

CONSOLIDATION OF PARAMETERS AND GUIDELINES

Education Code Section 47605, Subdivision (b), and
former Subdivisions (j)(1), (j)(2), and (j)(3)
Education Code Section 47607, Subdivisions (a) and (b)

Statutes 1992, Chapter 781

Charter Schools (CSM 4437)

and

Education Code Sections 47605, Subdivisions (j)(1) and (k)(3),
47605.5, 47607, and 47614

Statutes 1998, Chapters 34 and 673

Charter Schools II (99-TC-03)

and

Education Code Sections 47605, Subdivision (b), and 47635

Statutes 1998, Chapter 34,
Statutes 1999, Chapter 78

California Department of Education Memo (May 22, 2000)

Charter Schools III (99-TC-14)

Western Placer Unified School District and Fenton Avenue Charter School, Claimants
For Fiscal Year 2007-2008 and beyond

I. SUMMARY OF THE MANDATE

Charter Schools

On July 21, 1994, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Education Code sections 47605 and 47607, as added by Statutes 1992, chapter 781, require new activities related to initial charter school petitions and for monitoring and evaluating the performance of charter schools pertaining to the revision or renewal of approved charters, which constitute a new program or higher level of service for school districts and/or county offices of education within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514. Specifically, the Commission approved the *Charter Schools* test claim for the increased costs of performing the following activities:

School Districts

- Respond to requests from the public for information on the charter school program. (Ed. Code, § 47605.)
- Conduct a public hearing within thirty days of receipt of a petition to determine community support for the petition. (Ed. Code, § 47605, subd. (b).)
- Grant or deny the petition within sixty days of receipt, subject to a thirty-day extension upon agreement of the parties. (Ed. Code, § 47605, subd. (b).)
- Provide persons to take part in a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subd. (j).)¹
- Respond to any request of the review panel selected and convened by the county superintendent of schools pursuant to an appeal of any petition denied by the school district. (Former Ed. Code, § 47605, subd. (j).)²
- Monitor the performance of charter schools for which they have granted charters to determine if they have achieved their goals and objectives. (Ed. Code, § 47607.)
- Evaluate and decide upon requests for revision or extension of approved charters. (Ed. Code, § 47607.)

County Boards of Education

- Select and convene a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subs. (j)(1) and (j)(2).)³
- Hear a petition following a denial on reconsideration by the governing board of a school district. (Former Ed. Code, § 47605, subd. (j)(3).)⁴
- Conduct a public hearing within thirty days of receipt of a petition to determine community support for the petition. (Former Ed. Code, § 47605, subd. (j)(3).)⁵
- Grant or deny the petition within sixty days of receipt, subject to a thirty-day extension upon agreement of the parties. (Former Ed. Code, § 47605, subd. (j)(3).)⁶

¹ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

² Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

³ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

⁴ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

⁵ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

- Monitor the performance of charter schools for which they have granted charters to determine if they have achieved their goals and objectives. (Ed. Code, § 47607.)
- Evaluate and decide upon requests for revision or extension of approved charters. (Ed. Code, § 47607.)

The Commission determined that the following provisions of Education Code sections 47605 and 47607 did not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, for school districts and county boards of education to:

- Plan and prepare procedures for implementation of the Charter Schools Act of 1992.
- Disseminate information regarding charter schools to staff, students, parents, and the community.

Charter Schools II

On November 21, 2002, the Commission adopted its Statement of Decision finding that Education Code sections 47605, subdivisions (j)(1) and (k)(3), 47605.5, 47607, and 47614 require new activities, as specified below, which constitute new programs or higher levels of service for school districts and/or county offices of education within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514:

School Districts

- Review charter school petitions for renewal, when submitted directly to the governing board of the school district that initially denied the charter, prior to expiration of the charter granted by the State Board of Education. (Ed. Code, § 47605, subd. (k)(3).)
- Prior to revocation of a charter, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)
- Permit a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes, or that have not been historically used for rental purposes, provided the charter school shall be responsible for reasonable maintenance of those facilities. (Reimbursement for this activity is limited to administrative expenses resulting directly from the requirement to permit charter schools to utilize unused district facilities. Rental value of the facility is specifically excluded as a reimbursable expense.) (Ed. Code, § 47614.)

