to the filing party.

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

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

(2) By first class mail. Submit the unbound original and seven copies to the Commission.

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

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

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

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

§ 1181.4. Mailing Lists and Numbering of Matters.

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

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

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

(1) Test Claim (TC)

(2) Incorrect Reduction Claim (I)

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

(4) Joint Request for Reasonable Reimbursement Methodology (RRM)

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

(6) Request for Removal or Inclusion in State Mandates Apportionment System (SMAS)

(7) Joint Request for Legislatively Determined Mandate (LDM)

(8) Request for Mandate Redetermination (MR)

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

§ 1181.5. Appointment of Designees and Election and Duties of Officers.

(a) If a Commission member, as defined by Government Code section 17525, with statutory authority to designate a deputy to represent him or her makes a designation, that designee may continue to serve on the Commission until the designation is revoked by the current Commission member.

(b) Commission members as defined by Government Code section 17525 shall be officers. Duties of Officers:

(1) Duties of Chairperson. The chairperson shall preside over all meetings of the Commission when present. The chairperson has all the rights and responsibilities of the other members, including the right to introduce motions or proposals and to speak and vote on them while presiding. The chairperson has the power to appoint one or more members of the Commission as a subcommittee to investigate and report to the Commission on any matter within the scope of the purposes of the Commission or to form advisory groups to assist the Commission or its subcommittees in fulfilling their purposes.

(2) Duties of Vice Chairperson. The vice chairperson shall preside over all meetings of the Commission at which the chairperson is not present. The vice chairperson has all the rights and responsibilities of the other members, including the right to introduce motions or proposals and to speak and vote on them while presiding.

(c) Time of Election. The Commission shall elect a chairperson and vice chairperson at the January meeting of each year, or at the next regularly scheduled meeting, if no meeting is held in January. In the calendar year following the statewide election of constitutional officers, the Commission may postpone its election. The Commission may authorize the executive director to conduct the election portion of its meeting.

(d) Vacancy. If an office (chairperson or vice-chairperson) held by a public member or local elected official becomes vacant, an election shall be conducted as soon as practicable to fill the vacant office.

(e) When Election Takes Effect. An election shall take effect immediately.

Note: Authority cited: Sections 17500 and 17527(g), Government Code. Reference: Sections 7.5, 7.6, 7.9, 17525, 17528, and 17530, Government Code.

§ 1181.6. Development and Approval of Commission Forms.

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

-(b) The executive director shall conduct at least one workshop with interested parties, Department of Finance, Office of the State Controller, other affected state agencies, and interested persons before approval of a form.

(c) Upon development of a new form, the executive director shall notify claimants, interested parties, affected state agencies, and interested persons, and shall disseminate copies at least 10 days before the operative date of a form.

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

§ 1181.7. Waiver of Requirement to Use Forms.

The executive director may waive a requirement to use any form specified by these regulations.

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

§ 1181.8. Commission Meeting Quorum and Voting Requirements.

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

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

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

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

(2) Assign the claim to a hearing panel or to a hearing officer, pursuant to section 1187.2 et seq., for hearing and preparation of a proposed decision for consideration by the Commission. If the Commission assigns the claim to a hearing panel, the selection of the hearing panel shall be by lot, or other means of random and impartial selection; or

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

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

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

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

(a) Time and distribution. Notices and agendas of meetings shall be given to all members, to all parties and interested parties to proceedings on the agenda, and to all persons who request them in writing. The notice and agenda shall be provided no less than 10 days prior to the scheduled meeting.

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

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

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

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

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

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

§ 1181.10. Commission Meeting Procedures.

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

(b) Public Comments.

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

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

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

(C) For written comments received less than five days in advance of the meeting, the commenter shall provide 12 copies to Commission staff at the meeting. Commission staff shall provide copies of the comments to the Commission and shall place a copy on a table for public review when the item is called.

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

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

§ 1181.11. Permanent Record of Commission Meetings.

(a) The Commission shall keep minutes of its meetings. Minutes shall be approved by the Commission and, upon approval, shall be signed by the chairperson or other person designated by the chairperson. Signed minutes shall be the original evidence of actions taken at any meeting, including the text of any resolutions adopted.

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

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

§ 1181.12. Default Rules of Commission Meetings.

In all cases not provided for by Government Code Section 17500 et seq., the Bagley-Keene Open Meeting Act (Government Code Section 11120 et seq.) and the Commission's rules and regulations, the authority shall be Robert's Rules of Order (revised), unless otherwise designated by the Commission at the annual election meeting.

Note: Authority cited: Sections 17500, 17527(g), and 17553(a), Government Code. Reference: Sections 11120 et seq., and 17526, Government Code.

§ 1181.13. Commission Meeting by Teleconference.

The Commission may hold an open or closed meeting by teleconference if it is difficult or impossible for the Commission to achieve a quorum. A meeting held by teleconference shall comply with the Bagley-Keene Open Meeting Act.

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

Article 2. Applications for a Finding of Significant Financial Distress

§ 1182.1. Reduction in Aid Levels; Definitions.

When the county has made a compelling case that basic county services cannot be maintained without a reduction in the level of aid established by Welfare and Institutions Code section 17000.5, the Commission shall make a finding of significant financial distress.
In making such a finding, the following definitions shall apply:

(a) "Application" means a county application filed pursuant to this article requesting the Commission determine that the county has made a compelling case that basic county services cannot be maintained without a reduction in the level of General Assistance aid established by

Welfare and Institutions Code section 17000.5, and finding that as a result, the county is in significant financial distress, as defined in Welfare and Institutions Code section 17000.6.

(b) "Applicant" means the county that filed the request for a finding of significant financial distress.

(c) A "compelling case" sufficient to cause a finding of significant financial distress must be established by clear and convincing evidence.

(d) "Basic county services" means those services which are fundamental or essential. The services shall include, but are not limited to, those services required by state or federal law, and may vary from county to county.

(e) "Maintained" means the level of service which the county must provide in order to adequately or effectively furnish basic county services.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6(b), Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

§ 1182.2. Filing of an Application for a Finding of Significant Financial Distress.

(a) Pursuant to Welfare and Institutions Code section 17000.6, in order for the board of supervisors of any county to obtain a finding of significant financial distress, the board of supervisors must submit a written application to the Commission on State Mandates.

(b) The applicant shall file an original application, including supporting documents, with the Commission in accordance with section 1181.3 of these regulations.

(c) All applications shall contain at least the following:

(1) A table of contents, indicating page numbers.

(2) A copy of a resolution from the county board of supervisors stating that compliance with the standards set forth in Welfare and Institutions Code section 17000.5 will result in significant financial distress to the county for a specified period of time, up to 36 months.

