

ITEM 7
INCORRECT REDUCTION CLAIM
PROPOSED DECISION

Education Code Section 48260.5

Statutes 1983, Chapter 498

Notification of Truancy

Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006

10-904133-I-09

San Juan Unified School District, Claimant

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Parameters and Guidelines for *Notification of Truancy* program, amended July 22, 1993

Controller’s Letter on AB 1698, dated July 17, 2007

SixTen and Associates Mandate Reimbursement Services

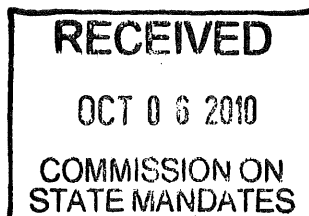
Exhibit A

KEITH B. PETERSEN, President

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October 4, 2010



Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Incorrect Reduction Claim of San Juan Unified School District
Notification of Truancy #2
Fiscal Years: 2002-03, 2003-04, 2004-05, 2005-06

Dear Ms. Higashi:

Enclosed is the original and two copies of the above referenced incorrect reduction claim for San Juan Unified School District.

SixTen and Associates has been appointed by the District as its representative for this matter and all interested parties should direct their inquiries to me, with a copy as follows:

Michael G. Dencavage,
Chief Financial Officer
San Juan Unified School District
3738 Walnut Ave.
P.O. Box 477
Carmichael, CA 95609-0477

Sincerely,

A handwritten signature in cursive script, appearing to read "KB Petersen".

Keith B. Petersen

COMMISSION ON STATE MANDATES

1. INCORRECT REDUCTION CLAIM TITLE

498/83 Notification of Truancy #2

This is the second incorrect reduction claim filed by the District on this mandate program

2. CLAIMANT INFORMATION

San Juan Unified School District

Michael Dencavage, Chief Financial Officer
San Juan Unified School District
3738 Walnut Avenue
P.O. Box 477
Carmichael, CA 95609-0477
Voice: 916-971-7238
Fax: 916-979-8215
E-Mail: MDencavage@sanjuan.edu

3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this incorrect reduction claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Keith B. Petersen, President
SixTen and Associates
3270 Arena Blvd., Suite 400-363
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Filing Date:
OCT 06 2010
COMMISSION ON STATE MANDATES

IRC #: 10-904133-I-09

4. IDENTIFICATION OF STATUTES OR EXECUTIVE ORDERS

Statutes of 1983, Chapter 498
Education Code Sections 48260 and 48260.5

5. AMOUNT OF INCORRECT REDUCTION

Table with 2 columns: Fiscal Year, Amount of Reduction. Rows include 2002-03, 2003-04, 2004-05, 2005-06, and TOTAL.

6. NOTICE OF NO INTENT TO CONSOLIDATE

This claim is not being filed with the intent to consolidate on behalf of other claimants.

Sections 7-14 are attached as follows:

Table listing exhibits: 7. Written Detailed Narrative (Pages 1 to 29), 8. Controller's Payment Letters (Exhibit A), 9. Parameters and Guidelines (Exhibit B), 10. Controllers Claiming Instructions (Exhibit C), 11. Controller's Final Audit Report (Exhibit D), 12. 'Statistical Sampling Revisited' (Exhibit E), 13. Controller's Letter July 17, 2007 (Exhibit F), 14. Annual Reimbursement Claims (Exhibit G).

15. CLAIM CERTIFICATION

This claim alleges an incorrect reduction of a reimbursement claim filed with the State Controller's Office pursuant to Government Code section 17561. This incorrect reduction claim is filed pursuant to Government Code section 17551, subdivision (d). I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this incorrect reduction claim submission is true and complete to the best of my own knowledge or information or belief.

Michael Dencavage, Chief Financial Officer

Signature: Michael Dencavage
Date: 9-27-10

1 Claim Prepared by:
2 Keith B. Petersen
3 SixTen and Associates
4 3270 Arena Blvd., Suite 400-363
5 Sacramento, CA 95834
6 Voice: (916) 419-7093
7 Fax: (916) 263-9701
8 E-mail: kbpsixten@aol.com

9
10 BEFORE THE
11 COMMISSION ON STATE MANDATES
12 STATE OF CALIFORNIA

12 INCORRECT REDUCTION CLAIM OF:)
13) No. CSM _____
14)
15) Chapter 498, Statutes of 1983
16) Education Code Section 48260.5
17 **SAN JUAN UNIFIED**)
18) **Notification of Truancy #2**
19 **School District**)
20) Annual Reimbursement Claims:
21 Claimant.)
22) Fiscal Year 2002-03
23) Fiscal Year 2003-04
24) Fiscal Year 2004-05
25) Fiscal Year 2005-06
26 _____)

27 INCORRECT REDUCTION CLAIM FILING
28 PART I. AUTHORITY FOR THE CLAIM

29 The Commission on State Mandates has the authority pursuant to Government
30 Code Section 17551(d) to “. . . hear and decide upon a claim by a local agency or
31 school district filed on or after January 1, 1985, that the Controller has incorrectly
32 reduced payments to the local agency or school district pursuant to paragraph (2) of
33 subdivision (d) of Section 17561.” San Juan Unified School District (hereafter “District”)

Incorrect Reduction Claim of San Juan Unified School District
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1 is a school district as defined in Government Code Section 17519. Title 2, CCR,
2 Section 1185 (a), requires the claimant to file an incorrect reduction claim with the
3 Commission.

4 This incorrect reduction claim is timely filed. Title 2, CCR, Section 1185 (b),
5 requires incorrect reduction claims to be filed no later than three years following the
6 date of the Controller's remittance advice notifying the claimant of a reduction. A
7 Controller's audit report dated September 4, 2009, has been issued and constitutes a
8 demand for repayment and adjudication of the claim. On October 21 and 22, 2009, and
9 June 19, 2010, the Controller issued "results of review letters" reporting the audit results
10 and amounts due the state, and these letters constitute a payment action. See Exhibit
11 "A."

12 There is no alternative dispute resolution process available from the Controller's
13 office. The audit report states that an incorrect reduction claim should be filed with the
14 Commission if the claimant disagrees with the findings.

15 PART II. SUMMARY OF THE CLAIM

16 The Controller conducted a field audit of the District's annual reimbursement
17 claims for Fiscal Years 2002-03, 2003-04, 2004-05 and 2005-06, for the costs of
18 complying with the legislatively mandated program 498/83 Notification of Truancy. As a
19 result of the audit, the Controller determined that \$132,847 of the claimed costs were
20 unallowable:

21 /

Incorrect Reduction Claim of San Juan Unified School District
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<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Audit Adjustment</u>	<u>SCO Payments</u>	<u>Amount Due <State> District</u>
2002-03 ¹	\$131,013	\$ 4,396	\$131,013	<\$ 4,395>
2003-04 ²	\$229,909	\$52,905	\$229,909	<\$52,905>
2004-05	\$258,211	\$ 9,796	\$258,211	<\$ 9,796>
2005-06	<u>\$305,423</u>	<u>\$65,750</u>	<u>\$ 0</u>	<u>\$239,673</u>
Totals	\$924,556	\$132,847	\$619,133	\$172,577

The audit report states that the District was previously paid \$619,133 for these annual claims and that the amount of \$172,577 is due to the District as result of the audit.

PART III. PREVIOUS INCORRECT REDUCTION CLAIMS

The District previously filed an incorrect reduction claim for this mandate program for Fiscal Years 1999-00, 2000-01, and 2001-02 on December 17, 2007. The District filed a revised incorrect reduction claim for those fiscal years on July 14, 2009, in response to a revised audit report dated November 25, 2009. The District is not aware of any incorrect reduction claims having been adjudicated on the specific issues or subject matter raised by this incorrect reduction claim.

PART IV. BASIS FOR REIMBURSEMENT

1. Mandate Legislation

Chapter 498, Statutes of 1983 added Section 48260.5 to the Education Code to

¹ FY 2002-03 is an amended claim subject to a \$1,000 late-filing penalty.

² FY 2003-04 was filed after January 15, 2004, and was subject to a \$1,000 late-filing penalty.

Incorrect Reduction Claim of San Juan Unified School District
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1 require school districts to notify parents or guardians of the pupil's initial classification
2 as truant:

- 3 (a) Upon a pupil's initial classification as a truant, the school district shall
4 notify the pupil's parent or guardian, by first-class mail or other reasonable
5 means, of the following:
- 6 (1) That the pupil is truant.
 - 7 (2) That the parent or guardian is obligated to compel the attendance
8 of the pupil at school.
 - 9 (3) That parents or guardians who fail to meet this obligation may be
10 guilty of an infraction and subject to prosecution pursuant to Article
11 6 (commencing with Section 48290) of Chapter 2 of Part 27.
- 12 (b) The district also shall inform the parents or guardians of the following:
- 13 (1) Alternative educational programs are available in the district.
 - 14 (2) The right to meet with appropriate school personnel to discuss
15 solutions to the pupil's truancy.

16 The time for distribution of the initial classification of truancy is controlled by
17 Education Code Section 48260. Education Code Section 48260, as recodified by
18 Chapter 1010, Statutes of 1976, requires:

19 "Any pupil subject to compulsory full-time education or to compulsory
20 continuation education who is absent from school without valid excuse more than
21 three days or tardy in excess of 30 minutes on each of more than three days in
22 one school year is a truant and shall be reported to the attendance supervisor or
23 to the superintendent of the school district."

24 The test claim was based on this definition of a truant, that is, more than three
25 unexcused absences or tardy for more than three periods.

26 2. Test Claim

27 The State Board of Control, the predecessor body to the Commission on State
28 Mandates, with jurisdiction regarding costs mandated by the state, determined on
29 November 29, 1984, that Education Code Section 48260.5 imposed a new program or

Incorrect Reduction Claim of San Juan Unified School District
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1 an increased level of service by requiring notifications be sent to the parents or
2 guardians of pupils upon initial classification of truancy, which at the time the test claim
3 was adopted, occurred upon the fourth truancy or tardy.

4 3. Parameters and Guidelines

5 The original parameters and guidelines were adopted on August 27, 1987,
6 amended on July 28, 1988, and then amended a second time on July 22, 1993. A copy
7 of the July 22, 1993, parameters and guidelines is attached as Exhibit "B."

8 Subsequent to the adoption of the test claim and the adoption of the second
9 amended parameters and guidelines in 1993, Education Code Section 48260 was
10 amended by Chapter 1023, Statutes of 1994 and Chapter 19, Statutes of 1995, to
11 require:

12 (a) Any pupil subject to compulsory full-time education or to compulsory
13 continuation education who is absent from school without valid excuse three full
14 days in one school year or tardy or absent for more than any 30-minute period
15 during the schoolday without a valid excuse ***on three occasions in one school
16 year, or any combination thereof, is a truant and shall be reported to the
17 attendance supervisor or to the superintendent of the school district.

18 (b) Notwithstanding subdivision (a), it is the intent of the Legislature that
19 school districts shall not change the method of attendance accounting provided
20 for in existing law and shall not be required to employ period-by-period
21 attendance accounting.

22 Chapter 1023, Statutes of 1994 and Chapter 19, Statutes of 1995, also amended

23 Education Code Section 48260.5 as follows:

24 *** Upon a pupil's initial classification as a truant, the school district shall
25 notify the pupil's parent or guardian, by first-class mail or other reasonable
26 means, of the following:

27 (a) That the pupil is truant.

28 (b) That the parent or guardian is obligated to compel the attendance

Incorrect Reduction Claim of San Juan Unified School District
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1 of the pupil at school.

2 (c) That parents or guardians who fail to meet this obligation may be
3 guilty of an infraction and subject to prosecution pursuant to Article 6
4 (commencing with Section 48290) of Chapter 2 of Part 27. ***

5 *** (d) That alternative educational programs are available in the district.

6 *** (e) That the parent or guardian has the right to meet with appropriate
7 school personnel to discuss solutions to the pupil's truancy.

8 (f) That the pupil may be subject to prosecution under Section 48264.

9 (g) That the pupil may be subject to suspension, restriction, or delay of
10 the pupil's driving privilege pursuant to Section 13202.7 of the Vehicle
11 Code.

12 (h) That it is recommended that the parent or guardian accompany the
13 pupil to school and attend classes with the pupil for one day.

14 These amendments created a conflict between the Education Code and the
15 parameters and guidelines. The second amended parameters and guidelines
16 continued to require a notice of *five* elements to be issued upon the *fourth* occasion of
17 absence even though Education Code Section 48260.5 had been amended to require a
18 notice of *eight* elements to be issued upon the *third* occasion of absence. Resolution of
19 this conflict was the subject of Chapter 69, Statutes of 2007 (AB 1698), which required
20 the Commission on State Mandates to update the parameters and guidelines. On
21 January 31, 2008, the Commission adopted the third amended parameters and
22 guidelines pursuant to Chapter 69, Statutes of 2007, effective July 1, 2006, for annual
23 claims beginning FY 2006-07.

24 4. Claiming Instructions

25 The Controller has periodically issued or revised claiming instructions for the
26 mandate program. A copy of the October 1996 revision of the claiming instructions is
27 attached as Exhibit "C." The October 1996 claiming instructions are believed to be, for

1 the purposes and scope of this incorrect reduction claim, substantially similar to the
2 version existing at the time the claims that are the subject of this incorrect reduction
3 claim were filed. However, since the Controller's claim forms and instructions have not
4 been adopted as regulations, they have no force of law and no effect on the outcome of
5 this incorrect reduction claim.

6 PART V. STATE CONTROLLER CLAIM ADJUDICATION

7 The Controller conducted an audit of the District's annual reimbursement claims
8 for Fiscal Years 2002-03, 2003-04, 2004-05, and 2005-06. A copy of the September 4,
9 2009, audit report is attached as Exhibit "D."

10 VI. CLAIMANT'S RESPONSE TO THE STATE CONTROLLER

11 By letter dated August 6, 2009, the Controller transmitted a copy of its draft audit
12 report. The District objected to the proposed adjustments set forth in the draft audit
13 report by letter dated August 19, 2009. A copy of the District's response is included in
14 Exhibit "D," the final audit report. The Controller then issued the final audit report
15 without making any substantive changes.

16 PART VII. STATEMENT OF THE ISSUES

17 **Finding Non-reimbursable initial truancy notifications**

18 The audit report concludes that the District claimed costs for non-reimbursable
19 initial truancy notifications in the amount of \$132,847 for Fiscal Years 2002-03 through
20 2005-06. The stated reason that these notifications are disallowed is that the students
21 "did not accumulate the required number of unexcused absences or tardiness

1 occurrences to qualify as truant under the mandated program.” There are actually
2 several reasons for the adjustments: supporting documentation, number of truancies,
3 and the age of the student. However, first there is the threshold issue of whether it is
4 appropriate to utilize statistical sampling and extrapolation for purposes of audit
5 adjustments.

6 THE ISSUE OF STATISTICAL SAMPLING AND EXTRAPOLATION

7 Reimbursement for this mandate is based on the actual number of notifications
8 distributed multiplied by a uniform cost allowance for reimbursement in lieu of reporting
9 staff time and materials cost. The dollar amounts of the adjustments are the result of
10 reductions in the number of notices approved for reimbursement based upon the
11 auditor’s review of the attendance accounting documentation for a random sample of
12 truancy notifications. The audit report states that the finding is based on a statistical
13 sample of 883 (295 elementary school and 588 secondary school) truancy notifications
14 actually examined from a universe of 49,921 notices for the four fiscal years. The
15 District actually claimed 64,641 notices for the four fiscal years, but the audit made no
16 disallowances for elementary school students for two fiscal years (FY 2002-03 and FY
17 2004-05).

18 A. Legal Basis for Reimbursement Based on Statistical Sampling

19 The essential legal issue for this finding is whether the Controller can adjust
20 claims utilizing an extrapolation of findings from an audit sample. The propriety of a
21 mandate audit adjustment based on the statistical sampling technique is a threshold

Incorrect Reduction Claim of San Juan Unified School District
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1 issue in that if the methodology used is rejected, as it should be, the extrapolation is
2 void and the audit findings can only pertain to documentation actually reviewed, that is,
3 the 883 notifications examined for the criteria of whether there were a sufficient number
4 of absences or tardies to justify the initial notification of truancy and the age of the
5 student.

6 The audit report has cited no statutory or regulatory authority to allow the
7 Controller to reduce claimed reimbursement based on extrapolation of a statistical
8 sample. Instead, the audit report states that:

9 - "Government Code section 17558.5 requires the district to file a reimbursement
10 claim for *actual* mandate-related costs." That citation is not specific to the sampling
11 issue presented. That citation is also unavailing since the Notification of Truancy
12 mandate is reimbursed based on a unit-cost rate which is a reasonable representation
13 of actual costs incurred by districts that were included in the cost study to establish the
14 uniform cost allowance for this mandate.

15 -"Government Code section 17561, subdivision (d)(2), allows the SCO to audit
16 the district's records to verify *actual* mandate-related costs" and that Government Code
17 Section 12410 requires the Controller to "audit all claims against the state." The District
18 concurs that the Controller has authority to audit mandate claims, but asserts that the
19 Controller must audit pursuant to legal criteria and logic. The District does not dispute
20 the Controller's authority to audit claims for mandated costs and to reduce those costs
21 that are excessive or unreasonable. This authority is expressly contained in

Incorrect Reduction Claim of San Juan Unified School District
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1 Government Code Section 17561. However, Section 12410 is found in the part of the
2 Government Code that provides a general description of the duties of the Controller. It
3 is not specific to the audit of mandate reimbursement claims. The only applicable audit
4 standard for mandate reimbursement claims is found in Government Code Section
5 17561(d)(2). The fact that Section 17561(d)(2) specifies its own audit standard
6 (excessive or unreasonable) implies that the general Controller audit standard
7 (correctness, legality, and sufficient provisions of law) does not control here. Therefore,
8 the Controller may only reduce a mandate reimbursement claim if it specifically finds
9 that the amounts claimed are unreasonable or excessive under Section 17561(d)(2).
10 Further, the Controller has not asserted or demonstrated that, if Section 12410 was the
11 applicable standard, the audit adjustments were made in accordance with this standard.
12 The District's claim was correct, in that it reported the number of notices distributed.
13 There is also no allegation in the audit report that the claim was in any way illegal.
14 Finally, the phrase "sufficient provisions of law for payment" refers to the requirement
15 that there be adequate appropriations prior to the disbursement of any funds. There is
16 no indication that any funds were disbursed without sufficient appropriations. Thus,
17 even if the standards of Section 12410 were applicable to mandate reimbursement
18 audits, the Controller has failed to put forth any evidence that these standards are not
19 met or even relevant. There is no indication that the Controller is *actually* relying on the
20 audit standards set forth in Section 12410 for the adjustments to the District's
21 reimbursement claims.

1 -“The SCO conducted its audit according to generally accepted government
2 auditing standards [GAGAS] (*Government Auditing Standards*, issued by the U.S.
3 Government Accountability Office, July 2007) [GAO].” The audit report asserts that the
4 “standards recognize statistical sampling as an acceptable method to provide sufficient,
5 appropriate evidence” but does not cite specific GAO or GAGAS language in support of
6 that assertion. The audit report does not explain how a statistical sample that provides
7 “appropriate evidence” of the scope and reliability of source documentation is therefore
8 a source of findings of actual cost or pervasive compliance with the mandate program
9 requirements. Notwithstanding, the GAO auditing guide referenced specifically pertains
10 to audits of federal funds and state mandate reimbursement does not utilize federal
11 funds. Further, the GAO audit guide has not been adopted pursuant to any state
12 agency rulemaking nor is it included as a standard in the parameters and guidelines so
13 the claimants could not be on legal notice of its requirements, nor could the District
14 have actual notice of the GAO guide published in 2007 at the time the annual claims
15 were filed.

16 There is no provision in law to allow claimants to claim costs based on sampling
17 and extrapolation, or for the Controller to audit or make findings in the same manner.
18 The Controller’s audit standard, which has been incorporated into most parameters and
19 guidelines, is contemporaneous documentation with corroborating evidence for all costs
20 claimed. This standard should also apply to all costs *disallowed*. The extrapolation
21 disallows costs never audited and documentation never reviewed. There is no

1 published audit manual for mandate reimbursement or the audit of mandate claims in
2 general, or any published audit program for this mandate program which allows this
3 method of audit or allows adjustment of amounts claimed in this manner. Adjustment of
4 the claimed costs based on an extrapolation from a statistical sample is utilizing a
5 standard of general application without the benefit of compliance with the Administrative
6 Procedure Act. Thus, the application of the method is prohibited by the Government
7 Code.

8 B. Utility of the Sampling Methodology

9 A statistically valid sample methodology is a recognized audit tool for some
10 purposes. See Exhibit "E" ("Statistical Sampling Revisited"). The sampling process
11 was misapplied here. The purpose of sampling is to determine the results of
12 transactions or whether procedures were properly applied to the reported transactions.
13 In the case of reimbursement for this mandate, the state reimburses a specific dollar
14 amount for each transaction, that is, a notice sent to parents, so that outcome is not
15 being tested. What the Controller purports to be testing is whether the notices are
16 reimbursable based on the number of prerequisite absences or content of the notice,
17 which is testing for procedural compliance.

18 Instead, the auditor was actually conducting a review for documentation rather
19 than mandate compliance. Testing for procedural compliance usually involves
20 establishing tolerance parameters, but in the case of this audit, the tolerance factor was
21 zero, that is, based on the auditor's perception of adequate documentation, which is a

1 separate issue. Testing to detect the rate of error within tolerances is the purpose of
2 sampling, but it is not a tool to assign an exact dollar amount to the amount of the error,
3 which the Controller has inappropriately done so here. This is a failure of auditor
4 judgment both in the purpose of the sampling and the use of the findings.

5 C. Sample Risk

6 The ultimate risk from extrapolating findings from a sample is that the
7 conclusions obtained from the sample may not be representative of the universe. That
8 is, the errors perceived from the sample do not occur at the same rate in the universe.
9 That is what has occurred in this audit. For example, kindergarten students present in
10 the sample are more likely to be excluded because of the underage issue, which makes
11 these samples nonrepresentative of the universe. Also, if any of the notices excluded
12 for being underage or overage are for students who are alternative education and
13 special education students, these samples would also not be representative of the
14 universe since the possibility of a special education student being underage or overage
15 is greater than the entire student body. The audit report states that the District
16 “provides no evidence showing that the audit sample included a disproportionate
17 number of alternative education students compared to the truancy population” and “for
18 students who were younger than age 6 or older than age 17.” This misses the point
19 entirely. The District does not assert that the incidence of kindergarten students,
20 alternative education students, or special education students is either proportionate or
21 disproportionate, rather that a kindergarten pupil is more likely to be underage and an

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1 alternative education or special education pupil is more likely to be overage than other
 2 students sampled, and thus not representative.

3 D. Sample Size and Error

4	<u>Elementary Schools</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>Total</u>
5	Audited notifications claimed		7,609		9,347	16,956
6	Total notices in entire sample		147		148	295
7	Percentage of the sample to total		1.93%		1.58%	
8	<u>Secondary Schools</u>					
9	Audited notifications claimed	3,176	9,295	10,227	10,267	32,965
10	Total notices in entire sample	143	148	149	148	588
11	Percentage of the sample to total	4.50%	1.60%	1.46%	1.44%	
12	<u>Reconciliation of total notifications claimed</u>					
13	Total audited notifications	3,176	16,904	10,227	19,614	49,921
14	Missing documentation	2*			40**	42
15	No exceptions noted	<u>6,823</u>	_____	<u>7,855</u>	_____	<u>14,678</u>
16	Total claimed notifications	10,001	16,904	18,082	19,654	64,641

17 *The 2 notices not included in the sample universe for FY 2002-03 could not be located.

18 **The 40 notices not included in the sample universe for FY 2005-06 were discovered after the sampling
 19 was started and allowed by the audit without adjustment.

20 In addition to the qualitative concerns discussed, quantitative extrapolation of the
 21 sample to the universe depends on a statistically valid sample methodology.
 22 Extrapolation does not ascertain actual cost. It ascertains probable costs within an
 23 interval. The sampling technique used by the Controller is quantitatively non-
 24 representative. The District claimed 64,641 notices, of which 14,720 were not included in

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1 the extrapolation (elementary students for FY 2002-03 and FY 2004-05 and 42 missing
2 records). The total sample size for all four years was 883 notices of the 49,921 notices
3 subject to extrapolation. Less than 2 percent of the total number of notices were audited
4 (1.77%). The stated precision rate was plus or minus 8%, even though the sample size is
5 essentially identical for all four fiscal years (from 143 to 148 samples), and even though
6 the audited number of elementary notices claimed for FY 2005-06 (9,347) is 22% more
7 than the number claimed for FY 2003-04 (7,609) and the audited number of secondary
8 notices claimed for FY 2005-06 (10,267) is 223% more than the number claimed for FY
9 2002-03 (3,176). The expected error rate is stated to be 50%, which means the total
10 amount adjusted of \$132,847 is really just a number exactly between \$66,424 (50%) and
11 \$100,270 (150%). The audit report states no legal or factual basis that would allow the
12 midrange of an interval to be used as a finding of absolute actual cost. Further, given the
13 facts that two of the fiscal years for elementary students apparently showed no
14 exceptions, that only 98% of the notices were sampled, and that the fiscal year sampling
15 universes vary more than 200%, the scope of the sampling would appear inadequate.

16 The Controller does not assert that the claimed costs were excessive or
17 unreasonable, which is the only mandated cost audit standard in statute (Government
18 Code Section 17561(d)(2)). The cost to be reimbursed by the state for each notice is
19 stipulated by the parameters and guidelines. It would therefore appear that the entire
20 findings are based upon the wrong standard for review. If the Controller wishes to enforce
21 other audit standards for mandated cost reimbursement, the Controller should comply with

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1 the Administrative Procedure Act.

2 THE ISSUES OF COMPLIANCE WITH THE MANDATE

3 Since the statistical sampling performed by the auditor fails for legal, qualitative,
 4 and quantitative reasons, the remaining audit findings are limited to the 883 notices
 5 actually investigated. The Controller cannot disallow costs for noncompliance for notices
 6 that were never audited.

7 The audit report disallows 162 of the 883 notifications evaluated for four reasons:

8	<u>REASON FOR DISALLOWANCE</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>Total</u>
9	<u>Elementary Schools (Daily Attendance)</u>					
10	1. Insufficient documentation					
11	2. Less than 3 absences		1		15	16
12	3. Only 3 Absences		38		31	69
13	4. Underage (less than 6 years)		<u>14</u>		<u>10</u>	<u>24</u>
14	Total Disallowed		53		56	109
15	Sample Size		147		148	295
16	Percentage Disallowance		36.05%		37.84%	
17	<u>Secondary Schools (Period Attendance)</u>					
18	1. Insufficient documentation	2	1	1		4
19	2. Less than 3 absences		1		1	2
20	3. Only 3 Absences	8	6	5	1	20
21	4. Overage (older than 17 years)	<u>5</u>	<u>10</u>	<u>4</u>	<u>8</u>	<u>27</u>
22	Total Disallowed	15	18	10	10	53
23	Sample Size	143	148	149	148	588
24	Percentage Disallowance	10.49%	12.16%	6.71%	6.76%	

1 E. Insufficient Documentation

2 Although not specifically identified in the audit report, the audit disallows four of
3 the notices in the audit sample for secondary schools for lack of supporting
4 documentation. These four notices are included in the audit report category for
5 “accumulated fewer than three unexcused absences and tardiness occurrences.”
6 Documentation is a different issue from the number of absences it should have been
7 reported separately. The documentation criterion was not discussed in the audit report
8 for this finding and there is no stated basis for the finding. The audit report does not
9 indicate in what factual or legal manner the District documentation was insufficient, so it
10 is not possible to determine if the disallowance of the four notices is appropriate.

11 The parameters and guidelines for claim preparation state:

12 VI. CLAIM PREPARATION

13 Each claim for reimbursement pursuant to Education Code Section 48260.5,
14 Chapter 498, Statutes of 1983, must be timely filed and provide documentation in
15 support of the reimbursement claimed for this mandated program.

16 A. Uniform Cost Allowance Reimbursement

17 Report the number of initial notifications of truancy distributed during the year. Do
18 not include in that count the number of notifications or other contacts which may
19 result from the initial notification to the parent or guardian.

20 The District complied with Part VI A of the parameters and guidelines by reporting the
21 number of notices distributed on the forms provided by the Controller’s claiming
22 instructions for this purpose.

23 The parameters and guidelines documentation requirements for audit are:

1 VII. SUPPORTING DATA

2 For auditing purposes, documents must be kept on file for a period of 3 years
3 from the date of final payment by the State Controller, unless otherwise specified
4 by statute and be made available at the request of the State Controller or his
5 agent.

6 A. Uniform Allowance Reimbursement

7 Documentation which indicates the total number of initial notifications of truancy
8 distributed.

9 The parameters and guidelines do not specify the form of supporting documentation
10 required. The parameters and guidelines do not require claimants to maintain a copy of
11 each notification. The parameters and guidelines do not require attendance records to
12 support the number of notifications distributed. It appears the Controller selected the
13 attendance records as the only source of support for documentation and statutory
14 compliance for purposes of the audit. This is an unenforceable policy preference of the
15 Controller.

16 The District complied with Part VII A of the parameters and guidelines by
17 supporting the number of notices distributed with attendance records prepared in
18 compliance with state attendance reporting requirements and information prepared
19 specifically for the mandate. The attendance and truancy information was recorded on a
20 contemporaneous basis as required by the Education Code. The trancies were
21 recorded and the notices were distributed, therefore, actual costs were incurred, and the
22 Controller does not state that the work was not performed. The District provided
23 documentation generated in the ordinary course of business and the implementation of

1 the mandate and has therefore supported the claimed costs. The additional standards
2 desired by the Controller for supporting documentation are not defined in the audit
3 report, not defined in the Education Code, and not defined in the parameters and
4 guidelines. The Controller does not assert that the claimed costs were excessive or
5 unreasonable, which is the only statutory mandated cost audit standard (Government
6 Code Section 17561(d)(2)). It would therefore appear that the findings are based upon
7 the wrong standard for review. Any additional standards, whatever they might be, are
8 not supported in fact or law.

9 F. Number of absences required for the initial notification

10 The audit report disallows 69 notices in the audit sample for the elementary
11 school and disallows 20 notices in the audit sample for secondary schools because the
12 District documented *only* three accumulated unexcused absences or tardies at the time
13 the notifications were sent. The audit report disallows 16 notices in the audit sample for
14 the elementary school and disallows 2 notices in the audit sample for secondary schools
15 because the District documented *less than* three accumulated unexcused absences or
16 tardies.

17 Education Code Section 48260, as recodified by Chapter 1010, Statutes of 1976,
18 required a pupil to be classified as truant “who is absent from school without valid excuse
19 more than three days or tardy in excess of 30 minutes on each of more than three days
20 in one school year.” The original parameters and guidelines were based on this
21 definition of a truant, that is, a pupil with more than three unexcused absences or tardy

Incorrect Reduction Claim of San Juan Unified School District
498/83 Notification of Truancy #2

1 for more than three periods. Education Code Section 48260, as amended by Chapter
2 1023, Statutes of 1994, and Chapter 19, Statutes of 1995, requires a pupil to be
3 classified as truant “who is absent from school without valid excuse three full days in one
4 school year or tardy or absent for more than any 30-minute period during the schoolday.”

5 The parameters and guidelines were amended January 31, 2008, to incorporate the
6 change in the Education Code definition of a truant with retroactive effect to FY 2006-07.

7 Thus, until FY 2006-07, the parameters and guidelines required at least four unexcused
8 absences for the pupil to be classified as a reimbursable truant, while Education Code
9 Section 48260 required only three unexcused absences beginning in 1995. The audit
10 report concludes that since the effective date of the amended parameters and guidelines
11 is July 1, 2006, in order to be reimbursed, the student must accumulate a fourth absence
12 or tardy to claim reimbursement for fiscal years prior to FY 2006-07.

13 The parameters and guidelines specifically reference that the source of the
14 definition of a truant is Section 48260. Therefore, any amendment of Section 48260
15 would independently and unilaterally change the essential requirements for the initial
16 notice of truancy without the need for an amendment by the Commission on State
17 Mandates. The Controller has decided to enforce the definition of a truant as it was
18 stated in the parameters and guidelines prior to the amendment, even though it
19 contradicts a statute in effect during the audit period. In a July 17, 2007, letter (Exhibit
20 “F”) sent to all school districts, the Controller states that his “auditors have been forced to
21 disregard the statute [Education Code 48260] declaring that parental notifications should

Incorrect Reduction Claim of San Juan Unified School District
498/83 Notification of Truancy #2

1 occur at three absences.” As a matter of law, it is unclear how the Controller can
2 disregard the Education Code, or how the Controller was compelled to do so. The audit
3 report asserts that “school districts are responsible for identifying state-mandated costs
4 and filing test claims for reimbursement of those costs,” and that “[t]his district and all
5 other California school districts failed to file a test claim in response to” the revised
6 Section 48260 definition of an initial truancy. As a matter of law, a new test claim was
7 not needed. The parameters and guidelines were later amended at the Controller’s
8 request to accomplish the needed changes. Why the Controller did not act sooner, as
9 early as 1995 when the law changed, is not indicated in the audit report.

10 The District properly complied with state law when it issued truancy notifications
11 upon three absences, rather than waiting for a fourth absence as required by the
12 parameters and guidelines. The parameters and guidelines reimburse the mandated
13 costs based on the number of initial notifications issued, not when the notices are
14 issued. The Controller’s disallowance of those notices with three unexcused absences
15 or tardies is without legal authority.

16 G. Age of Student

17 The audit report disallows 24 notices in the audit sample for the elementary
18 schools for students that were less than 6 years of age and disallows 27 notices in the
19 audit sample for the secondary schools for students that were older than 17 years of

1 age, citing the compulsory attendance law, Education Code Section 48200.³ Section
2 48200 and Section 48400⁴ establish the statutory requirement for attendance for persons
3 of the ages 6 through 18 years of age, and an offense enforceable against parents who
4 fail to send their children to school. However, younger persons have the statutory

³ Education Code Section 48200, as last amended by Chapter 1452, Statutes of 1987 requires:

Each person between the ages of 6 and 18 years not exempted under the provisions of this chapter or Chapter 3 (commencing with Section 48400) is subject to compulsory full-time education. Each person subject to compulsory full-time education and each person subject to compulsory continuation education not exempted under the provisions of Chapter 3 (commencing with Section 48400) shall attend the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located and each parent, guardian, or other person having control or charge of the pupil shall send the pupil to the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residence of either the parent or legal guardian is located.

Unless otherwise provided for in this code, a pupil shall not be enrolled for less than the minimum schoolday established by law.

⁴ Education Code Section 48400, as last reenacted by Chapter 1010, Statutes of 1976 states:

All persons 16 years of age or older and under 18 years of age, not otherwise exempted by this chapter, shall attend upon special continuation education classes maintained by the governing board of the high school district in which they reside, or by the governing board of a neighboring high school district, for not less than four 60-minute hours per week for the regularly established annual school term. Such minimum attendance requirement of four 60-minute hours per week may be satisfied by any combination of attendance upon special continuation education classes and regional occupational centers or programs.

Incorrect Reduction Claim of San Juan Unified School District
498/83 Notification of Truancy #2

1 entitlement to attend kindergarten pursuant to Section 48000⁵, and first-grade pursuant
2 to Section 48010⁶ and Section 48011⁷, that cannot be denied by a school district. In

⁵ Education Code Section 48000, as last amended by Chapter 381, Statutes of 1991 states:

(a) A child shall be admitted to a kindergarten at the beginning of a school year, or at any later time in the same year if the child will have his or her fifth birthday on or before December 2 of that school year. A child who will have his or her fifth birthday on or before December 2 may be admitted to the prekindergarten summer program maintained by the school district for pupils who will be enrolling in kindergarten in September.

(b) The governing board of any school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:

(1) The governing board determines that the admittance is in the best interests of the child.

(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

⁶ Education Code Section 48010, as last amended by Chapter 1256, Statutes of 1989 states

A child shall be admitted to the first grade of an elementary school during the first month of a school year if the child will have his or her sixth birthday on or before December 2nd of that school year. For good cause, the governing board of a school district may permit a child of proper age to be admitted to a class after the first school month of the school term.

⁷ Education Code Section 48011, as last amended by Chapter 221, Statutes of 1991 states:

A child who, consistent with Section 48000, has been admitted to the kindergarten maintained by a private or a public school in California or any other state, and who has completed one school year therein, shall be admitted to the first grade of an elementary school unless the parent or guardian of the child and the school district agree that the child may continue in kindergarten for not more than an additional school

1 addition, special education students are statutorily entitled to educational services from
2 ages 3 to 22 years pursuant to Section 56026.⁸

year.

A child who has been lawfully admitted to a public school kindergarten or a private school kindergarten in California and who is judged by the administration of the school district, in accordance with rules and regulations adopted by the State Board of Education, to be ready for first-grade work may be admitted to the first grade at the discretion of the school administration of the district and with the consent of the child's parent or guardian if the child is at least five years of age. When a child has been legally enrolled in a public school of another district within or out of the state, he or she may be admitted to school and placed in the grade of enrollment in the district of former attendance, at the discretion of the school administration of the district entered.

⁸ Education Code Section 56026, added in 1980 and as last amended by Chapter 56, Statutes of 2007 states:

"Individuals with exceptional needs" means those persons who satisfy all the following:

- (a) Identified by an individualized education program team as a child with a disability, as that phrase is defined in Section 1401(3) (A) of Title 20 of the United States Code.
- (b) Their impairment, as described by subdivision (a), requires instruction and services which cannot be provided with modification of the regular school program in order to ensure that the individual is provided a free appropriate public education pursuant to Section 1401(9) of Title 20 of the United States Code.
- (c) Come within one of the following age categories:
 - (1) Younger than three years of age and identified by the local educational agency as requiring intensive special education and services, as defined by the board.
 - (2) Between the ages of three to five years, inclusive, and identified by the local educational agency pursuant to Section 56441.11.
 - (3) Between the ages of five and 18 years, inclusive.
 - (4) Between the ages of 19 and 21 years, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards or has not graduated from high school with a regular high school diploma.
 - (A) Any person who becomes 22 years of age during the months of

1 The District is required by Section 46000⁹ to record and keep attendance and

January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to Section 3043 of Title 5 of the California Code of Regulations and Section 300.106 of Title 34 of the Code of Federal Regulations.

(B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in July, August, or September of that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.

(C) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year. (D) No local educational agency may develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

(d) Meet eligibility criteria set forth in regulations adopted by the board, including, but not limited to, those adopted pursuant to Article 2.5 (commencing with Section 56333) of Chapter 4.

(e) Unless disabled within the meaning of subdivisions (a) to (d), inclusive, pupils whose educational needs are due primarily to limited English proficiency; a lack of instruction in reading or mathematics; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs.

⁹ Education Code Section 46000, as reenacted by Chapter 1010, Statutes of 1976 states:

Attendance in all schools and classes shall be recorded and kept according to regulations prescribed by the State Board of Education, subject to the provisions of this

1 report absences of *all students* according to the regulations of the State Board of
2 Education for purposes of apportionment and general compliance with the compulsory
3 education law (Title 5, CCR, Section 400¹⁰, et seq.). The initial notification of truancy is a
4 product of the attendance accounting process and promotes compliance of the
5 compulsory education law and *every pupil's duty* to attend school regularly (Title 5, CCR,
6 Section 300¹¹). Compulsory attendance accounting for all students generates the
7 compulsory initial notices of truancy, subsequent notices of truanancies, and subsequent
8 attendance remediation procedures without regard for the age of the student.

9 **Amount Paid by The State**

10 This issue was not an audit finding. The amount of payments received from the
11 state is an integral part of the reimbursement calculation. The Controller changed some

chapter.

¹⁰ Title 5, California Code of Regulations, Section 400, states:

Records of attendance of every pupil in the public schools shall be kept for the following purposes:

- (A) For apportionment of State funds.
- (B) To insure general compliance with the compulsory education law, and performance by a pupil of his duty to attend school regularly as provided in Section 300.

¹¹ Title 5, California Code of Regulations, Section 300, states:

Every pupil shall attend school punctually and regularly; conform to the regulations of the school; obey promptly all the directions of his teacher and others in authority; observe good order and propriety of deportment; be diligent in study; respectful to his teacher and others in authority; kind and courteous to schoolmates; and refrain entirely from the use of profane and vulgar language.

Incorrect Reduction Claim of San Juan Unified School District
498/83 Notification of Truancy #2

1 of the claimed payment amounts received without a finding in the audit report.

	Fiscal Year of Claim			
<u>Amount Paid by the State</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>
4 As Claimed	\$ 0	\$ 0	\$ 0	\$ 0
5 Audit Report	\$131,013	\$229,909	\$258,211	\$ 0

6 The propriety of these adjustments cannot be determined until the Controller supports
7 the reason for each change.

8 PART VIII. RELIEF REQUESTED

9 The District filed its annual reimbursement claims within the time limits prescribed
10 by the Government Code. The amounts claimed by the District for reimbursement of the
11 costs of implementing the program imposed by Chapter 498, Statutes of 1983,
12 Notification of Truancy, and relevant Education Code Sections, represent the actual
13 costs incurred by the District to carry out this program. These costs were properly
14 claimed pursuant to the Commission's parameters and guidelines. Reimbursement of
15 these costs is required under Article XIII B, Section 6 of the California Constitution. The
16 Controller denied reimbursement without any basis in law or fact. The District has met
17 its burden of going forward on this claim by complying with the requirements of Section
18 1185, Title 2, California Code of Regulations. Because the Controller has enforced and
19 is seeking to enforce these adjustments without benefit of statute or regulation, the
20 burden of proof is now upon the Controller to establish a legal basis for its actions.

21 The District requests that the Commission make findings of fact and law on each

Incorrect Reduction Claim of San Juan Unified School District
498/83 Notification of Truancy #2

1 and every adjustment made by the Controller and each and every procedural and
2 jurisdictional issue raised in this claim, and order the Controller to correct its audit report
3 findings therefrom.

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1 PART IX. CERTIFICATION

2 By my signature below, I hereby declare, under penalty of perjury under the laws
3 of the State of California, that the information in this incorrect reduction claim submission
4 is true and complete to the best of my own knowledge or information or belief, and that
5 the attached documents are true and correct copies of documents received from or sent
6 by the state agency which originated the document.

7 Executed on September 27 2010, at Carmichael, California, by

8 Michael Dencavage
9 Michael Dencavage, Chief Financial Officer
10 San Juan Unified School District
11 3738 Walnut Avenue
12 P.O. Box 477
13 Carmichael, CA 95609-0477
14 Voice: 916-971-7238
15 Fax: 916-979-8215
16 E-Mail: MDencavage@sanjuan.edu

17 APPOINTMENT OF REPRESENTATIVE

18 San Juan Unified School District appoints Keith B. Petersen, SixTen and
19 Associates, as its representative for this incorrect reduction claim.

20 Michael Dencavage 9-27-10
21 Michael Dencavage, Chief Financial Officer Date
22 San Juan Unified School District

- 23 Attachments:
24 Exhibit "A" Controller's Payment Letters and Account Statements (various
25 dates)
26 Exhibit "B" Parameters and Guidelines as amended July 22, 1993
27 Exhibit "C" Controller's Claiming Instructions revised October 1996
28 Exhibit "D" Controller's Audit Report dated September 4, 2009
29 Exhibit "E" "Statistical Sampling Revisited" by Neal B. Hitzig
30 Exhibit "F" Controller's letter dated July 17, 2007
31 Exhibit "G" Annual reimbursement claims



RECEIVED
OCT 23 2009

Board of Education

JOHN CHIANG
California State Controller

October 21, 2009

Richard Launey, President
Board of Education
San Juan Unified School District
3738 Walnut Avenue
Carmichael, CA 95608-3054

RE: Notification of Truancy Program. CH. 498/83

Dear Mr. Launey:

We have reviewed your 2002/03 fiscal year reimbursement claim for the mandated cost program referenced above. The results of our review are as follows

Amount Claimed	\$132,013.00
Adjustment to Claim:	
Less: Late filing penalty	\$(1,000.00)
Less: Field Audit Findings (Audit Report Dated 09/04/2009)	\$(4,395.00)
Less: Prior Payment	
Schedule Number MA62122A (PAID 09/12/2006)	\$(131,013.00)
Amount Due State	<u>\$ (4,395.00)</u>

The overpayment amount of \$4,395.00 will be offset from future mandate payments. However, you may remit a warrant payable to the State Controller's Office, Division of Accounting and Reporting, P.O. Box 942850, Sacramento, CA 94250-5875 with a copy of this letter. If you have any questions, please contact Tiffany Hoang, Fiscal Analyst, at (916) 323-1127.