County Offices of Education

- Review charter school petitions submitted directly to the county board of education, pursuant to Education Code section 47605, subdivision (b), when the governing board of

⁶ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

a school district denies a charter school petition and the charter school petitioner submits the petition to the county board of education. (Ed. Code, § 47605, subd. (j)(1).)

- Review charter school petitions submitted directly to the county board of education, in the same manner as set forth in Education Code section 47605, for charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. (Ed. Code, § 47605.5.)
- Prior to revocation of a charter, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)

The Commission also found that Education Code section 47613 establishes a fee authority that must be used by a school district or county office of education to offset any claimed reimbursement for the costs of charter school supervisory oversight under the *Charter Schools Parameters and Guidelines*.

In addition, the Commission found that Education Code sections 47602, 47604, 47613, 47613.5, 47614 and California Department of Education Memorandum dated April 28, 1999, do not require any additional mandatory activities of school districts or county offices of education, and therefore, do not impose a new program or higher level of service.

Charter Schools III

On May 25, 2006, the Commission adopted its Statement of Decision finding that the test claim statutes impose a reimbursable state-mandated program on school districts or county offices of education within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556 for the following activities:

- **Findings on denial:** Upon denial of a charter petition, a school district makes written findings of fact to support one or more of the following findings: (1) the charter school presents an unsound educational program for pupils; (2) petitioners are demonstrably unlikely to successfully implement the educational program; (3) the petition does not include the required number of signatures; (4) the petition does not contain reasonably comprehensive descriptions, as specified in statute (§ 47605, subd. (b), amended by Stats. 1998, ch. 34).⁷
- **Transfer funds in lieu of property taxes:** except for local educational agencies that charge fees under Education Code section 47613, subdivision (c), a school district or county office of education that sponsors a charter school must transfer funds in lieu of property taxes to the charter school (§ 47635, added by Stats. 1999, ch. 78).
- **Financial information:** for school districts or county offices of education that are chartering authorities, including the revenues and expenditures generated by the charter school in the school district's or county office of education's annual statement, in a format specified by the California Department of Education. (This activity was only reimbursable

⁷ This activity does not apply to a county office of education.

from May 22, 2000 until June 30, 2001, and is not included in these consolidated parameters and guidelines.)

The Commission also found that charter schools are not eligible claimants under article XIII B, section 6 and applicable statutes.

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

This consolidation of parameters and guidelines is operative for reimbursement claims (including estimated claims) filed for fiscal years 2007-2008 and beyond.

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

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

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to Government Code section 17581.5.

IV. REIMBURSABLE ACTIVITIES

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

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

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

For each eligible claimant, the following activities are reimbursable:

Charter Schools⁸

A. School Districts

1. *Responding to information requests.* Provide information, upon request, to the community regarding the Charter Schools Act of 1992 and governing board's charter policy and procedures. (Ed. Code, § 47605.)⁹
2. *Evaluating petitions.* Review and evaluate qualified charter petitions for compliance with criteria for the granting of charters. (Ed. Code, § 47605.)¹⁰
3. *Public hearings.* Prepare for public hearings, to be done within thirty days of receiving the petition, to consider the level of community support for a charter school petition, and grant or deny the charter school petition within sixty days of receiving the petition, subject to one thirty-day continuance by agreement of the parties, pursuant to Education Code section 47605. (Ed. Code, § 47605.)¹¹

B. School Districts and County Offices of Education¹²

1. *Monitoring: Renewal, Material Revision, and Revocation of the Charter¹³*
 - a. Review, analyze, and report on the charter school's performance for purposes of charter reconsideration, renewal, revision, evaluation, or revocation by the governing body. (Ed. Code, § 47607, subs. (a) and (b).)¹⁴
 - b. Evaluate and decide upon material revisions, renewals, or revocations of charters. (Ed. Code, § 47607, subs. (a) and (b).)¹⁵

Charter Schools II

A. School Districts

1. Review charter school petitions for renewal that are submitted directly to the governing board of the school district that initially denied the charter.¹⁶ Pursuant to Education Code

⁸ Effective January 1, 1999, many activities from the original *Charter Schools* Parameters and Guidelines were amended by Statutes 1998, chapters 34 and 673, and are reflected in the *Charter Schools II* activities.)