(3) A written narrative, including a summary, detailing the relevant financial or other budgetary information and documents necessary for a county to make a compelling case that basic county services, including public safety, cannot be maintained without a reduction in the standard of aid as provided in Welfare and Institutions Code section 17000.5. The narrative shall also include:

(A) The monthly caseload of General Assistance recipients for each of the 12 months preceding the date the application is filed.

(B) The current monthly rate of the General Assistance Standard of Aid.

(C) The proposed reduced rate of the General Assistance Standard of Aid.

(D) An overview of county finances, including, but not limited to county revenue sources; budget reserve data; budget expenditures; mandated expenditures and maintenance of effort costs.

(E) A detailed summary of program needs and expenditure flexibility, including, but not limited to department-by-department data on unmet program needs for basic county services.

(F) The county's total population at the time the application is filed, and the total county population for the two fiscal years prior to the year in which the application was filed.

(d) The written narrative shall be submitted under penalty of perjury. In addition, the financial and other budgetary documents shall be certified under penalty of perjury.

(e) Each page of the application, including all supporting documentation, shall be consecutively numbered.

(f) The original application, including all supporting documentation, shall be unbound and single-sided.

(g) The executive director shall notify an applicant within 10 days of receipt of an application whether its application is incomplete. If the application is incomplete, the executive director may return the application to the county. An application shall be considered incomplete if the elements in subdivisions (b) through (f) of this section have not been satisfied, are illegible or are not included. The requirements for Commission public hearings and decisions, as set forth in Welfare and Institutions Code section 17000.6(c), apply only to complete applications.

(h) Within 10 days of receipt of a completed application, the executive director shall notify the applicant that the application is complete, and notify the applicant of the schedule. The executive director shall also send the application to interested persons located in the applicant county.

(i) Prior to filing an application, a county may request a tentative date for conducting the hearing in the county. If a complete application is not received by a specified date, a new tentative hearing date may be set.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6(b), Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

§ 1182.3. Extension of Period for Preliminary and Final Decision and Current Period of Financial Distress.

(a) If an application is filed while another county's application is pending, the executive director may extend both the preliminary decision period up to 120 days and the final decision period up to 150 days from the filing date of the application, unless otherwise provided in the current Budget Act. If the preliminary and final decision periods are extended, any current period of significant financial distress of the applicant that has been set, pursuant to Welfare and Institutions Code Section 17000.6(b), shall also be extended for the same period.

(b) Within 10 days of receipt of a county's application, the executive director shall provide written notice to the applicant of extensions of the preliminary decision and final decision periods and of any current period of significant financial distress of the applicant.

Note: Authority cited: Stats. 1998, c. 324, Item 8885-001-0001, Prov. (2), p. 622 (and subsequent Budget Acts); Section 17527(g), Government Code; and Section 17000.6(b), Welfare and Institutions Code. Reference: Section 17000.6(c), Welfare and Institutions Code.

§ 1182.4. Notice.

(a) Upon receipt of a complete application for a finding of significant financial distress, the Commission shall provide to the applicant a written 30-day notice of the hearing, to be held in the county.

(b) The notice shall be publicly posted by the applicant at the county court house and one county welfare office where General Assistance recipients are generally present. The Commission shall publish two notices in a newspaper of general circulation in the county. The first notice shall be published at least 30 days prior to the hearing date. The second notice shall be published at least 10 days prior to the hearing date. The cost of publishing the notices shall be paid for by the Commission. Notice shall also be posted on the Commission's website.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6(b), Welfare and Institutions Code. Reference: Section 11125, Government Code; and Section 17000.6(c), Welfare and Institutions Code.

§ 1182.5. Pre-Hearing Conference.

A pre-hearing conference may be scheduled by the executive director for the purpose of identifying issues and determining methods of resolving the issues. The county and other parties known to have an interest in the county's application shall be invited to participate. This conference shall not limit the issues that can be presented to or considered by the Commission at public hearing.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code; and Section 17530, Government Code.

§ 1182.6. Assignment to Hearing Panels/Hearing Officers.

The chairperson may assign an application to a hearing panel consisting of one or more members of the Commission, which shall act on behalf of the Commission, or to a hearing officer for hearing and preparation of a preliminary decision. Assignments by the chairperson of members on the hearing panels shall be rotated among the members with the composition of the members so assigned being varied and changed to assure that there shall never be a fixed and continued composition of members.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code; and Sections 17528 and 17532, Government Code.

§ 1182.7. Request for Supplemental Information.

(a) The executive director may request supplemental information from the applicant to assist the Commission in its review and analysis of the application. The applicant shall provide the supplemental information under the timeline established by the executive director.

(b) The supplemental information shall be submitted under penalty of perjury. Any attached financial or other budgetary documents shall be certified under penalty of perjury.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code, and Section 17530, Government Code.

§ 1182.8. Review of Completed Application for a Finding of Significant Financial Distress and Preparation of Staff Analysis.

(a) Before the hearing is conducted in the applicant county, the executive director shall prepare and distribute a staff analysis of the application, which shall include, but not be limited to, a review of written comments filed by interested persons, and rebuttals filed by the applicant. The staff analysis may also include a review of the applicant's revenue sources, including the applicant's flexibility in directing its resources; review of the applicant's budget expenditures, statutory relief, contingencies, and fund balances; an analysis of the applicant's department-by-department evaluation of unmet need in basic county services; and a preliminary recommendation whether the Commission should approve or deny the application. The staff analysis shall describe the application and assist the Commission in determining whether or not to make a finding of significant financial distress.

(b) The executive director shall send the staff analysis out for comment at least 10 days prior to the hearing conducted in the applicant county.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 17530, Government Code; and Section 17000.6, Welfare and Institutions Code.

§ 1182.9. Written Comments.

The applicant and any interested persons may file written comments concerning the staff analysis with the Commission. Written comments shall be filed with the Commission in accordance with section 1181.3 of these regulations. The written comments shall be reviewed by Commission staff and may be incorporated into any revised or supplemental staff analysis of the application.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

§ 1182.10. Conduct of Hearing.

(a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose questions to the chairperson, hearing panel, or hearing officer for opposing witnesses in support or rebuttal of any matter relevant to the issues even though that matter was not covered in the direct examination.

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

(c) The Commission, hearing panel, or hearing officer may question any party or witness, may admit any relevant and material evidence, and may limit the length of testimony to a specific amount of time for any party or witness.

(d) The taking of evidence and testimony in a hearing shall be controlled by the Commission, hearing panel, or hearing officer in the manner best suited to ascertain the facts.

(e) Oral or written representations of fact offered by any person shall be under oath or affirmation. Written representations of fact must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief.

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

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 11125.7, Government Code; and Section 17000.6, Welfare and Institutions Code.

§ 1182.11. Representation at Hearing.