Sincerely,

GINNY BRUMMELS
Manager

GLB:th

MAILING ADDRESS - P.O. Box 942850, Sacramento, CA 94250



JOHN CHIANG
 California State Controller
 Division of Accounting and Reporting
 OCTOBER 21, 2009

S34085
 00048
 2009/10/21

BOARD OF TRUSTEES
 SAN JUAN UNIFIED SCHOOL DIST
 SACRAMENTO COUNTY
 3738 WALNUT AVENUE
 CARMICHAEL CA 95608

DEAR CLAIMANT:

RE: NOTICE OF TRUANCY CH 498/83

WE HAVE REVIEWED YOUR 2002/2003 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED		132,013.00
TOTAL ADJUSTMENTS (DETAILS BELOW)	-	4,395.00
TOTAL PRIOR PAYMENTS (DETAILS BELOW)		-131,013.00
AMOUNT DUE STATE	\$	<u>3,395.00</u>

PLEASE REMIT A WARRANT IN THE AMOUNT OF \$ 3,395.00 WITHIN 30 DAYS FROM THE DATE OF THIS LETTER, PAYABLE TO THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875 WITH A COPY OF THIS LETTER. FAILURE TO REMIT THE AMOUNT DUE WILL RESULT IN OUR OFFICE PROCEEDING TO OFFSET THE AMOUNT FROM THE NEXT PAYMENTS DUE TO YOUR AGENCY FOR STATE MANDATED COST PROGRAMS.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT TIFFANY HOANG AT (916) 323-1127 OR IN WRITING AT THE ABOVE ADDRESS.

ADJUSTMENT TO CLAIM:			
FIELD AUDIT FINDINGS	-	4,395.00	
TOTAL ADJUSTMENTS			- 4,395.00
PRIOR PAYMENTS:			
SCHEDULE NO. MA62122A			
PAID 09-12-2006		0.00	
SCHEDULE NO. MA32107E			
PAID 12-04-2003		-131,013.00	
TOTAL PRIOR PAYMENTS			-131,013.00

SINCERELY,

Ginny Brummels
 GINNY BRUMMELS, MANAGER

LOCAL REIMBURSEMENT SECTION
 P.O. BOX 942850 SACRAMENTO, CA 94250-5875



JOHN CHIANG
 California State Controller
 Division of Accounting and Reporting
 OCTOBER 22, 2009

S34085
 00048
 2009/10/22

BOARD OF TRUSTEES
 SAN JUAN UNIFIED SCHOOL DIST
 SACRAMENTO COUNTY
 3738 WALNUT AVENUE
 CARMICHAEL CA 95608

DEAR CLAIMANT:

RE: NOTICE OF TRUANCY CH 498/83

WE HAVE REVIEWED YOUR 2002/2003 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED		132,013.00
TOTAL ADJUSTMENTS (DETAILS BELOW)	-	5,395.00
TOTAL PRIOR PAYMENTS (DETAILS BELOW)		-131,013.00
AMOUNT DUE STATE	\$	4,395.00

PLEASE REMIT A WARRANT IN THE AMOUNT OF \$ 4,395.00 WITHIN 30 DAYS FROM THE DATE OF THIS LETTER, PAYABLE TO THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875 WITH A COPY OF THIS LETTER. FAILURE TO REMIT THE AMOUNT DUE WILL RESULT IN OUR OFFICE PROCEEDING TO OFFSET THE AMOUNT FROM THE NEXT PAYMENTS DUE TO YOUR AGENCY FOR STATE MANDATED COST PROGRAMS.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT TIFFANY HOANG AT (916) 323-1127 OR IN WRITING AT THE ABOVE ADDRESS.

ADJUSTMENT TO CLAIM:			
LATE CLAIM PENALTY	-	1,000.00	
FIELD AUDIT FINDINGS	-	4,395.00	
TOTAL ADJUSTMENTS			- 5,395.00
PRIOR PAYMENTS:			
SCHEDULE NO. MA62122A			
PAID 09-12-2006		0.00	
SCHEDULE NO. MA32107E			
PAID 12-04-2003		-131,013.00	
TOTAL PRIOR PAYMENTS			-131,013.00

SINCERELY,

Ginny Brummels
 GINNY BRUMMELS, MANAGER

LOCAL REIMBURSEMENT SECTION
 P.O. BOX 942850 SACRAMENTO, CA 94250-5875



RECEIVED

OCT 23 2009

Board of Education

JOHN CHIANG
California State Controller

October 21, 2009

Richard Launey, President
Board of Education
San Juan Unified School District
3738 Walnut Avenue
Carmichael, CA 95608-3054

RE: Notification of Truancy Program. CH. 498/83

Dear Mr. Launey:

We have reviewed your 2003/04 fiscal year reimbursement claim for the mandated cost program referenced above. The results of our review are as follows

Amount Claimed	\$230,909.00
Adjustment to Claim:	
Less: Late filing penalty	\$(1,000.00)
Less: Field Audit Findings (Audit Report Dated 09/04/2009)	\$(52,905.00)
Less: Prior Payment	
Schedule Number MA62121A (PAID 09/12/2006)	<u>\$(229,909.00)</u>
Amount Due State	<u>\$(52,905.00)</u>

The overpayment amount of \$52,905.00 will be offset from future mandate payments. However, you may remit a warrant payable to the State Controller's Office, Division of Accounting and Reporting, P.O. Box 942850, Sacramento, CA 94250-5875 with a copy of this letter. If you have any questions, please contact Tiffany Hoang, Fiscal Analyst, at (916) 323-1127.

Sincerely,

GINNY BRUMMELS
Manager

GLB:th

MAILING ADDRESS - P.O. Box 942850, Sacramento, CA 94250



JOHN CHIANG
 California State Controller
 Division of Accounting and Reporting
 OCTOBER 21, 2009

S34085
 00048
 2009/10/21

BOARD OF TRUSTEES
 SAN JUAN UNIFIED SCHOOL DIST
 SACRAMENTO COUNTY
 3738 WALNUT AVENUE
 CARMICHAEL CA 95608

DEAR CLAIMANT:

RE: NOTICE OF TRUANCY CH 498/83

WE HAVE REVIEWED YOUR 2003/2004 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED		230,909.00
TOTAL ADJUSTMENTS (DETAILS BELOW)	-	52,905.00
TOTAL PRIOR PAYMENTS (DETAILS BELOW)		-229,909.00
AMOUNT DUE STATE	\$	51,905.00
		=====

PLEASE REMIT A WARRANT IN THE AMOUNT OF \$ 51,905.00 WITHIN 30 DAYS FROM THE DATE OF THIS LETTER, PAYABLE TO THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875 WITH A COPY OF THIS LETTER. FAILURE TO REMIT THE AMOUNT DUE WILL RESULT IN OUR OFFICE PROCEEDING TO OFFSET THE AMOUNT FROM THE NEXT PAYMENTS DUE TO YOUR AGENCY FOR STATE MANDATED COST PROGRAMS.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT TIFFANY HOANG AT (916) 323-1127 OR IN WRITING AT THE ABOVE ADDRESS.

ADJUSTMENT TO CLAIM:			
FIELD AUDIT FINDINGS	-	52,905.00	-
TOTAL ADJUSTMENTS			52,905.00
PRIOR PAYMENTS:			
SCHEDULE NO. MA62121A			
PAID 09-12-2006		0.00	
TOTAL PRIOR PAYMENTS			-229,909.00

SINCERELY,

Ginny Brummels
 GINNY BRUMMELS, MANAGER

LOCAL REIMBURSEMENT SECTION
 P.O. BOX 942850 SACRAMENTO, CA 94250-5875



JOHN CHIANG
 California State Controller
 Division of Accounting and Reporting
 OCTOBER 22, 2009

S34085
 00048
 2009/10/22

BOARD OF TRUSTEES
 SAN JUAN UNIFIED SCHOOL DIST
 SACRAMENTO COUNTY
 3738 WALNUT AVENUE
 CARMICHAEL CA 95608

DEAR CLAIMANT:

RE: NOTICE OF TRUANCY CH 498/83

WE HAVE REVIEWED YOUR 2003/2004 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED		230,909.00
TOTAL ADJUSTMENTS (DETAILS BELOW)	-	53,905.00
TOTAL PRIOR PAYMENTS (DETAILS BELOW)		-229,909.00
AMOUNT DUE STATE	\$	<u>52,905.00</u>

PLEASE REMIT A WARRANT IN THE AMOUNT OF \$ 52,905.00 WITHIN 30 DAYS FROM THE DATE OF THIS LETTER, PAYABLE TO THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875 WITH A COPY OF THIS LETTER. FAILURE TO REMIT THE AMOUNT DUE WILL RESULT IN OUR OFFICE PROCEEDING TO OFFSET THE AMOUNT FROM THE NEXT PAYMENTS DUE TO YOUR AGENCY FOR STATE MANDATED COST PROGRAMS.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT TIFFANY HOANG AT (916) 323-1127 OR IN WRITING AT THE ABOVE ADDRESS.

ADJUSTMENT TO CLAIM:			
FIELD AUDIT FINDINGS	-	52,905.00	
LATE CLAIM PENALTY	-	1,000.00	
TOTAL ADJUSTMENTS	-		53,905.00
PRIOR PAYMENTS:			
SCHEDULE NO. MA62121A			
PAID 09-12-2006		0.00	
TOTAL PRIOR PAYMENTS			-229,909.00

SINCERELY,

Ginny Brummels
 GINNY BRUMMELS, MANAGER

LOCAL REIMBURSEMENT SECTION
 P.O. BOX 942850 SACRAMENTO, CA 94250-5875



RECEIVED

OCT 23 2009

Board of Education

JOHN CHIANG
California State Controller

October 21, 2009

Richard Launey, President
Board of Education
San Juan Unified School District
3738 Walnut Avenue
Carmichael, CA 95608-3054

RE: Notification of Truancy Program. CH. 498/83

Dear Mr. Launey:

We have reviewed your 2004/05 fiscal year reimbursement claim for the mandated cost program referenced above. The results of our review are as follows

Amount Claimed	\$258,211.00
Adjustment to Claim:	
Less: Field Audit Findings (Audit Report Dated 09/04/2009)	\$(9,796.00)
Less: Prior Payment	
Schedule Number MA62118A (PAID 09/11/2006)	<u>\$(258,211.00)</u>
Amount Due State	<u>\$ (9,796.00)</u>

The overpayment amount of \$9,796.00 will be offset from future mandate payments. However, you may remit a warrant payable to the State Controller's Office, Division of Accounting and Reporting, P.O. Box 942850, Sacramento, CA 94250-5875 with a copy of this letter. If you have any questions, please contact Tiffany Hoang, Fiscal Analyst, at (916) 323-1127.

Sincerely,

GINNY BRUMMELS
Manager

GLB:th



JOHN CHIANG
 California State Controller
 Division of Accounting and Reporting
 OCTOBER 21, 2009

534085
 00048
 2009/10/21

BOARD OF TRUSTEES
 SAN JUAN UNIFIED SCHOOL DIST
 SACRAMENTO COUNTY
 3738 WALNUT AVENUE
 CARMICHAEL CA 95608

DEAR CLAIMANT:

RE: NOTICE OF TRUANCY CH 498/83

WE HAVE REVIEWED YOUR 2004/2005 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED		258,211.00
TOTAL ADJUSTMENTS (DETAILS BELOW)	-	9,796.00
TOTAL PRIOR PAYMENTS (DETAILS BELOW)		-258,211.00
AMOUNT DUE STATE	\$	<u>9,796.00</u>

PLEASE REMIT A WARRANT IN THE AMOUNT OF \$ 9,796.00 WITHIN 30 DAYS FROM THE DATE OF THIS LETTER, PAYABLE TO THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875 WITH A COPY OF THIS LETTER. FAILURE TO REMIT THE AMOUNT DUE WILL RESULT IN OUR OFFICE PROCEEDING TO OFFSET THE AMOUNT FROM THE NEXT PAYMENTS DUE TO YOUR AGENCY FOR STATE MANDATED COST PROGRAMS.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT TIFFANY HOANG AT (916) 323-1127 OR IN WRITING AT THE ABOVE ADDRESS.

ADJUSTMENT TO CLAIM:			
FIELD AUDIT FINDINGS	-	9,796.00	-
TOTAL ADJUSTMENTS			9,796.00
PRIOR PAYMENTS:			
SCHEDULE NO. MA62118A			
PAID 09-11-2006		0.00	
TOTAL PRIOR PAYMENTS			-258,211.00

SINCERELY,

Ginny Brummels
 GINNY BRUMMELS, MANAGER

LOCAL REIMBURSEMENT SECTION
 P.O. BOX 942850 SACRAMENTO, CA 94250-5875



RECEIVED
OCT 23 2009

Board of Education

JOHN CHIANG
California State Controller

October 21, 2009

Richard Launey, President
Board of Education
San Juan Unified School District
3738 Walnut Avenue
Carmichael, CA 95608-3054

RE: Notification of Truancy Program. CH. 498/83

Dear Mr. Launey:

We have reviewed your 2005/06 fiscal year reimbursement claim for the mandated cost program referenced above. The results of our review are as follows

Amount Claimed	\$305,423.00
Adjustment to Claim:	
Less: Field Audit Findings (Audit Report Dated 09/04/2009)	\$(65,750.00)
Total Allowable costs claimed amount:	<u><u>\$(239,673.00)</u></u>

If you have any questions, please contact Tiffany Hoang, Fiscal Analyst, at (916) 323-1127.

Sincerely,

GINNY BRUMMELS
Manager

GLB:th



JOHN CHIANG
 California State Controller
 Division of Accounting and Reporting
 JUNE 19, 2010

224983
 00048
 2010/06/19

BOARD OF TRUSTEES
 SAN JUAN UNIFIED SCHOOL DIST
 SACRAMENTO COUNTY
 3738 WALNUT AVENUE
 CARMICHAEL CA 95608

DEAR CLAIMANT:

RE: NOTICE OF TRUANCY CH 498/83

WE HAVE REVIEWED YOUR 2005/2006 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED 305,423.00

ADJUSTMENT TO CLAIM:

FIELD AUDIT FINDINGS - 65,750.00

TOTAL ADJUSTMENTS - 65,750.00

AMOUNT DUE CLAIMANT \$ 239,673.00

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT KIM NGUYEN AT (916) 324-7876 OR IN WRITING AT THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875. DUE TO INSUFFICIENT APPROPRIATION, THE BALANCE DUE WILL BE FORTHCOMING WHEN ADDITIONAL FUNDS ARE MADE AVAILABLE.

SINCERELY,

Ginny Brummels
 GINNY BRUMMELS, MANAGER

LOCAL REIMBURSEMENT SECTION
 P.O. BOX 942850 SACRAMENTO, CA 94250-5875

COMMISSION ON STATE MANDATES

1414 K Street, Suite 315
SACRAMENTO, CA 95814
(916) 323-3562



July 22, 1993

Mr. Keith B. Petersen
Legislative Financial Specialist
San Diego Unified School District
4100 Normal Street
San Diego, California 92103-2682

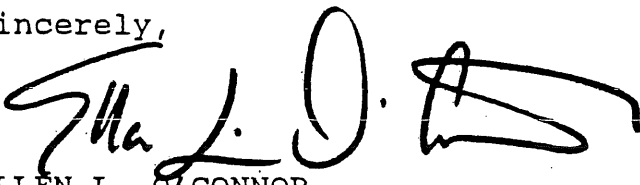
Re: Chapter 498, Statutes of 1983,
Education Code section 48915(a)
Expulsion Reports
and
Chapter 498, Statutes of 1983,
Education Code section 48260.5
Notification of Truancy

Dear Mr. Petersen:

Parameters and guidelines for the above-entitled mandated programs were adopted by the Commission on State Mandates at its July 22, 1993, hearing.

If you have any questions, please contact me. Thank you for your assistance in this process.

Sincerely,


ELLEN L. O'CONNOR
Program Analyst

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Encl: Adopted Parameters and Guidelines

cc w/enc :Mr. Jim Apps, Department of Finance
Mr. John Korach, State Controller's Office
Ms. Gaye Welch-Brown, State Controller's Office
Mr. Floyd Shimomura, Attorney General's Office
Ms. Carol Miller, Education Mandated Cost Network

G:\PG\NOT1.PG
Adopted: 8/27/87
Amended: 7/28/88
Amended: 7/22/93

PARAMETERS AND GUIDELINES
Chapter 498, Statutes of 1983
Education Code Section 48260.5
Notification of Truancy

I. SUMMARY OF MANDATE

Chapter 498, Statutes of 1983, added Education Code Section 48260.5 which requires school districts, upon a pupil's initial classification as a truant, to notify the pupil's parent or guardian by first-class mail or other reasonable means of (1) the pupil's truancy; (2) that the parent or guardian is obligated to compel the attendance of the pupil at school; and (3) that parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to Article 6 (commencing with section 48290) of Chapter 2 of Part 27.

Additionally, the district must inform parents and guardians of (1) alternative educational programs available in the district, and (2) the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

A truancy occurs when a student is absent from school without valid excuse more than three (3) days or is tardy in excess of thirty (30) minutes on each of more than three (3) days in one school year. (Definition from Education Code Section 48260.)

A student shall be initially classified as truant upon the fourth unexcused absence, and the school must at that time perform the requirements mandated in Education Code Section 48260.5 as enacted by Chapter 498, Statutes of 1983.

II. BOARD OF CONTROL DECISION

On November 29, 1984, the State Board of Control determined that Education Code Section 48260.5, as added by Chapter 498, Statutes of 1983, constitutes a state mandated program because it requires an increased level of service by requiring specified notifications be sent to the parents or guardians of pupils upon initial classification of truancy.

III. ELIGIBLE CLAIMANTS

The claimants are all school districts and county offices of education of the state of California, except a community college district, as defined by Government Code Section 17519 (formerly Revenue and Taxation Code 2208.5), that incur increased costs as a result of implementing the program activities of Education Code Section 48260.5, Chapter 498, Statutes of 1983.

IV. PERIOD OF REIMBURSEMENT

Chapter 498, Statutes of 1983, became effective July 28, 1983. Section 17557 of the Government Code provides that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for Education Code Section 48260.5, Chapter 498, Statutes of 1983, was initially filed on August 25, 1984, therefore the reimbursable costs to the school districts are all such permitted costs incurred on or after July 28, 1983.

V. REIMBURSABLE COSTS

A. Scope of Mandate

The eligible claimant shall be reimbursed for only those costs incurred for planning the notification process, revising district procedures, the printing and distribution of notification forms, and associated record keeping.

B. Reimbursable Activities

For each eligible school district the direct and indirect costs of labor, supplies, and services incurred for the following mandated program activities are reimbursable:

1. Planning and Preparation -- One-time

Planning the method of implementation, revising school district policies, and designing and printing the forms.

2. Notification process -- On-going

Identifying the truant pupils to receive the notification, preparing and distributing by mail or other method the forms to parents/guardians, and associated recordkeeping.

C. Uniform Cost Allowance

Pursuant to Government Code section 17557, the Commission on State Mandates has adopted a uniform cost allowance for reimbursement in lieu of payment of total actual costs incurred. The uniform cost allowance is based on the number of initial notifications of truancy distributed pursuant to Education Code Section 48260.5, Chapter 498, Statutes of 1983.

For fiscal year 1992-93, the uniform cost allowance is \$10.21 per initial notification of truancy distributed. The cost allowance shall be adjusted each subsequent year by the Implicit Price Deflator.

D. Unique Costs

School districts incurring unique costs within the scope of the reimbursable mandated activities may submit a request to amend the parameters and guidelines to the Commission for the unique costs to be approved for reimbursement. Pursuant to Section 1185.3, Title 2, California Code of Regulations, such requests must be made by November 30 immediately following the fiscal year of the reimbursement claim in which reimbursement for the costs is requested.

VI. CLAIM PREPARATION

Each claim for reimbursement pursuant to Education Code Section 48260.5, Chapter 498, Statutes of 1983, must be timely filed and provide documentation in support of the reimbursement claimed for this mandated program.

A. Uniform Cost Allowance Reimbursement

Report the number of initial notifications of truancy distributed during the year. Do not include in that count the number of notifications or other contacts which may result from the initial notification to the parent or guardian.

B. Recognized Unique Costs

As of fiscal year 1992-93, the Commission has not identified any circumstances which would cause a school district to incur additional costs to implement this mandate which have not already been incorporated in the uniform cost allowance.

If and when the Commission recognizes any unique circumstances which can cause the school district to incur additional reasonable costs to implement this mandated

program, these unique implementation costs will be reimbursed for specified fiscal years in addition to the uniform cost allowance.

School districts which incur these recognized unique costs will be required to support those actual costs in the following manner:

1. Narrative Statement of Unique Costs Incurred

Provide a detailed written explanation of the costs associated with the unique circumstances recognized by the Commission.

2. Employee Salaries and Benefits

Identify the employee(s) and their job classification, describe the mandated functions performed, and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The staff time claimed must be supported by source documentation, such as time reports, however, the average number of hours devoted to each function may be claimed if supported by a documented time study.

3. Services and Supplies

Only expenditures which can be identified as a direct cost as a result of the mandated program can be claimed. List cost of materials which have been consumed or expended specifically for the purposes of this mandated program.

4. Allowable Overhead 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-73A (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the State Department of Education.

VII. SUPPORTING DATA

For auditing purposes, documents must be kept on file for a period of 3 years from the date of final payment by the State Controller, unless otherwise specified by statute and be made available at the request of the State Controller or his agent.

A. Uniform Allowance Reimbursement

Documentation which indicates the total number of initial notifications of truancy distributed.

B. Reimbursement of Unique Costs

In addition to maintaining the same documentation as required for uniform cost allowance reimbursement, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the uniform cost allowance and actual cost reimbursement for unique circumstances claimed. In addition, reimbursement for this mandated program received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

VIII. REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein.

NOTIFICATION OF TRUANCY

1. Summary of Chapter 498/83

Education Code § 48260.5, as added by Chapter 498, Statutes of 1983, requires that school districts, upon a pupil's initial classification as a truant, notify the pupil's parent or guardian by first-class mail or other reasonable means, of the pupil's truancy, that the parent or guardian is obligated to compel the attendance of the pupil at school and that the parent or guardian who fails to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to Article 6 (commencing with § 48290) of Chapter 2 of Part 27.

Additionally, the district must inform parents and guardians of alternative educational programs available in the district, and the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

- (1) Truancy occurs when a student is absent from school without valid excuse more than three (3) days or is tardy in excess of thirty (30) minutes on each of more than three (3) days in one school year. (Definition from Education Code § 48260).
- (2) A student shall be classified as truant upon the fourth unexcused absence, and the school must at that time perform the requirements mandated in Education Code 48260.5 as enacted by Chapter 498, Statutes of 1983.

On November 29, 1984, the Commission on State Mandates determined that Chapter 498, Statutes of 1983, resulted in state mandated costs which are reimbursable pursuant to Part 7 (commencing with Government Code § 17500) of Division 4 of Title 2.

2. Eligible Claimants

Any school district (K-12) or county office of education that incurs increased costs as a result of this mandate is eligible to claim reimbursement of these costs.

3. Appropriations

Claims may only be filed with the State Controller's Office for programs that have been funded in the state budget, the State Mandates Claims Fund, or in special legislation. To determine if this program is funded in subsequent fiscal years, refer to the schedule "Appropriation for State Mandated Cost Programs" in the "Annual Claiming Instructions for State Mandated Costs" issued in September of each year to county superintendents of schools and superintendents of schools.

4. Types of Claims

A. Reimbursement and Estimated Claims

A claimant may file a reimbursement and/or an estimated claim. A reimbursement claim details the costs actually incurred for a prior fiscal year. An estimated claim shows the costs to be incurred for the current fiscal year.

B. Minimum Claim

Government Code § 17564(a), provides that no claim shall be filed pursuant to Government Code § 17561 unless such a claim exceeds \$200 per program per fiscal year. However, any county superintendent of schools, as fiscal agent for the school district, may submit a combined claim in excess of \$200 on behalf of one or more districts within the county even if the individual district's claim does not exceed \$200. A combined claim must show the individual costs for each district.

Once a combined claim is filed, all subsequent years relating to the same mandate must be filed in a combined form. The county receives the reimbursement payment and is responsible for disbursing funds to each participating district. A district may withdraw from the combined claim form by providing a written notice to the county superintendent of schools and the State Controller's Office of its intent to file a separate claim at least 180 days prior to the deadline for filing the claim.

5. Filing Deadline

Refer to the item, "Reimbursable State Mandated Cost Programs", contained in the annual cover letter for mandated cost programs issued annually in September, which identifies the fiscal years for which claims may be filed. If an "x" is shown for the program listed under "19__/_Reimbursement Claim", and/or "19__/_Estimated Claim", claims may be filed as follows:

- (1) An estimated claim must be filed with the State Controller's Office and postmarked by November 30 of the fiscal year in which costs are to be incurred. Timely filed estimated claims will be paid before late claims.

After having received payment for an estimated claim, the claimant must file a reimbursement claim by November 30 of the following fiscal year. If the district fails to file a reimbursement claim, monies received for the estimated claim must be returned to the State. If no estimated claim was filed, the agency may file a reimbursement claim detailing the actual costs incurred for the fiscal year, provided there was an appropriation for the program for that fiscal year. For information regarding appropriations for reimbursement claims, refer to the "Appropriation for State Mandated Cost Programs" in the previous fiscal year's annual claiming instructions.

- (2) A reimbursement claim detailing the actual costs must be filed with the State Controller's Office and postmarked by November 30 following the fiscal year in which costs were incurred. If the claim is filed after the deadline but by November 30 of the succeeding fiscal year, the approved claim must be reduced by a late penalty of 10%, not to exceed \$1,000. Claims filed more than one year after the deadline will not be accepted.

6. Reimbursable Components

Eligible claimants will be reimbursed on a unit cost basis for an initial notice to the parents or guardian regarding the pupil's truancy. For the 1995/96 fiscal year the unit rate is \$10.97 per initial notice. The unit rate is adjusted annually by the changes in the implicit price deflator and covers all direct and indirect costs of the following on-going activities:

- A. Identifying the Truant Pupil
- B. Notification to Parent or Guardian
- C. Printing Additional Forms
- D. Recordkeeping

7. Reimbursement Limitations

- A. This program does not provide reimbursement for activities related to resolving truancy problems (i.e., referrals to attendance review board, meetings with parent or guardian to discuss the pupil's truancy problems and/or discuss alternative educational programs, etc.).
- B. Any offsetting savings or reimbursement the claimant received from any source (e.g. service fees collected, federal funds, other state funds, etc.) as a result of this mandate shall be identified and deducted so only net local costs are claimed.

For audit purposes, all supporting documents must be retained for a period of two years after the end of the calendar year in which the reimbursement claim was filed or last amended, whichever is later. Such documents shall be made available to the State Controller's Office on request.

8. Form NOT-1, Claim Summary

This form is used to compute the amount of claimable costs based on the number of reports forwarded to the governing board with the recommendation not to expel the student. The claimant must give the number of truant notifications. The cost data on this form is carried forward to form FAM-27.

9. Form FAM-27, Claim for Payment

Form FAM-27 contains a certification that must be signed by an authorized representative of the district. All applicable information from form NOT-1 must be carried forward to this form for the State Controller's Office to process the claim for payment.

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 NOTIFICATION OF TRUANCY	For State Controller Use Only (19) Program Number 00048 (20) Date Filed ___/___/___ (21) LRS Input ___/___/___	Program 048
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(01) Claimant Identification Number		Reimbursement Claim Data	
(02) Claimant Name		(22) NOT-1, (03)	
County of Location		(23)	
Street Address or P.O. Box		Suite	
		(24)	
City		State Zip Code	
		(25)	
Type of Claim	Estimated Claim	Reimbursement Claim	
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input type="checkbox"/>	(26)
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(27)
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(28)
Fiscal Year of Cost	(06) 20___/20___	(12) 20___/20___	(30)
Total Claimed Amount	(07)	(13)	(31)
Less: 10% Late Penalty, not to exceed \$1,000		(14)	(32)
Less: Prior Claim Payment Received		(15)	(33)
Net Claimed Amount		(16)	(34)
Due to Claimant	(08)	(17)	(35)
Due to State		(18)	(36)

(37) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code § 17561, I certify that I am the officer authorized by the local agency to file claims with the State of California for costs mandated by Chapter 498, Statutes of 1983, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 498, Statutes of 1983.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 498, Statutes of 1983, set forth on the attached statements.

Signature of Authorized Officer	Date
Type or Print Name	Title
(38) Name of Contact Person for Claim	Telephone Number () - Ext.
	E-Mail Address

Program 048	NOTIFICATION OF TRUANCY Certification Claim Form Instructions	FORM FAM-27
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- (01) Leave blank.
- (02) A set of mailing labels with the claimant's I.D. number and address was enclosed with the letter regarding the claiming instructions. The mailing labels are designed to speed processing and prevent common errors that delay payment. Affix a label in the space shown on form FAM-27. Cross out any errors and print the correct information on the label. Add any missing address items, except county of location and a person's name. If you did not receive labels, print or type your agency's mailing address.
- (03) If filing an original estimated claim, enter an "X" in the box on line (03) Estimated.
- (04) If filing an original estimated claim on behalf of districts within the county, enter an "X" in the box on line (04) Combined.
- (05) If filing an amended or combined claim, enter an "X" in the box on line (05) Amended. Leave boxes (03) and (04) blank.
- (06) Enter the fiscal year in which costs are to be incurred.
- (07) Enter the amount of estimated claim. If the estimate exceeds the previous year's actual costs by more than 10%, complete form NOT-1 and enter the amount from line (08).
- (08) Enter the same amount as shown on line (07).
- (09) If filing an original reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) If filing an original reimbursement claim on behalf of districts within the county, enter an "X" in the box on line (10) Combined.
- (11) If filing an amended or a combined claim on behalf of districts within the county, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed. If actual costs for more than one fiscal year are being claimed, complete a separate form FAM-27 for each fiscal year.
- (13) Enter the amount of reimbursement claim from form NOT-1, line (08).
- (14) Reimbursement claims must be filed by January 15 of the following fiscal year in which costs were incurred or the claims shall be reduced by a late penalty. Enter either the product of multiplying line (13) by the factor 0.10 (10% penalty) or \$1,000, whichever is less.
- (15) If filing a reimbursement claim and a claim was previously filed for the same fiscal year, enter the amount received for the claim. Otherwise, enter a zero.
- (16) Enter the result of subtracting line (14) and line (15) from line (13).
- (17) If line (16) Net Claimed Amount is positive, enter that amount on line (17) Due from State.
- (18) If line (16) Net Claimed Amount is negative, enter that amount in line (18) Due to State.
- (19) to (21) Leave blank.
- (22) to (36) Reimbursement Claim Data. Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim, e.g., NOT-1, (03), means the information is located on form NOT-1, line (3). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. Indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 7.548% should be shown as 8. **Completion of this data block will expedite the payment process.**
- (37) Read the statement "Certification of Claim." If it is true, the claim must be dated, signed by the agency's authorized officer, and must include the person's name and title, typed or printed. **Claims cannot be paid unless accompanied by a signed certification.**
- (38) Enter the name, telephone number, and e-mail address of the person to contact if additional information is required.

SUBMIT A SIGNED, ORIGINAL FORM FAM-27 WITH ALL OTHER FORMS AND SUPPORTING DOCUMENTS (NO COPIES NECESSARY) TO:

Address, if delivered by U.S. Postal Service:

OFFICE OF THE STATE CONTROLLER
 ATTN: Local Reimbursements Section
 Division of Accounting and Reporting
 P.O. Box 942850
 Sacramento, CA 94250

Address, if delivered by other delivery service:

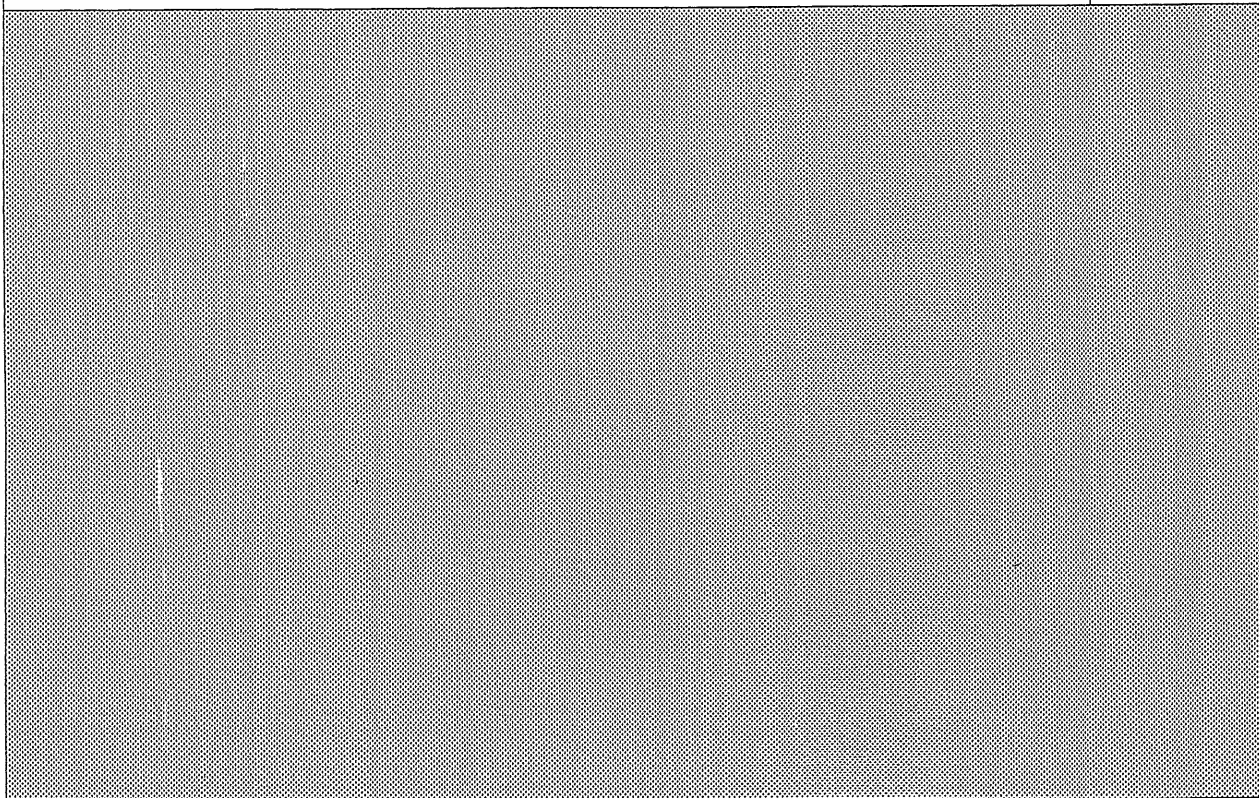
OFFICE OF THE STATE CONTROLLER
 ATTN: Local Reimbursements Section
 Division of Accounting and Reporting
 3301 C Street, Suite 500
 Sacramento, CA 95816

Program 048	MANDATED COSTS NOTIFICATION OF TRUANCY CLAIM SUMMARY	FORM NOT-1
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(01) Claimant	(02) Type of Claim Reimbursement <input type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 20___/20___
---------------	--	----------------------------

Claim Statistics

(03) Number of truant notifications	
-------------------------------------	--



Cost

(04) Unit Cost per an initial truancy notification	[\$12.73 for the 2000-01 fiscal year]	
(05) Total Costs	[Line (03) x line (04)]	

Cost Reduction

(06) Less: Offsetting Savings	
(07) Less: Other Reimbursements	
(08) Total Claimed Amount	[Line (05) - {(line (06) + line (07))}]

Program 048	NOTIFICATION OF TRUANCY CLAIM SUMMARY Instructions	FORM NOT-1
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- (01) Enter the name of the claimant.
- (02) Type of Claim. Check a box, Reimbursement or Estimated, to identify the type of claim being filed. Enter the fiscal year of costs.
- Form NOT-1 must be filed for a reimbursement claim. Do not complete form NOT-1 if you are filing an estimated claim and the estimate does not exceed the previous fiscal year's actual costs by more than 10%. Simply enter the amount of the estimated claim on form FAM-27, line (07). However, if the estimated claim exceeds the previous fiscal year's actual costs by more than 10%, form NOT-1 must be completed and a statement attached explaining the increased costs. Without this information the high estimated claim will automatically be reduced to 110% of the previous fiscal year's actual costs.
- (03) Number of truant notifications. Enter the number of initial notifications sent upon the student's fourth unexcused absence to inform the parent or guardian of their child's absence from school without a valid excuse or is tardy in excess of thirty (30) minutes for more than three days in one school year.
- (04) Unit cost rate for the 2000-01 fiscal year is \$12.73 per initial notification. This cost rate will be updated yearly and listed in the annual updates to claiming instructions mailed to school districts in September.
- (05) Total Costs. Multiply line (03) by the unit cost rate, line (04).
- (06) Less: Offsetting Savings. If applicable, enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (07) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source (i.e., service fees collected, federal funds, other state funds etc.) which reimbursed any portion of the mandated program. Submit a detailed schedule of the reimbursement sources and amounts.
- (08) Total Claimed Amount. Subtract the sum of Offsetting Savings, line (06), and Other Reimbursements, line (07), from Total Costs, line (05). Enter the remainder of this line and carry the amount forward to form FAM-27, line (07) for the Estimated Claim or line (13) for the Reimbursement Claim.

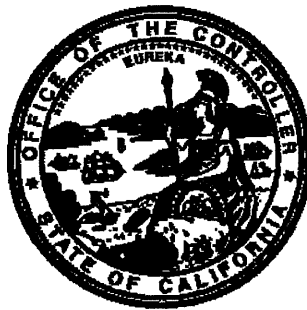
SAN JUAN UNIFIED SCHOOL DISTRICT

Audit Report

NOTIFICATION OF TRUANCY PROGRAM

Chapter 498, Statutes of 1983,
and Chapter 1023, Statutes of 1994

July 1, 2002, through June 30, 2006



JOHN CHIANG
California State Controller

September 2009



JOHN CHIANG
California State Controller

September 4, 2009

Richard Launey, President
Board of Education
San Juan Unified School District
3738 Walnut Avenue
Carmichael, CA 95608-3054

Dear Mr. Launey:

The State Controller's Office audited the costs claimed by San Juan Unified School District for the legislatively mandated Notification of Truancy Program (Chapter 498, Statutes of 1983, and Chapter 1023, Statutes of 1994) for the period of July 1, 2002, through June 30, 2006.

The district claimed \$924,556 (\$926,556 less a \$2,000 penalty for filing late claims) for the mandated program. Our audit disclosed that \$791,710 is allowable and \$132,847 is unallowable. The costs are unallowable because the district claimed non-reimbursable initial truancy notifications. The State paid the district \$619,133. Allowable costs claimed exceed the amount paid by \$172,577.

If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the CSM's Web site at www.csm.ca.gov/docs/IRCFORM.pdf.

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, at (916) 323-5849.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

cc: Patricia Jaurequi, Superintendent
San Juan Unified School District
Michael Dencavage, Chief Financial Officer
San Juan Unified School District
Sharon Rew, Internal Auditor
San Juan Unified School District
David W. Gordon, County Superintendent of Schools
Sacramento County Office of Education
Scott Hannan, Director
School Fiscal Services Division
California Department of Education
Carol Bingham, Director
Fiscal Policy Division
California Department of Education
Arlene Matsuura, Education Fiscal Services Consultant
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California Department of Education
Jeannie Oropeza, Program Budget Manager
Education Systems Unit
Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by San Juan Unified School District for the legislatively mandated Notification of Truancy Program (Chapter 498, Statutes of 1983, and Chapter 1023, Statutes of 1994) for the period of July 1, 2002, through June 30, 2006.

The district claimed \$924,556 (\$926,556 less a \$2,000 penalty for filing late claims) for the mandated program. Our audit disclosed that \$791,710 is allowable and \$132,847 is unallowable. The costs are unallowable because the district claimed non-reimbursable initial truancy notifications. The State paid the district \$619,133. Allowable costs claimed exceed the amount paid by \$172,577.

Background

Education Code section 48260.5 (added by Chapter 498, Statutes of 1983) originally required school districts, upon a pupil's initial classification as a truant, to notify the pupil's parent or guardian by first-class mail or other reasonable means that: (1) the pupil is truant; (2) parents or guardians are obligated to compel the pupil's attendance at school; (3) parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution; (4) alternative educational programs are available in the district; and (5) they have the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

Chapter 1023, Statutes of 1994, amended Education Code section 48260.5 to require school districts to notify the pupil's parent or guardian that (1) the pupil may be subject to prosecution; (2) the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege; and (3) it is recommended that the parent or guardian accompany the pupil to school and attend classes with the pupil for one day. However, the Commission on State Mandates (CSM) did not amend the program's parameters and guidelines until January 31, 2008 (effective July 1, 2006). Therefore, until June 30, 2006, districts were eligible for mandated program reimbursement if they notify parents or guardians of the first five elements.

Education Code section 48260 originally defined a truant pupil as one who is absent from school without a valid excuse for more than three days or who is tardy in excess of 30 minutes on each of more than three days in one school year. Chapter 1023, Statutes of 1994, and Chapter 19, Statutes of 1995, amended Education Code section 48260 and renumbered it to section 48260, subdivision (a), stating that a pupil is truant when he or she is absent from school without valid excuse three full days in one school year or is tardy or absent for more than any 30-minute period during the school day without a valid excuse on three occasions in one school year, or any combination thereof. However, the CSM did not amend the program's parameters and guidelines until January 31, 2008 (effective July 1, 2006). Therefore, for mandate-reimbursement purposes until June 30, 2006, a pupil was initially classified as truant upon the fourth unexcused absence.

On November 29, 1984, the State Board of Control (now CSM) determined that Chapter 498, Statutes of 1983, imposed a state mandate upon school districts reimbursable under Government Code section 17561.

The parameters and guidelines establish the state mandate and define reimbursement criteria. CSM adopted parameters and guidelines on August 27, 1987, and amended them on July 22, 1993, and January 31, 2008. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and schools districts in claiming mandated program reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Notification of Truancy Program for the period of July 1, 2002, through June 30, 2006.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

We asked the district's representative to submit a written representation letter regarding the district's accounting procedures, financial records, and mandated cost claiming procedures as recommended by generally accepted government auditing standards. However, the district declined our request.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, San Juan Unified School District claimed \$924,556 (\$926,556 less a \$2,000 penalty for filing late claims) for costs of the Notification of Truancy Program. Our audit disclosed that \$791,710 is allowable and \$132,847 is unallowable.

For the fiscal year (FY) 2002-03 claim, the State paid the district \$131,013. Our audit disclosed that \$126,618 is allowable. The State will offset \$4,395 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

For the FY 2003-04 claim, the State paid the district \$229,909. Our audit disclosed that \$177,004 is allowable. The State will offset \$52,905 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

For the FY 2004-05 claim, the State paid the district \$258,211. Our audit disclosed that \$248,415 is allowable. The State will offset \$9,796 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

For the FY 2005-06 claim, the State made no payment to the district. Our audit disclosed that \$239,673 is allowable. The State will pay that amount, contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft audit report on August 6, 2009. Michael Dencavage, Chief Financial Officer, responded by letter dated August 19, 2009 (Attachment), disagreeing with the audit results. This final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of the San Juan Unified School District, the Sacramento County Office of Education, the California Department of Education, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

September 4, 2009

**Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2006**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2002, through June 30, 2003</u>			
Number of initial truancy notifications	10,001	9,668	(333)
Uniform cost allowance	× \$13.20	× \$13.20	× \$13.20
Subtotal	132,013	127,618	(4,396)
Less late filing penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 131,013</u>	126,618	<u>\$ (4,396)</u>
Less amount paid by the State		(131,013)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (4,395)</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Number of initial truancy notifications	16,904	13,031	(3,873)
Uniform cost allowance	× \$13.66	× \$13.66	× \$13.66
Subtotal	230,909	178,004	(52,905)
Less late filing penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 229,909</u>	177,004	<u>\$ (52,905)</u>
Less amount paid by the State		(229,909)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (52,905)</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Number of initial truancy notifications	18,082	17,396	(686)
Uniform cost allowance	× \$14.28	× \$14.28	× \$14.28
Total program costs	<u>\$ 258,211</u>	248,415	<u>\$ (9,796)</u>
Less amount paid by the State		(258,211)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (9,796)</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Number of initial truancy notifications	19,654	15,423	(4,231)
Uniform cost allowance	× \$15.54	× \$15.54	× \$15.54
Total program costs	<u>\$ 305,423</u>	239,673	<u>\$ (65,750)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 239,673</u>	
<u>Summary: July 1, 2002, through June 30, 2006</u>			
Total costs	\$ 926,556	\$ 793,710	\$ (132,847)
Less late filing penalty	(2,000)	(2,000)	—
Total program costs	<u>\$ 924,556</u>	791,710	<u>\$ (132,847)</u>
Less amount paid by the State		(619,133)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 172,577</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

FINDING— Non-reimbursable initial truancy notifications

The district claimed non-reimbursable initial truancy notifications totaling \$132,847. The district claimed notifications for students who did not accumulate the required number of unexcused absences or tardiness occurrences to qualify as truant under the mandated program.