⁹ As added by Statutes 1992, chapter 781.

¹⁰ As added by Statutes 1992, chapter 781.

¹¹ As added by Statutes 1992, chapter 781.

¹² See section VII. Offsetting Savings and Reimbursements.

¹³ The fee authority established by Education Code section 47613 must be used by a school district or county office of education to offset any claimed reimbursement for the cost of these activities.

¹⁴ As added by Statutes 1992, chapter 781.

¹⁵ As added by Statutes 1992, chapter 781.

¹⁶ Each renewal is for a period of five years.

section 47605, subdivision (k)(3), the petition must be submitted prior to expiration of the charter granted by the State Board of Education. (Ed. Code, § 47605, subd. (k)(3).)¹⁷

2. Notify the charter public school of any violation of Education Code section 47607, subdivision (b), prior to revocation of a charter. Pursuant to Education Code section 47607, subdivision (c), the school shall be given a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)¹⁸

B. County Offices of Education

1. Review charter school petitions submitted directly to the county board of education, pursuant to Education Code section 47605, subdivision (b):
 - a. When the governing board of a school district denies a charter school petition and the charter school petitioner submits the petition to the county board of education. (Ed. Code, § 47605, subd. (j)(1).)¹⁹
 - b. For charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. (Ed. Code, § 47605.5.)²⁰
2. Notify the charter public school of any violation of Education Code section 47607, subdivision (b), prior to revocation of a charter. Pursuant to Education Code section 47607, subdivision (c), the school shall be given a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)²¹

Charter Schools III

A. School Districts

1. *Findings on denial.* Upon denial of a charter petition, a school district makes written findings of fact to support one or more of the following findings: (1) the charter school presents an unsound educational program for pupils; (2) petitioners are demonstrably unlikely to successfully implement the educational program; (3) the petition does not include the required number of signatures; (4) the petition does not contain reasonably

¹⁷ As amended by Statutes 1998, chapter 673.

¹⁸ As amended by Statutes 1998, chapter 34.

¹⁹ As amended by Statutes 1998, chapter 673. As amended by Statutes 1998, chapter 673. This replaces the previously approved activity in the original *Charter Schools Parameters and Guidelines* related to "Petition Appeals." (Ed. Code, § 47605, subd. (j), as added by Stats. 1992, ch. 781; replaced by Stats. 1998, ch. 673.)

²⁰ As added by Statutes 1998, chapter 34.

²¹ As amended by Statutes 1998, chapter 34.

comprehensive descriptions, as specified in statute (Ed. Code, § 47605, subd. (b), amended by Stats. 1998, ch. 34).²²

B. School Districts and County Offices of Education

1. *Transfer funds in lieu of property taxes.* Except for local educational agencies that charge fees under Education Code section 47613, subdivision (c), a school district or county office of education that sponsors a charter school must transfer funds in monthly installments to the charter school in lieu of property taxes (Ed. Code, § 47635, added by Stats. 1999, ch. 78).

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. Direct costs that are eligible for reimbursement are:

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for

²² This activity does not apply to a county office of education.

purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

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

B. Indirect Cost Rates

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

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

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

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

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter²³ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to,

²³ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

Education Code section 47613 establishes a fee authority that must be used by a school district or county office of education to offset any claimed reimbursement for the costs of charter school supervisory oversight under the *Charter Schools* Parameters and Guidelines. This refers to activity B. 1. under *Charter Schools* in section IV. of these parameters and guidelines.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statements of Decision are legally binding on all parties and provide the legal and factual basis for the consolidated parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claims. The administrative records, including the Statements of Decision, are on file with the Commission.