(a) The board of supervisors of a county shall designate a county representative.

(b) The county representative shall be the lead spokesperson and shall present all matters respecting the interest of the county in the proceeding.

(c) Withdrawal of appearance of any representative may be effected by filing a written notice of withdrawal and by serving a copy on the Commission.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

§ 1182.12. Continuance of Hearings and Further Hearings.

(a) The Commission, hearing panel, or hearing officer may continue a hearing to another time or place.

(b) Due to the strict time frames contained in Welfare and Institutions Code section 17000.6(c), continuances will be granted only under compelling and urgent circumstances.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 11129, Government Code; and Section 17000.6, Welfare and Institutions Code.

§ 1182.13. Preliminary and Final Decisions; Action on Decisions.

(a) Within 60 days after receipt of an application, the executive director shall notify the county of the Commission, hearing panel, or hearing officer's preliminary decision that the county did or did not make a compelling case that it will incur significant financial distress pursuant to Welfare and Institutions Code section 17000.6. If the time period is extended pursuant to section 1182.3 of these regulations, notice of the preliminary decision shall be provided within 120 days after receipt of an application, or as otherwise provided by the current Budget Act.

(b) If an application is heard by a hearing panel, the panel shall direct staff to prepare the preliminary decision in a form that may be adopted as the final decision by the Commission. When an application is heard by a hearing officer, a preliminary decision shall be presented in a form that may be adopted by the Commission as its final decision on the application. When an application is heard before the Commission itself the Commission shall direct staff to prepare a

final decision in accord with the Commission's vote, which will be presented to the Commission for adoption as its final decision.

(c) Within 90 days after receipt of an application, the executive director shall give notice to the county of the Commission's final decision that the county did or did not make a compelling case that it will incur significant financial distress pursuant to Welfare and Institutions Code section 17000.6. If the time period is extended pursuant to section 1182.3 of these regulations, notice of the final decision shall be provided within 150 days after receipt of an application, or as otherwise provided by the current Budget Act.

(d) If the preliminary decision prepared by the hearing panel or hearing officer is not adopted by the Commission as its final decision, the Commission may direct appropriate modification of the preliminary decision and thereafter adopt it as the Commission final decision or decide the application upon the record, with or without taking additional evidence, or may refer the application to a hearing panel or hearing officer to take additional evidence. If the application is so assigned to a hearing panel or hearing officer, the hearing panel or hearing officer shall prepare a preliminary decision, as provided in subdivision (b), which shall be based upon the additional evidence and the transcript and other papers which are a part of the record of the prior hearing.

(e) The affirmative vote of at least a majority of the existing membership of the Commission is required for the adoption of a final decision by the Commission. A copy of the final decision shall be filed by the Commission as a public record.

(f) A Commission final decision which makes a finding of significant financial distress will be effective for a period not to exceed 36 months. The final decision shall specify whether the effective date of the period of significant financial distress shall commence on the date of the final decision or on a date no more than 60 days from the date of the final decision.

Note: Authority cited: Stats. 1998, c. 324, Prov. (2), Item 8885-001-0001, p. 622 (and subsequent Budget Acts); Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Sections 17527(c), 17530, and 17532, Government Code; and Section 17000.6, Welfare and Institutions Code.

§ 1182.14. Form of Decision.

The final decision shall be based on the record, shall be in writing, and shall include a statement of reasons for the decision, findings, and conclusions. A copy of the final decision shall be mailed to or served on the applicant county.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

§ 1182.15. Reapplications.

(a) A county may file a reapplication for a finding of significant financial distress with the Commission.

(b) The application and hearing procedures prescribed in article 2 of these regulations shall also apply to reapplications. The applicant shall also provide the following information in its reapplication:

(1) How the applicant utilized the savings in reduction of the General Assistance Standard of Aid realized from the preceding finding of significant financial distress.

(2) The difference in the county's total population between the date the preceding application was filed and the date the reapplication is filed.

(3) Any staff changes or changes to working conditions, including but not limited to reduced work hours or salary increases or decreases that occurred since the date the preceding application was filed.

(4) Any statutes enacted since the date the preceding application was filed that change county revenue sources or expenditures, or impose new mandates upon the county.

(5) Tables that include the difference between proposed and approved unmet need in the preceding application, and the proposed unmet need in the reapplication. Tables may also be submitted by a predetermined computer medium.

(c) A county filing a reapplication of a previously approved finding of significant financial distress must present a compelling case of significant financial distress continuing since the last approved finding by the Commission.

(d) For a previously denied application, a county may file a reapplication when the fiscal situation in the county has changed.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

§ 1182.16. Withdrawal of Applications.

An application may be withdrawn by written notice any time before a final decision is issued or upon request at the time of hearing. When the Commission receives a notice or request to withdraw, the Commission may issue a decision dismissing the application.

Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

Article 3. Test Claims

§ 1183.1. Test Claim Filing.

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

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

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

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

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

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

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

-(c) Except as provided in Government Code sections 17573 and 17574, any test claim or amendment filed with the Commission must be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of first incurring increased costs as a result of a statute or executive order, whichever is later. For purposes of claiming based on the date of first incurring costs, "within 12 months" means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant.

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

(e) The claimant shall file the test claim, or amendment thereto, and accompanying documents with the Commission in accordance with section 1181.3 of these regulations.

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

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

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

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

(3) The claimants have designated one contact person to act as the resource for information regarding the test claim.

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

~~(i) Any party may appeal to the Commission for review of the actions and decisions of the executive director under this section pursuant to section 1181.1 of these regulations.~~

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

§ 1183.2. Review of Test Claim.

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

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

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

(1) If representations of fact are made, they must be supported by documentary evidence submitted with the comments in accordance with section 1187.5 of these regulations.

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

(d) The written comments and supporting documentation shall be signed at the end of the document by an authorized representative, with the declaration that it is true and complete to the best of the representative's personal knowledge or information or belief. The date of signing, the representative's title, address, and telephone number shall be included. If the authorized representative can be reached via e-mail, the e-mail address shall also be included.

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

§ 1183.3. Claimant's Rebuttal.

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

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

(1) If new representations of fact are made, they must be supported by documentary evidence submitted with the rebuttal. All documentary evidence shall be in accordance with section 1187.5 of these regulations.

(2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal, unless the authorities are also cited in the test claim or any opposition thereto. The specific

statutes and chapters, articles, sections, regulatory registers, and page numbers shall be identified. Published court decisions arising from state mandate determinations by the Board of Control and the Commission on State Mandates, article XIII B, section 6 of the California Constitution, and Government Code sections 17500 et seq., are exempt from the requirements of this subsection.