For each fiscal year, we selected a statistical sample of initial truancy notifications based on a 95% confidence level, a precision rate of +/-8%, and an expected error rate of 50%. We chose our statistical sample from the population of initial truancy notifications that the district documented. We used a statistical sample so that we could project the sample results to the population. The district accounts for elementary/K-8 school and secondary school attendance differently; therefore, we stratified the population into two groups.

For fiscal year (FY) 2002-03, the district claimed 10,001 initial truancy notifications. The district provided documentation that identified 9,999 truant students. The difference is immaterial; therefore, we conducted our statistical sample using a population of 9,999 truant students.

For FY 2005-06, the district claimed 19,654 initial truancy notifications. We selected our statistical sample based on a total population of 19,614 truant students. The district subsequently provided additional documentation supporting the additional 40 students. We allowed those students; however, we excluded them from the statistical sample and the extrapolation of the statistical sample results.

The district claimed unallowable initial truancy notifications for students who accumulated fewer than four unexcused absences or tardiness occurrences during the fiscal year. The district claimed unallowable notifications for the following reasons:

- The student accumulated only three unexcused absences or tardiness occurrences.
- The student accumulated fewer than four unexcused absences or tardiness occurrences while between ages 6 and 18.
- The student accumulated fewer than three unexcused absences or tardiness occurrences.

The following table summarizes the unallowable initial truancy notifications identified in our statistical sample:

	Fiscal Year			
	2002-03	2003-04	2004-05	2005-06
<u>Elementary/K-8 Schools</u>				
Accumulated only three unexcused absences and tardiness occurrences	—	(38)	—	(31)
Accumulated fewer than four unexcused absences and tardiness occurrences while between ages 6 and 18	—	(14)	—	(10)
Accumulated fewer than three unexcused absences and tardiness occurrences	<u>—</u>	<u>(1)</u>	<u>—</u>	<u>(15)</u>
Total, elementary/K-8 schools	<u>—</u>	<u>(53)</u>	<u>—</u>	<u>(56)</u>
<u>Secondary Schools</u>				
Accumulated only three unexcused absences and tardiness occurrences	(8)	(6)	(5)	(1)
Accumulated fewer than four unexcused absences and tardiness occurrences while between ages 6 and 18	(5)	(10)	(4)	(8)
Accumulated fewer than three unexcused absences and tardiness occurrences	<u>(2)</u>	<u>(2)</u>	<u>(1)</u>	<u>(1)</u>
Total, secondary schools	<u>(15)</u>	<u>(18)</u>	<u>(10)</u>	<u>(10)</u>

The following table summarizes the number of unallowable initial truancy notifications, the statistical sample size, the unallowable percentage, and the extrapolated audit adjustment.

	Fiscal Year				Total	
	2002-03	2003-04	2004-05	2005-06		
<u>Elementary/K-8 Schools</u>						
Number of unallowable initial truancy notifications from statistical sample		(53)		(56)		
Statistical sample size	÷	<u>147</u>	÷	<u>148</u>		
Unallowable percentage		(36.05)%		(37.84)%		
Number of initial truancy notifications documented	×	<u>7,609</u>	×	<u>9,347</u>		
Number of unallowable initial truancy notifications		(2,743)		(3,537)		
Uniform cost allowance	×	<u>\$13.66</u>	×	<u>\$15.54</u>		
Subtotal		<u>\$ (37,469)</u>		<u>\$ (54,965)</u>	<u>\$ (92,434)</u>	
<u>Secondary Schools</u>						
Number of unallowable initial truancy notifications from statistical sample		(15)	(18)	(10)	(10)	
Statistical sample size	÷	<u>143</u>	÷	<u>148</u>	÷	<u>148</u>
Unallowable percentage		(10.49)%	(12.16)%	(6.71)%	(6.76)%	
Number of initial truancy notifications documented	×	<u>3,176</u>	×	<u>9,295</u>	×	<u>10,227</u>
Number of unallowable initial truancy notifications		(333)	(1,130)	(686)	(694)	
Uniform cost allowance	×	<u>\$13.20</u>	×	<u>\$13.66</u>	×	<u>\$14.28</u>
Subtotal		<u>\$ (4,396)</u>	<u>\$ (15,436)</u>	<u>\$ (9,796)</u>	<u>\$ (10,785)</u>	<u>(40,413)</u>
Audit adjustment		<u>\$ (4,396)</u>	<u>\$ (52,905)</u>	<u>\$ (9,796)</u>	<u>\$ (65,750)</u>	<u>\$(132,847)</u>

Education Code section 48260, subdivision (a), as amended in 1994 states:

Any pupil subject to compulsory full-time education or to compulsory continuation education [emphasis added] who is absent from school without valid excuse three full days in one school year or tardy or absent for more than any 30-minute period during the schoolday [sic] without a valid excuse on three occasions in one school year, or any combination thereof, is a truant. . . .

Education Code section 48200 states that children between the ages of 6 and 18 are subject to compulsory full-time education. Therefore, student absences that occur before the student's 6th birthday or after the student's 18th birthday are not relevant when determining whether a student is a truant.

In addition, the parameters and guidelines state that initial truancy occurs when a student is absent from school without a valid excuse *more* than three days or is tardy in excess of 30 minutes on each of *more* than three days in one school year. As the Commission on State Mandates (CSM) did not amend the parameters and guidelines until July 1, 2006, an initial truancy notification is reimbursable for FY 2002-03 through FY 2005-06 only when a student has accumulated four or more unexcused absences or tardiness occurrences while between ages 6 and 18.

Effective July 1, 2006, the CSM adopted amended parameters and guidelines for the Notification of Truancy Program. The amended parameters and guidelines state:

A truancy occurs when a student is absent from school without valid excuse three (3) full days in one school year, or is tardy or absent without valid excuse for more than any thirty (30)-minute period during the school day on three (3) occasions in one school year, or any combination thereof.

Recommendation

We recommend that the district claim initial truancy notifications only for those students who meet the truancy definition provided in the parameters and guidelines.

District's Response

Audit by sampling

The draft audit report has cited no statutory or regulatory authority to allow the Controller to reduce claimed reimbursement based on an extrapolation of a statistical sample. The Controller does not assert that the claimed costs were excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17561(d) (2)). It would, therefore, appear that the entire findings are based upon the wrong standard for review.

Aside from the legal basis for sampling, there are potential factual problems with the sample students selected. The ultimate risk for extrapolating findings from a sample is that the conclusions obtained from the sample may not be representative of the universe. That is, the

errors perceived from the sample do not occur at the same rate in the universe. That is what may have occurred in this audit. Some of the samples selected may be students who attend alternative education programs. One of the several reasons that students attend alternative education programs is that they were absent frequently from regular schools. Thus, to the extent that these students appear in the sample, they are not representative of the universe, because they are chronically tardy or absent from school.

Number of absences required

The majority of the sampled notifications disallowed were deemed unallowable because the students had only three absences during the school year. Education Code Section 48260 was amended, effective January 1, 1996, to require a student to be classified as a truant after only three tardies or absences, rather than the four previously required. However, the Parameters and Guidelines were not amended until January 31, 2008 (effective July 1, 2006), to reflect the change in statute.

The Controller's auditors have chosen to enforce the definition of a truant as it was stated in the Parameters and Guidelines prior to the amendment, even though it contradicts a statute in effect during the audit period. The District properly complied with state law when it issued truancy notifications after three absences, rather than waiting for a fourth absence as required by the Parameters and Guidelines. Therefore, the Controller's action is without legal authority.

Age of student

Many of the sampled notifications were disallowed because the student was younger than 6 years or older than 17 years, which is outside the scope of the compulsory attendance law (Education Code Section 48200). However, the District has distinct statutory duties to enroll some children who are five years old by December 2 of the year of enrollment as well as continue to enroll special education students through age 21. To the extent that these particular circumstances occur for any of the sampled students, the disallowance is without legal authority and the sampled student is statistically not representative of the universe.

SCO's Comment

Our finding and recommendation are unchanged. The district did not provide additional documentation to refute the audit finding. We have the following comments on the district's response:

Audit by Sampling

The district incorrectly concludes that the SCO based its audit finding on the "wrong standard for review" and that the SCO may reduce only those claims that it determines are excessive or unreasonable. Government Code section 17558.5 requires the district to file a reimbursement claim for *actual* mandate-related costs. Government Code section 17561, subdivision (d)(2), allows the SCO to audit the district's records to verify *actual* mandate-related costs. In addition, Government Code section 12410 states, "The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment."

In any case, the SCO did in fact conclude that the district's claim was excessive. "Excessive" is defined as "exceeding what is usual, *proper*, *necessary*, [emphasis added] or normal." ¹ The district's mandated cost claims exceeded the proper amount based on the reimbursable costs that the parameters and guidelines identify.

The SCO conducted its audit according to generally accepted government auditing standards (*Government Auditing Standards*, issued by the U.S. Government Accountability Office, July 2007). *Government Auditing Standards*, section 1.03 states, "The professional standards and guidance contained in this document . . . provide a framework for conducting high quality government audits and attestation engagements with competence, integrity, objectivity, and independence." Generally accepted government auditing standards require the auditor to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions. The standards recognize statistical sampling as an acceptable method to provide sufficient, appropriate evidence.

The district believes that the sample results *may* not be representative of the population because the audit sample *may* have included alternative education students. The district concludes by stating, "Thus, to the extent that these students appear in the sample, they are not representative of the universe, because they are chronically tardy or absent from school." In fact, the opposite is true. An appropriate random, statistical sample may include some alternative education students because those students are part of the truancy population. The district's response provides no evidence showing that the audit sample included a disproportionate number of alternative education students compared to the truancy population. The same argument holds true for students who were younger than age 6 or older than age 17.

Number of Absences Required

The district confuses the difference between its statutory responsibility versus mandate-related reimbursable costs. Reimbursable costs are limited to allowable costs identified in the mandated program's parameters and guidelines. For the audit period, the parameters and guidelines state that initial truancy occurs when a student is absent from school without a valid excuse *more* than three days or is tardy in excess of 30 minutes on each of *more* than three days in one school year.

Pursuant to Government Code section 17550 et al., school districts are responsible for identifying state-mandated costs and filing test claims for reimbursement of those costs. This district and all other California school districts failed to file a test claim in response to Chapter 1023, Statutes of 1994. This legislation amended Education Code section 48260 and renumbered it to Education Code section 48260, subdivision (a), revising the definition of initial truancy.

¹ Merriam-Webster's Collegiate Dictionary, Tenth Edition, 2001.

Age of Student

The district confuses the difference between its statutory responsibility to enroll students versus its responsibility to issue initial truancy notification letters. Although the district might be obligated to enroll students younger than age 6 or older than age 17, those students are *not* subject to compulsory attendance requirements. Therefore, for initial truancy notification purposes, it is irrelevant whether students are absent when they are younger than age 6 or older than age 17.

OTHER ISSUE— Public records request

The district's response included a public records request. The district's response and SCO's comment are as follows:

District's Response

The District requests that the Controller provide the District any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period relevant to the findings, and specifically, the Controller's legal authority to use statistical sampling to adjust claims and to disallow notices sent to students whose attendance is otherwise required by law.

SCO's Comment

The SCO provided the district the requested records by separate letter dated September 4, 2009.

**Attachment—
District's Response to
Draft Audit Report**



San Juan Unified School District

Business Services

3738 Walnut Avenue, Carmichael, California 95608

P.O. Box 477, Carmichael, California 95609-0477;

Telephone (916) 971-7238; FAX (916) 979-8215; E-Mail MDencavage@sanjuan.edu

Internet Web Site: www.sanjuan.edu

Dr. Pat Jaurequi, Superintendent of Schools

August 19, 2009

Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Chapter 498, Statutes of 1983
Notification of Truancy
Fiscal Years: 2002-03, 2003-04, 2004-05, and 2005-06
San Juan Unified School District

Dear Mr. Spano:

This letter is the response of the San Juan Unified School District to the letter from Jeffrey V. Brownfield, Chief, Division of Audits, dated August 6, 2009, and received by the District on August 10, 2009, that transmitted the draft audit report of the District's Notification of Truancy mandate reimbursement claims for the period of July 1, 2002 through June 30, 2006.

Finding - Non-reimbursable initial truancy notifications

The draft audit report concludes that the District claimed costs for non-reimbursable initial truancy notifications in the amount of \$132,847 for the audit period.

Audit by sampling

The draft audit report states that this finding is based on a statistical sample of truancy notifications actually examined for the four fiscal years. The draft audit report does not indicate the sample size or universe for every fiscal year, only those fiscal years with findings. However, it appears that a sample of about 148 notifications was selected for both elementary and secondary schools each year, or a total of about 1,184 notifications for the four years. Based on the claimed number of notifications for the four years (64,641), it appears the sample size is approximately 1.8%. The results from this review of less than two-percent of the total number of notices were extrapolated to the universe and the claims were adjusted based on the extrapolation.

The draft audit report has cited no statutory or regulatory authority to allow the Controller to reduce claimed reimbursement based on an extrapolation of a statistical sample. The Controller does not assert that the claimed costs were excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17561(d) (2)). It would, therefore, appear that the entire findings are based upon the wrong standard for review.

Aside from the legal basis for sampling, there are potential factual problems with the sample students selected. The ultimate risk for extrapolating findings from a sample is that the conclusions obtained from the sample may not be representative of the universe. That is, the errors perceived from the sample do not occur at the same rate in the universe. That is what may have occurred in this audit. Some of the samples selected may be students who attend alternative education programs. One of the several reasons that students attend alternative education programs is that they were absent frequently from regular schools. Thus, to the extent that these students appear in the sample, they are not representative of the universe, because they are chronically tardy or absent from school.

Number of absences required

The majority of the sampled notifications disallowed were deemed unallowable because the students had only three absences during the school year. Education Code Section 48260 was amended, effective January 1, 1996, to require a student to be classified as a truant after only three tardies or absences, rather than the four previously required. However, the Parameters and Guidelines were not amended until January 31, 2008 (effective July 1, 2006), to reflect the change in statute.

The Controller's auditors have chosen to enforce the definition of a truant as it was stated in the Parameters and Guidelines prior to the amendment, even though it contradicts a statute in effect during the audit period. The District properly complied with state law when it issued truancy notifications after three absences, rather than waiting for a fourth absence as required by the Parameters and Guidelines. Therefore, the Controller's action is without legal authority.

Age of student

Many of the sampled notifications were disallowed because the student was younger than 6 years or older than 17 years, which is outside the scope of the compulsory attendance law (Education Code Section 48200). However, the District has distinct statutory duties to enroll some children who are five years old by December 2 of the year of enrollment as well as continue to enroll special education students through age 21. To the extent that these particular circumstances occur for any of the sampled students, the disallowance is without legal authority and the sampled student is statistically not representative of the universe.

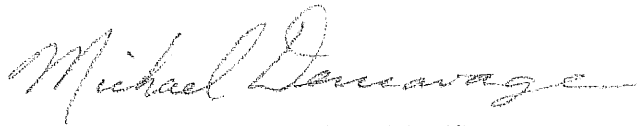
Public Records Request

The District requests that the Controller provide the District any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period relevant to the

findings, and specifically, the Controller's legal authority to use statistical sampling to adjust claims and to disallow notices sent to students whose attendance is otherwise required by law.

Government Code section 6253, subdivision (c), requires the state agency that is the subject of the request, within ten days from receipt of a request for a copy of records, to determine whether the request, in whole or in part, seeks copies of disclosable public records in your possession and promptly notify the requesting party of that determination and the reasons therefor. Also, as required, when so notifying the District please state the estimated date and time when the records will be made available.

Sincerely,

A handwritten signature in cursive script that reads "Michael Dencavage".

Michael Dencavage, Chief Financial Officer
San Juan Unified School District

Cc: Dr. Pat Jaurequi, Superintendent
Sharon Rew, Internal Auditor

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>

S08-MCC-006

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Submission Guidelines

Statistical Sampling Revisited

By Neal B. Hitzig

Auditing standards are undergoing revision in the wake of recent, massive audit failures. Legislative and regulatory bodies are focusing more critically on auditors than ever before. Yet, contemplated revisions to auditing standards leave untouched ambiguities and unresolved issues that have reduced the effectiveness of the authoritative literature for decades. One of the longest-standing issues concerns the role and appropriateness of statistical sampling as a substantive audit testing procedure.

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Background

Throughout the 1960s and '70s, the largest accounting firms devoted extensive resources to the development and implementation of statistical sampling procedures. The firms wrote new policies and guidance, developed time-sharing and batch computer programs, and trained specialized staff. Monetary unit sampling was developed and became a widespread audit tool. The AICPA issued Statement on Auditing Procedure (SAP) 54 and published *Statistical Auditing*, by Donald M. Roberts.

Then, in 1980, the Auditing Standards Board (ASB) issued SAS 39, *Audit Sampling* (AU 350). Members of the Statistical Sampling Subcommittee that wrote SAS 39, which included this author, expected that the imposition of risk, materiality, and selection requirements would further establish statistical sampling as a principal audit testing procedure. In fact, the opposite has occurred, largely because the ASB gave nonstatistical sampling equal evidentiary weight.

Substantive Tests

May 2004 Issue

The CPA Journal



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Substantive tests are intended to detect and estimate misstatement in accounts and classes of transactions. The authoritative literature recognizes two types of substantive tests: tests of details, and analytical procedures. Except in those cases where complete enumeration of an accounting population is feasible (as in certain computer-assisted auditing techniques), the audit sample is a principal approach to performing the test of details.

Many auditors apply sampling to test controls, despite concerns that such applications may not reveal the information that an auditor seeks. For example, the initialing of documents does not mean that the documents are correct (if that is what initialing purports to signify); it means only that the documents were initialed. Similarly, the fact that an invoice is correctly priced does not mean that a price-checking control functioned properly, because the invoice may have been properly priced in the first place. These examples demonstrate why testing preventive controls with tests of details may not inform the auditor that the subject controls are functioning as intended.

On the other hand, evidence of monetary misstatement in a transaction or account is clear-cut evidence of the absence or malfunction of a control. This is why many auditors view tests of details as being most useful when performed as substantive tests.

Nonstatistical Sampling

AU 350 does not provide a definition of nonstatistical sampling. It states only that “[t]here are two approaches to audit sampling: nonstatistical and statistical” (AU 350.03). The AICPA’s Audit Guide, *Audit Sampling*, provides the following definition:

Any sampling procedure that does not measure the risk is a nonstatistical sampling procedure. Even though the auditor rigorously selects a random sample, the sampling procedure is a nonstatistical sampling application if the auditor does not make a statistical evaluation of the sample results. (AAG-SAM 2.18)

This statement establishes that an auditor may label a sampling technique “nonstatistical” without regard to the manner of sample selection. Thus, even though the Audit

Guide acknowledges the well-known ability of statistical sampling to measure sampling risk, it nevertheless sanctions an auditor's decision to ignore available statistical theory and rely instead on judgment or intuition in interpreting the results of a sampling procedure. In short, the guide gives guesswork equal status with measurability. Such a view is potentially hazardous, because the auditor is permitted to ignore facts that are readily discernable to any practitioner, or legal adversary, who is knowledgeable in the application of statistical methodology.

Why would an auditor prefer nonstatistical sampling, knowing of the availability of objective statistical procedures? Various reasons, restated in the 2001 edition of the Audit Guide, have been cited as the impediments: the cost of training, the cost of sample selection, the cost of sample evaluation. With the passage of time, these reasons have become progressively weaker. Mandatory continuing professional education is now a reality, so there should be little reason for auditors not to advance their skills in sampling techniques. As to the implementation costs associated with the selection and evaluation of random samples, the ready availability of computers and off-the-shelf software has greatly mitigated, if not eliminated, these factors as relevant considerations.

In short, a nonstatistical sample is selected by the exercise of judgment, and not by chance. Haphazard, judgmental, and purposive sampling are some of the terms that describe a nonstatistical sample.

Statistical Sampling

AU 350 and the Audit Guide approach statistical sampling in a roundabout way. The Audit Guide states:

Statistical sampling helps the auditor (1) design an efficient sample, (2) measure the sufficiency of the evidential matter obtained, and (3) quantitatively evaluate the sample results.

Statistical sampling uses the laws of probability to measure sampling risk. (AAG-SAM 2.17)

Although the foregoing statements are correct, they do not define statistical sampling per se.

Statistical sampling is probability sampling. In probability sampling, every item in the population under audit has a known chance of selection. The decision as to which items in the population are to be selected is left to the laws of chance, not to judgment. The most common probability sampling methods in auditing are equal probability (such as simple random and systematic sampling) and sampling with probability proportional to size (such as monetary unit sampling).

The prominent feature of statistical sampling is its ability to measure risk. The measurement instrument is the confidence interval, which gives a calculated range of values for the estimated amount of misstatement in a population. The measurability of statistical sampling distinguishes it from so-called judgment sampling, where the decision as to the items selected for examination is left to the judgment of the auditor. Statistical sampling is a measurement tool. When applied in a substantive test of details, it measures misstatement in an account or class of transactions. Its ability to measure arises from the selection method used, which is probability sampling. Lawyers, judges, and statisticians have explicitly recognized these features of statistical sampling. The Special Committee on Empirical Data in Decision Making, Recommendation on Pretrial Proceeding in Cases with Voluminous Data, made the following statement (see Appendix F, in Fienberg, S.E., ed., *The Evolving Role of Statistical Assessments as Evidence in the Courts*, 1989):

[W]hen a survey is based on probability sampling, the probabilities or risks of sampling misstatements of various sizes can be calculated. This requires the application of *appropriate* statistical formulas. Assessments of sampling misstatement are very often expressed in terms of a standard misstatement. This is a *universally* accepted measure of the margin of error in a survey result that is attributable to sampling.

This illuminating report should serve to alert auditors to the growing use of statistically based evidence in litigation and, by implication, to the risks they face should they ignore the information contained in samples.

The implication is clear: Ignore the formulas applicable to the results of a probability sample and rely instead on intuition at your own risk.

Some auditors believe that they must calculate a sample size beforehand for an audit sample to be statistical. This is incorrect. Any probability sample can be subjected to evaluation by application of the laws of probability, however arbitrary the choice of sample size. Failure to calculate beforehand usually results in samples that are either too large or too small for the auditor's objectives. They are, nevertheless, statistical.

Statistical and nonstatistical sampling methods are defined in terms of the method by which a sample is selected, not in terms of a decision by the auditor not to apply statistical methods, even to a random sample.

When Is Statistical Sampling Appropriate?

Statistical sampling is appropriate whenever an auditor wishes to draw a conclusion about a population without performing an examination of all the items composing that population. Moreover, statistical sampling is appropriate when the auditor has no prior knowledge as to which specific items in a population are misstated.

An important concern that affects the sampling decision is the practicability of selecting a probability sample. If files are computerized and 100% verification cannot be performed by computer-assisted audit techniques, then probability sampling is most likely to be the practical approach. If files are not computerized and the population is large (as a rough rule of thumb, a large population has more than 500 items), then probability sampling may still be practicable. If a population of manual records is maintained in numerical order, a computer application may be used to select random numbers that identify the items to be selected, even items at multiple locations. The items are then located by hand. If the population is not maintained in numerical order, then systematic selection (select every kth item after a random start) may be performed. Systematic selection is one of the easiest procedures to apply, although proper application requires counting through the population. Although many caution that systematic selection is subject to bias because a key characteristic of the population under examination may coincide with the selection interval, in more than 30 years of practice, the author has never observed this to be even a remote practical concern.

Statistical sampling is appropriate for both routine and nonroutine accounting processes. In a test of purchase

transactions, for example, the auditor may employ statistical sampling to test for misstatement in account distribution. An auditor may also apply statistical sampling to a population of securities positions for a large broker-dealer with thousands of positions, to test valuation and existence assertions.

Sampling Risk

AU 350 states “[s]ampling risk arises from the possibility that, when a test ... is restricted to a sample, the auditor’s conclusions may be different from the conclusions he would reach if the test were applied in the same way to all items in the [population].” (AU 350.10) AU 350 also identified two aspects of sampling risk:

The risk of incorrect acceptance is the risk that the sample supports the conclusion that the recorded account balance is not materially misstated when it is materially misstated.

The risk of incorrect rejection is the risk that the sample supports the conclusion that the recorded balance is materially misstated when it is not materially misstated. (AU 350.12)

In practice, it is convenient to think of the foregoing in terms of detection risk and estimation risk, respectively.

Detection risk is the chance that a sample will fail to detect misstatement that actually exceeds the auditor’s specified maximum tolerable amount. “Detection” refers to the decision rule that an auditor applies to decide whether a misstatement is tolerable under the circumstances. A commonly employed rule is the comparison of the calculated upper confidence limit of misstatement with the specified maximum tolerable amount. In SAS 39 terms, the upper confidence limit is the projected misstatement plus the allowance for sampling risk. If the calculated limit is greater than the maximum tolerable amount, the auditor decides that misstatement may exceed the tolerable amount. Otherwise, the auditor decides that misstatement, if it exists, is tolerable. If a properly designed sample discloses no misstatements, the auditor may then decide that misstatement in the population under audit does not exceed the maximum tolerable amount.

Detection risk is principally a planning concept. The auditor specifies it beforehand and uses it as one of the factors that determines the appropriate extent of testing reflected in the sample size.

If misstatements are detected, on the other hand, the estimation risk becomes the key risk under consideration. Estimation risk is the chance that the actual amount of misstatement will not be within the calculated confidence interval. SAS 39 is dismissive of this risk, which it labels the risk of incorrect rejection, as being merely an efficiency issue. AU 350.12 states:

[I]f the auditor's evaluation leads him to the initial erroneous conclusion that a balance is materially misstated when it is not, the application of additional audit procedures and consideration of other audit evidence would ordinarily lead the auditor to the correct conclusion.

This is misleading. An auditor does not know that his conclusion is incorrect; only that the evidence suggests that the population may be materially misstated. Frequently, this is sufficient for action, and no further audit evidence is needed, even if it were practicable to extend testing or to apply alternate procedures. More seriously, AU 350.12 invites the auditor to disregard the results of an unfavorable sample outcome and subordinate it to other, contradictory evidence whose reliability may be less than that of the sample.

Moreover, if the results of an audit sample are sufficiently precise, they may provide the basis for the proposal of an adjusting journal entry by the auditor. In such a case, the appropriate risk consideration is that the adjustment is materially correct. The calculated confidence interval provides the basis for that assessment. Estimation risk is the complement of the confidence level.

Statistical Sampling and Audit Decisions

The auditor uses a sample to decide whether misstatement exists and whether it may exceed the tolerable misstatement. This is the essence of the detection objective of a substantive test of details. While it is possible to design a sample to control for both the detection and estimation risk, audit samples often are designed only with the detection objective in mind.

Nonetheless, if a properly selected random sample has disclosed misstatement, that sample can always be used to obtain a confidence interval on the amount of misstatement, regardless of the planning decisions and the consequent sample size.

For convenience, interval estimates may be classified into six basic categories, each of which is informative in its own way as to the extent of misstatement in the population. The possibilities are discussed below in terms of tolerable misstatement (TM), which is \$600,000 in the examples, the lower confidence limit (LCL) on the estimated misstatement, and the upper confidence limit (UCL) on the estimated misstatement. The projected misstatement (that is, point estimate) is not needed, as the following examples will show. More importantly, the projected misstatement could be misleading. A projection (or point estimate) is merely one outcome in a sample space. Its principal function is to be locator for the confidence interval. It provides no information as to its margin of error. For example, 10 misstatements of \$100 each will yield the same point estimate as one \$1,000 misstatement, but the latter's margin of error is greater.

Example 1. If neither confidence limit exceeds the tolerable misstatement and \$0 is included within the confidence interval, then the auditor would decide that misstatement, if present, is no greater than tolerable misstatement. This case suggests that the amount of misstatement might also be trivial. (See the Exhibit, Figure 1.)

This is the most favorable outcome. This outcome can arise even if misstatements are detected. For example, many misstatements of very small magnitude might yield such a confidence interval. The auditor would conclude that net misstatement, if it exists, does not exceed \$200,000 of understatement or \$400,000 of overstatement. Because neither amount exceeds \$600,000, the auditor may conclude that misstatement is tolerable. Because \$0 is within the confidence interval, it is possible that net misstatement may be \$0.

Except for situations where the sample discloses no misstatement, this case does not apply when the auditor is performing tests of overstatement, such as for the existence or the lower of cost or market.

Example 2. If neither confidence limit exceeds the

tolerable misstatement and \$0 is outside the confidence interval, then the auditor would decide that the population is misstated, but the amount of misstatement is no greater than the tolerable misstatement. (See the Exhibit, Figure 2.)

This is similar to Example 1, except that the sample evidence indicates some misstatement. That is, the auditor may be confident that the population is overstated by at least \$150,000, but not by more than \$400,000.

Example 3. This case is the same as above, except that one of the confidence limits exceeds the tolerable misstatement. The auditor would conclude that the population is misstated and that the total misstatement may be greater than the tolerable misstatement, but it also may be less. The auditor cannot accept the population as being fairly stated on the sample evidence provided. (See the Exhibit, Figure 3.)

This situation arises when the disclosed misstatements exceed the auditor's expectation. This can occur in a sample even though the actual population misstatement is as expected. In fact, if the actual population misstatement is equal to the amount expected by the auditor and used to determine sample size, then there is roughly a 50% chance that the sample's projected misstatement will be greater than the expected misstatement. In the context of AU 350's approach to interpretation of results, this outcome would imply that the risk of intolerable misstatement is greater than the level specified by the auditor as the risk of incorrect acceptance.

This is a common outcome of audit samples. It is the outcome to be expected if the difference between the actual (but unknown) misstatement and tolerable misstatement is less than the precision of the sample estimate.

Extending the audit sample in such a circumstance often only confirms the initial finding, albeit more precisely, because the range of the confidence interval decreases as the sample size increases. In this case, an adjusting journal entry might be proposed. Whether a possible adjustment would be passed over is a question that would await the completion of the audit.

Example 4. In this case, just one of the confidence limits

exceeds the tolerable misstatement, but the lower limit is negative and the upper limit is positive. The results indicate that the population may be overstated by as much as \$800,000 (greater than the tolerable misstatement) or it may be understated by as much as \$300,000 (less than the tolerable misstatement). The net misstatement could also be \$0. Nevertheless, because one of the limits exceeds tolerable misstatement, the auditor may not conclude that the population is fairly stated. (See the Exhibit, Figure 4.)

This outcome can be the result of either the projected misstatement exceeding expectation or the variability of the misstatements in the sample being larger than planned. This situation is common to inventory valuation tests, such as price tests, where large, offsetting misstatements are disclosed. The result strongly suggests significant weakness in controls.

Example 5. In this case, the confidence limits are positive and negative and both exceed the tolerable misstatement. The interval ranges from \$800,000 of understatement to \$800,000 of overstatement. The misstatement may exceed the tolerable amount or it may be trivial. In this case, the sample results are too imprecise for an audit decision at the specified confidence level. (See the Exhibit, Figure 5.)

As in Example 4, of which Example 5 is a more extreme example, this result is not uncommon to tests of inventory valuation, where misstatements are more numerous than anticipated and vary greatly as to magnitude and can be both under- and overstated. While the results are not sufficiently precise for an audit adjustment (in fact, no adjustment may be needed), results such as these demonstrate that accounting controls, if they exist, are ineffective. In addition, the result questions whether sufficient evidence has been obtained.

Example 6. If both confidence limits are positive (or both negative) and both exceed the tolerable misstatement, then the auditor would decide that misstatement indeed exceeds the tolerable amount. In this case, where the overstatement may range from \$800,000 to \$1,600,000, an adjusting journal entry would be likely. (See the Exhibit, Figure 6.)

Statistical Sampling and Audit Actions

The auditor has three courses of action when a misstatement is discovered:

- Waive the misstatement
- Do more work
- Propose an adjusting journal entry.

The question of whether the sample evidence is sufficient for an audit conclusion about the population depends upon the size of the confidence interval and the amount of tolerable misstatement. If the length of the interval (from LCL to UCL) is less than twice the tolerable misstatement, then there is some materially correct value within the interval. The auditor's objective is not to estimate the amount of misstatement with pinpoint precision. If an adjustment is to be made, the auditor should be able to propose an amount that will reduce any remaining misstatement to an amount that is no greater than the tolerable misstatement.

Given the risk level specified by the auditor when evaluating the sample, an adjusting journal entry (AJE) can be proposed that reduces the misstatement in the population to an amount that is no greater than the tolerable misstatement. Suppose that a 90% confidence interval yields a lower limit of \$800,000 and an upper limit of \$1,600,000, and that the tolerable misstatement is \$600,000. The range of the interval (\$800,000) is less than two times the tolerable misstatement. Exhibit Figure 7 shows that a materially correct AJE can be booked within a range of values from \$1 million to \$1,400,000. In other words, any value within the confidence interval would be a tolerably correct AJE if both confidence limits are within the tolerable misstatement of the proposed adjustment. The risk would be no greater than the specified estimation risk.

Examination of Figure 7 should make it evident why two-sided interval estimation is important in cases where adjusting journal entries are being considered. Auditing literature has, in recent years, focused exclusively on the upper confidence limit of misstatement (that is, the confidence limit further from zero). Such a focus does not provide adequate basis for proposing sufficiently correct adjustments. By looking at only the upper limit, the auditor could inadvertently propose too large an adjustment, turning a case that was intolerably overstated into one that is intolerably understated. Only by reference to the lower confidence limit can the auditor avoid such an outcome. The Audit Guide is not clear

regarding the foregoing, providing only a one-sentence approach to audit adjustments (AAG-SAM 7.36).

Does Statistical Sampling Undermine Auditor Judgment?

Many auditors continue to resist applying statistical sampling. In addition to objections to the cost of training, the cost of sample selection, and the cost of sample evaluation, some auditors have expressed concern that statistical sampling impedes auditor judgment. This assertion is no truer than the assertion that laboratory biopsy is an impediment to a physician's exercise of judgment. Auditor judgment is essential in several key respects: in deciding tolerable misstatement, in choosing the method for selecting the sample, in analyzing and assessing the population's characteristics (such as the expected misstatement and variability of misstatement amounts), in deciding the appropriate risk level, and in deciding the method of estimation. If the auditor suspects that some population categories are more likely to contain misstatement, a sampling plan to accommodate such judgments can be devised.

Judgment is not applied in the random selection process, which is left to the operation of the laws of chance, and in the construction of the confidence interval after the sample results are available.

The ASB and the Public Company Accounting Oversight Board should provide explicit recognition of the superiority of statistical sampling in situations where the auditor has no specific knowledge as to the location and amounts of individual misstatements in an accounting population. The recently published Audit Guide, which "includes increased coverage of nonstatistical audit sampling," is a step in the wrong direction. It is time for the profession to acknowledge that audit sampling is a decision tool that calls for the application of objective, defensible techniques, not guesswork.

Neal B. Hitzig, PhD, CPA, is professor of accounting and information systems at Queens College (CUNY). He is a member of the Auditing Standards and Procedures Committee of the NYSSCPA and a retired partner of Ernst & Young.

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JOHN CHIANG
California State Controller

July 17, 2007

RE: Passage of AB 1698 (ENG) Fixing the Truancy Mandate

Dear School District:

I am writing to share the very good news that AB 1698 (Eng) has been chaptered and a decade-long discrepancy affecting administration of the Notification of Truancy mandate has been rectified.

The Notification of Truancy mandate established a higher level of service for school districts to apprise parents of truant pupils. In the mid-1990's, this mandate statute was amended to broaden the notification requirements and definition of truant. When the three-year statute of limitations for the Commission on State Mandates (COSM) to change the Parameters and Guidelines ("Ps and Gs") elapsed without an update, the discrepancy could only be fixed through statute.

As the sponsor of this bill, I sought to direct the COSM to align the Ps and Gs with statute. Without this clarification, my auditors have been forced to disregard the statute declaring that parental notifications should occur at three absences and include eight specific pieces of information, as opposed to the four absences and five pieces of information specified in the Ps and Gs.

AB 1698 will ensure that all schools who notify parents when three unexcused absences accrue are appropriately reimbursed for their efforts.

It is unfortunate that a misalignment of Ps and Gs and statute took more than a decade to correct. As your State Controller, you have my assurance that I will continue to pursue the removal of bureaucratic obstacles to appropriate and on-time payment.

School District
July 18, 2007
Page 2

I hope we can work together again on common sense solutions to outdated or unworkable mandate processes.

Sincerely,

Original Signed By

JOHN CHIANG
California State Controller

cc: The Honorable Mike Eng

Fiscal Year

2002 - 2003

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 NOTIFICATION OF TRUANCY	For State Controller Use Only (19) Program Number 00048 (20) Date Filed __ / __ / __ (21) LRS Input __ / __ / __	Program 048
---	---	--

L A B E L H E R E	(01) Claimant Identification Number S34085		Reimbursement Claim Data	
	(02) Claimant Name SAN JUAN UNIFIED SD		(22) NOT-1, (03)	10,001
	County of Location SACRAMENTO		(23)	
	Street Address or P.O. Box P.O. BOX 477		Suite (24)	
	City CARMICHAEL		State CA	
	Zip Code 95609-0477		(25)	
	Type of Claim		Reimbursement Claim	
	(03) Estimated <input type="checkbox"/>		(09) Reimbursement <input type="checkbox"/>	
	(04) Combined <input type="checkbox"/>		(10) Combined <input type="checkbox"/>	
	(05) Amended <input type="checkbox"/>		(11) Amended <input checked="" type="checkbox"/>	
Fiscal Year of Cost (06) ____ / ____		(12) 2002 / 2003		
Total Claimed Amount (07)		(13) \$ 132,013		
Less: 10% Late Penalty, not to exceed \$1,000		(14) \$ 1,000		
Less: Prior Claim Payment Received		(15)		
Net Claimed Amount		(16) \$ 131,013		
Due from State (08)		(17) \$ 131,013		
Due to State		(18)		

(37) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code Section 17561, I certify that I am the officer authorized by the school district to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer

Date

Michael G. Dencavage

Associate Superintendent Business Services

Type or Print Name

Title

(38) Name of Contact Person for Claim

Telephone Number

(916) 669-0888

Ext.

MCS Education Services, Inc.

E-mail Address

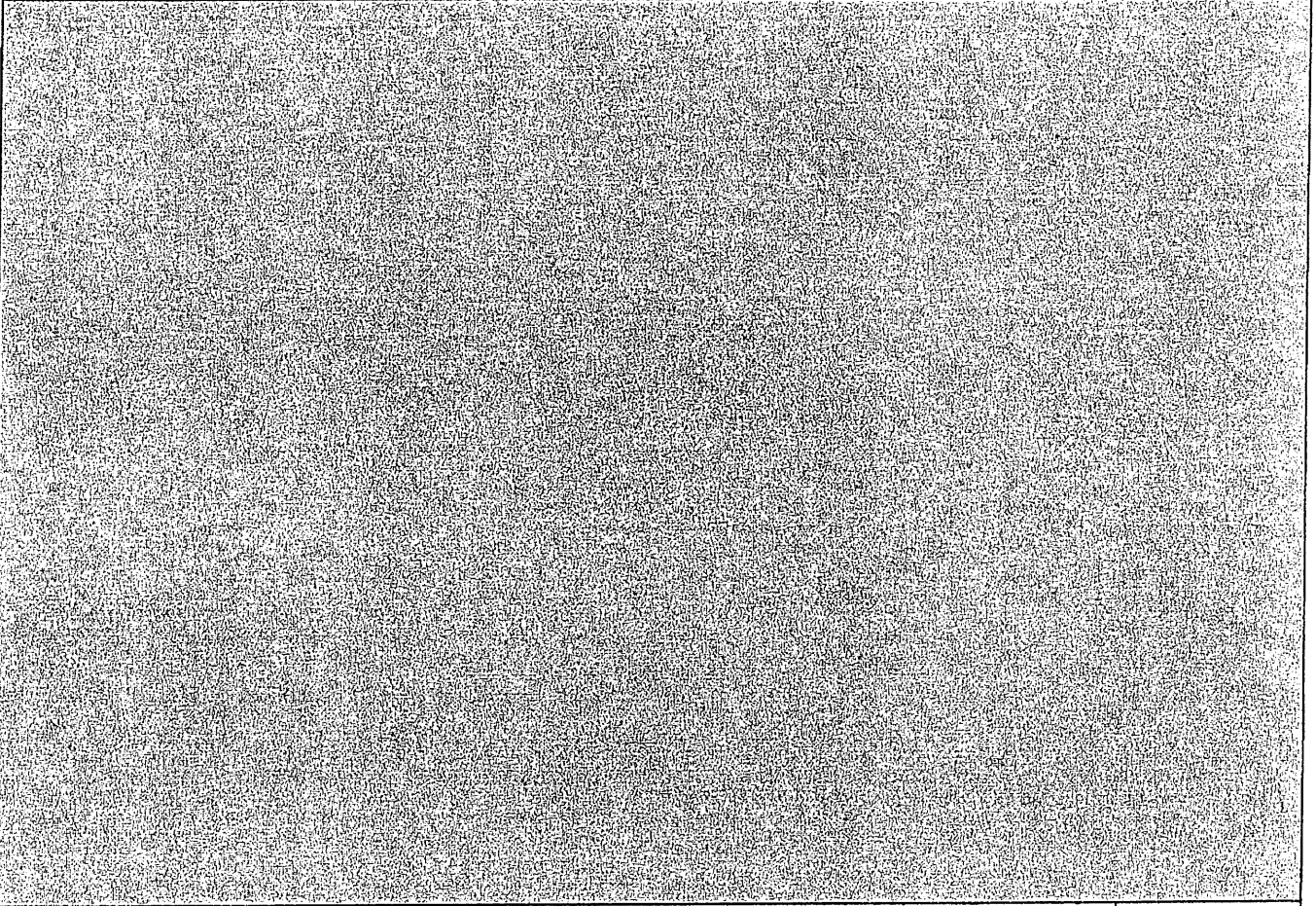
scohelp@mcsed.com

Program 048	NOTIFICATION OF TRUANCY CLAIM SUMMARY INSTRUCTIONS	FORM NOT-1
--	---	-----------------------

(01) Claimant: S34085 SAN JUAN UNIFIED SD	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year: 2002 / 2003
--	---	------------------------------------

Claim Statistics

(03) Number of truant notifications	10,001
--	--------



Cost	
(04) Unit Cost per an initial truancy notification [\$13.20 for the 2002/03 fiscal year]	13.20
(05) Total Costs: [Line (03) x line(04)]	132,013

Cost Reduction

(06) Less: Offsetting Savings, if applicable	
(07) Less: Other Reimbursements, if applicable	
(08) Total Claimed Amount: {Line(05) - [Line(06) + line(07)]}	132,013

**MANDATED COSTS
NOTIFICATION OF TRUANCY
CLAIM SUMMARY**

**FORM
NOT-1A**

(01) Claimant:

S34085

SAN JUAN UNIFIED SD

(02) Type of Claim:

Reimbursement

Estimated

Fiscal Year:

2002 / 2003

Claim Statistics

(03) For each school in the district, enter the number of Notifications

(a) Name of School	(d) Notifications
DO-SAN JUAN USD	10,001
	10,001

Fiscal Year

2003 - 2004

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 NOTIFICATION OF TRUANCY	For State Controller Use Only (19) Program Number 00048 (20) Date Filed ___ / ___ / ___ (21) LRS Input ___ / ___ / ___	Program 048
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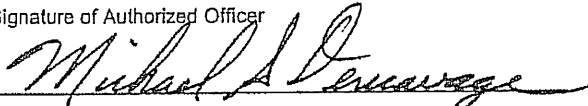
L A B E L H E R E	(01) Claimant Identification Number S34085		Reimbursement Claim Data	
	(02) Claimant Name SAN JUAN USD		(22) NOT-1, (03)	16,904
	County of Location SACRAMENTO		(23)	
	Street Address or P.O. Box P.O. BOX 477		Suite (24)	
	City CARMICHAEL	State CA	Zip Code 95609-0477 (25)	

Type of Claim	Estimated Claim	Reimbursement Claim	
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(26)
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(27)
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(28)
			(29)
Fiscal Year of Cost	(06) _____ / _____	(12) <u>2003</u> / <u>2004</u>	(30)
Total Claimed Amount	(07)	(13) \$ 230,909	(31)
Less: 10% Late Penalty, not to exceed \$1,000		(14) \$ 1,000	(32)
Less: Prior Claim Payment Received		(15)	(33)
Net Claimed Amount		(16) \$ 229,909	(34)
Due from State	(08)	(17) \$ 229,909	(35)
Due to State		(18)	(36)

(37) **CERTIFICATION OF CLAIM**
 In accordance with the provisions of Government Code Section 17561, I certify that I am the officer authorized by the school district to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer	Date
	<u>1-10-2006</u>
Michael G. Dencavage	Associate Superintendent Business Services
Type or Print Name	Title

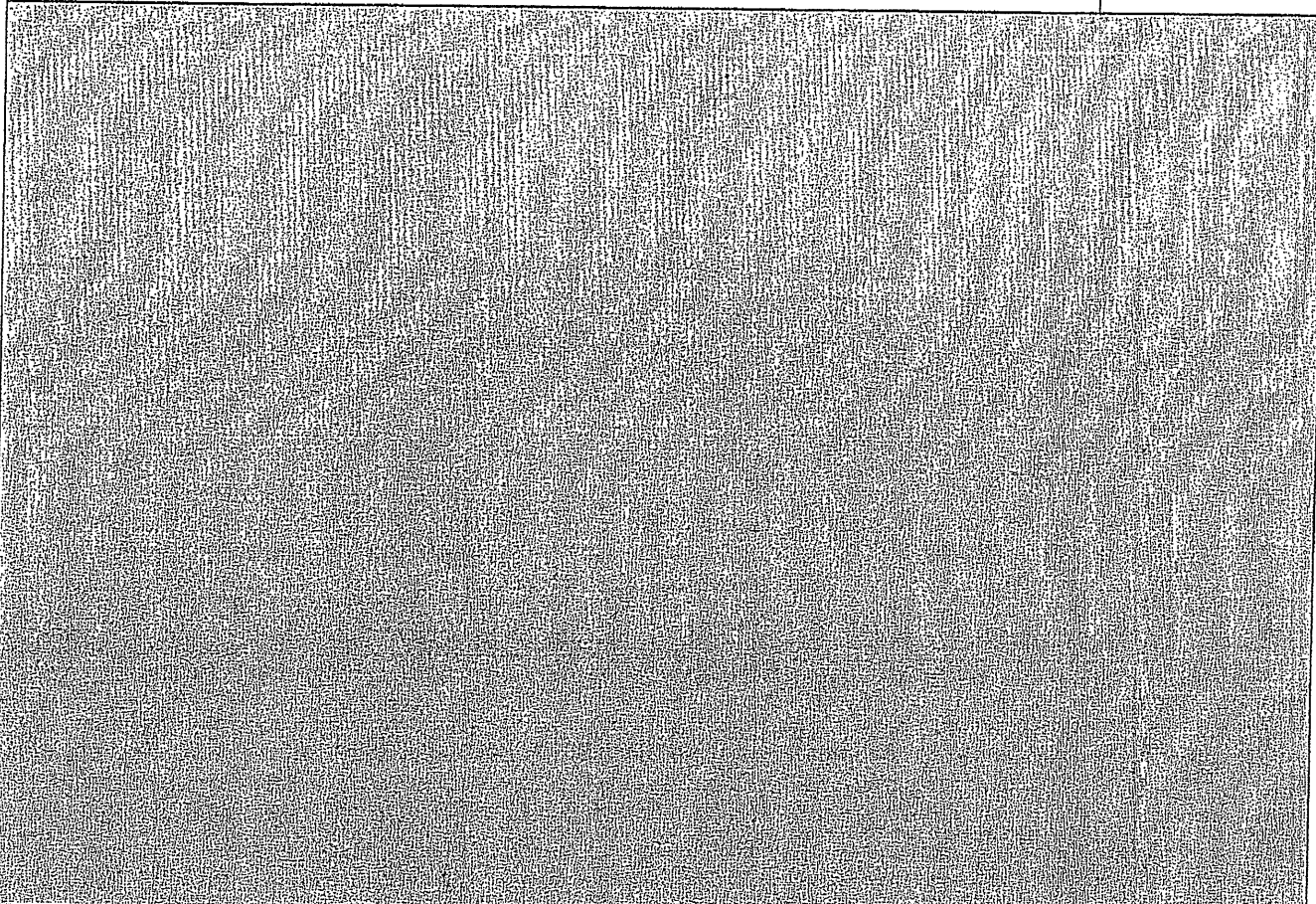
(38) Name of Contact Person for Claim	Telephone Number	(916) 669-0888	Ext.
School Innovations & Advocacy	E-mail Address	scohelp@sia-us.com	

Program 048	NOTIFICATION OF TRUANCY CLAIM SUMMARY INSTRUCTIONS	FORM NOT-1
--	---	-----------------------

(01) Claimant: S34085 SAN JUAN USD	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year: 2003 / 2004
--	--	-----------------------------

Claim Statistics

(03) Number of truant notifications	16,904
-------------------------------------	--------



Cost		
(04) Unit Cost per an initial truancy notification	[\$13.66 for the 2003/04 fiscal year]	13.66
(05) Total Costs:	[Line (03) x line(04)]	230,909
Cost Reduction		
(06) Less: Offsetting Savings, if applicable		
(07) Less: Other Reimbursements, if applicable		
(08) Total Claimed Amount:	{Line(05) - [Line(06) + line(07)]}	230,909

Revised 9/04

MANDATED COSTS NOTIFICATION OF TRUANCY CLAIM SUMMARY		FORM NOT-1A
(01) Claimant: S34085 SAN JUAN USD	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year: 2003 / 2004
Claim Statistics		
(03) For each school in the district, enter the number of Notifications		
(a) Name of School	(d) Notifications	
DISTRICT OFFICE - ALL SITES	16,904	
		16,904

Fiscal Year

2004 - 2005

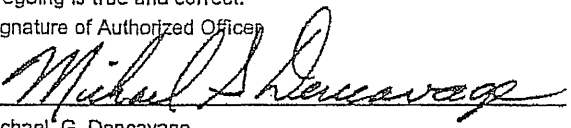
CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 NOTIFICATION OF TRUANCY	For State Controller Use Only (19) Program Number 00048 (20) Date Filed ___ / ___ / ___ (21) LRS Input ___ / ___ / ___	Program 048
---	---	-----------------------

L A B E L H E R E	(01) Claimant Identification Number 934085		Reimbursement Claim Data	
	(02) Claimant Name SAN JUAN UNIFIED SD		(22) NOT-1, (03)	18,082
	County of Location SACRAMENTO		(23)	
	Street Address or P.O. Box P.O. BOX 477		(24)	
	City CARMICHAEL		(25)	
	State CA		(26)	
Zip Code 95609-0477		(27)		
Type of Claim (03) Estimated <input checked="" type="checkbox"/>		Reimbursement Claim (09) Reimbursement <input checked="" type="checkbox"/>		
(04) Combined <input type="checkbox"/>		(10) Combined <input type="checkbox"/>		
(05) Amended <input type="checkbox"/>		(11) Amended <input type="checkbox"/>		
Fiscal Year of Cost	(06) <u>2005</u> / <u>2006</u>	(12) <u>2004</u> / <u>2005</u>	(30)	
Total Claimed Amount	(07) \$ 258,211	(13) \$ 258,211	(31)	
Less: 10% Late Penalty, not to exceed \$1,000		(14)	(32)	
Less: Prior Claim Payment Received		(15)	(33)	
Net Claimed Amount		(16) \$ 258,211	(34)	
Due from State	(08) \$ 258,211	(17) \$ 258,211	(35)	
Due to State		(18)	(36)	

(37) CERTIFICATION OF CLAIM
 In accordance with the provisions of Government Code Section 17561, I certify that I am the officer authorized by the school district to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer 	Date <u>1-10-2006</u>
Michael G. Dencavage Type or Print Name	Associate Superintendent Business Services Title

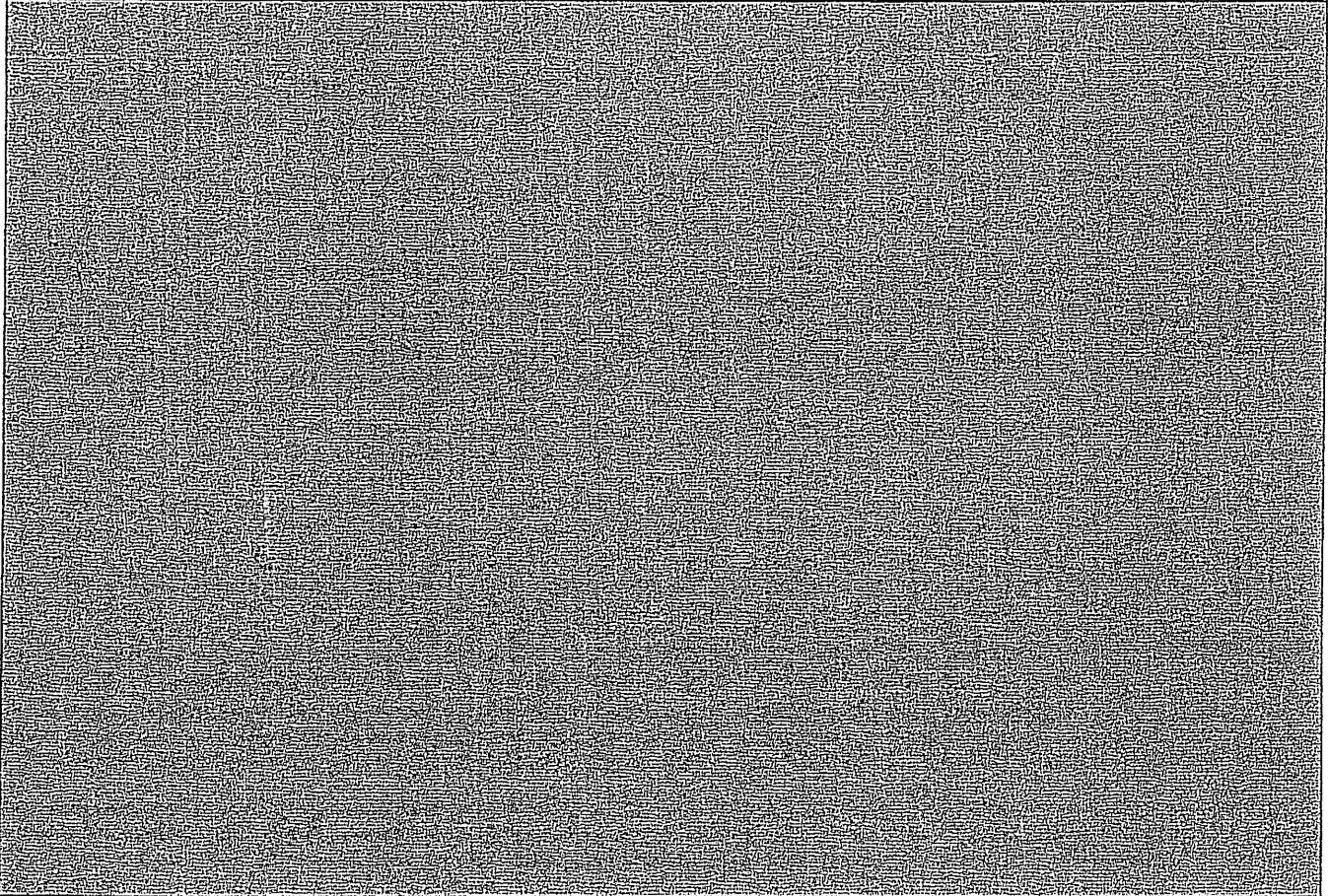
(38) Name of Contact Person for Claim School Innovations & Advocacy	Telephone Number (916) 669-0888	Ext. _____	E-mail Address scohelp@sia-us.com
--	------------------------------------	---------------	--------------------------------------

Program 048	NOTIFICATION OF TRUANCY CLAIM SUMMARY INSTRUCTIONS	FORM NOT-1
-----------------------	---	-----------------------

(01) Claimant: S34085 SAN JUAN UNIFIED SD	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year: 2004 / 2005
---	--	-----------------------------

Claim Statistics

(03) Number of truant notifications	18,082
-------------------------------------	--------



Cost	
(04) Unit Cost per an initial truancy notification [\$14.28 for the 2004/05 fiscal year]	14.28
(05) Total Costs: [Line (03) x line(04)]	258,211

Cost Reduction	
(06) Less: Offsetting Savings, if applicable	
(07) Less: Other Reimbursements, if applicable	
(08) Total Claimed Amount: {Line(05) - [Line(06) + line(07)]}	258,211

Revised 9/05

MANDATED COSTS NOTIFICATION OF TRUANCY CLAIM SUMMARY	FORM NOT-1A
---	------------------------

(01) Claimant: S34085 SAN JUAN UNIFIED SD	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year: 2004 / 2005
---	--	-----------------------------

Claim Statistics

(03) For each school in the district, enter the number of Notifications

(a) Name of School	(d) Notifications
DISTRICT OFFICE	18,082
	18,082

Fiscal Year

2005 - 2006

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 NOTIFICATION OF TRUANCY	For State Controller Use Only (19) Program Number 00048 (20) Date Filed ___ / ___ / ___ (21) LRS Input ___ / ___ / ___	Program 048
---	---	-----------------------

L A B E L H E R E	(01) Claimant Identification Number S34085		Reimbursement Claim Data		
	(02) Claimant Name SAN JUAN UNIFIED SD		(22) NOT-1, (03)	19,654	
	County of Location SACRAMENTO		(23)		
	Street Address or P.O. Box 3738 WALNUT AVE.		(24)		
	City CARMICHAEL		(25)		
		State CA	Zip Code 95609-0477		
Type of Claim		Estimated Claim		Reimbursement Claim	
		(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(26)	
		(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(27)	
		(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(28)	
				(29)	
Fiscal Year of Cost	(06) <u>2006</u> / <u>2007</u>	(12) <u>2005</u> / <u>2006</u>	(30)		
Total Claimed Amount	(07) \$ 305,423	(13) \$ 305,423	(31)		
Less: 10% Late Penalty, not to exceed \$1,000		(14)	(32)		
Less: Prior Claim Payment Received		(15)	(33)		
Net Claimed Amount		(16) \$ 305,423	(34)		
Due from State	(08) \$ 305,423	(17) \$ 305,423	(35)		
Due to State		(18)	(36)		

(37) CERTIFICATION OF CLAIM
 In accordance with the provisions of Government Code Section 17561, I certify that I am the officer authorized by the school district to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer *Michael G. Denavage* Date 1-11-07
 MICHAEL G. DENAVAGE ASSOCIATE SUPERINTENDENT BUSINESS SERVICES
 Type or Print Name Title

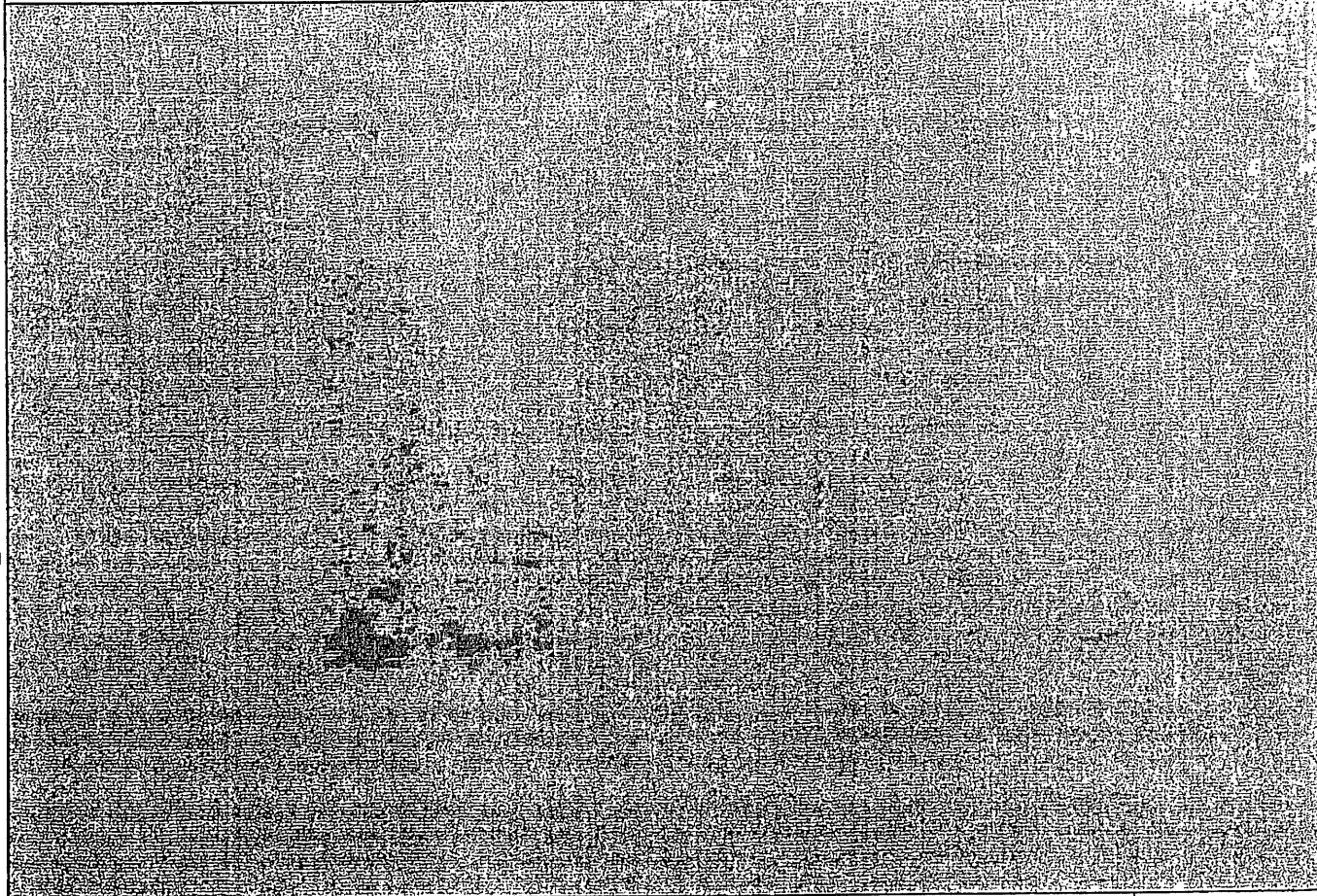
(38) Name of Contact Person for Claim Telephone Number (916) 669-0888 Ext.
 School Innovations & Advocacy E-mail Address scohelp@sia-us.com

Program 048	NOTIFICATION OF TRUANCY CLAIM SUMMARY INSTRUCTIONS	FORM 1
-----------------------	---	-------------------

(01) Claimant: S34085 SAN JUAN UNIFIED SD	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year: 2005 / 2006
---	--	-----------------------------

Claim Statistics

(03) Number of truant notifications	19,654
-------------------------------------	--------



Cost	
(04) Unit Cost per an initial truancy notification [\$15.54 for the 2005/06 fiscal year]	15.54
(05) Total Costs: [Line (03) x line(04)]	305,423
Cost Reduction	
(06) Less: Offsetting Savings, if applicable	
(07) Less: Other Reimbursements, if applicable	
(08) Total Claimed Amount: {Line(05) - [Line(06) + line(07)]}	305,423

Revised 09/06

MANDATED COSTS NOTIFICATION OF TRUANCY CLAIM SUMMARY	FORM NOT-1A
---	------------------------

(01) Claimant: S34085 SAN JUAN UNIFIED SD	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year: 2005 / 2006
---	--	-----------------------------

Claim Statistics

(03) For each school in the district, enter the number of Notifications

(a) Name of School	(d) Notifications
ARCADE MS <i>108 + 11 (SAs) = 119</i>	119
ARDEN MS	144
ARLINGTON HEIGHTS	230
BARRETT MS	259
BELLA VISTA	855
CAMBRIDGE HEIGHTS	89
CAMERON RANCH ES	145
CARMICHAEL	379
CARNEGIE MS	237
CARRIAGE	231
CASA ROBLE HS	725
CHURCHILL MS	382
CITRUS HEIGHTS	287
COLEMAN ES	111
COTTAGE	275
COWAN	77
COYLE	201
DEL CAMPO	897
DEL DAYO	69
DEL PASO MANOR	184
DETERDING	207
DEWEY	99
DYER KELLY	352
EDISON	253
EL CAMINO	504
ENCINA	645
GARFIELD ES	230
GOLD RIVER	164
GRAND OAKS	204
GREEN OAKS	35
GREER	349
	8,938

**MANDATED COSTS
NOTIFICATION OF TRUANCY
CLAIM SUMMARY**

**FORM
NOT-1A**

(01) Claimant:
S34085
SAN JUAN UNIFIED SD

(02) Type of Claim: Fiscal Year:
Reimbursement 2005 / 2006
Estimated

Claim Statistics

(03) For each school in the district, enter the number of Notifications

(a) Name of School	(d) Notifications
HOLST	97
HOWE AVENUE	444
KELLY	160
KINGSWOOD	335
LA ENTRADA	198
LA VISTA CENTER	84
LEGETTE	159
LICHEN	255
MARIEMONT	109
MARIPOSA	324
MESA VERDE HS	779
MIRA LOMA	1,115
MISSION	126
MITCHELL	192
NORTHRIDGE	270
OAKVIEW	158
ORANGEVALE	145
OTTOMON	119
PALOS VERDE	22
PASADENA	212
<u>PASTEUR MS</u> <i>223 + 13 = 236</i>	<u>236</u>
PECK	269
PERSHING	222
RIO AMERICANO	716
ROGERS MS	430
RUFF	16
SALK MS	510
SAN JUAN	739
SCHWEITZER	136
SIERRA NUEVA/ENCINA	95
SIERRA OAKS	74
	17,684

**MANDATED COSTS
NOTIFICATION OF TRUANCY
CLAIM SUMMARY**

**FORM
NOT-1A**

(01) Claimant:
S34085
SAN JUAN UNIFIED SD

(02) Type of Claim: Fiscal Year:
Reimbursement 2005 / 2006
Estimated

Claim Statistics

(03) For each school in the district, enter the number of Notifications

(a) Name of School	(d) Notifications
SKYCREST	306
STARR KING ES	196
STARR KING MS	181
SYLVAN MS	398
TRAJAN ES	187
TWIN LAKES	256
VIA DEL CAMPO	21
WHITNEY	280
WOODSIDE	145
	19,654



JOHN CHIANG
California State Controller

RECEIVED
October 03, 2014
*Commission on
State Mandates*

LATE FILING

October 3, 2014

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: **Incorrect Reduction Claim (IRC)**
Notification of Truancy, 10-904133-I-09
Education Code Section 48260.5
Statutes 1983, Chapter 498
Fiscal Years: 2002-2003, 2003-2004, 2004-2005, and 2005-2006
San Juan Unified School District, Claimant

Dear Ms. Halsey:

The State Controller's Office is transmitting our response to the above-entitled IRC.

If you have any questions, please contact me by telephone at (916) 323-5849.

Sincerely,

A handwritten signature in black ink that reads "Jim L. Spano".

JIM L. SPANO, Chief
Mandated Cost Audits Bureau
Division of Audits

**RESPONSE BY THE STATE CONTROLLER'S OFFICE
TO THE INCORRECT REDUCTION CLAIM (IRC) BY
SAN JUAN UNIFIED SCHOOL DISTRICT
Notification of Truancy Program**

Table of Contents

<u>Description</u>	<u>Page</u>
SCO's Response to District's Comments	
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State Controller's Office Analysis and Response	Tab 2
Analysis of Statistical Sample Results	Tab 3
Calculation of Audit Adjustment Range	Tab 4
State Controller's Office Remittance Advice, FY 2002-03 – September 12, 2006	Tab 5
State Controller's Office Remittance Advice, FY 2003-04 – September 12, 2006	Tab 6
State Controller's Office Remittance Advice, FY 2004-05 – September 11, 2006	Tab 7

Note: References to Exhibits relate to the district's IRC filed on September 27, 2010, as follows:

- Exhibit A – PDF page 32
- Exhibit B – PDF page 43
- Exhibit C – PDF page 50
- Exhibit D – PDF page 58
- Exhibit E – PDF page 78
- Exhibit F – PDF page 92
- Exhibit G – PDF page 95

Tab 1

1 **OFFICE OF THE STATE CONTROLLER**

2 300 Capitol Mall, Suite 1850

3 Sacramento, CA 94250

4 Telephone No.: (916) 445-6854

5 BEFORE THE

6 COMMISSION ON STATE MANDATES

7 STATE OF CALIFORNIA

8
9
10 INCORRECT REDUCTION CLAIM ON:

11 *Notification of Truancy Program*

12 Chapter 498, Statutes of 1983, and
13 Chapter 1023, Statutes of 1994

14 SAN JUAN UNIFIED SCHOOL DISTRICT,
15 Claimant

No.: CSM 10-904133-I-09

AFFIDAVIT OF BUREAU CHIEF

16 I, Jim L. Spano, make the following declarations:

- 17 1) I am an employee of the State Controller's Office and am over the age of 18 years.
- 18 2) I am currently employed as a Bureau Chief, and have been so since April 21, 2000.
19 Before that, I was employed as an audit manager for two years and three months.
- 20 3) I am a California Certified Public Accountant (CPA).
- 21 4) I reviewed the work performed by the State Controller's Office (SCO) auditor.
- 22 5) Any attached copies of records are true copies of records, as provided by the San Juan
23 Unified School District or retained at our place of business.
- 24 6) The records include claims for reimbursement, along with any attached supporting
25 documentation, explanatory letters, or other documents relating to the above-entitled
Incorrect Reduction Claim.

1 7) A field audit of the claims for fiscal year (FY) 2002-03, FY 2003-04, FY 2004-05, and
2 FY 2005-06 commenced on September 11, 2007, and ended on July 29, 2009.

3 I do declare that the above declarations are made under penalty of perjury and are true and
4 correct to the best of my knowledge, and that such knowledge is based on personal
5 observation, information, or belief.

6 Date: December 6, 2010

7 OFFICE OF THE STATE CONTROLLER

8
9
10 By:  _____

11 Jim L. Spano, Chief
12 Mandated Cost Audits Bureau
13 Division of Audits
14 State Controller's Office
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23
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Tab 2

**STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE
TO THE INCORRECT REDUCTION CLAIM BY
SAN JUAN UNIFIED SCHOOL DISTRICT
For Fiscal Year (FY) 2002-03, FY 2003-04, FY 2004-05, and FY 2005-06**

**Notification of Truancy Program
Chapter 498, Statutes of 1983, and Chapter 1023, Statutes of 1994**

SUMMARY

The following is the State Controller's Office's (SCO) response to the Incorrect Reduction Claim that the San Juan Unified School District submitted on September 27, 2010. The SCO audited the district's claims for costs of the legislatively mandated Notification of Truancy Program for the period of July 1, 2002, through June 30, 2006. The SCO issued its final report on September 4, 2009 (**Exhibit D**).

The district submitted reimbursement claims totaling \$924,556 (\$926,556 less a \$2,000 penalty for filing late claims)—\$131,013 for FY 2002-03 (\$132,013 less a \$1,000 penalty for filing a late claim), \$229,909 for FY 2003-04 (230,909 less a \$1,000 penalty for filing a late claim), \$258,211 for FY 2004-05, and \$305,423 for FY 2005-06 (**Exhibit G**). Subsequently, the SCO performed an audit for the period of July 1, 2002, through June 30, 2006, and determined that \$132,847 is unallowable. The costs are unallowable because the district claimed non-reimbursable initial truancy notifications. The district disagrees with the audit results. In addition, the district disagrees with the amount paid by the State for FY 2002-03, FY 2003-04, and FY 2004-05, as shown in Schedule 1 of our final audit report issued September 4, 2009 (**Exhibit D**). The following table summarizes the audit results:

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>July 1, 2002, through June 30, 2003</u>			
Number of initial truancy notifications	10,001	9,668	(333)
Uniform cost allowance	× \$13.20	× \$13.20	× \$13.20
Subtotal	132,013	127,618	(4,396)
Less late filing penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 131,013</u>	126,618	<u>\$ (4,396)</u>
Less amount paid by the State ¹		(131,013)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (4,395)</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Number of initial truancy notifications	16,904	13,031	(3,873)
Uniform cost allowance	× \$13.66	× \$13.66	× \$13.66
Subtotal	230,909	178,004	(52,905)
Less late filing penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 229,909</u>	177,004	<u>\$ (52,905)</u>
Less amount paid by the State ¹		(229,909)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (52,905)</u>	

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>July 1, 2004, through June 30, 2005</u>			
Number of initial truancy notifications	18,082	17,396	(686)
Uniform cost allowance	× \$14.28	× \$14.28	× \$14.28
Total program costs	<u>\$ 258,211</u>	248,415	<u>\$ (9,796)</u>
Less amount paid by the State ¹		(258,211)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (9,796)</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Number of initial truancy notifications	19,654	15,423	(4,231)
Uniform cost allowance	× \$15.54	× \$15.54	× \$15.54
Total program costs	<u>\$ 305,423</u>	239,673	<u>\$ (65,750)</u>
Less amount paid by the State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 239,673</u>	
<u>Summary: July 1, 2002, through June 30, 2006</u>			
Total costs	\$ 926,556	\$ 793,710	\$ (132,847)
Less late filing penalty	(2,000)	(2,000)	—
Total program costs	<u>\$ 924,556</u>	791,710	<u>\$ (132,847)</u>
Less amount paid by the State ¹		(619,133)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 172,577</u>	

¹ Payment information current as of November 8, 2010.

I. NOTIFICATION OF TRUANCY PROGRAM CRITERIA

Parameters and Guidelines – July 22, 1993

On August 27, 1987, the Commission on State Mandates (CSM) adopted the parameters and guidelines for Chapter 498, Statutes of 1983. The CSM amended the parameters and guidelines on July 22, 1993 (**Exhibit B**).

Section I summarizes the mandated program as follows:

I. SUMMARY OF MANDATE

Chapter 498, Statutes of 1983 . . . requires school districts, upon a pupil's initial classification as a truant, to notify the pupil's parent or guardian by first-class mail or other reasonable means of (1) the pupil's truancy; (2) that the parent or guardian is obligated to compel the attendance of the pupil at school; and (3) that parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution

Additionally, the district must inform parents and guardians of (1) alternative educational programs available in the district, and (2) the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

A truancy occurs when a student is absent from school without valid excuse more than three (3) days or is tardy in excess of thirty (30) minutes on each of more than three (3) days in one school year. . . .

A student shall be initially classified as truant upon the fourth unexcused absence, and the school must at that time perform the requirements mandated in Education Code Section 48260.5. . . .

Section V.A identifies the mandated program's scope as follows:

V. REIMBURSABLE COSTS

A. Scope of Mandate

The eligible claimant shall be reimbursed for only those costs incurred for planning the notification process, revising district procedures, the printing and distribution of notification forms, *and associated record keeping* [emphasis added].

Section V.B.2 specifies the ongoing reimbursable activity:

V. REIMBURSABLE COSTS

B. Reimbursable Activities

2. Notification process – On-going

Identifying the truant pupils to receive the notification, preparing and distributing by mail or other method the forms to parents/guardians, *and associated recordkeeping* [emphasis added].

Section V.C identifies the uniform cost allowance applicable to the mandated program:

V. REIMBURSABLE COSTS

C. Uniform Cost Allowance

Pursuant to Government Code section 17557, the Commission on State Mandates has adopted a uniform cost allowance . . . *The uniform cost allowance is based on the number of initial notifications of truancy distributed* [emphasis added]. . . .

Section VI specifies the following claim preparation requirements:

VI. CLAIM PREPARATION

Each claim for reimbursement . . . must be timely filed *and provide documentation in support of the reimbursement claimed for this mandated program* [emphasis added].

II. DISTRICT CLAIMED NON-REIMBURSABLE INITIAL TRUANCY NOTIFICATIONS

Issue

The district claimed non-reimbursable initial truancy notifications totaling \$132,847. The district disagrees with the audit methodology and the results derived therefrom.

SCO Analysis:

The district claimed initial truancy notifications for students who did not accumulate the required number of unexcused absences or tardiness occurrences to qualify as truant under the mandated program.

For each fiscal year, we selected a statistical sample of initial truancy notifications based on a 95% confidence level, a precision rate of +/-8%, and an expected error rate of 50%. We chose our statistical sample from the population of initial truancy notifications that the district documented. We used a statistical sample so that we could project the sample results to the population. The district accounts for elementary/K-8 school and secondary school attendance differently; therefore, we stratified the population into two groups and selected separate samples for each group.

The district claimed unallowable initial truancy notifications for students who accumulated fewer than four unexcused absences or tardiness occurrences during the fiscal year. The district claimed unallowable notifications for the following reasons:

- The student accumulated only three unexcused absences or tardiness occurrences.
- The student accumulated fewer than four unexcused absences or tardiness occurrences while between ages 6 and 18.
- The student accumulated fewer than three unexcused absences or tardiness occurrences.

District's Response

THE ISSUE OF STATISTICAL SAMPLING AND EXTRAPOLATION

Reimbursement for this mandate is based on the actual number of notifications distributed multiplied by a uniform cost allowance for reimbursement . . . The audit report states that the finding is based on a statistical sample. . . .

A. Legal Basis for Reimbursement Based on Statistical Sampling

The essential legal issue for this finding is whether the Controller can adjust claims utilizing an extrapolation of findings from an audit sample. . . .

The audit report has cited no statutory or regulatory authority to allow the Controller to reduce claimed reimbursement based on extrapolation of a statistical sample. Instead, the audit report states that:

Government Code section 17558.5 requires the district to file a reimbursement claim for actual mandate-related costs.

That citation is not specific to the sampling issue presented. That citation is also unavailing since the Notification of Truancy mandate is reimbursed based on a unit cost rate which is a reasonable representation of actual costs incurred by districts that were included in the cost study to establish the uniform cost allowance for this mandate.

[The audit report also states] "Government Code section 17561, subdivision (d)(2), allows the SCO to audit the district's records to verify *actual* mandate-related costs" and that Government Code Section 12410 requires the Controller to "audit all claims against the state." The District concurs that the Controller has authority to audit mandate claims, but asserts that the Controller must audit

pursuant to legal criteria and logic. The District does not dispute the Controller's authority to audit claims for mandated costs and to reduce those costs that are excessive or unreasonable . . . However, Section 12410 . . . is not specific to the audit of mandate reimbursement claims. The only applicable audit standard for mandate reimbursement claims is found in Government Code Section 17561 (d)(2). The fact that Section 17561(d)(2) specifies its own audit standard (excessive or unreasonable) implies that the general Controller audit standard (correctness, legality, and sufficient provisions of law) does not control here. Therefore, the Controller may only reduce a mandate reimbursement claim if it specifically finds that the amounts claimed are unreasonable or excessive under Section 17561(d)(2). Further, the Controller has not asserted or demonstrated that, if Section 12410 was the applicable standard, the audit adjustments were made in accordance with this standard. The District's claim was correct, in that it reported the number of notices distributed. There is also no allegation in the audit report that the claim was in any way illegal . . . Thus, even if the standards of Section 12410 were applicable to mandate reimbursement audits, the Controller has failed to put forth any evidence that these standards are not met or even relevant. There is no indication that the Controller is *actually* relying on the audit standards set forth in Section 12410 for the adjustments to the District's reimbursement claims.

[In addition, the audit report states] "The SCO conducted its audit according to generally accepted government auditing standards [GAGAS] (*Government Auditing Standards*, issued by the U.S. Government Accountability Office, July 2007) [GAO]." The audit report asserts that the "standards recognize statistical sampling as an acceptable method to provide sufficient, appropriate evidence" but does not cite specific GAO or GAGAS language in support of that assertion. The audit report does not explain how a statistical sample that provides "appropriate evidence" of the scope and reliability of source documentation is therefore a source of findings of actual cost or pervasive compliance with the mandate program requirements. Notwithstanding, the GAO auditing guide referenced specifically pertains to audits of federal funds and state mandate reimbursement does not utilize federal funds. Further, the GAO audit guide has not been adopted pursuant to any state agency rulemaking nor is it included as a standard in the parameters and guidelines so the claimants could not be on legal notice of its requirements, nor could the District have actual notice of the GAO guide published in 2007 at the time the annual claims were filed.

There is no provision in law to allow claimants to claim costs based on sampling and extrapolation, or for the Controller to audit or make findings in the same manner. The Controller's audit standard, which has been incorporated into most parameters and guidelines, is contemporaneous documentation with corroborating evidence for all costs claimed. This standard should also apply to all costs *disallowed*. The extrapolation disallows costs never audited and documentation never reviewed. There is no published audit manual for mandate reimbursement or the audit of mandate claims in general, or any published audit program for this mandate program which allows this method of audit or allows adjustment of amounts claimed in this manner. Adjustment of the claimed costs based on an extrapolation from a statistical sample is utilizing a standard of general application without the benefit of compliance with the Administrative Procedure Act. Thus, the application of the method is prohibited by the Government Code.

SCO's Comment

Government Code Sections 17558.5 and 17561, Subdivision (d)(2)(A)(i)

The district quotes one sentence regarding Government Code section 17558.5 from the "SCO's Comment" section of the audit finding and presents that sentence out of context. The district implies that we cited Government Code section 17558.5 to validate the statistical sampling used to develop the audit adjustment. We disagree. In its response to the draft audit report, the district alleged that Government Code section 17561, subdivision (d)(2), is "the only mandated cost audit standard in statute," and allows the SCO to adjust only those claims it determines are excessive or unreasonable. The district further alleges, "the entire findings are based upon the wrong standard for review." In response, we disagreed and cited relevant language from Government Code section 17558.5 that

requires the district to file a reimbursement claim for actual costs. We paired this requirement with Government Code section 17561, subdivision (d)(2)(A)(i), which allows the SCO to audit the district's records to verify actual mandate-related costs.

The district attempts to invalidate Government Code section 17558.5 and its relation to Government Code section 17561, subdivision (d)(2)(A)(i), by stating the citation is "unavailing since the Notification of Truancy mandate is reimbursed based on a unit-cost rate." We disagree with the district's implication that Government Code section 17558.5 is irrelevant. In its Incorrect Reduction Claim, Part VIII Relief Requested, the district states, "The amounts claimed by the District for reimbursement . . . represent the *actual* [emphasis added] costs incurred by the District. . . ." School districts combine the unit-cost rate with the *actual* number of initial truancy notifications issued to calculate reimbursable mandated costs. The "actual" number of initial truancy notifications are those mandate-related reimbursable notifications that the district's records support.

Government Code Section 12410

The district infers that Government Code section 12410 is somehow not applicable to mandated cost claims. We disagree. Government Code section 12410 is quite specific in stating, "The Controller shall audit *all claims* against the state and may audit the disbursement of *any* state money, for correctness, legality, and for sufficient provisions of law for payment [emphasis added]."

The district states:

Further, the Controller has not asserted or demonstrated that, if Section 12410 was the applicable standard, the audit adjustments were made in accordance with this standard. The District's claim was correct, in that it reported the number of notices distributed. . . .

It appears that the district believes that only one "standard" is applicable to mandated cost claims. We disagree. All cited statutory audit standards are relevant. Pursuant to Government Code section 12410, we concluded that the district's claims were neither correct nor legal. Correct is defined as "conforming to an approved or conventional standard."² Legal is defined as "conforming to or permitted by law or established rules."³ The district submitted claims for non-reimbursable initial truancy notifications.

Statistical Sampling

The district states, "The audit report has cited no statutory or regulatory authority to allow the Controller to reduce claimed reimbursement based on extrapolation of a statistical sample." We disagree. Government Code section 17561, subdivision (d)(2)(B), states, "The Controller may reduce any claim that the Controller determines is excessive or unreasonable." Excessive is defined as "exceeding what is usual, *proper, necessary*, [emphasis added] or normal."⁴ The district's claims were improper because the district claimed non-reimbursable initial truancy notifications. The district states that it "does not dispute the Controller's authority to audit claims for mandated costs and to reduce those costs that are excessive or unreasonable."

The district also contests the applicability of generally accepted government auditing standards (GAGAS) (*Government Auditing Standards*, issued by the U.S. Government Accountability Office (GAO), July 2007). The district states, ". . . the GAO auditing guide referenced specifically pertains to audits of federal funds. . . ." The district failed to cite language from *Government Auditing Standards* that supports its assertion. *Government Auditing Standards*, section 1.03, "Purpose and Applicability of GAGAS," states:

The professional standards and guidance contained in this document . . . provide a framework for conducting high quality government audits and attestation engagements with competence, integrity, objectivity, and independence. *These standards are for use by auditors of government entities [emphasis added]. . . .*"

In addition, the district contests the appropriateness of statistical sampling. The district states that the audit report does not cite specific GAGAS language that recognizes statistical sampling as an acceptable method to provide sufficient, appropriate evidence. *Government Auditing Standards*, section 7.55, states "Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions." Section 7.56 states, "Appropriateness is the measure of the quality of evidence. . . ." In further discussing appropriateness, section 7.63 states, "When a representative sample is needed, the use of statistical sampling approaches generally results in stronger evidence. . . ."

The district states, ". . . the GAO audit guide has not been adopted pursuant to any state agency rulemaking . . . so the claimants could not be on legal notice of its requirements. . . ." *Government Auditing Standards* provides a framework to conduct audits. Its "requirements" are applicable to auditors, not claimants; therefore, state agency rulemaking is irrelevant. Similarly, it has no bearing on how claimants perform mandate-related activities or submit reimbursement claims.

The district states, "There is no provision in law to allow claimants to claim costs based on sampling and extrapolation. . . ." We disagree. Various mandated cost programs allow claimants to claim salary and benefit costs based on a documented time study, which itself is simply a sample of actual time worked extrapolated to a full year. Examples include the Habitual Truant, Intradistrict Attendance, and Juvenile Court Notices II programs.

The district states, "There is no published audit manual for mandate reimbursement or the audit of mandate claims in general, or any published audit program for this mandate program. . . ." We conducted our audit under the authority of Government Code sections 12410, 17558.5, and 17561. There is no statutory requirement for the SCO to publish an audit manual or audit program for mandated cost program audits.

² Merriam-Webster's Collegiate Dictionary, Tenth Edition © 2001.

³ Ibid.

⁴ Ibid.

District's Response

B. Utility of the Sampling Methodology

A statistically valid sample methodology is a recognized audit tool for some purposes. See Exhibit "E" ("Statistical Sampling Revisited"). The sampling process was misapplied here. The purpose of sampling is to determine the results of transactions or whether procedures were properly applied to the reported transactions What the Controller purports to be testing is whether the notices are reimbursable based on the number of prerequisite absences or content of the notice. . . .

Instead, the auditor was actually conducting a review for documentation rather than mandate compliance. Testing for procedural compliance usually involves establishing tolerance parameters, but in the case of this audit, the tolerance factor was zero, that is, based on the auditor's perception of adequate documentation, which is a separate issue. Testing to detect the rate of error within tolerances is the purpose of sampling, but it is not a tool to assign an exact dollar amount to the amount of the error, which the Controller has inappropriately done so here. . . .

SCO's Comment

The district states that the sampling process was "misapplied." The district includes an exhibit but makes no specific reference to that exhibit to support its position. We disagree with the district's statement. We properly used estimation sampling to establish the frequency of occurrence of non-reimbursable initial truancy notifications. We conclude that the sampling methodology is appropriate based on the following:

Estimation sampling is the most widely used approach to audit tests. It provides the answer to the question of how many or how much. When this method is used, a random sample of a special size is obtained, and either the number of some specified type of item or event (such as errors) appearing in the sample is counted and the proportion of these items determined. . . .