-(c) The rebuttal shall be signed at the end of the document by the claimant or its authorized representative, with the declaration that the rebuttal is true and complete to the best of the declarant's personal knowledge or information or belief. The date of signing, and the declarant's title, address, and telephone number shall be included. If the declarant can be reached by e-mail, the declarant's e-mail address shall also be included.

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

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

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

(a) Any motion to consolidate or to sever shall be filed and served in accordance with section 1181.3 of these regulations.

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

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

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

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

(b) At least 10 days before the action is taken, the executive director shall simultaneously serve on the parties and interested parties on the mailing list described in section 1181.2 of these regulations, and post on the Commission's website, a notice of any proposed action to consolidate or sever.

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

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

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

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

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

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

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

§ 1183.7. Content of Parameters and Guidelines.

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

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

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

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

(d) Reimbursable Activities. A description of the specific costs and types of costs that are reimbursable, including one-time costs and on-going costs, and reasonably necessary activities required to comply with the mandate. "Reasonably necessary activities" are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program. Activities required by statutes, regulations and other executive orders that were not pled in the test claim may only be used to define reasonably necessary activities to the extent that compliance with the approved state-mandated activities would not otherwise be possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence submitted in accordance with section 1187.5 of these regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Within 30 days of adoption of the decision on a test claim, or the early termination or expiration of a reasonable reimbursement methodology, the successful test claimant shall submit, to the Commission, proposed parameters and guidelines, pursuant to Government Code section 17557-(a).

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

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

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

(e) Written comments shall be filed and served in accordance with section 1181.3 of these regulations.

(f) Within 15 days of service of the comments, parties, interested parties, and interested persons may submit written rebuttals to the Commission, and shall file and serve their rebuttals in accordance with section 1181.3 of these regulations.

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

§ 1183.9. Expedited Process for Proposed Parameters and Guidelines.

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

In lieu of filing an original proposal pursuant to Government Code section 17557(a), the successful test claimant may file comments on the draft expedited parameters and guidelines with the Commission which may include proposed modifications.

(b) Parties, interested parties, and interested persons may file comments on the draft expedited parameters and guidelines within 2~~0~~1 days of service of Commission staff's draft proposal.

(c) Within 15 days of service of the comments submitted pursuant to subdivision (b) of this section, parties, interested parties, and interested persons may file and serve rebuttals in accordance with section 1181.3 of these regulations.

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

§ 1183.10. Reasonable Reimbursement Methodology.

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

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

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

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

(c) An interested party may submit cost information or other cost projections that can be the basis of a reasonable reimbursement methodology, and letters in support of a draft reasonable reimbursement methodology submitted pursuant to Government Code section 17557.1.

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

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

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

(b) The written notification shall provide all information and filing dates, as specified in Government Code section 17557.1(a).

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

(d) The test claimant and Department of Finance shall file and serve any filings made pursuant to Government Code section 17557.1 in accordance with section 1181.3 of these regulations.

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

(f) Written comments may be filed in accordance with section 1181.3 of these regulations.

(g) Within seven days of service of the written comments, the test claimant and Department of Finance may submit written rebuttals which shall be filed and served in accordance with section 1181.3 of these regulations.

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

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

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

(a) If the claimant indicates in the proposed parameters and guidelines or comments that a reasonable reimbursement methodology, as defined in Government Code section 17518.5, should be considered for inclusion in the parameters and guidelines, or if the Department of

Finance, Office of the State Controller, any affected state agency, or eligible claimant proposes consideration of a reasonable reimbursement methodology, Commission staff may schedule an informal conference in accordance with section 1187.4 of these regulations to discuss the methodology and plan for submittal of a reasonable reimbursement methodology.

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

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

(d) Proposed reasonable reimbursement methodologies and comments regarding those proposals shall be filed and served in accordance with section 1181.3 of these regulations.

(e) Within 15 days of service of the written comments prepared by other parties and interested parties, the party that proposed the reasonable reimbursement methodology may submit a written rebuttal to the Commission, and shall file and serve the rebuttal in accordance with section 1181.3 of these regulations.

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

§ 1183.13. Adoption of Parameters and Guidelines.

(a) After review of the test claim decision, claimant's proposed parameters and guidelines or draft expedited parameters and guidelines, written comments, and rebuttals, Commission staff shall prepare a draft proposed decision and parameters and guidelines. Commission staff's recommendation may include a reasonable reimbursement methodology developed pursuant to Government Code section 17518.5.

(b) Written comments on the draft proposed decision and parameters and guidelines shall be filed and served in accordance with section 1181.3 of these regulations, by the date noticed by the executive director. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision and parameters and guidelines.

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

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

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

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

§ 1183.14. Statewide Cost Estimate.

(a) If the Commission determines that there are state-mandated costs pursuant to Government Code section~~s~~ 17514, it shall adopt a statewide cost estimate of the amount within 12 months after receipt of a completed test claim unless extended to 18 months by the Commission or executive director.

(b) Commission staff may develop the statewide cost estimate based on initial reimbursement claims filed with the Office of the State Controller, application of a reasonable reimbursement methodology, or use a different methodology based on recommendations from the test claimant, the Department of Finance, or other interested parties.

(c) Before presenting a statewide cost estimate to the Commission for adoption, Commission staff shall disclose to the parties and interested parties the methodology, basis for any assumptions made, and sources of any data used to develop the estimate.

(d) Before adopting the statewide cost estimate, the Commission shall hold at least one informational hearing under article 8 of these regulations.

(e) Upon adoption of the statewide cost estimate by the Commission, a summary of the parameters and guidelines and the statewide cost estimate shall be included in the Commission's report to the Legislature required by Government Code section 17600.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17518.5, 17553, 17557(a), 17557.2, and 17600, Government Code.

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

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

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

(c) Written comments may be filed and served in accordance with section 1181.3 of these regulations.

(d) Within seven days of service of the written comments, the test claimant and Department of Finance may submit written rebuttals which shall be filed and served in accordance with section 1181.3 of these regulations.

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

(f) If the Commission approves a joint request for early termination, the Commission shall notify the test claimant of the duty to submit proposed parameters and guidelines to the Commission pursuant to Government Code section 17557(a), and section 1183.13 of these regulations.

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

§ 1183.16. Expiration of Reasonable Reimbursement Methodology.

(a) At least one year before the expiration of a reasonable reimbursement methodology, Commission staff shall notify the test claimant and the Department of Finance, that they may do one of the following within 60 days:

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

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

(3) Allow the reasonable reimbursement methodology to expire and notify the Commission that the test claimant will submit proposed parameters and guidelines to the Commission pursuant to Government Code section 17557(a) and section 1183. 8 of these regulations or request that Commission staff prepare expedited parameters and guidelines pursuant to section 1183.9 of these regulations to replace the reasonable reimbursement methodology.