If the sample is used as a means of establishing the frequency of occurrence of some kind of event or type of item, the process is referred to as *attributes sampling*. The result of such a sampling operation is commonly expressed as the *per cent* of the type of event specified.

In statistical terminology, any measurement obtained by counting the number of items falling in a given category is called an *attribute measurement* . . . Examples of attribute categories include errors versus nonerrors. . . .⁵

The district continues by stating:

What the Controller purports to be testing is whether the notices are reimbursable based on the number of prerequisite absences or content of the notice. . . .

Instead, the auditor was actually conducting a review for documentation rather than mandate compliance.

We agree that we tested initial truancy notifications to determine if those notifications are reimbursable based on the number of unexcused absences or tardiness occurrences specified in the parameters and guidelines. We did not use statistical samples to test "content of the notice." The district's reference to "conducting a review for documentation" is unclear. We properly examined the district's supporting documentation to identify the number of unexcused absences or tardiness occurrences that occurred while the student was between ages 6 and 18, thereby classifying the initial truancy notification as reimbursable or non-reimbursable.

The district states, "Testing for procedural compliance usually involves establishing tolerance parameters, but in the case of this audit, the tolerance factor was zero, that is, based on the auditor's perception of adequate documentation. . . ." We disagree. A "tolerance factor" is not applicable, because we conducted estimation sampling as noted above. For each initial truancy notification, the notification is either an "error" or a "non-error," depending on the number of valid unexcused absences or tardiness occurrences that support the notification. There was no "auditor's perception of adequate documentation;" the district's records either did or did not identify the minimum number of unexcused absences or tardiness occurrences.

⁵ Herbert Arkin, *Handbook of Sampling for Auditing and Accounting*, Third Edition, Prentice Hall, New Jersey, 1984, p.13-14.

District's Response

C. Sample Risk

The ultimate risk from extrapolating findings from a sample is that the conclusions obtained from the sample may not be representative of the universe. That is, the errors perceived from the sample do not occur at the same rate in the universe. That is what has occurred in this audit. For example, kindergarten students present in the sample are more likely to be excluded because of the underage issue, which makes these samples nonrepresentative of the universe. Also, if any of the notices excluded for being underage or overage are for students who are alternative education and special education students, these samples would also not be representative of the universe since the possibility of a special education student being underage or overage is greater than the entire student body. . . .

SCO's Comment

The district states:

The ultimate risk from extrapolating findings from a sample is that . . . the errors perceived from the sample do not occur at the same rate in the universe. *That is what has occurred in this audit* [emphasis added].

Title 5, California Code of Regulations (CCR), section 1185, subdivision (f)(3), states:

If the narrative describing the alleged incorrect reduction(s) involves more than discussion of statutes or regulations or legal argument and *utilizes assertions or representations of fact* [emphasis added], such assertions or representations shall be supported by testimonial or documentary evidence and shall be submitted with the claim.

The district provided no documentary evidence to support its assertion.

The district alleges that the samples are non-representative of the population because kindergarten students, alternative education students, and special education students are more likely to be "excluded for being underage or overage." The fact that a particular student's initial truancy notification might more likely be identified as non-reimbursable is irrelevant to the composition of the audit sample itself. It has no bearing on evaluating whether the sample selection is representative of the population. To that point, Arkin states:

Since the [statistical] sample is objective and unbiased, it is not subject to questions that might be raised relative to a judgment sample. Certainly a complaint that the auditor had looked only at the worst items and therefore biased the results would have no standing. This results from the fact that an important feature of this method of sampling is that all entries or documents have an equal opportunity for inclusion in the sample.⁶

⁶ Ibid, p. 9.

District's Response

D. Sample Size and Error

	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>Total</u>
<u>Elementary Schools</u>					
Audited notifications claimed		7,609		9,347	16,956
Total notices in entire sample		147		148	295
Percentage of the sample to total		1.93%		1.58%	
<u>Secondary Schools</u>					
Audited notifications claimed	3,176	9,295	10,227	10,267	32,965
Total notices in entire sample	143	148	149	148	588
Percentage of the sample to total	4.50%	1.60%	1.46%	1.44%	
<u>Reconciliation of total notifications claimed</u>					
Total audited notifications	3,176	16,904	10,227	19,614	49,921
Missing documentation	2 *			40 **	42
No exceptions noted	<u>6,823</u>	<u> </u>	<u>7,855</u>	<u> </u>	<u>14,678</u>
Total claimed notifications	10,001	16,904	18,082	19,654	64,641

* The 2 notices not included in the sample universe for FY 2002-03 could not be located.

** The 40 notices not included in the sample universe for FY 2005-06 were discovered after the sampling was started and allowed by the audit without adjustment.

In addition to the qualitative concerns discussed, quantitative extrapolation of the sample to the universe depends on a statistically valid sample methodology. Extrapolation does not ascertain actual cost. It ascertains probable costs within an interval. The sampling technique used by the Controller is quantitatively non-representative. The District claimed 64,641 notices, of which 14,720 were not included in the extrapolation (elementary students for FY 2002-03 and FY 2004-05 and 42 missing records). The total sample size for all four years was 883 notices of the 49,921 notices subject to extrapolation. Less than 2 percent of the total number of notices were audited (1.77%). The stated precision rate was plus or minus 8%, even though the sample size is essentially identical for all four fiscal years (from 143 to 148 samples), and even though the audited number of elementary notices claimed for FY 2005-06 (9,347) is 22% more than the number claimed for FY 2003-04 (7,609) and the audited number of secondary notices claimed for FY 2005-06 (10,267) is 223% more than the number claimed for FY 2002-03 (3,176). The expected error rate is stated to be 50%, which means the total amount adjusted of \$132,847 is really just a number exactly between \$66,424 (50%) and \$100,270 (150%). The audit report states no legal or factual basis that would allow the midrange of an interval to be used as a finding of absolute actual cost. Further, given the facts that two of the fiscal years for elementary students apparently showed no exceptions, that only 98% of the notices were sampled, and that the fiscal year sampling universes vary more than 200%, the scope of the sampling would appear inadequate.

The Controller does not assert that the claimed costs were excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17561(d)(2)). The cost to be reimbursed by the state for each notice is stipulated by the parameters and guidelines. It would therefore appear that the entire findings are based upon the wrong standard for review. If the Controller wishes to enforce other audit standards for mandated cost reimbursement, the Controller should comply with the Administrative Procedure Act.

SCO's Comment

The district states that the sampling technique is "quantitatively non-representative." We disagree. It appears that the district reached this conclusion because the sample sizes were essentially consistent while the applicable population size varied. Basic statistical sampling principles dismiss the district's contention. To that point, Arkin states:

It is apparent that it is the absolute size of the sample that is of primary consideration and *not* its relative size.⁷

When the sample constitutes an appreciable portion of the population (more than 1%), the attributes sampling sample size is calculated as follows:⁸

$$n = \frac{p(1 - p)}{(SE/t)^2 + p(1 - p)/N}$$

Where:

n = sample size

p = percent of occurrence in population (expected error rate)

SE = desired sample precision

t = confidence level factor

N = population size

Our report states that we calculated the sample size based on a 95% confidence level, which results in a confidence level factor of 1.96.⁹

The district states, "The expected error rate is stated to be 50%, which means the total amount adjusted of \$132,847 is really just a number exactly between \$66,424 (50%) and \$100,270 (150%)." The district's statement is nonsensical as written; we presume that the district's intent was to identify the larger amount as \$199,270 rather than \$100,270. In any case, the district's conclusion is erroneous. The expected error rate is used to calculate the appropriate sample size. To this point, Arkin states:

In the event that the auditor has no idea whatsoever of what to expect as the maximum rate of occurrence or does not care to make an estimate, he may use the table headed "Rate of Occurrence 50%" [an expected error rate of 50%]. In this case he will be supplied with the most conservative possible sample size estimate and will in no case find he has a poorer sample precision than desired. . . .¹⁰

The district has identified an incorrect range for the audit adjustment. Based on the sampling parameters identified in the report and the individual sample results, our analysis shows that the audit adjustment range is \$92,517 to \$173,176 (Tabs 3 and 4). While a statistical sample evaluation identifies a range for the population's true error rate, the point estimate provides the best, and thus *reasonable*, single estimate of the population's error rate. The audit report identifies a \$132,847 audit adjustment, which is a cumulative total of the unallowable costs based on point estimates from each audit sample's results. As the district states in multiple instances, Government Code section 17561, subdivision (d)(2)(B) specifies that the SCO may reduce any claim that it determines is excessive or unreasonable. The SCO conducted appropriate statistical samples that identified a *reasonable* estimate of the non-reimbursable initial truancy notifications, thus properly reducing the claims for the *unreasonable* claimed costs. Therefore, the Administrative Procedures Act is not applicable.

The district states, "two of the fiscal years for elementary students apparently showed no exceptions." Our audit finding does not discuss FY 2002-03 and FY 2004-05 elementary/K-8 schools and the district's statement is nothing more than an irrelevant assumption. The district also states, "98% of the notices were sampled," which clearly contradicts the audit finding and the district's own analysis.

⁷ Ibid, p. 90.

⁸ Ibid, p. 85.

⁹ Ibid, p. 56.

¹⁰ Ibid, p. 89.

District's Response

THE ISSUES OF COMPLIANCE WITH THE MANDATE

... The audit report disallows 162 of the 883 notifications evaluated for four reasons:

<u>REASON FOR DISALLOWANCE</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>Total</u>
<u>Elementary Schools (Daily Attendance)</u>					
1. Insufficient documentation		-		-	-
2. Less than 3 absences		1		15	16
3. Only 3 Absences		38		31	69
4. Underage (less than 6 years)		14		10	24
Total Disallowed		53		56	109
Sample Size		147		148	295
Percentage Disallowance		36.05%		37.84%	
<u>Secondary Schools (Period Attendance)</u>					
1. Insufficient documentation	2	1	1	-	4
2. Less than 3 absences	-	1	-	1	2
3. Only 3 Absences	8	6	5	1	20
4. Overage (older than 17 years)	5	10	4	8	27
Total Disallowed	15	18	10	10	53
Sample Size	143	148	149	148	588
Percentage Disallowance	10.49%	12.16%	6.71%	6.76%	

E. Insufficient Documentation

Although not specifically identified in the audit report, the audit disallows four of the notices in the audit sample for secondary schools for lack of supporting documentation. These four notices are included in the audit report category for "accumulated fewer than three unexcused absences and tardiness occurrences." Documentation is a different issue from the number of absences it should have been reported separately. The documentation criterion was not discussed in the audit report for this finding and there is no stated basis for the finding. The audit report does not indicate in what factual or legal manner the District documentation was insufficient. . . .

The District complied with Part VI A of the parameters and guidelines by reporting the number of notices distributed. . . .

The parameters and guidelines do not specify the form of supporting documentation required . . . The parameters and guidelines do not require attendance records to support the number of notifications distributed. It appears the Controller selected the attendance records as the only source of support for documentation and statutory compliance for purposes of the audit. This is an unenforceable policy preference of the Controller.

The District complied with Part VII A of the parameters and guidelines by supporting the number of notices distributed with attendance records prepared in compliance with state attendance reporting requirements and information prepared specifically for the mandate. The attendance and truancy information was recorded on a contemporaneous basis as required by the Education Code. The trancies were recorded and the notices were distributed, therefore, actual costs were incurred, and the Controller does not state that the work was not performed. The District provided documentation generated in the ordinary course of business and the implementation of the mandate and has therefore supported the claimed costs. The additional standards desired by the Controller for supporting documentation are not defined in the audit report, not defined in the Education Code, and not defined in the parameters and guidelines. . . .

SCO's Comment

The district states:

. . . the audit disallows four of the notices . . . for lack of supporting documentation . . . The documentation criterion was not discussed in the audit report for this finding and there is no stated basis for the finding. The audit report does not indicate in what factual or legal manner the District documentation was insufficient.

We disagree that there is any requirement or need to separately identify the four unallowable initial truancy notifications referenced. The SCO requested that the district provide attendance records showing that the students accumulated the minimum number of unexcused absences or tardiness occurrences between ages 6 and 18. Clearly, if the district provided no records, then the audit conclusion is that the student did not have the required unexcused absences. Because the district provided attendance record documentation for 879 of the 883 sampled students, we believe that the district is well-versed on the "documentation criterion."

The district states that our request for attendance records to support initial truancy notifications is "an unenforceable policy preference." The district then states that it complied with parameters and guidelines' documentation requirements "by supporting the number of notices distributed with attendance records." It appears that the district's own comments are contradictory. In any case, we disagree with the district's inference of a "policy preference" for supporting documentation. The mandated program reimburses the district to issue initial truancy notifications to students who accumulate a specified number of unexcused absences or tardiness occurrences between ages 6 and 18. The district claimed a specific number of notifications issued and identified the corresponding students who purportedly met the minimum requirements to be classified as truant. The district's attendance records are the obvious source documentation to validate that the students did in fact qualify as truants. The district has not provided, offered, or identified any alternative documentation to support the unallowable initial truancy notifications claimed.

The district states that it "provided documentation generated in the ordinary course of business and the implementation of the mandate and has therefore supported the claimed costs." We disagree. Simply providing "documentation" does not result in reimbursable mandated costs. Supporting documentation must show that the claimed costs are reimbursable in accordance with the parameters and guidelines. In this case, the supporting documentation shows that the district claimed costs that are not mandate-reimbursable.

The district alleges that there are “additional standards desired by the Controller for supporting documentation.” However, it is unclear what “additional standards” the district believes exists. In any case, we disagree. As previously stated, the district is required to support the number of initial truancy notifications claimed by showing that the applicable students accumulated the minimum number of unexcused absences or tardiness occurrences while between ages 6 and 18.

District’s Response

F. Number of absences required for the initial notification

The audit report disallows 69 notices in the audit sample for the elementary school and disallows 20 notices in the audit sample for secondary schools because the District documented *only* three accumulated unexcused absences or tardies at the time the notifications were sent. The audit report disallows 16 notices in the audit sample for the elementary school and disallows 2 notices in the audit sample for secondary schools because the District documented *less than* three accumulated unexcused absences or tardies.

Education Code Section 48260, as recodified by Chapter 1010, Statutes of 1976, required a pupil to be classified as truant “who is absent from school without valid excuse more than three days or tardy in excess of 30 minutes on each of more than three days in one school year.” The original parameters and guidelines were based on this definition of a truant, that is, a pupil with more than three unexcused absences or tardy for more than three periods. Education Code Section 48260, as amended by Chapter 1023, Statutes of 1994, and Chapter 19, Statutes of 1995, requires a pupil to be classified as truant “who is absent from school without valid excuse three full days in one school year or tardy or absent for more than any 30-minute period during the schoolday.” The parameters and guidelines were amended January 31, 2008, to incorporate the change in the Education Code definition of a truant with retroactive effect to FY 2006-07. Thus, until FY 2006-07, the parameters and guidelines required at least four unexcused absences for the pupil to be classified as a reimbursable truant, while Education Code Section 48260 required only three unexcused absences beginning in 1995. The audit report concludes that since the effective date of the amended parameters and guidelines is July 1, 2006, in order to be reimbursed, the student must accumulate a fourth absence or tardy to claim reimbursement for fiscal years prior to FY 2006-07.

The parameters and guidelines specifically reference that the source of the definition of a truant is Section 48260. Therefore, any amendment of Section 48260 would independently and unilaterally change the essential requirements for the initial notice of truancy without the need for an amendment by the Commission on State Mandates . . . The audit report asserts that “school districts are responsible for identifying state-mandated costs and filing test claims for reimbursement of those costs,” and that “[t]his district and all other California school districts failed to file a test claim in response to” the revised Section 48260 definition of an initial truancy. As a matter of law, a new test claim was not needed. The parameters and guidelines were later amended at the Controller’s request to accomplish the needed changes. Why the Controller did not act sooner, as early as 1995 when the law changed, is not indicated in the audit report.

The District properly complied with state law when it issued truancy notifications upon three absences, rather than waiting for a fourth absence as required by the parameters and guidelines. The parameters and guidelines reimburse the mandated costs based on the number of initial notifications issued, not when the notices are issued. The Controller’s disallowance of those notices with three unexcused absences or tardies is without legal authority.

SCO's Comment

The district states that any amendment of Education Code section 48260 "would independently and unilaterally change the essential requirements for the initial notice of truancy without the need for an amendment by the Commission on State Mandates." We disagree. The parameters and guidelines identify reimbursable mandated costs. For the audit period, the parameters and guidelines state:

A student shall be initially classified as truant upon the fourth unexcused absence, and the school must at that time perform the requirements mandated in Education Code Section 48260.5 as enacted by Chapter 498, Statutes of 1983.

Pursuant to Government Code section 17550 et al., school districts are responsible for identifying state-mandated costs and filing test claims for reimbursement of those costs. This district and all other California school districts failed to file a timely test claim in response to Chapter 1023, Statutes of 1994; therefore, reimbursable mandated costs remained the same until July 1, 2006. The ultimate process employed to revise the parameters and guidelines is irrelevant to the audit issue, which is that the district claimed non-reimbursable initial truancy notifications.

The district states that it "properly . . . issued truancy notifications upon three absences, rather than waiting for a fourth absence as required by the parameters and guidelines." We agree that Education Code section 48260.5 requires the district to issue an initial truancy notification upon a student's third unexcused absence or tardiness occurrence. We disagree that the parameters and guidelines require the district to "wait" for a fourth absence before issuing the notification. The parameters and guidelines contain no such language. The district confuses the difference between its statutory responsibility versus mandate-related reimbursable costs identified by the parameters and guidelines.

The district states:

The parameters and guidelines reimburse the mandated costs based on the number of initial notifications issued, not when the notices are issued. The Controller's disallowance of those notices with three unexcused absences or tardies is without legal authority.

"When the notices are issued" is not an issue in the audit finding. The issue is whether students accumulated the minimum number of unexcused absences or tardiness occurrences while between ages 6 and 18 to support a mandate-reimbursable initial truancy notification. We disagree that the "disallowance" is "without legal authority." The parameters and guidelines clearly state that initial truancy notifications are reimbursable under the mandated program for students who accumulated four or more unexcused absences or tardiness occurrences. Although the district contests the entire audit adjustment, we note that the district made no comment regarding those students who accumulated fewer than three unexcused absences or tardiness occurrences.

District's Response

G. Age of Student

The audit report disallows 24 notices in the audit sample for the elementary schools for students that were less than 6 years of age and disallows 27 notices in the audit sample for the secondary schools for students that were older than 17 years of age, citing the compulsory attendance law, Education Code Section 48200 [footnote excluded]. Section 48200 and Section 48400 [footnote excluded] establish the statutory requirement for attendance for persons of the ages 6 through 18 years of age, and an offense enforceable against parents who fail to send their children to school. However, younger persons have the statutory entitlement to attend kindergarten pursuant

to Section 48000 [footnote excluded], and first-grade pursuant to Section 48010 [footnote excluded] and Section 48011 [footnote excluded], that cannot be denied by a school district. In addition, special education students are statutorily entitled to educational services from ages 3 to 22 years pursuant to Section 56026 [footnote excluded].

The District is required by Section 46000 [footnote excluded] to record and keep attendance and report absences of *all students* according to the regulations of the State Board of Education for purposes of apportionment and general compliance with the compulsory education law (Title 5, CCR, Section 400 [footnote excluded], et seq.). The initial notification of truancy is a product of the attendance accounting process and promotes compliance of the compulsory education law and *every pupil's duty* to attend school regularly (Title 5, CCR, Section 300 [footnote excluded]). Compulsory attendance accounting for all students generates the compulsory initial notices of truancy, subsequent notices of truanies, and subsequent attendance remediation procedures without regard for the age of the student.

SCO's Comment

The district confuses students' statutory *requirement* to attend school between ages 6 and 18 with students' *entitlement* to attend outside of that age range. Education Code section 48260, subdivision (a), as amended in 1994 states:

Any pupil *subject to compulsory full-time education or to compulsory continuation education* [emphasis added] who is absent from school without valid excuse three full days in one school year or tardy or absent for more than any 30-minute period during the schoolday [sic] without a valid excuse on three occasions in one school year, or any combination thereof, is a truant. . . .

Education Code 48200 states:

Each person *between the ages of 6 and 18* [emphasis added] not exempted . . . is subject to compulsory full-time education.

Student absences that occur before the student's 6th birthday or after the student's 18th birthday are irrelevant when determining whether a student is a truant.

III. AMOUNT PAID BY THE STATE

Issue

For each fiscal year, the audit report identifies the amount previously paid by the State. The district believes that the reported amounts paid are incorrect for FY 2002-03, FY 2003-04, and FY 2004-05.

SCO Analysis:

At the time that the SCO issued the final audit report, the State had paid the district \$131,013 for FY 2002-03, \$229,909 for FY 2003-04, and \$258,211 for FY 2004-05. These payment amounts are current as of November 8, 2010, and include cash payments and any outstanding accounts receivable applied.

District's Response

This issue was not an audit finding. The amount of payments received from the state is an integral part of the reimbursement calculation. The Controller changed some of the claimed payment amounts received without a finding in the audit report.

Amount Paid by the State	Fiscal Year of Claim			
	2002-03	2003-04	2004-05	2005-06
As Claimed	\$ -	\$ -	\$ -	\$ -
Audit Report	\$ 131,013	\$ 229,909	\$ 258,211	\$ -

The propriety of these adjustments cannot be determined until the Controller supports the reason for each change.

SCO's Comment

The final audit report correctly identifies the amounts paid by the State as of the report issuance date. Audit findings address issues of noncompliance with mandated program requirements. The State payments are not "a finding in the audit report" because they are not relevant to noncompliance issues. The following table identifies the actions and dates relevant to the district's claims:

Action	Amount	Date
District files FY 2002-03 claim	\$ 131,013	January 14, 2005
SCO payment on FY 2002-03 actual claim	\$(131,013)	September 12, 2006
District files FY 2003-04 claim	\$ 229,909	January 10, 2006
SCO payment on FY 2003-04 actual claim	\$(229,909)	September 12, 2006
District files FY 2004-05 claim	\$ 258,211	January 10, 2006
Account receivable offset applied:		
Intradistrict Attendance Program FY 1999-2000	\$(146,112)	September 11, 2006
Intradistrict Attendance Program FY 2000-01	\$ (16,912)	September 11, 2006
Intradistrict Attendance Program FY 2001-02	\$ (95,187)	September 11, 2006
District files incorrect reduction claim	N/A	September 27, 2010

The FY 2002-03 claim payment (Tab 5), FY 2003-04 claim payment (Tab 6), and FY 2004-05 account receivable offsets (Tab 7) all occurred after the district submitted the corresponding claim, but before the district submitted this incorrect reduction claim. The district did not contest the payment amounts in its August 19, 2009 response to our draft audit report (Exhibit D). Title 2, California Code of Regulations, Section 1185, allows the district to file an incorrect reduction claim "[t]o obtain a determination that the Office of the State Controller incorrectly reduced a reimbursement claim." The State payment information has no relevance to reducing a reimbursement claim. The district is misusing the incorrect reduction claim process to perform its internal revenue accounting. Neither the CSM nor the SCO is responsible for the district's failure to properly account for its current mandated cost program revenues.

IV. CONCLUSION

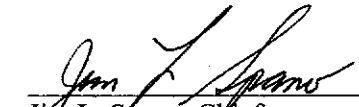
The State Controller's Office audited San Juan Unified School District's claims for costs of the legislatively mandated Notification of Truancy Program (Chapter 498, Statutes of 1983) for the period of July 1, 2002, through June 30, 2006. The district claimed unallowable costs totaling \$132,847. The costs are unallowable because the district claimed non-reimbursable initial truancy notifications.

In conclusion, the CSM should find that: (1) the SCO correctly reduced the district's FY 2002-03 claim by \$4,396; (2) the SCO correctly reduced the district's FY 2003-04 claim by \$52,905; (3) the SCO correctly reduced the district's FY 2004-05 claim by \$9,796; and (4) the SCO correctly reduced the district's FY 2005-06 claim by \$65,750.

V. CERTIFICATION

I hereby certify by my signature below that the statements made in this document are true and correct of my own knowledge, or, as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on December 6, 2010, at Sacramento, California, by:



Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office

Tab 3

**SAN JUAN UNIFIED SCHOOL DISTRICT
NOTIFICATION OF TRUANCY PROGRAM
JULY 1, 2002, THROUGH JUNE 30, 2006**

ANALYSIS OF STATISTICAL SAMPLE RESULTS

	Fiscal Year			
	2002-03	2003-04	2004-05	2005-06
Non-reimbursable initial truancy notifications (A):				
Elementary/K-8 Schools		53		56
Secondary Schools	15	18	10	10
Sample size (B):				
Elementary/K-8 Schools		147		148
Secondary Schools	143	148	149	148
Error rate ((C) = (A) ÷ (B)):				
Elementary/K-8 Schools		36.05%		37.84%
Secondary Schools	10.49%	12.16%	6.71%	6.76%
Population (D):				
Elementary/K-8 Schools		7,609		9,347
Secondary Schools	3,176	9,295	10,227	10,267
Point Estimate ((E) = (C) x (D)):				
Elementary/K-8 Schools		2,743		3,537
Secondary Schools	333	1,130	686	694
Confidence level factor (F) (95% confidence level)				
	1.96	1.96	1.96	1.96
Universe standard error (G):¹				
Elementary/K-8 Schools		299		371
Secondary Schools	80	249	209	211
Upper limit (H) = (E) + ((F) x (G)):				
Elementary/K-8 Schools		3,329		4,264
Secondary Schools	490	1,618	1,096	1,108
Lower limit (J) = (E) - ((F) x (G)):				
Elementary/K-8 Schools		2,157		2,810
Secondary Schools	176	642	276	280

$$^1 (G) = (D) \times \sqrt{\frac{(C) \times (1 - C)}{((B)-1) \times (1 - ((B) \div (D)))}}$$

Calculation differences due to rounding.

Tab 4

**SAN JUAN UNIFIED SCHOOL DISTRICT
NOTIFICATION OF TRUANCY PROGRAM
JULY 1, 2002, THROUGH JUNE 30, 2006**

CALCULATION OF AUDIT ADJUSTMENT RANGE

	Fiscal Year				Total
	2002-03	2003-04	2004-05	2005-06	
<u>Elementary / K-8 Schools</u>					
Number of unallowable initial truancy notifications - upper limit (H)		3,329		4,264	
Uniform cost allowance		x <u>\$13.66</u>		x <u>\$15.54</u>	
Subtotal		<u>\$ 45,474</u>		<u>\$ 66,263</u>	\$ 111,737
<u>Secondary schools</u>					
Number of unallowable initial truancy notifications - upper limit (H)	490	1,618	1,096	1,108	
Uniform cost allowance	x <u>\$13.20</u>	x <u>\$13.66</u>	x <u>\$14.28</u>	x <u>\$15.54</u>	
Subtotal	<u>\$ 6,468</u>	<u>\$ 22,102</u>	<u>\$ 15,651</u>	<u>\$ 17,218</u>	61,439
Audit adjustment, upper limit	<u>\$ 6,468</u>	<u>\$ 67,576</u>	<u>\$ 15,651</u>	<u>\$ 83,481</u>	<u>\$ 173,176</u>
<u>Elementary / K-8 Schools</u>					
Number of unallowable initial truancy notifications - lower limit (J)		2,157		2,810	
Uniform cost allowance		x <u>\$13.66</u>		x <u>\$15.54</u>	
Subtotal		<u>\$ 29,465</u>		<u>\$ 43,667</u>	\$ 73,132
<u>Secondary schools</u>					
Number of unallowable initial truancy notifications - lower limit (J)	176	642	276	280	
Uniform cost allowance	x <u>\$13.20</u>	x <u>\$13.66</u>	x <u>\$14.28</u>	x <u>\$15.54</u>	
Subtotal	<u>\$ 2,323</u>	<u>\$ 8,770</u>	<u>\$ 3,941</u>	<u>\$ 4,351</u>	19,385
Audit adjustment, lower limit	<u>\$ 2,323</u>	<u>\$ 38,235</u>	<u>\$ 3,941</u>	<u>\$ 48,018</u>	<u>\$ 92,517</u>

Tab 5

COMMAND ==>

SCROLL ==> SCREEN

LRS-RA 20060912 180011 S34085

P 2 R 1 C 1

CONTROLLER OF CALIFORNIA

S34085

P.O. BOX 942850, SACRAMENTO, CALIFORNIA 94250

THIS REMITTANCE ADVICE IS FOR INFORMATION PURPOSE ONLY.
THE WARRANT COVERING THE AMOUNT SHOWN WILL BE MAILED
DIRECTLY TO THE PAYEE.

BOARD OF TRUSTEES
SAN JUAN UNIFIED SCHOOL DIST
SACRAMENTO COUNTY
3738 WALNUT AVENUE
CARMICHAEL CA 95608

WARRANT AMT: ***131,013.00

PAYEE: TREASURER, SAN JUAN UNIFIED SCHOOL DIST

FUND NAME: GENERAL FUND

PGM NBR: 00048

ISSUE DATE: 09/12/2006

CLAIM SCHEDULE NBR: MA62122A

REIMBURSEMENT OF STATE MANDATED COSTS

ANY QUESTION, CALL MOHAMMED AZIZ @ 916-323-2892

ACL : 6110-295-0001-2002 PROG : NOTICE OF TRUANCY CH 498/83

2002/2003 ACTUAL PAYMENT

CLAIMED AMT: 132,013.00

TOTAL ADJUSTMENTS: (SEE BELOW)

1,000.00

2002/03

534080

COMMAND ==>

SCROLL ==> SCREEN

LRS-RA 20060912 180011 S34085

P 2 R 22 C 1

TOTAL APPROVED CLAIMED AMT:

131,013.00

LESS PRIOR PAYMENTS:

.00

PRORATA PERCENT:

100.000000

PRORATA BALANCE DUE:

.00

APPROVED PAYMENT AMOUNT:

131,013.00

PAYMENT OFFSETS -NONE

NET PAYMENT AMOUNT:

131,013.00

ADJUSTMENTS ITEMIZED:

=====

LATE CLAIM PENALTY

1,000.00-

Tab 6

COMMAND ==>

SCROLL ==> SCREEN

LRS-RA 20060912 180011 S34085

P 1 R 1 C 1

CONTROLLER OF CALIFORNIA

S34085

P.O. BOX 942850, SACRAMENTO, CALIFORNIA 94250

THIS REMITTANCE ADVICE IS FOR INFORMATION PURPOSE ONLY.
THE WARRANT COVERING THE AMOUNT SHOWN WILL BE MAILED
DIRECTLY TO THE PAYEE.

BOARD OF TRUSTEES
SAN JUAN UNIFIED SCHOOL DIST
SACRAMENTO COUNTY
3738 WALNUT AVENUE
CARMICHAEL CA 95608

WARRANT AMT: ***229,909.00

PAYEE: TREASURER, SAN JUAN UNIFIED SCHOOL DIST

FUND NAME: GENERAL FUND

PGM NBR: 00048

ISSUE DATE: 09/12/2006

CLAIM SCHEDULE NBR: MA62121A

REIMBURSEMENT OF STATE MANDATED COSTS

ANY QUESTION, CALL MOHAMMED AZIZ @ 916-323-2892

ACL : 498/83

PROG : NOTICE OF TRUANCY CH 498/83

2003/2004 ACTUAL PAYMENT

CLAIMED AMT: 230,909.00

TOTAL ADJUSTMENTS: (SEE BELOW)

1,000.00

2103/024

```
COMMAND ==>
LRS-RA      20060912 180011 S34085
TOTAL APPROVED CLAIMED AMT: 229,909.00
LESS PRIOR PAYMENTS: .00
PRORATA PERCENT: 100.000000
PRORATA BALANCE DUE: .00
APPROVED PAYMENT AMOUNT: 229,909.00
PAYMENT OFFSETS -NONE
NET PAYMENT AMOUNT: 229,909.00
ADJUSTMENTS ITEMIZED:
LATE CLAIM PENALTY 1,000.00-
```


Tab 7

COMMAND ==>

SCROLL ==> SCREEN

LRS-RA 20060911 180048 S34085

P 2 R 1 C 1

CONTROLLER OF CALIFORNIA

S34085

P.O. BOX 942850, SACRAMENTO, CALIFORNIA 94250

THIS NOTICE IS FOR INFORMATION PURPOSE ONLY.

NO WARRANT WILL BE MAILED.

THE NET PAYMENT AMOUNT WAS ZERO.

BOARD OF TRUSTEES

*****.00

SAN JUAN UNIFIED SCHOOL DIST

SACRAMENTO COUNTY

3738 WALNUT AVENUE

CARMICHAEL CA 95608

PAYEE: TREASURER, SAN JUAN UNIFIED SCHOOL DIST

FUND NAME: GENERAL FUND

PGM NBR: 00048

ISSUE DATE: 09/11/2006

CLAIM SCHEDULE NBR: MA62118A

REIMBURSEMENT OF STATE MANDATED COSTS

ANY QUESTION, CALL MOHAMMED AZIZ @ 916-323-2892

ACL : 498/83

PROG : NOTICE OF TRUANCY CH 498/83

2004/2005 ACTUAL PAYMENT

CLAIMED AMT: 258,211.00

TOTAL ADJUSTMENTS:

.00

2004/05

COMMAND ==>

SCROLL ==> SCREEN

LRS-RA 20060911 180048 S34085

P 2 R 22 C 1

TOTAL APPROVED CLAIMED AMT:

258,211.00

LESS PRIOR PAYMENTS:

.00

PRORATA PERCENT: 100.000000

PRORATA BALANCE DUE:

.00

APPROVED PAYMENT AMOUNT:

258,211.00

PAYMENT OFFSETS (ACL NBR, NAME, FY, AMT.):

6110-295-0001-1999 INTRADIST ATTEND CH161/9 99/00 146,112-

6110-295-0001-2001 INTRADIST ATTEND CH161/9 01/02 95,187-

6110-295-0001-2000 INTRADIST ATTEND CH161/9 00/01 16,912-

NET PAYMENT AMOUNT: .00

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 6, 2014, I served the:

SCO Comments

Incorrect Reduction Claim

Notification of Truancy, 10-904133-I-09

Education Code Section 48260.5, Statutes 1983, Chapter 498

Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006

San Juan Unified School District, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 3, 2014 at Sacramento, California.



Heidi J. Palchik
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/6/14

Claim Number: 10-904133-I-09

Matter: Notification of Truancy

Claimant: San Juan Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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Keith Petersen, *SixTen & Associates*

Claimant Representative

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Phone: (916) 971-7238

kent.stephens@sanjuan.edu

COMMISSION ON STATE MANDATES

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 FAX: (916) 445-0278
 E-mail: csminfo@csm.ca.gov



September 24, 2015

Mr. Keith B. Petersen
 SixTen and Associates
 P.O. Box 340430
 Sacramento, CA 95834-0430

Ms. Jill Kanemasu
 State Controller's Office
 Accounting and Reporting
 3301 C Street, Suite 700
 Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
Notification of Truancy, 10-904133-I-09
 Education Code Section 48260.5
 Statutes 1983, Chapter 498
 Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006
 San Juan Unified School District, Claimant

Dear Mr. Petersen and Ms. Kanemasu:

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

Written Comments

Written comments may be filed on the draft proposed decision by **October 15, 2015**. You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

This matter is set for hearing on **Thursday, December 3, 2015**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about November 19, 2015. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,

Heather Halsey
 Executive Director

ITEM __
INCORRECT REDUCTION CLAIM
DRAFT PROPOSED DECISION

Education Code Section 48260.5

Statutes 1983, Chapter 498

Notification of Truancy

Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006

10-904133-I-09

San Juan Unified School District, Claimant

EXECUTIVE SUMMARY

Overview

This incorrect reduction claim (IRC) addresses reductions of \$132,847 made by the State Controller's Office (Controller) to reimbursement claims filed by San Juan Unified School District (claimant) for fiscal years 2002-2003 through 2005-2006, for the *Notification of Truancy* program. The Controller reviewed a sample of 883 notices issued by the elementary and secondary schools within the district, out of the 64,641 notices claimed. The Controller found that, of the notices sampled, 162 were not reimbursable.

The following issues are in dispute:

- Reductions based on lack of documentation in support of truancy notifications claimed;
- Reductions based on notifications of truancy issued for pupils who had accumulated fewer than three unexcused absences or occurrences or tardiness;
- Reductions based on notifications of truancy issued for pupils who accumulated three but not four unexcused absences or occurrences of tardiness; and
- Reductions based on notifications of truancy issued for pupils who were under the age of six and over the age of eighteen.
- The use of the statistical sampling to support the reduction.

As explained herein, staff recommends that the Commission on State Mandates (Commission) partially approve this IRC.

The *Notification of Truancy* Program

Under California's compulsory education laws, children between the ages of six and 18 are required to attend school full-time, with a limited number of specified exceptions.¹ A pupil who

¹ Education Code section 48200.

accumulates a certain number or absences or instances of tardiness is deemed to be in violation of the compulsory education requirement, and is a truant.² Statutes 1983, chapter 498 added Education Code Section 48260.5 which specified as follows:

- (a) Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian, by first-class mail or other reasonable means, of the following:
 - (1) That the pupil is truant.
 - (2) That the parent or guardian is obligated to compel the attendance of the pupil at school.
 - (3) That parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27.
- (b) The district also shall inform parents or guardians of the following:
 - (1) Alternative educational programs available in the district.
 - (2) The right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

On November 29, 1984, the Board of Control, the predecessor to the Commission, determined that Education Code Section 48260.5, as added by Statutes 1983, chapter 498, imposed a reimbursable state-mandated program to develop notification forms and provide written notice to the parents or guardians of the truancy.³

Accordingly, the Board of Control's test claim decision and the parameters and guidelines adopted by the Commission found that section 48260.5 imposed a state-mandated program requiring that upon a student's classification as a truant, the school must notify the pupil's parent or guardian. At the time of the test claim decision and adoption of the parameters and guidelines, section 48260, as enacted in 1976, which was found not to impose any mandated activities, provided that a truancy occurs when a student is "absent from school without valid excuse *more than three days* or tardy in excess of 30 minutes on each of *more than three days* in one school year..."⁴

The original parameters and guidelines were adopted by the Commission on August 27, 1987, and authorized reimbursement for the one-time activities of planning implementation, revising school district policies and procedures, and designing and printing the notification forms. Reimbursement was also authorized for ongoing activities to identify pupils to receive the initial notification and prepare and distribute the notification by first class mail or other reasonable means.

² Education Code section 48260.

³ Exhibit X, Brief Written Statement for Adopted Mandate issued by the Board of Control on the Notification of Truancy test claim (SB 90-4133).

⁴ Education Code section 48260 (Stats. 1976, ch. 1010).

The Commission amended the parameters and guidelines on July 22, 1993, effective beginning July 1, 1992, to add a unit cost of \$10.21, adjusted annually by the Implicit Price Deflator, for each initial notification of truancy distributed in lieu of requiring the claimant to provide documentation of actual costs to the Controller. The parameters and guidelines further provide that “school districts incurring unique costs within the scope of the reimbursable mandated activities may submit a request to amend the parameters and guidelines to the Commission for the unique costs to be approved for reimbursement.”⁵ These are the parameters and guidelines applicable to this claim.⁶

As later amended by Statutes 1994, chapter 1023 (SB 1728) and Statutes 1995, chapter 19 (SB 102), section 48260 provided that a pupil would be classified a truant “who is absent from school without valid excuse *three full days* in one school year, or tardy or absent for more than any 30-minute period during the school day without a valid excuse on *three occasions* in one school year, or any combination thereof...”⁷ At the same time, the Legislature amended section 48260.5 to require the school to also notify parents that a pupil may be subject to prosecution under section 48264; that a pupil may be subject to suspension or restriction of driving privileges under section 13202.7 of the Vehicle Code; and that it is recommended that the parent or guardian accompany the pupil to school and attend classes with the pupil for one day.⁸ Those amendments were incorporated into the parameters and guidelines on January 31, 2008, effective July 1, 2006, at the Legislature’s direction, however, reimbursement for the program under the amended parameters and guidelines remained fixed at a unit cost of \$10.21, adjusted annually by the Implicit Price Deflator (\$19.63 for fiscal year 2013-14).⁹

Procedural History

On September 4, 2009, the Controller issued the final audit report.¹⁰ On October 6, 2010, claimant filed this IRC.¹¹ On October 3, 2014, the Controller filed written comments on the IRC.¹²

On September 24, 2015, Commission staff issued the draft proposed decision.¹³

⁵ Exhibit A, Incorrect Reduction Claim, page 47.

⁶ The parameters and guidelines as amended in 2008 are not applicable to this IRC.

⁷ Education Code section 48260, as amended by Statutes 1994, chapter 1023 and Statutes 1995, chapter 19.

⁸ Education Code section 48260.5, as amended by Statutes 1994, chapter 1023.

⁹ Statutes 2007, chapter 69 (AB 1698).

¹⁰ Exhibit A, Incorrect Reduction Claim, page 60.

¹¹ Exhibit A, Incorrect Reduction Claim, page 1.

¹² Exhibit B, Controller’s comments on IRC, page 1.

¹³ Exhibit C, Draft Proposed Decision.

Commission Responsibilities

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the Controller determines is excessive or unreasonable.

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.¹⁴ The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."¹⁵

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.¹⁶

The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with claimant.¹⁷ In addition, sections 1185.1(f)(3) and 1185.2(c) of the Commission's regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹⁸

¹⁴ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

¹⁵ *County of Sonoma*, supra, 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

¹⁶ *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984. See also *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

¹⁷ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

¹⁸ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Claims

The following chart provides a brief summary of the claims and issues raised and staff's recommendation.

Issue	Description	Staff Recommendation
Reduction of claimed costs for four sampled truancy notices based on lack of documentation.	The Controller found that four notices out of the 883 notices sampled were not supported by documentation.	<i>Correct-</i> The parameters and guidelines require documentation to support the costs claimed; therefore at least some documentation is required to support the validity of the notifications issued. Here, the claimant did not provide any evidence of documentation in support of four notices claimed. Thus, the reduction of costs for the four sampled notices is correct as a matter of law, and is not arbitrary, capricious, or entirely lacking in evidentiary support.
Reduction of claimed costs for 18 sampled truancy notices sent to parents or guardians of pupils with fewer than three unexcused absences or tardiness occurrences.	The mandated program, as described in the parameters and guidelines applicable from July 22, 1993 until July 1, 2006, is to issue a notice of truancy upon the pupil's initial classification as a truant, as defined in Education Code section 48260. Education Code section 48260, during the fiscal years here at issue, stated: "Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse three full days in one school year or tardy or absent for more than any 30-minute period during the school day without a valid excuse on three occasions in one school year, or any combination thereof, is a truant and shall be reported to the attendance supervisor or to the superintendent of the school district."	<i>Correct-</i> The claimant's request for reimbursement to provide truancy notices for pupils with fewer than three unexcused absences or tardies goes beyond the scope of the mandate and is not reimbursable. The Controller's reduction of the 18 sampled notices is correct as a matter of law.
Reduction of claimed costs for notices	The parameters and guidelines provide for a uniform cost allowance "based on the number of initial notifications of truancy	<i>Incorrect</i> –The amendment to section 48260 affected only the definition of truancy, and

<p>provided for pupils who accumulated three, but not four unexcused absences or tardies (89 sampled notices, plus the unallowable notices extrapolated on this basis).</p>	<p>distributed pursuant to Education Code Section 48260.5, as added by Chapter 498, Statutes of 1983.” As analyzed by the Board of Control in its November 29, 1984 decision, Education Code section 48260 stated that a pupil who is absent or tardy from school without valid excuse for <i>more than three days</i> in one school year is a truant. The parameters and guidelines as originally adopted, and as amended July 22, 1993, included the then-current definition of a “truant” under Section I., Summary of Mandate.</p> <p>Subsequent to the adoption and 1993 amendment of parameters and guidelines for this program, section 48260, defining truancy, was amended by Statutes 1994, chapter 1023 (SB 1728) and Statutes 1995, chapter 19 (SB 102) to lower the threshold for classifying a pupil as a truant, to a pupil who has an unexcused absence or instance of tardiness on three full days in one school year.</p> <p>The Controller reduced claimed costs for notices sent for pupils with three unexcused absences or tardies, but not four.</p>	<p>not the mandated program required to be performed by school districts. Thus, neither a new test claim nor parameters and guidelines amendment was necessary for the districts to continue to be reimbursed for complying with section 48260.5; that “upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian...” Therefore, the Controller’s reduction based on notices provided for pupils who accumulated three, but not four, unexcused instances of tardiness or absence is incorrect as a matter of law. All costs reduced on this basis (both sampled and extrapolated) should be reinstated to the claimant.</p>
<p>Reduction of claimed costs for the 51 sampled notices issued for pupils who were under the age of six and over the age of eighteen and, thus, were not subject to the compulsory education laws.</p>	<p>Section 48260 defines a truant as a pupil subject to compulsory education who is absent or tardy on three or more occasions within one school year. Section 48200 provides that only pupils between the ages of six and 18 are subject to compulsory full-time education.</p> <p>The Controller reduced costs claimed for initial notifications of truancy for pupils under age six and over age 18, because the Controller determined that such pupils could not be, by definition, truant.</p>	<p><i>Correct</i> -The mandate applies to “any pupil subject to compulsory full-time education.” (Ed. Code, § 48260.) Pupils subject to compulsory full-time education are pupils between the ages of six and eighteen. (Ed. Code, § 48200.) Therefore, the reduction of costs for the 51 sampled notices is correct as a matter of law.</p>
<p>Reduction of costs made by statistical sampling and</p>	<p>In its audit, the Controller examined a random sample of notices issued by the claimant, for each fiscal year, to determine the proportion of notifications that were</p>	<p><i>Partially Correct</i> – There is no evidence to support claimant’s argument that the statistical sampling and</p>

<p>extrapolation.</p>	<p>unallowable. The number of unallowable notifications within the sample for each fiscal year was then calculated as an error percentage, and extrapolated to the total number of notifications issued and identified by the claimant, to project a total number of unallowable notifications, which was then multiplied by the unit cost for that year to estimate the reduction. The methodology results in an estimate of the amount of claimed costs that the Controller has determined to be excessive or unreasonable.</p> <p>The claimant argues that the Controller’s statistical sampling and extrapolation method is an underground regulation, is not legally supported, and the sample findings are not qualitatively or quantitatively representative of the all notices claimed. The claimant contends that the reductions should be limited to only the notices sampled and actually reviewed by the Controller.</p>	<p>extrapolation method used in the audit constitutes an underground regulation. The Commission is required to uphold the Controller’s audit conclusions, absent evidence that the Controller’s reductions are arbitrary, capricious, or entirely lacking in evidentiary support.</p> <p>In this respect, there is no evidence that the extrapolation of the reduction based on a lack of supporting documentation for the four notices within the sample is representative of all notices claimed. In fact, the record shows that the claimant provided documentation for all notices claimed, except the four. Thus, an extrapolation on that basis is entirely lacking in evidentiary support.</p> <p>However, the Controller’s sampling and extrapolation methodology used for notices sent to pupils who were not truant under the law or were not subject to compulsory education, is not arbitrary, capricious, or entirely lacking in evidentiary support. The claimant has presented no evidence that schools within the claimant’s district complied with the mandate in different ways, which may provide evidence that the results from the sample are not qualitatively representative of all notices claimed. Moreover, all notices were randomly</p>
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		sampled and have an equal opportunity for inclusion in the sample and, thus, the result is statistically objective and unbiased. Therefore, these extrapolated reductions are correct.
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Staff Analysis

A. The Controller’s Reasons for Reducing Costs for Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006, Are Partially Correct as a Matter of Law and Not Arbitrary, Capricious, or Entirely Lacking in Evidentiary Support.

1. The Controller’s reduction of costs for the four truancy notifications that were not supported by documentation is correct as a matter of law, and is not arbitrary, capricious, or entirely lacking in evidentiary support.

The Controller determined that a total of four truancy notifications claimed for fiscal years 2002-2003, 2003-2004, and 2004-2005 were not supported by documentation. The claimant asserts the reduction is incorrect, and that for all fiscal years at issue, it complied with the parameters and guidelines by “reporting the number of notices distributed on the forms provided by the Controller’s claiming instructions for this purpose.”¹⁹

Staff finds that the Controller’s reduction of costs for the four truancy notifications that were not supported by documentation is correct as a matter of law and is not arbitrary, capricious, or entirely lacking in evidentiary support. The parameters and guidelines require claimants to provide documentation to support the number of truancy notifications distributed, and not simply identify the number of notifications distributed in the claim forms as asserted by claimant.

2. Reimbursement is not required to provide truancy notices for pupils with fewer than three unexcused absences or tardiness occurrences and, thus, the Controller’s reduction of costs for those notices is correct as a matter of law.

The Controller found that the claimant sent 18 truancy notices to pupils who had fewer than three truancy absences or tardiness occurrences in fiscal years 2003-2004 and 2005-2006. Staff finds that the reduction of costs for notices provided to students with fewer than three truancy absences or tardiness occurrences is correct as a matter of law.

Section 48260.5, as approved by the Board of Control’s test claim decision, and as described in the Commission’s 1993 parameters and guidelines, requires a school district to issue a notification of truancy “by first-class mail or other reasonable means” to the pupil’s parent or guardian “upon a pupil’s initial classification as a truant...”²⁰ The mandated program as approved by the Board of Control, and as articulated in the parameters and guidelines, is to issue a notification of truancy to a pupil’s parent or guardian upon the pupil’s initial

¹⁹ Exhibit A, Incorrect Reduction Claim, page 19.

²⁰ See, former Education Code section 48260.5 (Stats. 1983, ch. 498) [“Upon a pupil’s initial classification as a truant, the school district shall notify...”].

classification as a truant. If a pupil cannot be classified as a truant, as defined in section 48260, a notification is not required, and any notification sent to that pupil's parent or guardian, whether or not intentional, is not reimbursable. Thus, the claimant's request for reimbursement to provide truancy notices for pupils with fewer than three truancy absences or tardies goes beyond the scope of the mandate and is not eligible for reimbursement.

3. The Controller's reduction based on notices provided for pupils who accumulated three but not four, unexcused absences or instances of tardiness is incorrect as a matter of law.

The Controller identifies 89 notifications within the sample issued for pupils who accumulated three but not four unexcused absences or tardies. Staff finds that the Controller's reduction of costs on this basis is incorrect as a matter of law.

The parameters and guidelines provide for a uniform cost allowance "based on the number of initial notifications of truancy distributed pursuant to Education Code Section 48260.5, as added by Chapter 498, Statutes of 1983." As analyzed by the Board of Control in its November 29, 1984 decision, Education Code section 48260 stated that a pupil who is absent or tardy from school without valid excuse for *more than three days* in one school year is a truant. The parameters and guidelines as originally adopted, and as amended July 22, 1993, included the then-current definition of a "truant" under Section I., Summary of Mandate.

The amendment to section 48260 affected only the definition of truancy, and not the mandated program required to be performed by school districts. Thus, neither a new test claim nor parameters and guidelines amendment was necessary for the districts to continue to be reimbursed for complying with section 48260.5; that "upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian..." Therefore, the Controller's reduction based on notices provided for pupils who accumulated three, but not four, unexcused instances of tardiness or absence is incorrect as a matter of law. All costs reduced on this basis (both sampled and extrapolated) should be reinstated to the claimant.

4. Reimbursement is not required to provide truancy notices to pupils who are under the age of six and over the age of eighteen since they are not subject to compulsory education and, thus, the Controller's reduction of costs for those notices is correct as a matter of law.

The Controller reduced costs claimed for 51 sampled notices sent for pupils under age six or over age eighteen at the time of the unexcused absences or tardiness. The claimant asserts that notifications of truancy sent to students under age six and over age eighteen should be reimbursable because the Education Code provides that those students are statutorily entitled to attend school. Claimant further contends that school districts are required by Education Code section 46000 to record, keep attendance, and report absences of all pupils.

Staff finds that providing truancy notices to pupils under the age of six and over the age of eighteen goes beyond the scope of the mandate and, thus, the reduction is correct as a matter of law. Education Code section 48260(a) defines a truant as a pupil subject to compulsory full-time education. "Compulsory full-time education" is defined in Education Code section 48200 as "each person between the ages of six and eighteen years." Even though schools are required by state law to report the attendance of all enrolled pupils, the truancy laws, including the first notice of initial truancy required by this mandated program, apply only to pupils between the ages of six and eighteen.

B. The Reductions Based on Statistical Sampling and Extrapolation of Correct Reductions Is Partially Correct.

In its audit, the Controller examined a random sample of notices issued by the claimant, for each fiscal year, to determine the proportion of notifications that were unallowable. The number of unallowable notifications within the sample for each fiscal year was then calculated as an error percentage, and extrapolated to the total number of notifications issued and identified by the claimant, to project a total number of unallowable notifications, which was then multiplied by the unit cost for that year to estimate the reduction. The methodology results in an estimate of the amount of claimed costs that the Controller has determined to be excessive or unreasonable.

The claimant argues that the Controller's statistical sampling and extrapolation method is an underground regulation, is not legally supported, and the sample findings are not qualitatively or quantitatively representative of the all notices claimed. The claimant contends that the reductions should be limited to only the notices sampled and actually reviewed by the Controller.

Staff finds that the reductions based on statistical sampling and extrapolation of correctly reduced costs from the audit sample is partially correct.

1. There is no evidence to support claimant's argument that the statistical sampling and extrapolation method used in the audit constitutes an underground regulation.

The claimant challenges the statistical sampling and extrapolation methodology used by the Controller as an underground regulation not adopted pursuant to the Administrative Procedure Act (APA), and argues that any findings and cost reductions extrapolated from the sample reviewed by the Controller should therefore be void.²¹

Government Code section 11340.5 provides that no state agency shall enforce or attempt to enforce a rule or criterion which is a regulation, as defined in section 11342.600, unless it has been adopted pursuant to the APA.²² Therefore, if the Controller's challenged audit methods constitute a regulation not adopted pursuant to the APA, the Commission cannot uphold the reductions. Interpreting section 11342.600, the California Supreme Court in *Tidewater Marine Western v. Bradshaw* found that a regulation has two principal characteristics:

First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a *certain class of cases* will be decided. Second, the rule must "implement, interpret, or make specific the law enforced or administered by [the agency], or ... govern [the agency's] procedure."²³

²¹ Exhibit B, Controller's comments on IRC, page 17.

²² Government Code section 11340.5 (Stats. 2000, ch. 1060).

²³ *Tidewater Marine Western v. Bradshaw* (1996) 14 Cal.4th 557, 571 (emphasis added) [Citing *Roth v. Department of Veteran Affairs* (1980) 110 Cal.App.3d 622, 630; Gov. Code § 11342(g)].

The necessary inquiry, then, is whether the challenged audit policy or practice is applied “generally,” and used to decide a class of cases; and whether the rule “implement[s], interpret[s], or make[s] specific” the law administered by the Controller.

Here, there is not substantial evidence in the record that the audit methodology as applied in this case rises to the level of a rule of general application, and no clear “class of cases” to which it applied has been defined. The sampling and extrapolation method is not published in the claiming instructions for this mandate; nor is it alleged that auditors were *required* to utilize such methods. Indeed, of the 42 completed audit reports for this mandated program currently available on the Controller’s website, some do not apply a statistical sampling and extrapolation methodology to calculate a reduction;²⁴ others apply a sampling and extrapolation method to determine whether the notifications issued complied with the eight required elements under section 48260.5;²⁵ and still others use sampling and extrapolation methods to determine the proportion of notifications issued that were supported by documentation, including attendance records, rather than the proportion unallowable based on absences, as here.²⁶

Therefore, based on the case law discussed herein, and the evidence in the record, staff finds that the Controller’s sampling and extrapolation method, as applied in this case, is not a regulation within the meaning of the APA.

2. The Controller’s audit conclusions must be upheld absent evidence that the Controller’s reductions are arbitrary, capricious, or entirely lacking in evidentiary support.

The claimant argues that there is no statutory or regulatory authority for the Controller to reduce claimed costs based on extrapolation from a statistical sample.²⁷ The Controller counters that Government Code section 17561(d)(2)(B) provides authority for statistical sampling in that this section allows the Controller to reduce “excessive or unreasonable” claims.²⁸ The Controller continues that a claim that exceeds what is proper is excessive and that the district’s claims were improper because they included non-reimbursable notifications.²⁹ In addition, the Controller relies on “Government Auditing Standards, as issued by the Comptroller General of the United States” to argue that sampling and extrapolation techniques are within accepted practice for auditors.³⁰ The Controller asserts that the Generally Accepted Government Auditing Standards

²⁴ See, e.g., Audit of Sweetwater Union High School District, *Notification of Truancy*, fiscal years 2006-2007 through 2009-2010 [In this audit report the Controller reduced based on the claimant’s failure to comply with the notification requirements of section 48260.5, rather than performing a sampling and estimation audit to determine whether notifications were issued in compliance with section 48260.]

²⁵ See, e.g., Audit of Colton Joint Unified School District, *Notification of Truancy*, fiscal years 1999-2000 through 2001-2002, issued November 26, 2003.

²⁶ See, e.g., Audit of Bakersfield City School District, *Notification of Truancy*, fiscal years 2007-2008 through 2009-2010, issued October 25, 2012.

²⁷ Exhibit A, Incorrect Reduction Claim, page 11.

²⁸ Exhibit B, Controller’s comments on IRC, page 12.

²⁹ *Id.*

³⁰ *Id.*

(GAGAS) provide: “[w]hen a representative sample is needed, the use of statistical sampling approaches general results in stronger evidence...”³¹ Furthermore, the Controller relies on Government Code section 17561, which permits the Controller generally to reduce any claim that is determined to be excessive or unreasonable: “[t]he SCO conducted appropriate statistical samples that identified a *reasonable* estimate of the non-reimbursable initial truancy notifications, thus properly reducing the claims for the *unreasonable* claimed costs.”³²

In accordance with the Controller’s audit authority and duties under the Government Code, the Commission’s consideration of this issue is limited to whether the Controller’s reduction of costs based on audit decisions (as opposed to questions of law) is arbitrary, capricious, or entirely lacking in evidentiary support.³³ Based on the standards and texts cited by the Controller, statistical methods are an appropriate and commonly-used tool in auditing. The claimant, too, concedes that “[a] statistically valid sample methodology is a recognized audit tool for some purposes.”³⁴

In fact, statistical sampling methods such as those employed here are used in a number of other contexts, including Medi-Cal reimbursement to health care providers, and have not been held, in themselves, to be arbitrary and capricious, or incorrect as a matter of law.

On that basis, and giving due consideration to the discretion of the Controller to audit the fiscal affairs of the state, staff finds that the Commission must uphold the Controller’s auditing decisions absent evidence that the audit reductions are arbitrary, capricious, or entirely lacking in evidentiary support.

3. The extrapolation of unallowable costs from the audit sample is partially correct.

Staff finds that the reduction of costs extrapolated from the unallowable notices sampled is partially correct.

- a) *There is no evidence that the extrapolation of the reduction based on a lack of supporting documentation for the four notices within the sample is representative of all notices claimed and, thus, an extrapolation on that basis is entirely lacking in evidentiary support.*

As explained above, the Controller correctly reduced the costs for four sampled truancy notices claimed in fiscal years 2002-2003, 2003-2004, and 2004-2005 on the ground that these notices were not supported by documentation, as required by the parameters and guidelines. The Controller then calculated the error percentage, and included this reduction in the percentage, and extrapolated the result to all notices claimed during the audit period.

However, the record shows that the claimant provided documentation for all notices claimed in fiscal years 2002-2003 and 2005-2006. The audit report specifies that “[f]or fiscal year 2002-03, the district claimed 10,001 initial truancy notification [and] [t]he district provided

³¹ *Id.*, page 13.

³² *Id.*, page 17 [emphasis in original].

³³ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California*, 162 Cal.App.4th 534, 547-548.

³⁴ Exhibit A, Incorrect Reduction Claim, page 14.

documentation that identified 9,999 truant students...the difference is immaterial.” And for fiscal year “2005-06 the district claimed 19,654 truancy notifications” and ultimately provided the documentation for all the notifications claimed.³⁵ Thus, the record does not support the conclusion that the extrapolation of the reduction based on a lack of supporting documentation for the four notices within the sample is representative of all notices claimed.

Accordingly, staff finds that the Controller’s calculation of the error percentage, which includes this reduction in the percentage, and the extrapolation of the result to all notices claimed during the audit period is entirely lacking in evidentiary support. All extrapolated costs reduced on this basis should be reinstated to the claimant.

b) The Controller’s sampling and extrapolation methodology used for notices sent to pupils who were not truant under the law or were not subject to compulsory education, is not arbitrary, capricious, or entirely lacking in evidentiary support.

The Controller also correctly reduced the costs of notices within the sample for the following reasons:

- Eighteen notices were sent to pupils that had fewer than three absences.
- Fifty-one notices were sent to pupils under the age of six and over the age of eighteen who were not subject to the compulsory education requirements of the Education Code.

The Controller then calculated the error percentage, which included these reductions in the percentage, and extrapolated the result to all notices claimed during the audit period.³⁶ Staff finds, based on this record, that the extrapolation of these findings is not arbitrary, capricious, or entirely lacking in evidentiary support.

Staff finds that the Controller’s sampling and extrapolation methodology used in this audit for notices sent to pupils who were not truant under the law (fewer than three absences or tardies) or were not subject to compulsory education, is not arbitrary, capricious, or entirely lacking in evidentiary support.

The claimant has presented no evidence that schools within the claimant’s district complied with the mandate in different ways, which may provide evidence that the results from the sample are not qualitatively representative of all notices claimed. The Commission, and the Controller, must presume that the claimant uniformly complied with the mandate, absent evidence to the contrary.

Moreover, there is no dispute that the samples were randomly obtained and reviewed by the Controller. According to the Handbook of Sampling for Auditing and Accounting (Arkin), all notices randomly sampled have an equal opportunity for inclusion in the sample and, thus, the result is statistically objective and unbiased.

³⁵ Exhibit A, Incorrect Reduction Claim, page 67.

³⁶ Exhibit A, Incorrect Reduction Claim, page 68; Exhibit B, Controller’s comments on IRC, pages 18-19.

Conclusion

Staff recommends that the Commission partially approve this IRC. Staff concludes that the following reductions are correct as a matter of law and are not arbitrary, capricious, or entirely lacking in evidentiary support:

- Reduction for four sampled truancy notifications that were not supported by documentation.
- Reductions for sampled notifications issued for pupils who accumulated fewer than three unexcused absences or instances of tardiness, and the extrapolation of those reductions to all notices claimed.
- Reductions for sampled notifications issued for pupils under age six or over age eighteen, and the extrapolation of those reductions to all notices claimed.

The following reductions, however, are incorrect as a matter of law, or are entirely lacking in evidentiary support, and should be reinstated to the claimant:

- Reductions based on notifications issued for pupils who accumulated three, but not four unexcused absences or instances of tardiness, and the extrapolation of those reductions to all notices claimed.
- Reductions based on the extrapolation of the four sampled truancy notifications that were not supported by documentation.

Staff Recommendation

Staff recommends that the Commission adopt the proposed decision to partially approve the IRC, and, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, reinstate all costs incorrectly reduced to the claimant, consistent with these findings. Staff further recommends that the Commission authorize staff to make any technical, non-substantive changes following the hearing.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM
ON:

Education Code Section 48260.5

Statutes 1983, Chapter 498

Fiscal Years 2002-2003, 2003-2004,
2004-2005, and 2005-2006

San Juan Unified School District, Claimant

Case No.: 10-904133-I-09

Notification of Truancy

DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500 ET
SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5. ARTICLE 7

(Adopted: December 3, 2015)

DECISION

The Commission on State Mandates (Commission) heard and decided this incorrect reduction claim (IRC) during a regularly scheduled hearing on December 3, 2015. [Witness list will be included in the adopted decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed decision to [approve/partially approve/deny] this IRC at the hearing by a vote of [vote count will be included in the adopted decision].

Summary of the Findings

This IRC addresses reductions of \$132,847 made by the State Controller's Office (Controller) to reimbursement claims filed by San Juan Unified School District (claimant) for fiscal years 2002-2003 through 2005-2006, for the *Notification of Truancy* program. The Controller reviewed a sample of 883 notices issued by the elementary and secondary schools within the district, out of the 64,641 notices claimed. The Controller found that 162 notices included in the sample were not reimbursable for the following reasons:

- There was no documentation to support four notices within the sample and, thus, the Controller concluded that those pupils did not have the required number of unexcused absences and, thus, costs were claimed beyond the scope of the mandate.
- 18 notices were sent to pupils that had fewer than three absences.
- 89 notices were sent to pupils that had three, but not four absences.

- 51 notices were sent to pupils under the age of six and over the age of eighteen who were not subject to the compulsory education requirements of the Education Code.³⁷

The Controller reached the total dollar amount reduced (\$132,847) by using an audit methodology known as “statistical sampling.” The total number of unallowable notifications within the sample for each fiscal year was calculated as an error percentage, and extrapolated to the total number of notifications issued and identified by the claimant in those fiscal years, to approximate the total number of unallowable notifications claimed. The number of unallowable notices was then multiplied by the unit cost for each fiscal year to calculate the total reduction for the audit period.

Pursuant to Government Code section 17551(d), the Commission partially approves this IRC. The Commission finds that the following reductions are correct as a matter of law and are not arbitrary, capricious, or entirely lacking in evidentiary support:

- Reduction for four sampled truancy notifications that were not supported by documentation.
- Reductions for sampled notifications issued for pupils who accumulated fewer than three unexcused absences or instances of tardiness, and the extrapolation of those reductions to all notices claimed.
- Reductions for sampled notifications issued for pupils under age six or over age eighteen, and the extrapolation of those reductions to all notices claimed.

The following reductions, however, are incorrect as a matter of law, or are entirely lacking in evidentiary support, and should be reinstated to the claimant:

- Reductions based on notifications issued for pupils who accumulated three, but not four unexcused absences or instances of tardiness, and the extrapolation of those reductions to all notices claimed.
- Reductions based on the extrapolation of the four sampled truancy notifications that were not supported by documentation.

Pursuant to Government Code section 1185.9 of the Commission’s regulations, the Commission requests costs incorrectly reduced be reinstated by the Controller in accordance with this decision.

COMMISSION FINDINGS

I. Chronology

- | | |
|------------|---|
| 09/04/2009 | The Controller issued the final audit report. ³⁸ |
| 10/06/2010 | Claimant filed this IRC. ³⁹ |

³⁷ Exhibit A, Incorrect Reduction Claim, page 68; Exhibit B, Controller’s comments on IRC, page 18-19.

³⁸ Exhibit A, Incorrect Reduction Claim, page 60.

³⁹ Exhibit A, Incorrect Reduction Claim, page 1.

10/03/2014 The Controller filed comments on the IRC.⁴⁰

09/24/2015 Commission staff issued the draft proposed decision.⁴¹

II. Background

The Notification of Truancy Program

Under California's compulsory education laws, children between the ages of six and 18 are required to attend school full-time, with a limited number of specified exceptions.⁴² Once a pupil is designated a truant, as defined, state law requires schools, districts, counties, and the courts to take progressive intervention measures to ensure that parents and pupils receive services to assist them in complying with the compulsory attendance laws.

The first intervention is required by Education Code section 48260.5, as added by the test claim statute.⁴³ As originally enacted, section 48260.5 specified:

(a) Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian, by first-class mail or other reasonable means, of the following:

(1) That the pupil is truant.

(2) That the parent or guardian is obligated to compel the attendance of the pupil at school.

(3) That parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27.

(b) The district also shall inform parents or guardians of the following:

(1) Alternative educational programs available in the district.

(2) The right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

On November 29, 1984, the Board of Control determined that Education Code section 48260.5, as added by Statutes 1983, chapter 498, imposed a reimbursable state-mandated program to develop notification forms and provide written notice to the parents or guardians of the truancy. The decision was summarized as follows:

The Board determined that the statute imposes costs by requiring school districts to develop a notification form, and provide written notice to the parents or guardians of students identified as truants of this fact. It requires that notification contain other specified information and, also, to advise the parent or guardian of their right to meet with school personnel regarding the truant pupil. The Board

⁴⁰ Exhibit B, Controller's comments on IRC, page 1.

⁴¹ Exhibit C, Draft Proposed Decision.

⁴² Education Code section 48200.

⁴³ Education Code section 48260.5, Statutes 1983, chapter 498.

found these requirements to be new and not previously required of the claimant.⁴⁴

The original parameters and guidelines were adopted on August 27, 1987, and authorized reimbursement for the one-time activities of planning implementation, revising school district policies and procedures, and designing and printing the notification forms. Reimbursement was also authorized for ongoing activities to identify pupils to receive the initial notification and prepare and distribute the notification by first class mail or other reasonable means.

The Commission amended the parameters and guidelines on July 22, 1993, effective July 1, 1992, to add a unit cost of \$10.21, adjusted annually by the Implicit Price Deflator, for each initial notification of truancy distributed in lieu of requiring the claimant to provide documentation of actual costs to the Controller. The parameters and guidelines further provide that “school districts incurring unique costs within the scope of the reimbursable mandated activities may submit a request to amend the parameters and guidelines to the Commission for the unique costs to be approved for reimbursement.”⁴⁵ These are the parameters and guidelines applicable to this claim.⁴⁶

The Legislature enacted Statutes 2007, chapter 69, effective January 1, 2008, which was sponsored by the Controller’s Office to require the Commission to amend the parameters and guidelines, effective July 1, 2006, to modify the definition of a truant and the required elements to be included in the initial truancy notifications in accordance with Statutes 1994, chapter 1023, and Statutes 1995, chapter 19.⁴⁷ These statutes required school districts to add the following information to the truancy notification: that the pupil may be subject to prosecution under Section 48264, that the pupil may be subject to suspension, restriction, or delay of the pupil’s driving privilege pursuant to Section 13202.7 of the Vehicle Code, and that it is recommended that the parent or guardian accompany the pupil to school and attend classes with the pupil for one day. The definition of truant was also changed from a pupil absent for “more than three days” to a pupil absent for “three days.” In 2008, the Commission amended the parameters and guidelines, for costs incurred beginning July 1, 2006, as directed by the Legislature.

The Controller’s Audit and Summary of the Issues

The September 4, 2009 audit report determined that \$791,710 in claimed costs for fiscal years 2002-2003, 2003-2004, 2004-2005, and 2005-2006 was allowable and \$132,847 was unallowable.⁴⁸ The Controller reviewed a sample of 883 notices issued by the elementary and secondary schools within the district, out of the 64,641 notices claimed. The Controller found that 162 notices included in the sample were not reimbursable for the following reasons:

⁴⁴ Exhibit X, Brief Written Statement for Adopted Mandate issued by the Board of Control on the *Notification of Truancy* test claim (SB 90-4133).

⁴⁵ Exhibit X, Parameters and Guidelines, amended July 22, 1993.

⁴⁶ The parameters and guidelines as amended in 2008 are not applicable to this IRC.

⁴⁷ Exhibit X, Controller’s Letter dated July 17, 2007 on AB 1698.

⁴⁸ Exhibit A, Incorrect Reduction Claim, page 63.

- There was no documentation to support four notices within the sample and, thus, the Controller concluded that those pupils did not have the required number of unexcused absences and, thus, costs were claimed beyond the scope of the mandate.⁴⁹
- 18 notices were sent to pupils that had fewer than three absences.
- 89 notices were sent to pupils that had three, but not four absences as stated in the parameters and guidelines.
- 51 notices were sent to pupils under the age of six and over the age of 18 who were not subject to the compulsory education requirements of the Education Code.⁵⁰

The Controller reached the total dollar amount reduced (\$132,847) by using an audit methodology known as “statistical sampling.” The Controller examined a random sample of initial truancy notices distributed by the claimant,⁵¹ with the calculation of the “sample size based on a 95% confidence level,” and determined that 162 of those notices claimed were beyond the scope of the mandate, as described above.⁵² The total number of unallowable notifications within the sample for each fiscal year was then calculated as an error percentage, and extrapolated to the total number of notifications issued and identified by the claimant in those fiscal years, to approximate the total number of unallowable notifications claimed. The number of unallowable notices was then multiplied by the unit cost for each fiscal year to calculate the total reduction for the audit period.

III. Positions of the Parties

San Juan Unified School District

The claimant challenges the disallowance of notifications for insufficient documentation, arguing that while not specifically identified in the audit report, the audit disallowed four of the notices in the audit sample for lack of supporting documentation. The claimant asserts that the documentation criterion was not discussed in the audit report and there is no stated basis for the finding. The claimant states that it complied with Part VI. A., of the parameters and guidelines by reporting the number of notices distributed, and that there is no requirement that claimants maintain a copy of the each notification or provide attendance records to support the number of notifications distributed. The claimant asserts that the Controller’s apparent selection of attendance records as the only source of support for documentation and statutory compliance for purposes of the audit, is an unenforceable policy preference of the Controller.⁵³

⁴⁹ Exhibit B, Controller’s comments on the IRC, page 19.

⁵⁰ Exhibit A, Incorrect Reduction Claim, page 68; Exhibit B, Controller’s comments on IRC, page 18.

⁵¹ The sample sizes for elementary schools and the sample sizes for secondary schools that were reviewed by the Controller each fiscal year ranged from 143 to 149. (Exhibit A, Incorrect Reduction Claim, page 68 (final audit report); Exhibit B, Controller’s Comments on IRC, page 26).

⁵² Exhibit B, Controller’s comments on IRC, pages 18, 26.

⁵³ Exhibit A, Incorrect Reduction Claim, pages 19-20.

The claimant also asserts that “16 notices in the audit sample for elementary school ...and 2 notices in the audit sample for secondary schools” were reduced because “the District documented fewer than three accumulated unexcused absences or tardies.”⁵⁴ However, the claimant does not raise any arguments as to why this is an incorrect basis for reduction.

The claimant also challenges the disallowance of notifications for fewer than four unexcused absences or tardies. The claimant notes the inconsistency between the definition of truant included in the parameters and guidelines (four or more absences) and the Education Code, as amended in 1994 and 1995 (three or more unexcused absence or instances of tardiness, or any combination thereof). The claimant argues:

The parameters and guidelines specifically reference that the source of the definition of a truant is Section 48260. Therefore, any amendment of Section 48260 would independently and unilaterally change the essential requirements for the initial notice of truancy without the need for an amendment by the Commission on State Mandates. The Controller has decided to enforce the definition of a truant as it was stated in the parameters and guidelines prior to that amendment, even though it contradicts a statute in effect during the audit period. The District properly complied with state law when it issued truancy notifications upon three absences....The parameters and guidelines reimburse the mandated costs based on the number of initial notifications issued, not when the notices are issued. The Controller’s disallowance of those notices with three unexcused absences or tardies is without legal authority.⁵⁵

The claimant additionally challenges the Controller’s disallowance of notifications sent to pupils under age six and over age eighteen arguing that these should be allowed because the Education Code allows these students to attend school and requires school districts to provide educational services to these pupils.⁵⁶

The claimant also asserts that the use of statistical sampling should be rejected, that the extrapolation of findings is void, and that the audit findings can only pertain to documentation actually reviewed.⁵⁷ The claimant argues that there is no “statutory or regulatory authority to allow the Controller to reduce claimed reimbursement based on extrapolation of a statistical sample.”⁵⁸ The claimant attacks the statistical reliability and accuracy of the Controller’s methodology, arguing that “[t]esting to detect the rate of error within tolerances is the purpose of sampling, but it is not a tool to assign an exact dollar amount to the amount of the error, which the Controller has inappropriately done so here.”⁵⁹ The claimant further states that the risk of extrapolating findings from a sample is that the conclusions obtained from the sample

⁵⁴ *Id.*, page 21.

⁵⁵ *Id.*, pages 22-23.

⁵⁶ *Id.*, pages 23-28.

⁵⁷ *Id.*, page 11.

⁵⁸ *Id.*

⁵⁹ *Id.*, page 15.

may not be representative of the universe.⁶⁰ The claimant contends that the sampling technique used by the Controller is also quantitatively non-representative because less than two percent of the total number of notices were audited and that “[t]he expected error rate is stated to be 50%, which means the total amount adjusted \$132,847 is really just a number exactly between \$66,424 (50%) and \$100,27 [sic] (\$150%)” and that there is no legal or factual basis cited by the Controller “that would allow the midrange of an interval to be used as a finding of absolute actual cost.”⁶¹ Claimant asserts that the Controller should comply with the Administrative Procedure Act, should it wish to enforce audit standards other than “excessive or unreasonable.”⁶²

Finally, claimant asserts that the audit changed the amount paid for the 2002-2003, 2003-2004, and 2004-2005 fiscal years without a finding in the report;⁶³ however this allegation will not be addressed because it does not result in a reduction to the district’s claim.

State Controller’s Office

The Controller disagrees with the need to separately identify the four unallowable notifications based on lack of documentation.⁶⁴ The Controller asserts that they “requested that the district provide attendance records showing that the students accumulated the minimum number of unexcused absences or tardiness occurrences...[and that] if the district provided no records, then the audit conclusion is that the student did not have the required unexcused absences.” The Controller argues that since the district provided attendance record documentation for 879 of the 883 sampled students, they are well versed on the required documentation. The Controller asserts that the district’s attendance records are the “obvious source documentation to validate that the students did in fact qualify as truant.” The Controller further asserts that the claimant has not provided, offered, or identified any alternative documentation to support the four unallowable initial truancy notifications claimed.⁶⁵

With respect to the reduction based on the number of absences and tardies, the Controller argues that the parameters and guidelines identify the reimbursable costs and state that “a student shall be initially classified as truant upon the fourth unexcused absence....” The Controller asserts that the claimant “confuses the difference between its statutory responsibility versus mandate-related reimbursable costs identified by the parameters and guidelines.” The Controller argues that the “parameters and guidelines clearly state that initial truancy notifications are reimbursable under the mandated program for students who accumulated four or more unexcused absences or tardiness occurrences.” Further the Controller notes that the claimant did not comment regarding students who accumulated fewer than three unexcused absences or tardiness occurrences, except as discussed above.⁶⁶

⁶⁰ *Id.*, page 15.

⁶¹ *Id.*, page 17.

⁶² *Id.*, pages 17-18.

⁶³ *Id.*, pages 28-29.

⁶⁴ Exhibit B, Controller’s comments on IRC, page 19.

⁶⁵ *Id.*, page 19.

⁶⁶ Exhibit B, Controller’s comments on IRC, page 21.

The Controller also asserts that claimant is not entitled to claim reimbursement for notices sent to students under age six or over age eighteen as these students are not subject to compulsory full time education, as defined in Education Code section 48200, and are thus not part of the mandated program.⁶⁷

In response to the claimant's challenge to the statistical sampling methodology, the Controller asserts that the Government code supports the use of statistical sampling. The Controller argues that Government Code section 17561(d)(2)(B) provide authority for statistical sampling in that this section allows the Controller to reduce "excessive" claims. The Controller continues that a claim that exceeds what is proper is excessive, that the district's claims were improper because they included non-reimbursable notifications, and that "the statistical samples...identified a reasonable estimate of the non-reimbursable initial truancy notifications, thus properly reducing the claims for the unreasonable costs claimed."⁶⁸ The Controller further asserts that the audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS), and the GAGAS specifically provide that "[w]hen a representative sample is needed, the use of statistical sampling approaches generally results in stronger evidence...."⁶⁹ The Controller also asserts that there is no statutory requirement that they publish an audit manual or audit program for mandated costs program audits and that the Administrative Procedure Act is not applicable.⁷⁰

IV. Discussion

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state mandated costs that the Controller determines is excessive or unreasonable.

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the SCO has incorrectly reduced payments to a local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the SCO and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.⁷¹ The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable

⁶⁷ *Id.*, page 22.

⁶⁸ *Id.*, pages 12, 17.

⁶⁹ *Id.*, page 13.

⁷⁰ *Id.*, pages 13, 17.

⁷¹ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”⁷²

With regard to the Controller’s audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.⁷³ Under this standard, the courts have found that:

When reviewing the exercise of discretion, “[t]he scope of review is limited, out of deference to the agency’s authority and presumed expertise: ‘The court may not reweigh the evidence or substitute its judgment for that of the agency. [Citation.]’”...“In general...the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support...” [Citations.] When making that inquiry, the “ ‘ “court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute.” [Citation.]’ ”⁷⁴

The Commission must review the Controller’s audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with claimant.⁷⁵ In addition, sections 1185.1(f)(3) and 1185.2(c) of the Commission’s regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission’s ultimate findings of fact must be supported by substantial evidence in the record.⁷⁶

A. The Controller’s Reasons for Reducing Costs for Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006, Are Partially Correct.

As stated in the Background, the Controller reviewed a sample of initial truancy notices claimed during the audit period and determined that there was no documentation to support four notices; some notices were sent to the parents or guardians of pupils who did not have the required number of unexcused absences; and some notices were sent to parents or guardians of pupils who were not subject to the compulsory education requirements. The Controller reduced the claimed costs accordingly. As described below, the Commission finds that the Controller’s reasons for reducing the costs claimed are partially correct.

⁷² *County of Sonoma, supra*, 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

⁷³ *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984. See also *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

⁷⁴ *American Bd. of Cosmetic Surgery, Inc, supra*, 162 Cal.App.4th 534, 547-548.

⁷⁵ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

⁷⁶ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission’s decision is not supported by substantial evidence in the record.

1. The Controller's reduction of costs for the four truancy notifications that were not supported by documentation is correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.

The Controller determined that four truancy notifications claimed for secondary school notifications for fiscal years 2002-2003, 2003-2004, and 2004-2005 were unallowable for lack of documentation. The Controller did not make a specific finding in the audit report that there was a lack of documentation, but instead concluded that those notices were sent to pupils that did not have the required number of unexcused absences.⁷⁷ In the Controller's response to the IRC, the Controller does not dispute claimant's assertion that "the audit disallowed four of the notices in the audit sample for secondary schools for lack of supporting documentation."⁷⁸ The Controller states that the district provided attendance records for most of the notices sampled, but has not provided any documentation to support the four unallowable initial truancy notifications claimed as follows:

The SCO requested that the district provide attendance records showing that the students accumulated the minimum number of unexcused absences and tardiness occurrences between ages 6 and 18. Clearly, if the district provided no records, then the audit conclusion is that the student did not have the required unexcused absences. Because the district provided attendance record documentation for 879 of the 883 sampled students, we believe that the district is well-versed on the "documentation criterion."

... The district's attendance records are the obvious source documentation to validate that the students did in fact qualify as truants. The district has not provided, offered, or identified any alternative documentation to support the unallowable initial truancy notifications claimed.⁷⁹

The claimant asserts, that for all fiscal years at issue, it complied with the parameters and guidelines by "reporting the number of notices distributed on the forms provided by the Controller's claiming instructions for this purpose."⁸⁰

The Commission finds that the Controller's reduction of costs for the four sampled notices is correct as a matter of law and is not arbitrary, capricious, or entirely lacking in evidentiary support. The parameters and guidelines require claimants to provide documentation to support the number of truancy notifications distributed, and not simply complete the reimbursement claim forms required by the claiming instructions as asserted by the claimant. Section VI of the parameters and guidelines, which addresses Claim Preparation, states that each claim for reimbursement must "provide documentation in support of the reimbursement claimed for this mandated program." Section VII of the parameters and guidelines, which addresses Supporting

⁷⁷ Exhibit A, Incorrect Reduction Claim, pages 18-19; Exhibit B, Controller's comments on IRC, page 19.

⁷⁸ Exhibit A, Incorrect Reduction Claim, page 19; Exhibit B, Controller's comments on IRC, page 19.

⁷⁹ Exhibit B, Controller's comments on IRC, page 19.

⁸⁰ Exhibit A, Incorrect Reduction Claim, page 19.

Data, states that for auditing purposes, “documents must be kept on file for a period of 3 years from the date of final payment by the State Controller ... and be made available at the request of the State Controller or his agent.” That section further requires claimants to provide “[d]ocumentation which indicates the total number of initial notifications of truancy distributed.”⁸¹ The parameters and guidelines do not limit the type of supporting documentation required and, thus, under the parameters and guidelines, attendance records or other types of documentation maintained by a district may be sufficient documentation to support the costs claimed if the records show that the claimant complied with the mandate to provide written notice to the parent or guardian of the information required by the test claim statute and the documentation verifies the number of notifications provided in a fiscal year. However, the claimant has not filed any evidence of documentation supporting the costs claimed for the four notices at issue in this case.

Accordingly, the Commission finds that the Controller’s reduction of costs for the four truancy notifications that were not supported by documentation is correct as a matter of law and is not arbitrary, capricious, or entirely lacking in evidentiary support.

2. Reimbursement is not required to provide truancy notices for pupils with fewer than three unexcused absences or tardiness occurrences and, thus, the Controller’s reduction of costs for those notices is correct as a matter of law.

Education Code section 48260, during the fiscal years here at issue, provided:

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse *three* full days in one school year or tardy or absent for more than any 30-minute period during the school day without a valid excuse on *three* occasions in one school year, or any combination thereof, is a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.⁸²

Section 48260.5, as approved by the Board of Control’s test claim decision, and as described in the Commission’s 1993 parameters and guidelines, requires a school district to issue a notification of truancy “by first-class mail or other reasonable means” to the pupil’s parent or guardian “upon a pupil’s initial classification as a truant...”⁸³

Therefore, the mandated program as approved by the Board of Control, and as articulated in the parameters and guidelines, is to issue a notification of truancy to a pupil’s parent or guardian upon the pupil’s initial classification as a truant. If a pupil cannot be classified as a truant, as defined in section 48260, a notification is not required, and any notification sent to that pupil’s parent or guardian, whether or not intentional, is not reimbursable.

⁸¹ Exhibit A, Incorrect Reduction Claim, page 49.

⁸² Former Education Code section 48260 (as amended, Stats. 1995, ch. 19 (SB 102), emphasis added).

⁸³ See, e.g., Exhibit B, Controller’s comments on IRC, page 8 [quoting the Commission’s 1993 parameters and guidelines]. See also, former Education Code section 48260.5 (Stats. 1983, ch. 498) [“Upon a pupil’s initial classification as a truant, the school district shall notify...”].

In this case, the Controller found that the claimant sent 18 truancy notices to pupils who had fewer than three truancy absences or tardiness occurrences in fiscal years 2003-2004 and 2005-2006. The claimant's request for reimbursement to provide truancy notices for pupils with fewer than three truancy absences or tardies goes beyond the scope of the mandate and is not eligible for reimbursement.

Accordingly, the Controller's reduction of costs for notices provided to students with fewer than three truancy absences or tardiness occurrences is correct as a matter of law.

3. The Controller's reduction based on notices provided for pupils who accumulated three, but not four, unexcused instances of tardiness or absence is incorrect as a matter of law.

The Controller identified 89 notifications within the sample, issued for pupils who accumulated three, but not four or more unexcused absences. Based on the analysis herein, the Commission finds that the Controller's disallowance of notifications issued for pupils who accumulated three but not four or more unexcused absences or instances of tardiness is incorrect as a matter of law, because it relies on the former definition of a truant.

The parameters and guidelines provide for a uniform cost allowance "based on the number of initial notifications of truancy distributed pursuant to Education Code Section 48260.5, as added by Chapter 498, Statutes of 1983."⁸⁴ As enacted in 1976, and as analyzed by the Board of Control in its November 29, 1984 decision, Education Code section 48260 stated that a pupil who is absent or tardy from school without valid excuse for *more than three days* in one school year is a truant, as follows:

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse *more than three days* or tardy in excess of 30 minutes on each of *more than three days* in one school year is a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.⁸⁵

Accordingly, the parameters and guidelines as originally adopted, and as amended July 22, 1993, included the then-current definition of a "truant" under Section I., Summary of Mandate:

A truancy occurs when a student is absent from school without valid excuse *more than three* (3) days or is tardy in excess of thirty (30) minutes on each of more than three (3) days in one school year. (Definition from Education Code Section 48260).⁸⁶

Subsequent to the adoption and 1993 amendment of parameters and guidelines for this program, section 48260, defining truancy, was amended by Statutes 1994, chapter 1023 (SB 1728) and Statutes 1995, chapter 19 (SB 102) to lower the threshold for classifying a pupil as a truant, as follows:

⁸⁴ Exhibit A, Incorrect Reduction Claim, page 47 (Parameters and Guidelines, amended July 22, 1993).

⁸⁵ Education Code section 48260 (Stats. 1976, ch. 1010) [Emphasis added].