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

(c) The test claimant and the Department of Finance may jointly propose amendments to the reasonable reimbursement methodology or the continuation of a reasonable reimbursement methodology by submitting a request made pursuant to Government Code section 17557.2(f), which shall be filed and served in accordance with section 1181.3 of these regulations.

(d) Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments on the jointly proposed amendments or request for continuation of the reasonable reimbursement methodology within 30 days of service.

(e) Written comments shall be filed and served in accordance with section 1181.3 of these regulations.

(f) Within 15 days of service of the written comments prepared by other parties and interested parties, the test claimant and Department of Finance may submit written rebuttals which shall be filed and served in accordance with section 1181.3 of these regulations.

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

(h) Within 10 days of the adoption of the jointly proposed amendments or the continuation of a reasonable reimbursement methodology, the executive director shall send copies to the Office of the State Controller, and to parties and interested parties who are on the mailing list described in section 1181.4 of these regulations.

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

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

§ 1183.17. Amendments to Parameters and Guidelines.

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

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

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

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

(3) Include a reasonable reimbursement methodology for all or some of the reimbursable activities.

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

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

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

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

(8) Amend the "boilerplate" language.

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

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

(d) A claimant or state agency requesting an amendment to existing parameters and guidelines shall file in accordance with section 1181.3 of these regulations.

(e) Within 10 days of receipt of a request to amend parameters and guidelines, Commission staff shall send a copy to those who are on the mailing list described in section 1181.4 of these regulations, and shall post the request on the Commission's website.

(f) Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments concerning the proposed amendment of the parameters and guidelines within ~~30~~21 days of service.

(g) Written comments on the request to amend the parameters and guidelines shall be filed and served in accordance with section 1181.3 of these regulations.

(h) Written rebuttals to the comments may be filed within ~~30~~21 days of service of the comments. Written rebuttals shall be filed and served in accordance with section 1181.3 of these regulations.

(i) After review of the proposed amendment to the parameters and guidelines, written comments, and rebuttals submitted, Commission staff shall prepare a draft proposed decision and recommend whether the requester's proposed amendment to the parameters and guidelines should be adopted.

-(j) Written comments on the draft proposed decision and recommendation on the proposed amendment to the parameters and guidelines shall be filed and served with the Commission in accordance with section 1181.3 of these regulations, by the date noticed by the executive director. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision and recommendation on the proposed amendment to the parameters and guidelines.

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

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

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

§ 1183.18. Timelines.

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

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

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

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

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

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

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

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

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

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

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

PARTY/ACTIVITIES	*DAY NUMBER*
TEST CLAIM	
CLAIMANT files test claim with the commission.	0
COMMISSION staff begins counting days on the first day after receipt.	1
COMMISSION staff reviews test claim to determine if complete	by 10

COMMISSION staff sends test claim to state agencies for review. by 10
COMMISSION staff convenes informal conference with parties, if necessary. by 30
STATE AGENCIES file comments on test claim. by 40
CLAIMANT submits rebuttal. by 70
COMMISSION staff prepares the draft proposed decision on the test claim and serves on parties. by 100
PARTIES submit comments on draft proposed decision on the test claim. by 130
COMMISSION staff completes analysis and issues p~~P~~roposed ~~Statement of~~ d~~D~~ecision. by 160
COMMISSION hears test claim and adopts ~~a Statement of D~~decision. by 180
COMMISSION staff issues ~~Statement of D~~decision and serves on parties. by 190
COMMISSION staff notifies Legislature of ~~Statement of D~~decision by 210

PARAMETERS AND GUIDELINES

CLAIMANT submits proposed Parameters and Guidelines. by 21~~2~~0
STATE AGENCIES AND PARTIES may file comments. by 235
CLAIMANT rebuts comments. by 250
COMMISSION staff issues~~completes~~ draft proposed decision and ~~P~~parameters and ~~G~~guidelines and serves on parties. by 265
PARTIES submit comments on ~~staff's~~ draft proposed decision and ~~P~~parameters and ~~G~~guidelines. by 275
COMMISSION staff issues~~completes~~ proposed decision and ~~P~~parameters and ~~G~~guidelines and serves on parties. by 279
COMMISSION conducts hearing and adopts proposed decision and ~~P~~parameters and ~~G~~guidelines. by 293
COMMISSION staff issues ~~adopted~~ decision and ~~P~~parameters and ~~G~~guidelines. by 303

STATEWIDE COST ESTIMATE

COMMISSION staff prepares ~~develops~~ draft ~~S~~statewide ~~C~~cost ~~E~~estimate. by 335
ALL PARTIES comment on draft s~~S~~tatewide c~~C~~ost e~~E~~stimate. by 345
COMMISSION staff ~~revises~~ prepares proposed s~~S~~tatewide c~~C~~ost e~~E~~stimate. by 350
COMMISSION conducts hearing and adopts s~~S~~tatewide c~~C~~ost e~~E~~stimate. by 365
COMMISSION staff reports Statewide Cost Estimate to the Legislature. by 395

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

PARTY/ACTIVITIES *DAY NUMBER*

TEST CLAIM WITH REASONABLE REIMBURSEMENT METHODOLOGY (RRM) AND STATEWIDE ESTIMATE OF COSTS (SEC)

CLAIMANT files test claim with the Commission. 0
COMMISSION staff begins counting days on the first day after receipt. 1
COMMISSION staff reviews test claim to determine if complete. by 10

COMMISSION staff sends test claim to state agencies for review. by 10
COMMISSION staff convenes informal conference with parties, if necessary. by 30
STATE AGENCIES file comments on test claim. by 40
CLAIMANT submits rebuttal. by 70
COMMISSION staff prepares the draft proposed decision on the test claim and serves on parties. by 100
PARTIES submit comments on the draft proposed decision on the test claim. by 130
COMMISSION staff completes analysis and issues p~~P~~roposed ~~d~~~~D~~ecision. by 160
COMMISSION hears test claim and adopts ~~a D~~decision. by 180
COMMISSION staff issues ~~Adopted D~~decision and serves on parties. by 190
COMMISSION staff notifies Legislature of d~~D~~ecision. by 2~~2~~10

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

CLAIMANT AND DEPARTMENT OF FINANCE (DOF) notify Commission in writing of their intent to follow the process in 17557.1 to develop a RRM and SEC (within 30 days after adoption of test claim decision). by 21~~2~~0
CLAIMANT AND DOF submit plan no later than 6 months after the date of letter of intent and sixty (60) days before hearing. by 400
COMMISSION staff notifies parties of comment period. by 410
INTERESTED PARTIES submit comments on the draft RRM and SEC. by 425
CLAIMANT AND DOF submit written rebuttal. by 432
COMMISSION staff issues submitted~~review~~ comments and staff recommendation. by 450
COMMISSION conducts hearing, approves the draft RRM, and adopts the proposed SEC for the initial claiming period and budget year. by 460
COMMISSION staff submits RRM to the CONTROLLER. by 470
COMMISSION staff reports SEC to the Legislature. by 490

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

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

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

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

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

(1) A copy of the disputed claiming instructions.