⁸⁶ Exhibit X, Parameters and Guidelines, amended July 22, 1993.

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse *three full days* in one school year or *tardy or absent* for more than any 30-minute period during the schoolday without a valid excuse *on three occasions* in one school year, *or any combination thereof*, is a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.^{87,88}

No test claim or request to amend parameters and guidelines was ever submitted by a school district on the 1994 and 1995 statutes. However, section 48260 is definitional and was never found to impose any mandated activities on school districts in the Board of Control's decision, or in the adoption of parameters and guidelines. Accordingly, the section 48260 definition of truancy was not included as a reimbursable activity under the "Reimbursable Costs" section of the parameters and guidelines, but rather in the Summary of Mandate section, as noted above. Moreover, the 1994 and 1995 statutes do not require school districts to perform any new activities; the same activity of distributing initial truancy notifications is still required. In addition, the unit cost for reimbursing the mandated activities to send notices to parents or guardians was not increased when the parameters and guidelines were eventually amended to reflect the changes made by the 1994 and 1995 statutes, on January 31, 2008, pursuant to legislative direction enacted in Statutes 2007, chapter 69.⁸⁹

As explained, the 1994 and 1995 amendments to Education Code section 48260 created a discrepancy between what triggered the mandated activities under law and what the parameters and guidelines in effect during that period stated was the triggering event under the Summary of Mandate. The inconsistency was corrected by an amendment to the parameters and guidelines adopted January 31, 2008 (an amendment made retroactive to July 1, 2006), but for over a decade the requirements of the Education Code and the language included in the Summary of Mandate section of the parameters and guidelines were at odds. In 2007, the Legislature acted to correct the discrepancy at the request of the State Controller's Office, recognizing that: "The school districts must adhere to the state statute, nevertheless, the State Controller uses the commission's parameters and guidelines to conduct the audits." The discrepancy, the

⁸⁷ Education Code section 48260 (as amended, Stats. 1995, ch. 19 (SB 102)) [Emphasis added].

⁸⁸ The 1994 statute also changed the content of the notice required by the test claim statute to require school districts to also notify the pupil's parent or guardian that the pupil may be subject to prosecution; or may be subject to suspension or restriction of driving privileges; and that "it is recommended that the parent or guardian accompany the pupil to school...for one day." (Ed. Code § 48260.5 (as amended, Stats. 1994, ch. 1023 (SB 1728).)

⁸⁹ Statutes 2007, chapter 69 (AB 1698) states:

Notwithstanding any other provision of law, by January 31, 2008, the Commission on State Mandates shall amend the parameters and guidelines regarding the notification of truancy, test claim number SB-90-4133, and modify the definition of a truant and the required elements to be included in the initial truancy notifications to conform reimbursable activities to Chapter 1023 of the Statutes of 1994 and Chapter 19 of the Statutes of 1995...Changes made by the commission to the parameters and guidelines shall be deemed effective on July 1, 2006.

Legislature found, “forces the State Controller’s Office to request school districts to return the reimbursements even though the districts have been following the law.”⁹⁰ As a result, the Legislature directed the Commission to amend the parameters and guidelines, the committee analysis noting that “[t]he commission is no longer able to update the definition of truancy due to one-year statute of limitations on revisions following amending statute.”⁹¹

When an amendment to a code section or regulation imposes a new program or higher level of service that increases the costs of a local government, a test claim must be filed within one year of the effective date of the amendment or subsequent statute in order for the local government to exercise its right to reimbursement under the Constitution, as alluded to by the committee analysis comments on AB 1698. But here, the amendment to section 48260 did not impose a new activity, let alone a new program or higher level of service that increased costs and required the adoption of a higher uniform cost allowance; the amendment affected only the *definition* of truancy.

Education Code section 48260 does not impose a mandated activity; it merely defines the event that triggers the mandated activity. The plain language is expressly definitional, not mandatory.⁹² Therefore, section 48260 was amended without altering the scope of the mandated activities, and reimbursement under the terms of the approved code section (48260.5) for sending a notice “upon a pupil’s initial classification as a truant,” does not require a new test claim finding, or even an amendment to the parameters and guidelines based on changes to section 48260. This interpretation is consistent with the Board of Control’s original test claim decision, which found that section 48260.5, and not section 48260, imposed the mandate. This reasoning is also consistent with the prior parameters and guidelines, in which the definition of truancy was not included as a reimbursable activity under the “Reimbursable Costs” section.

The Controller’s auditors in this case relied on the outdated definition of truancy included in the “Summary of Mandate” section of the 1993 parameters and guidelines (*i.e., more than three* absences or instances of tardiness). The Controller correctly asserts that “[t]he parameters and identify reimbursable mandated costs.”⁹³ And here, the parameters and guidelines, which “helpfully” included the text of a definition (which was *not* the subject of the mandate finding) in the Summary of Mandate, rather than citing to the code section where the definition could be found, were understandably a source of confusion for the auditors.

However, the Commission finds that because the amendment to section 48260 affected only the definition of truancy, and not the mandated program required to be performed by school districts, neither a new test claim nor parameters and guidelines amendment was necessary for the districts to continue to be reimbursed for complying with section 48260.5; that “upon a pupil’s initial classification as a truant, the school district shall notify the pupil’s parent or guardian...”

⁹⁰ Exhibit X, Assembly Bill 1698 (2007), Education Committee Analysis.

⁹¹ Exhibit X, Assembly Bill 1698 (2007), Education Committee Analysis.

⁹² An amendment to the definition of truancy may have also necessitated altering the text or content of the notice, but section 48260 made no such express requirement.

⁹³ Exhibit B, Controller’s comments on IRC, page 21.

Therefore, the Controller's reduction based on notices provided for pupils who accumulated three, but not four, unexcused instances of tardiness or absence is incorrect as a matter of law. All costs reduced on this basis should be reinstated to the claimant.

4. Reimbursement is not required to provide truancy notices to pupils who are under the age of six and over the age of eighteen, who have unexcused absences or tardiness occurrences and, thus, the Controller's reduction of costs for those notices is correct as a matter of law.

The Controller found that the claimant sent 51 notices within the audit sample, to pupils under age six or over age eighteen who were not subject to the compulsory education requirements of the Education Code. The claimant asserts that notifications of truancy sent to students under age six and over age eighteen should be reimbursable because the Education Code provides that those students are statutorily entitled to attend school. Claimant further contends that school districts are required by Education Code section 46000 to record, keep attendance, and report absences of all pupils according to the CDE regulations. These regulations provide that records of attendance of every pupil shall be kept for apportionment of state funds and to ensure general compliance with the compulsory education law.⁹⁴

The Commission finds that providing truancy notices to pupils under the age of six and over the age of eighteen, who by definition are not subject to the compulsory education law, goes beyond the scope of the mandate and is not eligible for reimbursement.

The claimant is correct that at the time these reimbursement claims were filed, school districts were required by state law to admit a child to kindergarten if the child would have his or her fifth birthday on or before December 2 of that school year.⁹⁵ School districts are also required by state and federal law to provide special education services to "individuals with exceptional needs" until the age of 21 if required by a pupil's individualized education plan (IEP).⁹⁶ And schools are required by state law to record the attendance of every pupil enrolled in school for apportionment of state funds and "to ensure the *general* compliance with the compulsory education law, and performance by a pupil of his duty to attend school regularly as provided in [California Code of Regulations, title 5] section 300."⁹⁷

However, the truancy laws apply only to those pupils who are subject to compulsory full-time education. Education Code section 48260(a) defines a truant as:

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse three full days in one school year or tardy or absent for more than any 30-minute period during the schoolday without a valid excuse on three occasions in one school

⁹⁴ Exhibit A, Incorrect Reduction Claim, pages 24-27.

⁹⁵ Education Code section 48000(a), as last amended by Statutes 1991, chapter 381.

⁹⁶ Title 20, United States Code, section 1401; Education Code section 56026.

⁹⁷ Education Code section 46000; California Code of Regulations, title 5, section 400. Section 300 of the regulations state in relevant part that "every pupil shall attend school punctually and regularly."

year, or any combination thereof, is a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.

“Compulsory full-time education” is defined in Education Code section 48200 as “each person between the ages of six and eighteen years” as follows:

Each person *between the ages of 6 and 18 years* not exempted from the provisions of this chapter or Chapter 3 (commencing with Section 48400) is subject to compulsory full-time education. Each person subject to compulsory full-time education and each person subject to compulsory full-time education not exempted under the provisions of Chapter 3 (commencing with Section 48400) shall attend the public full-time designated as the length of the schoolday [sic] by the governing board of the school district in which the residency of either the parent or legal guardian is located and each parent, guardian, or other person having control or charge of the pupil shall send the pupil to the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday [sic] by the governing board of the school district in which the residence of either the parent or the legal guardian is located.

Education Code 48260(b) further states that “[n]otwithstanding subdivision (a) [which defines a truant as a pupil subject to compulsory full-time education], it is the intent of the Legislature that school districts shall not change the method of attendance accounting provided for in existing law.” Therefore, even though schools are required by state law to report the attendance of all enrolled pupils, the truancy laws, including the first notice of initial truancy required by this mandated program, apply only to pupils between the ages of six and eighteen.

Therefore, the Controller’s reduction of costs for the 51 sampled truancy notices provided to students younger than six and older than eighteen, who are not subject to compulsory full-time education, is correct as a matter of law.

B. The Reductions Based on Statistical Sampling and Extrapolation of Correct Reductions Is Partially Correct.

In its audit, the Controller examined a random sample of notices issued by the claimant, for each fiscal year, to determine the proportion of notifications that were unallowable for the Controller’s asserted legal reasons. The number of unallowable notifications within the sample for each fiscal year was then calculated as an error percentage, and extrapolated to the total number of notifications issued and identified by the claimant, to project a total number of unallowable notifications, which was then multiplied by the unit cost for that year to estimate the reduction.

The methodology results in an estimate of the amount of claimed costs that the Controller has determined to be excessive or unreasonable. The Controller states that “the point estimate provides the best, and thus reasonable, single estimate of the population’s error rate.”⁹⁸ In the final audit that estimate totals \$132,847 for all fiscal years.⁹⁹ The Controller asserts that

⁹⁸ Exhibit B, Controller’s comments on IRC, page 17.

⁹⁹ Exhibit A, Incorrect Reduction Claim, page 9.

sampling and extrapolation is an audit tool commonly used to identify error rates; that there is no law or regulation prohibiting that method; and, that the claimant misstates and misunderstands the meaning of an expected error rate and confidence interval. The Controller argues that its method is reasonable, and “the Administrative Procedures Act [sic] is not applicable.”¹⁰⁰

The claimant argues that the Controller’s statistical sampling and extrapolation method is not legally supported, not correctly applied to state-mandated reimbursement, and is inappropriately error-prone and inaccurate. The claimant further argues that “[t]he propriety of a mandate audit adjustment based on the statistical sampling technique is a threshold issue in that if the methodology used is rejected, as it should be, the extrapolation is void and the audit findings can only pertain to documentation actually reviewed, that is, the 883 notifications used in the audit report.”¹⁰¹ The claimant further attacks the statistical reliability and accuracy of the Controller’s methodology, arguing that “[t]esting to detect the rate of error within tolerances is the purpose of sampling, but it is not a tool to assign an exact dollar amount to the amount of the error, which the Controller has inappropriately done so here.”¹⁰² The claimant argues that “[l]ess than two percent of the total number of notices were audited (1.77%).” and that “[t]he expected error rate is stated to be 50%, which means the total amount adjusted of \$132,847 is really just a number exactly between \$66,424 (50%) and \$100,270 [sic] (150%).”¹⁰³ The claimant also challenges the Controller’s failure to adopt the methodology as a regulation pursuant to the Administrative Procedure Act (APA).¹⁰⁴

As described below, the Commission finds that there is no evidence to support claimant’s argument that the statistical sampling and extrapolation method used in the audit constitutes an underground regulation. Moreover, the Commission is required to uphold the Controller’s audit conclusions, absent evidence that the Controller’s reductions are arbitrary, capricious, or entirely lacking in evidentiary support.

In this respect, the Commission finds that there is no evidence that the extrapolation of the reduction based on a lack of supporting documentation for the four notices within the sample is representative of all notices claimed and, thus, an extrapolation on that basis is entirely lacking in evidentiary support. However, the Controller’s sampling and extrapolation methodology used for notices sent to pupils who were not truant under the law (fewer than three unexcused absences or tardies) or were not subject to compulsory education, is not arbitrary, capricious, or entirely lacking in evidentiary support. Accordingly, the Commission finds that the extrapolation of unallowable costs from the audit sample is partially correct.

1. There is no evidence to support claimant’s argument that the statistical sampling and extrapolation method used in the audit constitutes an underground regulation.

¹⁰⁰ Exhibit B, Controller’s comments on IRC, page 17.

¹⁰¹ Exhibit A, Incorrect Reduction Claim, pages 10-11.

¹⁰² *Id.*, page 15.

¹⁰³ *Id.*, page 17.

¹⁰⁴ Exhibit A, Incorrect Reduction Claim, pages 17-18.

The claimant challenges the statistical sampling and extrapolation methodology used by the Controller as an underground regulation not adopted pursuant to the APA, and argues that any findings and cost reductions extrapolated from the sample reviewed by the Controller should therefore be void.¹⁰⁵ The claimant does not cite the provision of the APA upon which it relies to challenge the methodology, but generally alleges that the Controller's use of statistical sampling, violates the APA.¹⁰⁶

The relevant portions of the APA include, primarily, Government Code sections 11340.5 and 11342.600. Section 11340.5 provides, in pertinent part:

No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless [the rule] has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.¹⁰⁷

Therefore, if the Controller's challenged audit methods constitute a regulation not adopted pursuant to the APA, the Commission cannot uphold the reductions. Section 11342.600, in turn, defines a regulation to mean "...every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure."¹⁰⁸ Interpreting this section, the California Supreme Court in *Tidewater Marine Western v. Bradshaw* found that a regulation has two principal characteristics:

First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a *certain class of cases* will be decided. Second, the rule must "implement, interpret, or make specific the law enforced or administered by [the agency], or ... govern [the agency's] procedure."¹⁰⁹

The necessary inquiry, then, is whether the challenged audit policy or practice is applied "generally," and used to decide a class of cases; and whether the rule "implement[s], interpret[s], or make[s] specific" the law administered by the Controller. Here, that presents a close question, which turns on the issue of general applicability: if it is the Controller's policy that *all audits* of the *Notification of Truancy* program be conducted using the statistical sampling and extrapolation methods here challenged, then perhaps that meets the standard of a rule applied "generally, rather than in a specific case."¹¹⁰ On the other hand, if statistical

¹⁰⁵ Exhibit B, Controller's comments on IRC, page 17.

¹⁰⁶ Exhibit A, Incorrect Reduction Claim, pages 17-18.

¹⁰⁷ Government Code section 11340.5 (Stats. 2000, ch. 1060).

¹⁰⁸ Government Code section 11342.600 (Stats. 2000, ch. 1060).

¹⁰⁹ *Tidewater Marine Western v. Bradshaw* (1996) 14 Cal.4th 557, 571 (emphasis added) [Citing *Roth v. Department of Veteran Affairs* (1980) 110 Cal.App.3d 622, 630; Gov. Code § 11342(g)].

¹¹⁰ *Tidewater Marine Western v. Bradshaw* (1996) 14 Cal.4th 557, 571.

sampling and extrapolation is only one of an auditor's tools, and it is within the discretion of each auditor to use the challenged methods, then the APA does not bar the exercise of that discretion.¹¹¹

In *Clovis Unified*, the court held that the Controller's contemporaneous source document rule (CSDR), which was contained solely in the Controller's claiming instructions and not adopted in the regulatory parameters and guidelines, was applied *generally* to audits of all reimbursement claims for certain programs, in that individual auditors had no discretion to judge on a case-by-case basis whether to apply the rule.¹¹² As to the second criterion, the court found that the CSDR was more specific, and in some ways inconsistent with the parameters and guidelines for the subject mandated programs. Specifically, the court found that the CSDR defined "source documents" differently and more specifically than the parameters and guidelines, including relegating employee declarations to "corroborating documents, not source documents..." and failing to recognize the appropriate use of a time study.¹¹³ The court therefore held, "[g]iven these substantive differences...we conclude that the CSDR implemented, interpreted, or made specific..." the parameters and guidelines and the Controller's audit authority and was, therefore, an underground regulation.¹¹⁴

In the Medi-Cal audit context, the courts held the Department of Health Services' statistical sampling and extrapolation methods to determine the amount of over- or under-payment in reimbursement to health care providers to be an underground regulation, absent compliance with the APA. In *Grier v. Kizer*¹¹⁵ and *Union of American Physicians and Dentists v. Kizer (UAPD)*,¹¹⁶ "the Department conducted audits of Medi-Cal providers by taking a small random sample [to determine the frequency and extent of over- or under-claiming for services provided], then extrapolating that error rate over the total amount received by the provider during the period covered by the audit."¹¹⁷ The courts found the sampling and extrapolation methodology in that case invalid, solely because of the failure of the Department of Health Services to adopt its methodology in accordance with the APA. The court in *Grier, supra*, concurred with an Office of Administrative Law (OAL) determination, made in a parallel administrative proceeding, that the challenged method constituted a regulation, and should have been duly adopted. The court observed that "the definition of a regulation is broad, as contrasted with the scope of the internal management exception, which is narrow."¹¹⁸ And, the court rejected the Department's argument that sampling and extrapolation was the only legally

¹¹¹ See *Taye v. Coye* (1994) 29 Cal.App.4th 1339, 1345 [Finding that an auditor's decision was not an underground regulation where it was "designed to fit the particular conditions that were encountered upon arrival at the audit site."].

¹¹² *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 803.

¹¹³ *Id.*, pages 803-805.

¹¹⁴ *Id.*, page 805.

¹¹⁵ *Grier v. Kizer* (1990) 219 Cal.App.3d 422.

¹¹⁶ *Union of American Physicians and Dentists v. Kizer* (1990) 223 Cal.App.3d 490.

¹¹⁷ *Id.*, page 495.

¹¹⁸ *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 435.

tenable interpretation of its audit authority: “While sampling and extrapolation may be more feasible or cost-effective,...[a] line by line audit is an alternative tenable interpretation of the statutes.”¹¹⁹ The court also noted that the Department “acquiesced” in that determination and soon after adopted a regulation providing expressly for statistical sampling and extrapolation in the conduct of Medi-Cal audits.¹²⁰ Accordingly, the court in *Union of American Physicians and Dentists* assumed, without deciding, that having satisfied the APA, the statistical methodology could be validly applied to pending audits, or remanded audits.¹²¹ Now, with respect to Medi-Cal audits, a statistical sampling methodology is provided for in *both* the Welfare and Institutions Code and in the Department’s implementing regulations.¹²²

Here, the Controller argues that the auditor “conducted appropriate statistical samples that identified a reasonable estimate of the non-reimbursable initial truancy notifications, thus properly reducing the claims for the unreasonable claimed costs,” and that therefore “the Administrative Procedures Act [sic] is not applicable.”¹²³ But that argument essentially rests on the theory that the auditors acted appropriately, and therefore the APA could not have been violated. This conclusion does not follow. Looking no further than *Clovis Unified*, and especially in light of *Grier* and *UAPD*, it is clear that an audit practice may be reasonable and otherwise permissible, yet still constitute an illegal underground regulation.

However, the Commission does not have substantial evidence in the record that the audit methodology as applied in this case rises to the level of a rule of general application, and no clear “class of cases” to which it applied has been defined. In *Tidewater*, the Court held that a “rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided.”¹²⁴ And in *Clovis Unified*, the court explained that in the context of the Controller’s audits of mandate reimbursement claims:

As to the first criterion—whether the rule is intended to apply generally—substantial evidence supports the trial court’s finding that the CSDR was “applie[d] generally to the auditing of reimbursement claims ...; the Controller’s auditors ha[d] no discretion to judge on a case[-]by[-]case basis whether to apply the rule.”¹²⁵

Here, the sampling and extrapolation method is not published in the claiming instructions for this mandate; nor is it alleged that auditors were *required* to utilize such methods. Indeed, of

¹¹⁹ *Id.*, pages 438-439.

¹²⁰ *Id.*, pages 438-439.

¹²¹ *Union of American Physicians and Dentists*, *supra*, 223 Cal.App.3d 490, pages 504-505 [finding that the statistical audit methodology did not have retroactive effect because it did not alter the legal significance of past events (i.e., the amount of compensation to which a Medi-Cal provider was entitled)].

¹²² See, e.g., Welfare and Institutions Code section 14170(b) (added, Stats. 1992, ch. 722 (SB 485); Code of Regulations, title 22, section 51458.2 (Register 1988, No. 17).

¹²³ Exhibit B, Controller’s comments on IRC, page 17.

¹²⁴ *Tidewater*, *supra*, 14 Cal.4th 557, 571.

¹²⁵ *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 803.

the 42 completed audit reports for this mandated program currently available on the Controller's website, some do not apply a statistical sampling and extrapolation methodology to calculate a reduction;¹²⁶ others apply a sampling and extrapolation method to determine whether the notifications issued complied with the eight required elements under section 48260.5;¹²⁷ and still others use sampling and extrapolation methods to determine the proportion of notifications issued that were supported by documentation, including attendance records, rather than the proportion unallowable based on absences, as here.¹²⁸

Therefore, based on the case law discussed above, and the evidence in the record, the Commission finds that the Controller's sampling and extrapolation method, as applied in this case, is not a regulation within the meaning of the APA.

2. The Controller's audit conclusions must be upheld absent evidence that the Controller's reductions are arbitrary, capricious, or entirely lacking in evidentiary support.

The claimant argues that there is no statutory or regulatory authority for the Controller to reduce claimed costs based on extrapolation from a statistical sample.¹²⁹ The Controller counters that Government Code section 17561, subdivision (d)(2)(B) provides authority for statistical sampling in that this section allows the Controller to reduce "excessive or unreasonable" claims.¹³⁰

The Commission finds that the Controller's audit conclusions must be upheld absent evidence that the Controller's reductions are arbitrary, capricious, or entirely lacking in evidentiary support.

The Controller correctly states that there is no express prohibition in law or regulation of statistical sampling and extrapolation methods being used in an audit. The Controller's authority to audit is commonly described in the broadest terms: article XVI, section 7 states that "Money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant."¹³¹ Government Code section 12410 provides that the Controller "shall superintend the fiscal concerns of the state..." and "shall audit all claims

¹²⁶ See, e.g., Audit of Sweetwater Union High School District, *Notification of Truancy*, fiscal years 2006-2007 through 2009-2010 [In this audit report the Controller reduced based on the claimant's failure to comply with the notification requirements of section 48260.5, rather than performing a sampling and estimation audit to determine whether notifications were issued in compliance with section 48260.]

¹²⁷ See, e.g., Audit of Colton Joint Unified School District, *Notification of Truancy*, fiscal years 1999-2000 through 2001-2002, issued November 26, 2003.

¹²⁸ See, e.g., Audit of Bakersfield City School District, *Notification of Truancy*, fiscal years 2007-2008 through 2009-2010, issued October 25, 2012.

¹²⁹ Exhibit A, *Incorrect Reduction Claim*, page 11.

¹³⁰ Exhibit B, *Controller's comments on IRC*, page 12.

¹³¹ California Constitution, article XVI, section 7 (added November 5, 1974, by Proposition 8).

against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment.”¹³²

With respect to mandate reimbursement, the Controller’s audit authority is more specifically articulated. Article XIII B, section 6 provides that “the State shall provide a subvention of funds to reimburse...local government for the costs of the program or increased level of service...” whenever the Legislature or a state agency mandates a new program or higher level of service.¹³³ Government Code section 17561, accordingly, provides that the state “shall reimburse each local agency and school district for *all* ‘costs mandated by the state,’ as defined in Section 17514...” Section 17561 also provided, at the time the audit of the subject claims began (i.e., 2003-2004), the following:

In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (A) may audit the records of any local agency or school district *to verify the actual amount of the mandated costs*, (B) may reduce any claim that the Controller determines is excessive or unreasonable, and (C) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years.¹³⁴

The parameters and guidelines for the *Notification of Truancy* mandate predate the statutory authorization for a “reasonable reimbursement methodology,” as defined in sections 17518.5 and 17557; however, a unit cost, which was adopted for this program, is included within the definition of a “reasonable reimbursement methodology.”¹³⁵ Thus the Controller’s audit authority pursuant to section 17561 expressly authorizes an audit of a claim based on a unit cost reimbursement scheme. The statutes, however, do not address how the Controller is to audit and verify the costs mandated by the state.

Accordingly, the Controller cites to “Government Auditing Standards, as issued by the Comptroller General of the United States.” The Controller cites section 7.55 of the Generally Accepted Government Auditing Standards (GAGAS), “[a]uditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions,” in support of the use of statistical sampling.¹³⁶ Further the Controller cites section 7.56 of the GAGAS: “[a]ppropriateness is the measure of the quality of evidence...” and section 7.62 “[w]hen a representative sample is needed, the use of statistical sampling approaches generally results in stronger evidence...”¹³⁷ Furthermore, the Controller relies on Government Code section 17561, which permits the Controller generally to reduce any claim that is determined to

¹³² Statutes 1968, chapter 449.

¹³³ California Constitution, article XIII B, section 6 (Stats. 2004, ch. 133 (SCA 4; Proposition 1A, November 2, 2004)).

¹³⁴ Former Government Code section 17561 (Stats. 2002, ch. 1124), emphasis added.

¹³⁵ Government Code section 17518.5 (added, Stats. 2004, ch. 890); Government Code section 17557 (as amended, Stats. 2004, ch. 890; Stats. 2007, ch. 329).

¹³⁶ Exhibit B, Controller’s comments on IRC, page 13.

¹³⁷ *Id.*

be excessive or unreasonable: “[t]he SCO conducted appropriate statistical samples that identified a *reasonable* estimate of the non-reimbursable initial truancy notifications, thus properly reducing the claims for the *unreasonable* claimed costs.”¹³⁸ While the standards cited do not provide for statistical sampling and extrapolation to be applied to mandate reimbursement, they do provide for statistical methods to be used to establish the sufficiency, or validity of evidence.¹³⁹ The Controller also cites the “Handbook of Sampling for Auditing and Accounting,” by Herbert Arkin, for the proposition that a sampling methodology to determine the frequency of errors in the population (i.e., notifications that were not reimbursable for an asserted legal reason) is a widely used approach to auditing.¹⁴⁰

In accordance with the Controller’s audit authority and duties under the Government Code, it is not the Commission’s purview to direct the Controller to employ a specific audit method, including when the audit pertains to the application of a unit cost, as here. The Commission’s consideration is limited to whether the Controller’s reduction of costs based on audit decisions is arbitrary, capricious, or entirely lacking in evidentiary support.¹⁴¹ Based on the standards and texts cited by the Controller, statistical methods are an appropriate and commonly-used tool in auditing. The claimant, too, concedes that “[a] statistically valid sample methodology is a recognized audit tool for some purposes.”¹⁴²

In fact, statistical sampling methods such as those employed here are used in a number of other contexts and have not been held, in themselves, to be arbitrary and capricious, or incorrect as a matter of law. As discussed above, when the Department of Health Services used statistical sampling and extrapolation to determine the amount of over- or under-payment in the context of Medi-Cal reimbursement to health care providers in *Grier v. Kizer*¹⁴³ and *Union of American Physicians and Dentists v. Kizer (UAPD)*,¹⁴⁴ those methods were disapproved by the courts only on the ground that they constituted a regulation not adopted in accordance with the APA, rather than on the substantive question whether statistical sampling and extrapolation was a permissible methodology for auditing.¹⁴⁵ Once the Department adopted a regulation in accordance with the APA – a reaction to the proceedings in *Grier* – the court in *UAPD* had no objection to the methodology on its merits.¹⁴⁶ Thus, after *Grier*, the Department has both regulatory and statutory authority for its sampling and extrapolation audit process.¹⁴⁷

¹³⁸ *Id.*, page 17 [emphasis in original].

¹³⁹ Exhibit X, Excerpt from Government Auditing Standards, 2003, page 13.

¹⁴⁰ Exhibit B, Controller’s comments on IRC, page 14.

¹⁴¹ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California*, 162 Cal.App.4th 534, 547-548.

¹⁴² Exhibit A, Incorrect Reduction Claim, page 14.

¹⁴³ *Grier v. Kizer* (1990) 219 Cal.App.3d 422.

¹⁴⁴ *Union of American Physicians and Dentists v. Kizer* (1990) 223 Cal.App.3d 490.

¹⁴⁵ E.g., *Grier, supra*, 219 Cal.App.3d 422, 439-440.

¹⁴⁶ *Union of American Physicians and Dentists, supra*, 223 Cal.App.3d 490, 504-505 [finding that the statistical audit methodology did not have retroactive effect because it did not alter the

In addition to the Medi-Cal reimbursement context, the courts have declined to reject the use of statistical sampling and extrapolation to calculate damages due to plaintiffs in a class action or other mass tort action.¹⁴⁸ And, in a case addressing audits of county welfare agencies, the court declined to consider whether the sampling and extrapolation procedures were legally proper, instead finding that counties were not required to be solely responsible for errors “which seem to be inherent in public welfare administration.”¹⁴⁹

On that basis, and giving due consideration to the discretion of the Controller to audit the fiscal affairs of the state,¹⁵⁰ the Commission finds that it must uphold the Controller’s auditing decisions absent evidence that the audit reductions are arbitrary, capricious, or entirely lacking in evidentiary support.

3. The reductions based on extrapolation of correct reductions are partially correct.

In addition to challenging the legal sufficiency of the Controller’s sampling and extrapolation methodology, the claimant also challenges the qualitative and quantitative reliability and fairness of using statistical sampling and extrapolation to evaluate reimbursement. The claimant argues that “[t]esting to detect the rate of error within tolerances is the purpose of sampling, but it is not a tool to assign an exact dollar amount to the amount of the error, which the Controller has inappropriately done so here.”¹⁵¹ In addition, the claimant argues that “[t]he ultimate risk for extrapolating findings from a sample is that the conclusions obtained from the sample may not be representative of the universe.”¹⁵² The claimant asserts that there are “errors perceived from the sample [that] do not occur at the same rate in the universe.”¹⁵³ For example, the claimant alleges that there are “kindergarten students present in the sample are more likely to be excluded because of the underage issue, which makes these samples nonrepresentative of the universe.” In addition to the qualitative concerns, the claimant argues that “[e]xtrapolation does not ascertain actual costs. It ascertains probable costs within an interval. The sampling technique used by the Controller is quantitatively non-representative.”¹⁵⁴ Further, the claimant also asserts that “[l]ess than two percent of the total number of notices were audited...” and that “[t]he expected error rate is stated to be 50%, which means the total amount adjusted of \$132,847 is really just a number exactly between \$66,424 (50%) and \$100,270 [sic] (150%).”¹⁵⁵

legal significance of past events (i.e., the amount of compensation to which a Medi-Cal provider was entitled)].

¹⁴⁷ See, e.g., Welfare and Institutions Code section 14170(b) (added, Stats. 1992, ch. 722 (SB 485); Code of Regulations, title 22, section 51458.2 (Register 1988, No. 17).

¹⁴⁸ See, e.g., *Bell v. Farmers Insurance Exchange* (2004) 115 Cal.App.4th 715.

¹⁴⁹ *County of Marin v. Martin* (1974) 43 Cal.App.3d 1, page 7.

¹⁵⁰ Government Code section 12410 (Stats. 1968, ch. 449).

¹⁵¹ Exhibit A, Incorrect Reduction Claim, page 15.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*, page 16.

¹⁵⁵ *Id.*, page 17.

The Controller disagrees that statistical methods are inappropriate, stating: “[w]e properly used estimation sampling to establish the frequency of occurrence of non-reimbursable initial truancy notifications.”¹⁵⁶ With regard to the claimant’s assertion that the samples are non-representative of the population the Controller argues: “[t]he fact that a particular student’s initial truancy notification might more likely be identified as non-reimbursable is irrelevant to the composition of the audit sample itself. It has no bearing on evaluating whether the sample selection is representative of the population.”¹⁵⁷ Furthermore, in its comments on the IRCs, the Controller states that the claimant’s understanding and description of “expected error rate” and the appropriate size of a sample is also erroneous.

As described below, the Commission finds that the reduction of costs extrapolated from the unallowable notices sampled is partially correct.

- a) *There is no evidence that the extrapolation of the reduction based on a lack of supporting documentation for the four notices within the sample is representative of all notices claimed and, thus, an extrapolation on that basis is entirely lacking in evidentiary support.*

As explained above under issue A.1., the Controller correctly reduced the costs for four sampled truancy notices claimed in fiscal years 2002-2003 (two notices), 2003-2004 (one notice), and 2004-2005 (one notice) on the ground that these notices were not supported by documentation, as required by the parameters and guidelines. The Controller then calculated the error percentage, and included this reduction in the percentage, and extrapolated the result to all notices claimed during the audit period.¹⁵⁸

However, the record shows that the claimant provided documentation for all notices claimed in fiscal years 2002-2003 and 2005-2006. The audit report specifies that “[f]or fiscal year 2002-03, the district claimed 10,001 initial truancy notification [and] [t]he district provided documentation that identified 9,999 truant students...the difference is immaterial.” And for fiscal year “2005-06 the district claimed 19,654 truancy notification” and ultimately provided the documentation for all the notifications claimed.¹⁵⁹ Thus, the record does not support the conclusion that the extrapolation of the reduction based on a lack of supporting documentation for the four notices within the sample is representative of all notices claimed.

Accordingly, the Commission finds that the Controller’s calculation of the error percentage, which includes this reduction in the percentage, and the extrapolation of the result to all notices claimed during the audit period is entirely lacking in evidentiary support. All extrapolated costs reduced on this basis should be reinstated to the claimant.

- b) *The Controller’s sampling and extrapolation methodology used for notices sent to pupils who were not truant under the law (fewer than three unexcused absences or tardies) or*

¹⁵⁶ Exhibit B, Controller’s comments on IRC, page 14.

¹⁵⁷ *Id.*, page 15.

¹⁵⁸ Exhibit A, Incorrect Reduction Claim, page 68; Exhibit B, Controller’s comments on IRC, pages 18-19.

¹⁵⁹ Exhibit A, Incorrect Reduction Claim, page 67.

were not subject to compulsory education, is not arbitrary, capricious, or entirely lacking in evidentiary support.

As discussed above, the Controller correctly reduced the costs of notices within the sample for the following reasons:

- 18 notices were sent to pupils that had fewer than three absences.
- 51 notices were sent to pupils under the age of six and over the age of eighteen who were not subject to the compulsory education requirements of the Education Code.

The Controller then calculated the error percentage, which included these reductions in the percentage, and extrapolated the result to all notices claimed during the audit period.¹⁶⁰ The Commission finds, based on this record, that the extrapolation of these findings is not arbitrary, capricious, or entirely lacking in evidentiary support.

The claimant has presented no evidence that schools within the claimant’s district complied with the mandate in different ways, which may provide evidence that the results from the sample are not qualitatively representative of all notices claimed. The Commission, and the Controller, must presume that the claimant uniformly complied with the mandate, absent evidence to the contrary.

Moreover, the claimant’s concerns about the proportional size of the sample are unfounded, and the claimant’s conclusions about the “expected error rate” are entirely mistaken. The Controller demonstrates that the absolute size of the sample, not the relative size, is more important. The Controller explains that an “expected error rate” in this context is an assumption used to determine the appropriate sample size, rather than a measure of the ultimate accuracy of the result. In other words, when “the auditor has no idea whatsoever of what to expect as the maximum rate of occurrence or does not care to make an estimate...” an expected error rate of 50 percent as the beginning assumption will provide “the most conservative possible sample size estimate” in order to achieve the precision desired.¹⁶¹ In addition, the desired accuracy of the result, which might be called a “margin of error,” is determined by the auditor before calculating the sample size (shown below as “SE = desired sample precision”). Therefore, the “margin of error” of the Controller’s resulting percentage is a known value. The Controller provides the following formula:

$$n = \frac{p(1 - p)}{\left(\frac{SE}{t}\right)^2 + \left(\frac{p(1 - p)}{N}\right)}$$

n = sample size

p = percent of occurrence in population (expected error rate)

SE = desired sample precision

¹⁶⁰ Exhibit A, Incorrect Reduction Claim, page 68; Exhibit B, Controller’s comments on IRC, pages 18-19.

¹⁶¹ Exhibit B, Controller’s comments on IRC, page 17 [Citing Herbert Arkin, *Handbook of Sampling for Auditing and Accounting*, Third Edition, Prentice Hall, New Jersey, 1984, p. 89].

t = confidence level factor

N = population size¹⁶²

The formula above, when applied with a 50 percent expected error rate (the assumption when an error rate is not known), and a desired eight percent margin of error, as stated in the audit report,¹⁶³ shows that an appropriate sample size is between 144 and 148 pupils for populations ranging from 3,176 notifications (middle and high school pupils for fiscal year 2002-2003, the smallest number of notifications) to 10,267 notifications (middle and high school pupils for fiscal year 2005-2006, the highest number of notifications).¹⁶⁴ If “two percent” were a relevant proportion with respect to the selection of sample size, we would expect sample sizes to vary widely from one population to the next (two percent of 3,176 would yield a sample of 64, while two percent of 10,267 would yield a sample of 206). Applying the formula shown above illustrates that an appropriate sample size is not so closely correlated to the size of the population. The Controller explains:

Basic statistical sampling principles dismiss the district’s contention. To that point, Arkin states: ‘It is apparent that it is the absolute size of the sample that is of primary consideration and not its relative size.’¹⁶⁵

Therefore, the claimant’s concern that the Controller’s sampling technique is “quantitatively non-representative” because fewer than two percent of the total notices issued were examined in the sample,¹⁶⁶ is unfounded.

There is no dispute that the samples were randomly obtained and reviewed by the Controller. According to the Handbook of Sampling for Auditing and Accounting (Arkin), all notices randomly sampled have an equal opportunity for inclusion in the sample and, thus, the result is statistically objective and unbiased.

Based on the foregoing, the Commission finds that the Controller’s sampling and extrapolation methodology used in this audit for notices sent to pupils who were not truant under the law or were not subject to compulsory education, is not arbitrary, capricious, or entirely lacking in evidentiary support.

V. Conclusion

Pursuant to Government Code section 17551(d), the Commission partially approves this IRC. The Commission finds that the following reductions are correct as a matter of law and are not arbitrary, capricious, or entirely lacking in evidentiary support:

- Reduction for four sampled truancy notifications that were not supported by documentation.

¹⁶² *Id.*, [Citing Arkin, p. 56].

¹⁶³ See, e.g., Exhibit A, Incorrect Reduction Claim, page 67.

¹⁶⁴ Exhibit A, Incorrect Reduction Claim, pages 16, 18; Exhibit B, Controller’s comments on IRC, page 16.

¹⁶⁵ Exhibit B, Controller’s comments on IRC, page 17.

¹⁶⁶ Exhibit A, Incorrect Reduction Claim, page 16.

- Reductions for sampled notifications issued for pupils who accumulated fewer than three unexcused absences or instances of tardiness, and the extrapolation of those reductions to all notices claimed.
- Reductions for sampled notifications issued for pupils under age six or over age eighteen, and the extrapolation of those reductions to all notices claimed.

The following reductions, however, are incorrect as a matter of law, or are entirely lacking in evidentiary support:

- Reductions based on notifications issued for pupils who accumulated three, but not four unexcused absences or instances of tardiness, and the extrapolation of those reductions to all notices claimed.
- Reductions based on the extrapolation of the four sampled truancy notifications that were not supported by documentation.

The Commission requests, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, that the Controller reinstate all costs incorrectly reduced to the claimant, consistent with these findings.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On September 24, 2015, I served the:

Draft Proposed Decision, Schedule for Comments, and Notice of Hearing

Notification of Truancy, 10-904133-I-09

Education Code Section 48260.5

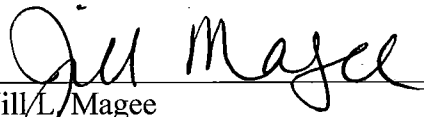
Statutes 1983, Chapter 498

Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006

San Juan Unified School District, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 24, 2015 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/10/15

Claim Number: 10-904133-I-09

Matter: Notification of Truancy

Claimant: San Juan Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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Mandate Reimbursement Services

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October 15, 2015
Commission on
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October 15, 2015

Heather Halsey, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Halsey:

RE: CSM 10-904133-I-09
San Juan Unified School District
498/83 Notification of Truancy - **Audit #2**
Fiscal Years: 2002-03, 2003-04, 2004-05, and 2005-06
Incorrect Reduction Claim

I have received the Commission Draft Proposed Decision (DPD) dated September 24, 2015, for the above-referenced incorrect reduction claim, to which I respond on behalf of the District.

PART A. STATUTE OF LIMITATIONS APPLICABLE TO AUDITS OF ANNUAL REIMBURSEMENT CLAIMS

This issue was not raised by the October 6, 2010, incorrect reduction claim.

Chronology of Claim Action Dates

January 14, 2005*	FY 2002-03 claim filed
September 12, 2006*	FY 2002-03 first payment
September 12, 2009	FY 2002-03 3-year SOL to start audit
January 10, 2006*	FY 2003-04 claim filed
September 12, 2006*	FY 2003-04 first payment
September 12, 2009	FY 2003-04 3-year SOL to start audit

January 10, 2006*	FY 2004-05 claim filed
September 11, 2006*	FY 2004-05 first payment
September 11, 2009	FY 2004-05 3-year SOL to start audit
January 11, 2007	FY 2005-06 claim filed no payments
August 27, 2007	Entrance conference letter date (new evidence)
August 27, 2009	2-year SOL to finish audit
September 4, 2009	Controller's final audit report date

*Source: Controller's October 3, 2014, reply, page 17

Statutes of 2004, Chapter 313, operative January 1, 2005, amended Government Code section 17558.5, subdivision (a), to state:

A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter 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 four annual reimbursement claims are subject to this version of Section 17558.5 because the claims were filed after December 31, 2004.

1. Audit Initiation

The 2005 version of Section 17558.5 requires the audit to commence within three years of the filing date or initial payment of the claim. The three-year rule would expire on September 11 and 12, 2009, for the three annual claims for which payments were made, which is just more than two years after the entrance conference letter date. The audit was timely commenced for all four fiscal years.

2. Audit Completion

It is uncontested here that an audit is complete only when the final audit report is issued. The 2005 version of Section 17558.5 requires the audit to be completed within two years of commencement. The District asserts that all four annual claims were beyond the statute of limitations to *complete* the audit.

Four years after the filing of this incorrect reduction claim the Commission determined on March 27, 2015, (CSM 09-4425-I-17 and CSM 10-4425-I-18, Sierra Joint Community College District, Collective Bargaining) that for purposes of measuring the statute of limitations, the audit commences no later than the date the entrance conference letter was sent (DPD, 18):

To the extent an entrance conference letter exists and was sent to the claimant, that letter provides verification to a claimant that an audit is in progress, and that the claimant may be required to produce documentation to support its claims. In this way, the entrance conference letter serves the goals of finality and predictability, and ensures that a claimant will not prematurely dispose of needed evidence to support its claim.

As a result of the Sierra Joint CCD decision, the entrance letter becomes the most relevant documentation of the start date of an audit. Based on the August 27, 2007, entrance conference letter date, the final audit report dated September 4, 2009, is one week too late. Therefore, as a procedural matter, the entirety of the audit findings for all fiscal years are void.