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

(3) A narrative that details the suggested changes and the reasons why the local agency or school district finds the claiming instructions need to be modified.

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

(c) An original request to review claiming instructions shall be submitted to the Commission by the local agency or school district in accordance with section 1181.3 of these regulations.

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

(e) Within 10 days of receipt of a complete request to review claiming instructions, Commission staff shall send a copy to all persons who are on the mailing list described in section 1181.4 of these regulations. Commission staff shall provide notice that written comments concerning the request to review claiming instructions may be submitted within 30 days of service of the notice of complete filing. A copy of the notice shall also be posted on the Commission's website.

(f) Written comments shall be filed and served in accordance with section 1181.3 of these regulations.

(g) Within 30 days of service of the written comments, the requester may submit a written rebuttal to the Commission which shall be filed and served in accordance with section 1181.3 of these regulations.

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

(i) The requester and any state agency or interested party may file written comments on the draft proposed decision. Written comments shall be filed and served as described in section 1181.3 of these regulations, by the date determined and publicized by the executive director. If representations of fact are made, they must be supported by documentary evidence submitted with the comments in accordance with section 1187.5 of these regulations. A three-week period for comments shall be given, subject to the executive director’s authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision on the request to review and modify the claiming instructions.

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

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

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

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

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

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

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

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

Article 5. Incorrect Reduction Claims

§ 1185.1. Incorrect Reduction Claim Filing.

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

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

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

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

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

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

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

(c) All incorrect reduction claims shall be filed with the Commission no later than three years following the date a claimant first receives from the Office of State Controller~~'s~~ a final state audit report, letter, ~~remittance advice,~~ or other written notice of adjustment to a reimbursement

claim, which complies with Government Code section 17558.5(c) by specifying the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to reduce the overall reimbursement to the claimant, and the reason for the adjustment. The filing shall be returned to the claimant for lack of jurisdiction if this requirement is not met.

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

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

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

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

(2) A written detailed narrative that describes the alleged incorrect reductions. The narrative shall include a comprehensive description of the reduced or disallowed areas of costs.

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

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

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

(g) An incorrect reduction claim, or amendment thereto, shall be signed at the end of the document, under penalty of perjury by the claimant or its authorized representative, with the declaration that the incorrect reduction claim is true and complete to the best of the declarant's personal knowledge or information or belief. The date signed, the declarant's title, address, telephone number, and~~,~~ e-mail address shall be included.

(h) The claimant shall file the original incorrect reduction claim, or amendment thereto, and accompanying documents with the Commission in accordance with section 1181.3 of these regulations.

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

§ 1185.2. Review of Incorrect Reduction Claims.

(a) Within 10 days of receipt of an incorrect reduction claim, Commission staff shall notify the claimant if the incorrect reduction claim is complete or incomplete. Incorrect reduction claims will be considered incomplete if any of the elements ~~required~~ in section 1185.1 (a) and (b) and (d~~c~~) through (h) are illegible or not included or if the requirements of those subdivisions are not met. Incomplete incorrect reduction claims shall be returned to the claimant. If a complete incorrect reduction claim is not received by the Commission within 30 days from the date the incomplete claim was returned to the claimant, the executive director shall deem the filing to be withdrawn.

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

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

(d~~c~~) Commission staff shall notify the Office of State Controller that written comments and supporting documentation in connection with an incorrect reduction claim shall be filed no more than 90 days from the date the copy of the claim is provided to the Office of State Controller. Written comments and supporting documentation may be filed in accordance with section 1181.3. If the written comments make representations of fact, the representations shall be supported by documentary evidence and shall be submitted with the comments in accordance with section 1187.5 of these regulations.

(e~~d~~) The claimant and interested parties may submit written rebuttals to the Office of State Controller's comments within 30 days of service of the Office of State Controller's comments. Written rebuttals and supporting documentation shall be filed and served pursuant to section 1181.3. If the written rebuttal involves representations of fact, the representations shall be supported by documentary evidence and shall be submitted with the rebuttal in accordance with section 1187.5 of these regulations.

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

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

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

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

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

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

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

(b) A claimant that seeks to file a consolidated incorrect reduction claim shall notify the Commission of its intent at the time of filing on a form provided by the Commission. The consolidated incorrect reduction claim shall be filed in accordance with section 1185.1 of these regulations and contain a narrative that explains the elements in subdivision (a) of this section.

(c) Within 10 days of receipt of a consolidated incorrect reduction claim, Commission staff shall notify the claimant if the consolidated incorrect reduction claim is complete or incomplete ~~pursuant to section 1185.1, and request the Office of the State Controller to provide the~~

~~Commission, within 30 days, a list of claimants for whom the Controller has reduced similar claims under the same mandate, and the date each claimant was notified of an adjustment~~. A consolidated incorrect reduction claim is incomplete if the claim has not been filed in accordance with subdivision (b) of this section, or is illegible. Incomplete consolidated incorrect reduction claims shall be returned to the claimant. If a complete consolidated incorrect reduction claim is not received by the Commission within 30 days from the date the incomplete claim was returned to the claimant, the executive director shall deem the filing to be withdrawn.

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

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

(~~d~~f) Upon receipt of the list from the Office of the State Controller, the Commission shall notify the list of other claimants experiencing similar reductions by the Controller under the same mandate and other interested parties of the original claimant's intent to consolidate an incorrect reduction claim.

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

§ 1185.4. Joining a Consolidated Incorrect Reduction Claim.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) During the 30-day notice period, a claimant may serve and file a written request that an individual incorrect reduction claim be severed from a proposed consolidation. Timely requests to sever shall be approved by the executive director.

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

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

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

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

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

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

(d) Written comments shall be filed and served as described in section 1181.3 of these regulations, by the date determined and publicized by the executive director. A three-week period for comments shall be given, subject to the executive director’s authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision for the incorrect reduction claim.

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

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

§ 1185.8. Withdrawal of Incorrect Reduction Claims.

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

(b) An incorrect reduction claim, by the original claimant in a consolidated incorrect reduction claim, may be withdrawn by written application any time before a decision is adopted or by oral application at the time of hearing. The original claimant shall file and serve the written application in accordance with section 1181.3 of these regulations and Commission staff shall post a copy of the notice on the Commission's website for 60 days prior to dismissal of the incorrect reduction claim. If one of the joint claimants takes over the claim, it shall, within 60

days of providing notice of its intent to take over the claim, perfect the filing by submitting the written narrative as required by section 1185.1. If none of the joint claimants takes over the claim by substitution of parties within 60 days of service and posting of the application to withdraw, the executive director shall issue a letter to everyone on the mailing list described in section 1181.4 of these regulations dismissing the claim and providing the joint claimants with an opportunity to perfect their individual claims within 60 days of service by submitting the written narrative as required by section 1185.1. The letter shall be posted on the Commission's website.

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

§ 1185.9. Reinstatement of Costs.

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

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

Article 6. State Mandates Apportionment System

§ 1186.1. Definitions: State Mandates Apportionment System.

(a) Request for Inclusion. A Request for Inclusion is a factual statement about a mandated cost program and a petition for a review of the described program by the Commission on State Mandates. The review is intended to result in a decision whether or not to include the program in the State Mandates Apportionment System.

(b) Stable costs. Stable costs are those costs incurred by local agencies or school districts as a result of implementing a mandated cost program which, when reviewed on a statewide basis over a three-year period, have not fluctuated significantly.

(c) Request for Removal. A Request for Removal is a factual statement about significant modifications or amendments to a program which is part of the State Mandates Apportionment System. The statement is intended to result in the discontinuance of the program in the State Mandates Apportionment System.

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

§ 1186.2. Request for Inclusion.

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

(b) In order to obtain a review and determination regarding inclusion in the system, a local agency, school district or state agency must file a "Request for Inclusion" with the Commission.

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

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

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

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

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

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

(f) Requests for inclusion filings and any state agency recommendations shall be subject to the requirements of article 7 of these regulations beginning at section 1187.1.

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

§ 1186.3. Adoption of Finding for Request for Inclusion.

(a) The Commission, after reviewing the request for inclusion and conducting at least one hearing in accordance with article 7 of these regulations, shall adopt a finding that the mandated program will or will not be included in the State Mandates Apportionment System.

(b) The primary criteria to be used by the Commission in making a determination will include a review of the mandated program to determine if the program has a history of stable costs for most claimants, if the mandated program has been recently modified, and if inclusion would accurately reflect the costs of the state mandated program.

(c) Upon adoption of a finding that a mandated program should be included in the State Mandates Apportionment System, the Commission shall direct the Controller to include the program in the system.

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

§ 1186.4. Request for Removal.

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

(b) In order to obtain a review and determination regarding removal of a program from the system, a local agency, school district, or state agency must file a "Request for Removal" with the Commission.

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

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

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

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

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

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

(e) Request for removal filings and any state agency recommendations shall be subject to the requirements of article 7 of these regulations beginning at section 1187.

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

§ 1186.5. Adoption of Finding for Request for Removal.

(a) The Commission, after reviewing the request for removal and conducting at least one hearing in accordance in article 7 of these regulations, shall adopt a finding that the mandated program will or will not continue to be included in the State Mandates Apportionment System.

(b) The primary criteria to be used by the Commission in making a determination regarding removal will include whether the mandated program was significantly modified or amended by the Legislature or by executive order so as to affect the ongoing costs of the program in a way that the historical costs of the program are no longer an accurate reflection of continuing costs.

(c) Upon adoption of a finding that a mandated program should be removed from the system, the Commission shall direct the Controller to remove the program from the system. In that direction to the Controller, the Commission shall specify if the program will be removed temporarily or for an indefinite period of time.

Note: Authority cited: Sections 17527(g) and 17615.5, Government Code. Reference: Sections 17615.5 and 17615.7, Government Code.

§ 1186.6. Reviewing an Apportionment or Base Year Entitlement.

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

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

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

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

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

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

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

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

§ 1186.7. Adjustment to Apportionment.

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

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

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

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

Article 7. Quasi-Judicial Hearing Procedures and Decisions

§ 1187.1. Scheduling and Noticing the Hearing.

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

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

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

§ 1187.2. Assignment to Hearing Panels/Hearing Officers.

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

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

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

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

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

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

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

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

§ 1187.4. Informal Conference.

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

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

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

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

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

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

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

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

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

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

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

§ 1187.5. Evidence Submitted to the Commission.

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

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

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

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

Note: Authority cited: Sections 17527(e), 17527(g), 17553, 17557, 17610, 17621, and 17622, Government Code. Reference: Sections 11514, 11515, 17527(e), 17553, and 17557, Government Code.

§ 1187.6. Conduct of Hearing.

(a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose to the chairperson questions for opposing witnesses in support or rebuttal of any matter relevant to the issues even though that matter was not covered in the direct examination.

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

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

(d) The hearing will ordinarily proceed in the following manner. Staff of the Commission will summarize the matter. The claimant will state its position and present its evidence. The Department of Finance or other affected state agency will thereafter state its position and present its evidence. The claimant will then be given an opportunity to reply.

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

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

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

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

§ 1187.7. Witnesses and Subpoenas.

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

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

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

(d) An application for subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda, or other records, including records of the claimant, shall be made by affidavit and shall give the name and address of the person to be subpoenaed, shall describe the matters or things desired to be produced, shall set forth in detail the relevance to the issues involved in the claim, shall specify the date on which the matters shall be produced, and that, to the best of the applicant's personal knowledge or information or belief, the witness has the matters or things in his or her possession or under his or her control and that none of the matters or things desired to be produced are public records accessible to the public pursuant to Section 6250 et seq., of the Government Code. If the applicant is unable to obtain the name of the person who has possession or control of the matters or things desired to be produced, the name of the

director or superintendent or custodian of records of the state or local agency or school district may be used for the application.

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

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

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

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

§ 1187.8. Representation at Hearing.

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

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

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

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

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

(a) Requests for Extensions of Time

Any party or interested party to a matter may request an extension of time by filing a request with the executive director before the date set for filing of comments or rebuttals with Commission staff on that matter. The request shall fully explain the reasons for the extension, propose a new date for filing, and be simultaneously served in accordance with section 1181.3 of these regulations. So long as a postponement of a hearing would not be required, there is no prejudice to any party or interested party, and there is no other good reason for denial, the request shall be approved. A party to a matter may request an extension of time that would necessitate rescheduling a hearing, but shall also include a request for postponement of the hearing, pursuant to section 1187.9(b). Within two business days of receipt of the request, the

executive director shall determine whether the extension will be granted and notify all persons on the mailing list prepared pursuant to section 1181.4 of these regulations.

(b) -Requests for Postponement of Hearing

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

(1) Circumstances that may indicate good cause include:

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

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

(C) The addition of a new party if:

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

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

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

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

(F) The number and complexity of the issues.

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

(A) The proximity of the hearing date;

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

(C) The length of the postponement requested;

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

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

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

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

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

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

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

(3) Approval of Requests for Postponement

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

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

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

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

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

(c) -Continuance of a Hearing

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

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

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

§ 1187.10. Decision; Action on Proposed Decision.

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

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

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

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

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

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

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

§ 1187.11. Form of Decision.

(a) Any decision adopted pursuant to evidence introduced at an adjudicatory hearing shall be in writing, be based on the record, and shall include a statement of reasons for the decision, findings and conclusions. A copy of the decision shall be served on those identified on the mailing list established pursuant to section 1181.4 of these regulations. The effective date of the decision is the date it is first mailed or served.

(b) After a decision has been adopted and served, it shall not be changed except to correct clerical errors, in which case a corrected decision shall be prepared and served on all persons on the mailing list prepared pursuant to section 1181.4 of these regulations.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code; and *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506. Reference: Sections 17551 and 17553(a), Government Code.

§ 1187.12. Withdrawal of a Matter.

A matter, or any portion of a matter, other than a test claim, may be withdrawn by written application of the claimant or requester any time before a decision is adopted, or by oral application at the time of hearing. A test claim, or portion thereof, may be withdrawn by the claimant upon written application to the executive director any time before a decision is adopted or after enactment of a legislatively determined mandate on the same statute or executive order pursuant to Government Code section 17574. The claimant or requester shall file and serve the written application in accordance with section 1181.3 of these regulations. Dismissal of items withdrawn pursuant to this section shall be in accordance with the procedures described in section 1187.15 of these regulations.

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

§ 1187.13. Abandonment of a Matter.

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

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

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

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

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

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

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

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

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

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

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

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

(2) Written comments shall be filed and served in accordance with section 1181.3 of these regulations.

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

(c) The hearing on a dismissal of a matter shall be conducted in accordance with article 7 of these regulations.

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

§ 1187.15. Reconsideration of an Adopted Decision.

(a) Notwithstanding section 1187.11(b) of these regulations, the Commission may make substantive changes to an adopted decision under this section or order a reconsideration of all or part of a matter on petition of any party. The power to order a reconsideration or amend a test claim decision shall expire 30 days after the adopted decision is delivered or mailed to the claimant. If additional time is needed to evaluate a petition for reconsideration filed before the expiration of the 30-day period, the Commission may grant a stay of that expiration for no more than 30 days, solely for the purpose of considering the petition. A request for reconsideration shall be deemed automatically stayed for the 30-day period. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

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

(c) All requests for reconsideration shall be submitted to the Commission in accordance with section 1181.3 of these regulations and shall contain the following:

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

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

(3) A detailed statement of the reasons for the request, including:

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

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

(4) A description of the proposed change; and

-(d) Commission member requests may be made orally during a regularly scheduled Commission meeting. Commission staff shall prepare the written request, as specified in subsections (c)(1-4) above.

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

(f) Before the Commission considers the request for reconsideration, Commission staff shall prepare a written analysis regarding whether the adopted decision is contrary to law which shall include but not be limited to a review of the written comments filed by other state agencies, interested parties, and the requester. Commission staff shall make a -recommendation in the analysis on whether the request for reconsideration should be granted. The Commission shall consider the request for reconsideration at a scheduled meeting. Five affirmative votes shall be required to grant the request for reconsideration.

(g) If the Commission grants the request for reconsideration, a hearing shall be conducted to determine if the adopted decision in question must be revised to correct an error of law.

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

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

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

(2) The procedures set forth in article 7 shall govern the Commission's hearings and decisions process, except that five affirmative votes shall be required to change an adopted decision.

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

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

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

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

Article 8. Rulemaking and Informational Hearings

§ 1188.1. Scheduling and Noticing of an Informational Hearing

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

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

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

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

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

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

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

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

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

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

§ 1188.2. Rulemaking.

(a) Petitions:

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

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

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

(C) The reasons for the request; and

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

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

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

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

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

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

(c) Notice.

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

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

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

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

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

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

Article 10. Mandate Redetermination Process

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

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

(b) All requests for mandate redetermination shall be filed on a form developed by the executive director and shall contain a detailed analysis of how and why the state's liability for mandate reimbursement has been modified pursuant to article XIII B, section 6(a) of the California Constitution and all of the elements and accompanying documents required by the form and Government Code section 17570(d).

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

(d) The requester shall file a request for mandate redetermination and accompanying documents with the Commission in accordance with section 1181.3 of these regulations.

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

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

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

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

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

§ 1190.2. Review and Response.

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

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

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

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

(1) If representations of fact are made, they must be supported by documentary evidence which shall be submitted with the response. All documentary evidence shall be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge or information or belief.

(2) A copy of relevant portions of state constitutional provisions, state and federal statutes, and executive orders, and a copy of administrative decisions and court decisions that may impact the alleged mandate, unless the authorities are also cited in the request to adopt a new test claim

decision. The specific statutes and chapters, articles, sections, and page numbers must be identified. Published court decisions arising from state mandate determinations by the Board of Control and the Commission, article XIII B, section 6 of the California Constitution, and Government Code sections 17500 et seq., are exempt from the requirements of this subsection. When an omnibus bill is relevant to the response, only the relevant pages of the statute, including the Legislative Counsel's Digest and the specific statutory changes at issue shall be filed.

(c) The written comments and supporting documentation shall be signed at the end of the document, under penalty of perjury by an authorized representative, with the declaration that it is true and complete to the best of the representative's personal knowledge or information or belief. The date of signing, the representative's title, address, telephone number, and e-mail address shall be included.

(d) Filing. Written comments and supporting documentation concerning a request for mandate redetermination shall be filed and served in accordance with Section 1181.3 of these regulations. Any representations of fact shall be supported by documentary evidence, submitted with the comments, in accordance with section 1187.5 of these regulations.

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

§ 1190.3. Rebuttal.

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

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

(1) If new representations of fact are made, they must be supported by documentary evidence which shall be submitted with the rebuttal in accordance with section 1187.5 of these regulations.

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

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

(d) The rebuttal shall be signed at the end of the document, under penalty of perjury, with the declaration that the rebuttal is true and complete to the best of the declarant's personal knowledge or information or belief. The date of signing, the declarant's title, address, ~~and~~ telephone number, and e-mail address shall be included.

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

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

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

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

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

§ 1190.5. Hearing Process and Form of Decision.

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

(a) The First Hearing:

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

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

(3) Written comments concerning the draft proposed decision may submitted to Commission staff. Written comments shall be filed and served as described in section 1181.3 of these regulations, by the date determined and publicized by the executive director. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision of the request to adopt a new test claim decision.

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

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

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

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

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

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

(b) The Second Hearing:

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

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

(3) Any party or interested party may file written comments concerning the draft proposed decision with Commission staff. Written comments shall be filed and served as described in Section 1181.3 of these regulations, by the date determined and publicized by the executive director. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. All written

comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision.

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

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

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

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

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

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

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

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