PART B. SAMPLED NOTIFICATIONS

The audit report disallowed \$132,847 of the claimed costs for the audit period because “(t)he district claimed notifications for students who did not accumulate the required number of unexcused absences or tardiness occurrences to qualify as truant under the mandated program.” The finding is based on a statistical sample of 883 (295 elementary school and 588 secondary school) truancy notifications actually examined from a universe of 49,921 notices for the four fiscal years. The District actually claimed 64,641 notices for the four fiscal years, but the audit made no sample disallowance for elementary school students for two fiscal years (FY 2002-03 and FY 2004-05). The audit report disallows 162 of the 883 notifications evaluated for four reasons:

<u>REASON FOR DISALLOWANCE</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>Total</u>
<u>Elementary Schools (Daily Attendance)</u>					
1. Insufficient documentation					
2. Less than 3 absences		1		15	16
3. Only 3 Absences		38		31	69
4. Underage (less than 6 years)		14		10	24
Total Disallowed		53		56	109
Sample Size		147		148	295
Percentage Disallowance		36.05%		37.84%	

Secondary Schools (Period Attendance)

1. Insufficient documentation	2	1	1		4
2. Less than 3 absences		1		1	2
3. Only 3 Absences	8	6	5	1	20
4. Overage (older than 17 years)	<u>5</u>	<u>10</u>	<u>4</u>	<u>8</u>	<u>27</u>
Total Disallowed	15	18	10	10	53
Sample Size	143	148	149	148	588
Percentage Disallowance	10.49%	12.16%	6.71%	6.76%	

1. Compulsory Attendance 51 notifications disallowed

The audit report disallowed 24 notices in the audit sample for the elementary schools (daily attendance accounting) for students that were younger than 6 years of age and disallowed 27 notices in the audit sample for secondary schools (period attendance accounting) for students that were older than 18 years of age at the time the notification was sent, citing the compulsory attendance law, Education Code Section 48200, which provides each person 6 through 18 years not otherwise exempted is subject to compulsory full-time education. The incorrect reduction claim asserts that school districts are required by Section 46000 to record and keep attendance and report the absences of *all students* according to the regulations of the State Board of Education for purposes of apportionment and general compliance with the compulsory education law (Title 5, CCR, Section 400, et seq.), and that the initial notification of truancy is a product of the attendance accounting process that promotes compliance of the compulsory education law and every pupil's duty to attend school regularly (Title 5, CCR, Section 300).

The Commission (DPD, 30) determined:

Education Code 48260(b) further states that "[n]otwithstanding subdivision (a) [which defines a truant as a pupil subject to compulsory full-time education], it is the intent of the Legislature that school districts shall not change the method of attendance accounting provided for in existing law." Therefore, even though schools are required by state law to report the attendance of all enrolled pupils, the truancy laws, including the first notice of initial truancy required by this mandated program, apply only to pupils between the ages of six and eighteen.

The District no longer disputes this issue.

2. Definition of Initial Truancy**a. Three absences/tardies**

89 notifications reinstated

The audit report disallowed 89 notices in the audit sample for those students who had three but did not have four absences/tardies recorded in the attendance records. The original incorrect reduction claim noted that Education Code Section 48260, as recodified by Chapter 1010, Statutes of 1976, required at least four absences or tardies to trigger the notification. The original 1993 parameters and guidelines referenced this 1976 standard. However, Section 48260, as amended by Chapter 1023, Statutes of 1994, and Chapter 19, Statutes of 1995, set the trigger at three absences or tardies. This change was made to the parameters and guidelines by a 2008 amendment. The Controller appears to assert that the 1993 version controls the audit until the 2008 amendment. The Commission (DPD, 28) determined that neither a new test claim nor parameters and guidelines amendment was necessary to implement the 1994 change in the Section 48260 definition of truancy. The District agrees.

b. Less than three absences/tardies

18 notifications disallowed

The audit report disallowed 18 notifications sampled which had less than three unexcused absences/tardies. The disallowed samples resulted because the District was either unable to provide documentation at the time of audit of the three incidences at the time the notification letters were sent, or some of the incidences were retroactively cleared after the notification was sent. The District no longer disputes this issue.

3. Documentation Issue

4 notifications disallowed

The incorrect reduction claim identified 4 sample notices that were disallowed by the audit due to "insufficient documentation." The audit report did not make a specific finding of the lack of documentation until the October 3, 2014, rebuttal to the incorrect reduction claim. The Commission (DPD, 25) concludes that:

The parameters and guidelines do not limit the type of supporting documentation required and, thus, under the parameters and guidelines, attendance records or other types of documentation maintained by a district may be sufficient documentation to support the costs claimed if the records show that the claimant complied with the mandate to provide written notice to the parent or guardian of the information required by the test claim statute and the documentation verifies the number of notifications provided in a fiscal year. However, the claimant has not filed any evidence of documentation supporting the costs claimed for the four notices at issue in this case.

These four samples disallowed due to lack of documentation comprise less than half of one percent of the 883 samples audited. Because the parameters and guidelines do not

specify the form of supporting documentation required, do not require claimants to maintain a copy of each notification, and do not require attendance records, the Controller's selection of the attendance records as the only source of support for the number of notifications claimed for purposes of the audit is an unenforceable policy preference.

The Controller's October 3, 2014, response (p.13, 14) indicates what may have occurred during the audit. The auditor accepted only attendance records because "(t)he district's attendance records are the obvious source documentation to validate that the students did in fact qualify as truants." The District asserts that it provided documentation generated in the ordinary course of business and the implementation of the mandate and has therefore supported the claimed costs. The Controller disagrees and states that "(s)imply providing 'documentation' does not result in reimbursable mandated costs. Supporting documentation must show that the claimed costs are reimbursable in accordance with the parameters and guidelines." The District characterized this as "additional standards desired by the Controller for supporting documentation." The Controller stated that "it is unclear what 'additional standards' the district believes exists." The obvious additional standard is the Controller's insistence for specific attendance records only, which could also be underground rulemaking.

The Commission (DPD, 25) agrees that the parameters and guidelines do not specify attendance records as the only appropriate supporting documentation, but concludes that there is no evidence in the record that any other documentation was provided to the auditor. The District attendance records, which certainly are records generated in the ordinary course of business, were sufficient to support about 99% of the claimed notifications. It is unknown at this time, ten years hence, what other business records were offered to support that missing slim 1%, but it is clear that the auditor would not have considered these records because they were not attendance records. Therefore, the Commission's finding of fact based on no other evidence in the record is not reached. It is the Controller's insistence on specific documentation not required by the parameters and guidelines that creates the threshold error of law.

The extent that the District agrees or does not dispute these three Commission findings, the agreement is limited to the extent of the actual number of sampled notices involved, but not as to the extrapolation of the sampled notifications.

PART C. STATISTICAL SAMPLING AND EXTRAPOLATION OF FINDINGS

For the four-year audit period, the auditor examined a random sample of 883 initial truancy notices out of 49,921 to determine which notifications were unallowable for the reasons stated above. (An additional 40 notifications were allowed outside of the sampling process when additional documentation was provided). The extrapolation of the 162 disallowed sampled notifications is 9,123, in the amount of \$132,847, for the four years.

The incorrect reduction claim asserts that the Controller cited no statutory or regulatory authority to allow the Controller to reduce claimed reimbursement based on extrapolation of a statistical sample, that the entire findings are based upon the wrong standard for review and that there is no published audit manual for mandate reimbursement or the audit of mandate claims in general for this or any other mandate program which allows this method of audit or allows adjustment of amounts claimed in this manner. The Commission has concluded otherwise based on factually unrelated case law, broad legislative grants of authority, and unadopted audit standards intended for other purposes.

In an additional specific finding, the Commission (DPD, 31) decided that the four sampled notices disallowed for lack of documentation should not be extrapolated because they are not "representative of all notifications claimed."

1. **Underground Regulation**

The incorrect reduction claim asserts that the sampling and extrapolation process is a standard of general application without appropriate state agency rulemaking and is therefore unenforceable (Government Code Section 11340.5). The formula is not an exempt audit guideline (Government Code Section 11340.9 (e)). State agencies are prohibited from enforcing underground regulations. If a state agency issues, enforces, or attempts to enforce a rule without following the Administrative Procedure Act, when it is required to, the rule is called an "underground regulation." Further, the audit adjustment is a financial penalty against the District, and since the adjustment is based on an underground regulation, the formula cannot be used for the audit adjustment (Government Code Section 11425.50 (c)). The Commission concludes (DPD, 31) that the Controller's sampling and extrapolation method is not an underground regulation within the meaning of the Administrative Procedure Act.

The Commission cites (DPD, 32) *Tidewater Marine Western v. Bradshaw* for two standards of review:

First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a *certain class of cases* will be decided. Second, the rule must "implement, interpret, or make specific the law enforced or administered by [the agency], or . . . govern [the agency's] procedure."¹⁰⁹

a. "Generality" of application (Government Code Section 11340.5)

Tidewater states that the rule need not be applied universally, but only to a certain class of cases. Notwithstanding, the Commission (DPD, 34) erroneously asserts as a matter of law that the Controller would have to apply the sampling process to all audits of the

Notification of Truancy mandate, relevant or not, because the auditor has discretion to select among audit methods. That is the wrong standard. It is not that every audit must be a *Tidewater* “case” to support the concept of generality as the Commission concludes, but more logically it is that if the factual circumstances are present that are conducive to the use of sampling and whether sampling was used, rather than another audit method (such as 100% review of the records).

The Commission (DPD, 35) notes that 42 audits of the Notification of Truancy mandate program have been posted to the Controller's website, but that some do not apply statistical sampling and extrapolation to calculate the audit reduction. The exceptions identified by the Commission are:

- Sweetwater Union High School District, where the auditor disallowed in Finding 2 (noted by the Commission at Footnote 126), a portion of the costs based on the content of the notification. One of the eight notification items was missing, so 12.5% of the claimed cost was disallowed for all notices. The content of the notice is a compliance issue and not a documentation issue, so statistical sampling is not relevant to this Finding. It appears that the documentation issue was addressed in Finding 1 (not cited by the Commission) where the auditor identified the unallowable notices without the need for sampling. In addition, this Finding increased the number of reimbursable notifications. Therefore, this audit does not qualify as a “case.” Note that the Controller did use sampling techniques on the previous Sweetwater audit for FY 2000-01 and 2001-02, issued October 7, 2005, which does qualify as a “case.”
- Colton Joint Unified School District (Footnote 127), where the auditor disallowed 100% of the claimed costs. The auditor did use the sampling technique, contrary to the Commission conclusion. The auditor commenced the sampling process, but then disallowed all of the claimed notices because documentation could not be found for most of the samples, site staff stated they did not actually distribute notices in most cases, and the form of notice did not include the five components. This audit qualifies as a “case” because sampling was used, it is just that extrapolation was not necessary.
- Bakersfield City School District (Footnote 128), where the auditor allowed all of the cost claimed based on the District's manual documentation process. That is, apparently sufficient and appropriate documentation was available for all claimed notifications. It appears that there was no need to sample for defective documentation and this appears to be a situation of a 100% review. Therefore, this audit is not a “case,” and is not relevant as an exception.

Of the three exceptions cited by the Commission, two are not factually relevant exceptions and one did utilize statistical sampling. Therefore, all of the *relevant* “cases” used the statistical sampling process and the matter of generality is no longer an issue.

The second *Tidewater* standard is that the rule must “implement, interpret, or make specific the law enforced or administered by [the agency], or . . . govern [the agency’s] procedure.” That standard is not contested here by any of the parties or the Commission.

The Commission (DPD, 33, 34) relies upon *Clovis* to establish another standard that an auditor must be without discretion in applying the sampling process. *Clovis* is inapplicable here because the contemporaneous source document rule (CSDR) was published in the Controller’s claiming instructions, whereas the parameters and guidelines and claiming instructions for Notification of Truancy are silent on the subject of statistical sampling and extrapolation. The perceived lack of auditor discretion for using the CSDR derives from the claiming instructions and thus *Clovis* is not a standard available for the sampling and extrapolation method since that process was not published. Regardless, as a factual matter, sampling and extrapolation was used in all relevant audit circumstances, so discretion is no longer an issue.

The Commission (DPD, 33) cites the Medi-Cal cases decided in 1990 for the assertion that a statistical sampling methodology could be applied to Medi-Cal cost audits. This is not entirely useful since the ultimate court finding applied only after the state had performed the missing rulemaking. But, the lesson is clear from the Medi-Cal cases. State agencies need to perform the necessary rulemaking rather than cobble together a post-facto defense to avoid this level of public scrutiny. The Controller, whose particular responsibility has been the payment and audit of the mandate annual claims for more than thirty years, has had ample time for rulemaking for this audit method.

b. Exempt audit guideline (Government Code Section 11340.9 (e))

This issue was not addressed by the Commission. The Controller has not asserted that the sampling and extrapolation is a confidential audit criterion or guideline. Indeed, the process is disclosed in the audit report.

c. Financial penalty (Government Code Section 11425.50 (c))

This issue was not addressed by the Commission. However, the statistical sampling and extrapolation generate audit findings that result in a loss of reimbursement for the districts and is therefore a financial penalty.

2. Authority to Utilize Sampling and Extrapolation Methods

The incorrect reduction claim asserts that the Controller cited no relevant statutory or regulatory authority to allow the Controller to reduce claimed reimbursement based on extrapolation of a statistical sample for audits of state mandate programs. The Commission (DPD, 35-37) proposes several theories to support the Controller’s claim to such authority.

a. No express prohibition

There is no cited express prohibition in law or regulation against statistical sampling and extrapolation methods being used in an audit. However, governmental authority is not unlimited and must always be properly exercised. One example pertinent to this incorrect reduction claim is that the Administrative Procedure Act prohibits underground rulemaking.

b. Broad Constitutional authority

The Commission cites Article XVI, section 7, which states that "(m)oney may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant." The Commission has not cited a case that applies this to mandate reimbursement, nor has anyone asserted that a claim has been paid without a legal appropriation or without a legal warrant.

c. Government Code section 12410

The Commission cites Government Code Section 12410 which states that the Controller "shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment." However, Section 12410 is found in the part of the Government Code that provides a general description of the duties of the Controller and dates back to 1945. It is not specific to the audit of mandate reimbursement claims. The only applicable audit standard for mandate reimbursement claims is found in Government Code Section 17561(d). It is the case of more specific language circumscribing the general language.

Further, it has not been demonstrated that, if Section 12410 was somehow the applicable standard, the audit adjustments were made in accordance with this standard. There is no allegation in the audit report that the claim was in any way illegal. The Section 12410 phrase "sufficient provisions of law for payment" refers to the requirement that there be adequate appropriations prior to the disbursement of any funds. There is no indication that any funds were disbursed for these claims without sufficient appropriations. Thus, even if the standards of Section 12410 were applicable to mandate reimbursement audits, there is no evidence that these standards are not met or even relevant. There is no indication that the Controller is actually relying on the audit standards set forth in Section 12410 for the adjustments to the District's reimbursement claims.

d. Government Code section 17561

Government Code Section 17561 (d), authorizes the Controller to audit annual reimbursement claims and to "verify the actual amount of the mandated costs" and "reduce any claim that the Controller determines is excessive or unreasonable." This is

a distinct statement of audit scope. Adjustments based on lack of documentation are not adjustments based on excessive or unreasonable costs. There is no assertion that the unit cost rate for the notifications is excessive or unreasonable. Nor could a unit cost rate (or reasonable reimbursement methodology as defined by Section 17518.5) be audited to “verify” the actual cost of the mandate since a unit cost is a statewide average not applicable to the actual cost at any one district.

e. Generally Accepted Government Auditing Standards

In support of the Controller’s authority, the Commission cites to the federal Generally Accepted Government Auditing Standards (GAGAS), commonly referred to as the “Yellow Book,”¹ while at the same time acknowledging that dollar-amount extrapolation of sampled findings method is not specifically included in that publication. The Yellow Book is for use by auditors of government entities, entities that receive government awards, and other audit organizations performing Yellow Book audits. These standards apply when required by law, regulation, agreement, contract, or policy. Neither the audit report nor Commission cite any law or agreement or policy that makes the Yellow Book applicable to audits of state mandated costs.

Regardless, the audit reports state that the audit was a “performance audit.” The Yellow Book standards for performance audits are:

- 2.6 A performance audit is an objective and systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decision-making by parties with responsibility to oversee or initiate corrective action.
- 2.7 Performance audits include economy and efficiency and program audits.
 - a. Economy and efficiency audits include determining (1) whether the entity is acquiring, protecting, and using its resources (such as personnel, property, and space) economically and efficiently, (2) the causes of inefficiencies or uneconomical practices, and (3) whether the entity has complied with laws and regulations on matters of economy and efficiency.

¹ Generally Accepted Government Auditing Standards

The Generally Accepted Government Auditing Standards (GAGAS), commonly referred to as the “Yellow Book,” are published by the United States Government Accountability Office (GAO): <http://www.gao.gov/govaud/ybook.pdf>.

- b. Program audits include determining (1) the extent to which the desired results or benefits established by the legislature or other authorizing body are being achieved, (2) the effectiveness of organizations, programs, activities, or functions, and (3) whether the entity has complied with significant laws and regulations applicable to the program.

The audit report and Commission made no findings based on the above qualitative performance criteria. A performance audit was not conducted. The audit was a documentation audit. However, if *documentation* is the *performance* to be measured, it should be noted that the District documented about 99% of the claimed notifications to the auditor's satisfaction. However, if the Controller has adopted the Yellow Book for mandate audits as a matter of policy, that decision would have to survive the test for underground rulemaking.

f. Government Code section 17558.5

In the audit report the Controller cites for this issue, but the Commission does not consider in the draft proposed decision, Government Code Section 17558.5 which describes the time to commence and finish an audit. This Section is not an audit content or process standard and is not relevant.

3. Use of Sampling Methodology

The District has already agreed that statistical sampling is a recognized audit tool for some purposes, regardless of whether any of the Commission cited sources support that conclusion as a matter of law for a state audit of mandated cost annual claims. The question becomes whether the method, if it is not an underground rule, was properly applied. The Commission concludes that the District's assertion that the sample is not representative of the universe is unfounded and that the Controller's showing that the method is statistically significant and mathematically valid is sufficient.

The Commission (DPD, 37) cites the Medi-Cal cases for the assertion that a statistical sampling methodology could be applied to Medi-Cal cost audits. The District does not agree that the sampling process as used in the Medi-Cal audits is the same as the method as used in the Controller's audit. In the Medi-Cal audits, different fee amounts for dissimilar services were audited for documentation and necessity of service. For Notification of Truancy, where the dollar amount is fixed, the auditor's purpose for the sampling is to determine whether a sufficient number of absences/tardies were incurred and if the student is subject to the notification process. What the Controller is testing is whether the notices are reimbursable based on the number of prerequisite absences, which is testing for procedural compliance, not the dollar amount of dissimilar services. Testing to detect the rate of error within tolerances is the purpose of sampling, but it is not a tool to assign an exact dollar amount to the amount of the error, which the Controller has inappropriately done so here. This is a failure of auditor judgment both in

the purpose of the sampling and the use of the findings. The cited *Bell* case, as well as the Commission decision, does not conclusively address this issue.

4. Representativeness of the Sampling

a. Lack of supporting documentation

The Commission (DPD, 39) concludes that four sampled notifications disallowed due to lack of supporting documentation should not be extrapolated, because the audit report states that documentation was found for all except two of the total claimed number (the audit universe) of notifications in FY 2002-03. This is particular evidence on the issue of seemingly contrary audit findings. The District agrees with this finding based on the documentation standards issue discussed in Part B.

b. Age of student

In the incorrect reduction claim, the District asserts that the errors perceived from the sample do not occur at the same rate in the universe even when the samples are randomly selected, which was discounted by the Commission due to lack of evidence. Kindergarten students present in the sample are more likely to be excluded because of the under-age issue, which makes these samples nonrepresentative of the universe. The Commission can take notice that there are more five-year old children in kindergarten than there are in the other grades 1-12. Also, if any of the notices excluded for being over-age are for students who are special education students, these samples would also not be representative of the universe since the possibility of a special education student being over-age is greater than the entire student body since school districts must provide services to these persons through age 21 years. The Commission can take notice that a 19-21 year-old student is more likely to be a special education student than the pupils in the other grade levels.

c. Random sample

The Commission (DPD, 41) asserts that all randomly sampled notices have an equal opportunity for inclusion in the sample and, thus, the result is statistically objective and unbiased. The District does not assert that the incidence of truancy for kindergarten students or special education students is either proportionate or disproportionate, rather that a kindergarten pupil is more likely to be under-age and a special education pupil is more likely to be over-age than other students sampled, and thus not representative.

d. Presumption of uniform compliance

The Commission (DPD, 40) establishment of a rebuttable presumption that the District staff uniformly complied with the mandate may derive from its finding in Notification of Truancy, 05-904133-I-02, Los Angeles Unified School District (September 25, 2015, p.

15):

However, the Controller's extrapolation of its findings from the 67 sampled school sites to the remaining 53 school sites that were not included in the Controller's audit sample is not supported by any evidence in the record. There is no showing in the record that the audit results from the sampled schools accurately reflects or is representative of the schools not sampled. There is evidence that school sites in the claimant's district complied with the mandate in different ways. Some school sites sampled provided truancy notification letters to support the costs claimed and some did not. The audit report further states the attendance counselors at some school sites were not aware of the mandate or the proper guidelines for reporting initial truancy notifications, some records could not be located, some records were destroyed, and some counselors at school sites were not on duty daily requiring other administrative staff to provide the truancy notifications.⁵⁵ Because the record indicates variation in school compliance, the Controller's use of data from the sampled schools in the district to calculate the percentage of compliance for all schools does not provide any evidence of the validity of the costs claimed by the schools that were not sampled. Thus, the Controller's finding that the costs claimed by the 53 school sites that were not sampled were not supported by documentation, is not supported by any evidence in the record.

For San Juan, the Commission states that there is no evidence that the schools complied with the mandate in different ways. The Commission (DPD, 40) states that evidence that the District schools complied with the mandate in different ways may be evidence that the sampling results are not qualitatively representative of all notices claimed. The Commission has already found one example where the four samples disallowed due to lack of documentation could not be representative since only two notifications were disallowed from the universe for that reason.

Regardless, uniform compliance is a non-issue for the sampling extrapolation. If a notification letter was not sent, it is not included in the total universe of letters. If attendance records are missing, then the sample was disallowed. If an insufficient number of incidences of truancy occurred, then the sample was disallowed. The Commission's rebuttable presumption is both irrelevant, not stated in the parameters and guidelines, not stated in the claiming instructions, and without possibility of factual rebuttal this many years after the audit.

The Los Angeles findings also raise a factual issue not addressed by the San Juan audit report, that is, whether the sample included students from all school sites. If not, this would reduce the universe for extrapolation according to the Commission's Los Angeles criteria.

5. Certainty of Dollar Amount Adjusted

In addition to the qualitative concerns discussed, quantitative extrapolation of the sample to the universe depends on a statistically valid sample methodology. The sampling technique used by the Controller is quantitatively non-representative.

<u>Elementary Schools</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>Total</u>
Audited notifications claimed		7,609		9,347	16,956
Total notices in entire sample		147		148	295
Percentage of the sample to total		1.93%		1.58%	
<u>Secondary Schools</u>					
Audited notifications claimed	3,176	9,295	10,227	10,267	32,965
Total notices in entire sample	143	148	149	148	588
Percentage of the sample to total	4.50%	1.60%	1.46%	1.44%	
Total audited notifications	3,176	16,904	10,227	19,614	49,921

The Commission accepts the Controller's 50% error rate as reasonable. The Commission cites (DPD, 40) the Controller's precision assumptions:

The Controller explains that an "expected error rate" in this context is an assumption used to determine the appropriate sample size, rather than a measure of the ultimate accuracy of the result. In other words, when "the auditor has no idea whatsoever of what to expect as the maximum rate of occurrence or does not care to make an estimate..." an expected error rate of 50 percent as the beginning assumption will provide "the most conservative possible sample size estimate" in order to achieve the precision desired. 161

The error rate of 50% should not to be championed by anyone when it results in a fiscal penalty. The Commission findings note that the sample size 143 to 149 (less than 1% difference) is essentially the same for populations which range from 3,176 to 10,267 (a 223% difference). The matter of precision is not proved. The Controller was not compelled to restrict the sample size or precision.

Extrapolation does not ascertain actual cost. It ascertains probable costs within an interval. As an evidentiary matter, because the expected error rate is an assumption and acknowledged by the state as not being a measure of the ultimate accuracy of the result, it would be arbitrary to just use the midrange of the predicted results. Because it is equally likely that the extrapolation results will be either the highest or lowest amount, or any amount in between, the only evidentiary certainty that does not penalize the District

is the lowest adjustment amount. The uncertainty should be mitigated against the method and the agency using the method. If the Commission insists on allowing the extrapolation, it must accept the finding with the least penalty to the District.

CERTIFICATION

By my signature below, I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this submission is true and complete to the best of my own knowledge or information or belief, and that any attached documents are true and correct copies of documents received from or sent by the District or state agency which originated the document.

Executed on October 15, 2015, at Sacramento, California, by



Keith B. Petersen, President
SixTen & Associates

Attachment: August 27, 2007 Entrance conference letter

Service by Commission Electronic Drop Box



JOHN CHIANG
California State Controller

August 27, 2007

Sharon Rew
Internal Auditor
San Juan Unified School District
3738 Walnut Avenue
Carmichael, CA 95609-0477

Re: Audit of Mandated Cost Claims for Notification of Truancy Program
For the Period of July 1, 2002, through June 30, 2006

Dear Ms. Rew:

This letter confirms that Marie Salvacion has scheduled an audit of San Juan Unified School District's legislatively mandated Notification of Truancy Program cost claims filed for fiscal year (FY) 2002-03, FY 2003-04, FY 2004-05, and FY 2005-06. Government Code sections 12410, 17558.5, and 17561 provide the authority for this audit. The entrance conference is scheduled for Tuesday, September 11, 2007, at 10:30 a.m. We will begin audit fieldwork after the entrance conference.

Please furnish working accommodations for and provide the necessary records (listed on the Attachment) to the audit staff. If you have any questions, please call me at (916) 323-2368.

Sincerely,

A handwritten signature in black ink that reads "Steve Van Zee".

STEVE VAN ZEE, Audit Manager
Mandated Cost Audits Bureau
Division of Audits

SVZ/vb

Attachment

6272

SAN JUAN UNIFIED SCHOOL DISTRICT
Records Request for Notification of Truancy Program
FY 2002-03, FY 2003-04, FY 2004-05, and FY 2005-06

1. Copy of claims filed for the mandated cost program
2. Copy of external and internal audit reports performed on the mandated cost program
3. Organization charts for the district effective during the audit period, showing employee names and position titles
4. Organization charts for the division or units handling the mandated cost program effective during the audit period, showing employee names and position titles
5. Attendance records/logs, notification letters, and other documents necessary to support all costs claimed.
6. District's policies and procedures applicable to initial truancy notification letters.
7. List of pupils who received initial truancy notification letters for each fiscal year, which reconciles to the number of notifications claimed.

Sharon Rew
August 27, 2007
Page 2

cc: Michael Dencavage
Associate Superintendent Business Services
San Juan Unified School District
Joe Rombold
School Innovations and Advocacy
Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office
Ginny Brummels, Manager
Division of Accounting and Reporting
State Controller's Office
Marie Salvacion, Auditor-in-Charge
Division of Audits
State Controller's Office

o

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 15, 2015, I served the:

Claimant Comments

Notification of Truancy, 10-904133-I-09

Education Code Section 48260.5

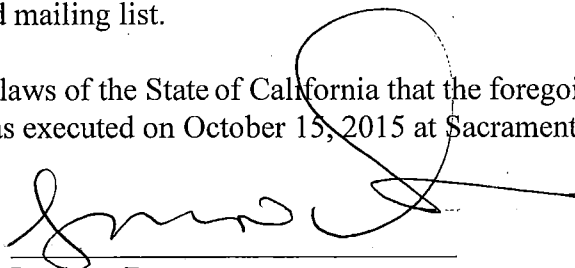
Statutes 1983, Chapter 498

Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006

San Juan Unified School District, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 15, 2015 at Sacramento, California.



Lorenzo Duran

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/10/15

Claim Number: 10-904133-I-09

Matter: Notification of Truancy

Claimant: San Juan Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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BETTY T. YEE
California State Controller

RECEIVED
October 28, 2015
*Commission on
State Mandates*

LATE FILING

October 27, 2015

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Draft Proposed Decision

Incorrect Reduction Claim

Notification of Truancy, 10-904133-I-09

Education Code Section 48260.5

Statutes 1983, Chapter 498

Fiscal Years 2002-03, 2003-2004, 2004-05, and 2005-06

San Juan Unified School District, Claimant

Dear Ms. Halsey:

The State Controller's Office (SCO) has reviewed the Commission on State Mandates' (Commission) Draft Staff Analysis (DSA) dated September 24, 2015, for the above incorrect reduction claim (IRC) filed by Riverside Unified School District. This letter constitutes the SCO's response to the DSA.

We support the Commission staff decision related to the following:

- Reductions based on insufficient documentation to support the number of initial truanancies claimed are correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.
- Reductions based on notifications of truancy issued for pupils who were under the age of six and over the age of 18 are correct as a matter of law.
- Reductions based on notifications issued for pupils with fewer than three absences or tardiness occurrences are correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.
- The statistical sampling methodology used by the SCO to determine the amounts to be reduced is not arbitrary, capricious, or entirely lacking in evidentiary support.

P.O. Box 942850, Sacramento, CA 94250 ♦ (916) 445-2636
3301 C Street, Suite 700, Sacramento, CA 95816 ♦ (916) 324-8907
901 Corporate Center Drive, Suite 200, Monterey Park, CA 91754 ♦ (323) 981-6802

The Commission did not support the SCO adjustments for the following:

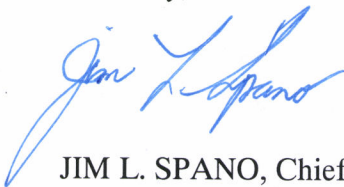
- Reductions based on initial truancy notifications for pupils who accumulated fewer than four unexcused absences are inconsistent with the Education Code and are incorrect as a matter of law.

Reductions for Students Who Accumulated Fewer Than Four Unexcused Absences

The DSA states that the disallowance of notifications issued for pupils who accumulated three but not four or more absences is incorrect as a matter of law because it relies on the former definition of a truant. We disagree with this conclusion. The SCO previously addressed this issue in a letter dated August 21, 2015, when responding to the DSA issued for an IRC filed by San Juan Unified School District (IRC 07-994133-I-05 and 10-904133-I-07). SCO Senior Staff Counsel Shawn D. Silva prepared the response, which was received by the Commission on August 24, 2015 (**Tab 1**). Our comments for this IRC, as they relate to this issue, have not changed from what was included in our August 21, 2015 response, as written by Mr. Silva. As the issue is identical, we are resubmitting our August 21, 2015 letter containing the specifics of our disagreement with the DSA.

If you have any questions, please contact me by telephone at (916) 323-5849.

Sincerely,



JIM L. SPANO, Chief
Mandated Cost Audits Bureau
Division of Audits

TAB 1



RECEIVED
August 24, 2015
*Commission on
State Mandates*

BETTY T. YEE
California State Controller

August 21, 2015

Heather Halsey, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Mr. Keith Petersen
SixTen & Associates
P.O. Box 340430
Sacramento, CA 95834-0430

Re: **Controller's Comments on Draft Proposed Decision**
Notification of Truancy, 07-904133-I-05 and 10-904133-I-07
Education Code Section 48260.5
Statutes 1983, Chapter 498
Fiscal Years 1999-2000 through 2001-02
San Juan Unified School District, Claimant

Dear Ms. Halsey and Mr. Petersen:

This letter constitutes this office's response to the Draft Proposed Decision (DPD) in this matter. Although we agree with the conclusion that the audit was conducted in a timely manner, we disagree with the conclusion that the notification sent upon the third absence is reimbursable. Such a conclusion is contrary to the clear language in the relevant parameters and guidelines, and the mandatory language of AB 1698 (Stats. 2007, Ch. 69). It also violates the standard process for the determination of a mandate and the amendment of parameters and guidelines. For these reasons we oppose the reinstatement of the costs associated with the notification sent upon the third absence.

The primary problem with the conclusion that the third notification is reimbursable is that this result is contrary to the plain language of AB 1698. In part that bill provides that:

[T]he Commission on State Mandates shall amend the parameters and guidelines regarding the notification of truancy ... and modify the definition of a truant ... [c]hanges made by the commission to the parameters and guidelines shall be deemed effective on July 1, 2006.

The bill unambiguously provides that changes to the definition of a truant, for the purposes of the parameters and guidelines, will not become effective until July 1, 2006. Despite this clear language the DPD proceeds to retroactively amend the definition of truant to some date prior to the fiscal years audited, presumably 1995. Had the legislature desired to make the changes retroactive to 1995, they could have easily done so, but they chose not to. The DPD does not set forth any reasons for ignoring the plain language of AB 1698. In doing so it renders portions of AB 1698 surplusage, a result that is to be disfavored.¹ One possible reason is that staff believes that AB 1698 compels a result that is inconsistent with the provisions of Article XIII B, § 6. However, an administrative agency has no power to disregard a statute that they believe is unconstitutional². Since AB 1698 clearly provides that the old definition of truant is applicable until July 1, 2006, the Commission should uphold the finding of the auditors with respect to the notification upon the third absence.

The conclusion in the DPD is also contrary to the explicit language of the parameters and guidelines. The parameters and guidelines provide that “[a] truancy occurs when a student is absent from school without valid excuse more than three (3) days”.³ The DPD dismissively notes that the cited language is in the “summary,” but fails to provide any legal authority for treating it differently than other portions of the parameters and guidelines. If the summary is of no import, then the Legislature’s direction to amend it would be without any practical effect, and we cannot presume that the Legislature engages in idle acts.⁴ The DPD also goes to great lengths to label the definition of truant as “definitional” as opposed to the identified reimbursable activities, which it labels as “mandatory”. Again though, the DPD fails to cite any legal or logical authority for treating the two types of language differently. Although they contain different provisions, Education Code⁵ sections 48260 and 48260.5 are inextricably linked, without the existence of Section 48260, Section 48260.5 has no force or effect. Although not explicitly stated, the DPD essentially recommends that the Commission approve a sua sponte, retroactive amendment of the parameters and guidelines, without providing any legal authority for such an action. Not only is there no legal authority for such an amendment, but it would also be contrary to the express language of AB 1698, as noted above.

The final problem with the DPD’s approach is that it ignores the basic concepts and procedures of the mandate process. Although a statute, or executive order or regulation, creates a mandate, it is the test claim process that creates reimbursability. The legislature, in passing Government Code sections 17500 et seq., chose to place the burden on local governmental entities to establish reimbursability. Because of this process there may often be discrepancies between what a local is legally obligated to do, and what they are reimbursed for doing. The DPD asserts, without any real analysis, that the 1994

¹ *McCarthy v. Pacific Telesis Group* (2010) 48 Cal.4th 104, 110.

² California Constitution, Article III, § 3.5.

³ Parameters and guidelines, amended July 22, 1993, page 1.

⁴ *Imperial Merchant Services, Inc. v. Hunt* (2009) 47 Cal.4th 381, 390.

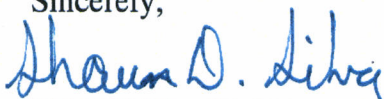
⁵ All further references shall be to the Education Code, unless otherwise indicated.

amendment to Section 48260 [S.B. 1728 (Stats. 1994, Ch. 1023)] does not constitute a mandate as it does not require a new program or higher level of service. However, the DPD fails to state the rules for determining if it is a new program or higher level of service, and never applies the facts to those rules. In the Statement of Decision for the *Domestic Violence Background Checks* program (dated July 26, 2007), at pages 8-9, the Commission stated that:

To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation⁶. A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”⁷ Finally, the newly required activity or increased level of service must impose costs mandated by the state.⁸

Applying these rules we can clearly see that the 1994 amendment to Section 48260 created a mandate, as it imposed a higher level of service upon school districts. Before the amendment the districts only had to send the truancy notification if a pupil had four absences, but after the amendment the district had to send the notification upon the third absence. The new requirements were clearly intended to provide an enhanced service to the public as it provided for earlier notice to parents of the attendance issues of their child, allowing them to intervene earlier, and hopefully reduce the potential for future attendance problems. The increased costs are at the core of this IRC. Applying the Commission’s own rules we see that the 1994 amendment to Section 48260 created a state mandate, and the only way for the claimant’s to receive reimbursement therefore, would have been for them to file a test claim, which no school district ever did. Based on the above factors the Controller’s Office believes that the Commission should find that the 1993 version of the parameters and guidelines applies, and therefore the reductions made were proper and in accordance with law.

Sincerely,



SHAWN D. SILVA
Senior Staff Counsel

SDS

⁶ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

⁷ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

⁸ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 28, 2015, I served the:

SCO Comments

Notification of Truancy, 10-904133-I-09

Education Code Section 48260.5

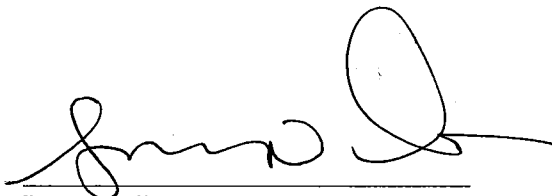
Statutes 1983, Chapter 498

Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006

San Juan Unified School District, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 28, 2015 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/19/15

Claim Number: 10-904133-I-09

Matter: Notification of Truancy

Claimant: San Juan Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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Exhibit FBrief Written Statement
for Adopted Mandate

Mandate: Chapter 498, Statutes of 1983
Notification of Truancy

Claimant: San Diego Unified School District

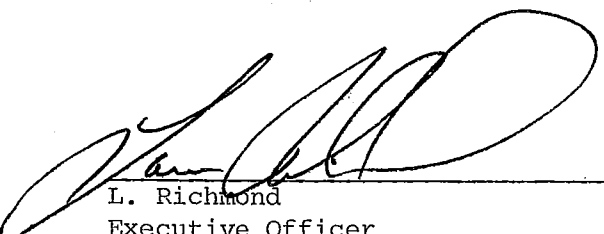
At its hearing of November 29, 1984, the State Board of Control, after receiving evidence submitted by the claimant and the Department of Finance determined that Chapter 498, Statutes of 1983 imposed reimbursable state mandated costs as defined by the Revenue and Taxation Code (RTC).

The claimant alleged that Chapter 498/83 created costs resulting from developing, preparing, and mailing truancy notification forms, and in providing newly required additional teacher/counselor time.

The claimant requested reimbursement under authority of RTC Section 2253(c). The claimant alleged a mandate as defined in RTC Section 2207(a).

The Board of Control determined that Chapter 498/83 constitutes a state mandate because it requires an increased level of service. The Board determined that the statute imposes costs by requiring school districts to develop a notification form, and provide written notice to the parents or guardians of students identified as truants of this fact. It requires that notification contain other specified information and, also, to advise the parent or guardian of their right to meet with school personnel regarding the truant pupil. The Board found these requirements to be new and not previously required of the claimant.

Adopted: 11/29/84



L. Richmond
Executive Officer

G:\PG\NOT1.PG
Adopted: 8/27/87
Amended: 7/28/88
Amended: 7/22/93

PARAMETERS AND GUIDELINES
Chapter 498, Statutes of 1983
Education Code Section 48260.5
Notification of Truancy

I. SUMMARY OF MANDATE

Chapter 498, Statutes of 1983, added Education Code Section 48260.5 which requires school districts, upon a pupil's initial classification as a truant, to notify the pupil's parent or guardian by first-class mail or other reasonable means of (1) the pupil's truancy; (2) that the parent or guardian is obligated to compel the attendance of the pupil at school; and (3) that parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to Article 6 (commencing with section 48290) of Chapter 2 of Part 27.

Additionally, the district must inform parents and guardians of (1) alternative educational programs available in the district, and (2) the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

A truancy occurs when a student is absent from school without valid excuse more than three (3) days or is tardy in excess of thirty (30) minutes on each of more than three (3) days in one school year. (Definition from Education Code Section 48260.)

A student shall be initially classified as truant upon the fourth unexcused absence, and the school must at that time perform the requirements mandated in Education Code Section 48260.5 as enacted by Chapter 498, Statutes of 1983.

II. BOARD OF CONTROL DECISION

On November 29, 1984, the State Board of Control determined that Education Code Section 48260.5, as added by Chapter 498, Statutes of 1983, constitutes a state mandated program because it requires an increased level of service by requiring specified notifications be sent to the parents or guardians of pupils upon initial classification of truancy.

III. ELIGIBLE CLAIMANTS

The claimants are all school districts and county offices of education of the state of California, except a community college district, as defined by Government Code Section 17519 (formerly Revenue and Taxation Code 2208.5), that incur increased costs as a result of implementing the program activities of Education Code Section 48260.5, Chapter 498, Statutes of 1983.

IV. PERIOD OF REIMBURSEMENT

Chapter 498, Statutes of 1983, became effective July 28, 1983. Section 17557 of the Government Code provides that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for Education Code Section 48260.5, Chapter 498, Statutes of 1983, was initially filed on August 25, 1984, therefore the reimbursable costs to the school districts are all such permitted costs incurred on or after July 28, 1983.

V. REIMBURSABLE COSTS

A. Scope of Mandate

The eligible claimant shall be reimbursed for only those costs incurred for planning the notification process, revising district procedures, the printing and distribution of notification forms, and associated record keeping.

B. Reimbursable Activities

For each eligible school district the direct and indirect costs of labor, supplies, and services incurred for the following mandated program activities are reimbursable:

1. Planning and Preparation -- One-time

Planning the method of implementation, revising school district policies, and designing and printing the forms.

2. Notification process -- On-going

Identifying the truant pupils to receive the notification, preparing and distributing by mail or other method the forms to parents/guardians, and associated recordkeeping.

C. Uniform Cost Allowance

Pursuant to Government Code section 17557, the Commission on State Mandates has adopted a uniform cost allowance for reimbursement in lieu of payment of total actual costs incurred. The uniform cost allowance is based on the number of initial notifications of truancy distributed pursuant to Education Code Section 48260.5, Chapter 498, Statutes of 1983.

For fiscal year 1992-93, the uniform cost allowance is \$10.21 per initial notification of truancy distributed. The cost allowance shall be adjusted each subsequent year by the Implicit Price Deflator.

D. Unique Costs

School districts incurring unique costs within the scope of the reimbursable mandated activities may submit a request to amend the parameters and guidelines to the Commission for the unique costs to be approved for reimbursement. Pursuant to Section 1185.3, Title 2, California Code of Regulations, such requests must be made by November 30 immediately following the fiscal year of the reimbursement claim in which reimbursement for the costs is requested.

VI. CLAIM PREPARATION

Each claim for reimbursement pursuant to Education Code Section 48260.5, Chapter 498, Statutes of 1983, must be timely filed and provide documentation in support of the reimbursement claimed for this mandated program.

A. Uniform Cost Allowance Reimbursement

Report the number of initial notifications of truancy distributed during the year. Do not include in that count the number of notifications or other contacts which may result from the initial notification to the parent or guardian.

B. Recognized Unique Costs

As of fiscal year 1992-93, the Commission has not identified any circumstances which would cause a school district to incur additional costs to implement this mandate which have not already been incorporated in the uniform cost allowance.

If and when the Commission recognizes any unique circumstances which can cause the school district to incur additional reasonable costs to implement this mandated

program, these unique implementation costs will be reimbursed for specified fiscal years in addition to the uniform cost allowance.

School districts which incur these recognized unique costs will be required to support those actual costs in the following manner:

1. Narrative Statement of Unique Costs Incurred

Provide a detailed written explanation of the costs associated with the unique circumstances recognized by the Commission.

2. Employee Salaries and Benefits

Identify the employee(s) and their job classification, describe the mandated functions performed, and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The staff time claimed must be supported by source documentation, such as time reports, however, the average number of hours devoted to each function may be claimed if supported by a documented time study.

3. Services and Supplies

Only expenditures which can be identified as a direct cost as a result of the mandated program can be claimed. List cost of materials which have been consumed or expended specifically for the purposes of this mandated program.

4. Allowable Overhead 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-73A (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the State Department of Education.

VII. SUPPORTING DATA

For auditing purposes, documents must be kept on file for a period of 3 years from the date of final payment by the State Controller, unless otherwise specified by statute and be made available at the request of the State Controller or his agent.

A. Uniform Allowance Reimbursement

Documentation which indicates the total number of initial notifications of truancy distributed.

B. Reimbursement of Unique Costs

In addition to maintaining the same documentation as required for uniform cost allowance reimbursement, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the uniform cost allowance and actual cost reimbursement for unique circumstances claimed. In addition, reimbursement for this mandated program received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

VIII. REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein.



JOHN CHIANG
California State Controller

July 17, 2007

RE: Passage of AB 1698 (ENG) Fixing the Truancy Mandate

Dear School District:

I am writing to share the very good news that AB 1698 (Eng) has been chaptered and a decade-long discrepancy affecting administration of the Notification of Truancy mandate has been rectified.

The Notification of Truancy mandate established a higher level of service for school districts to apprise parents of truant pupils. In the mid-1990's, this mandate statute was amended to broaden the notification requirements and definition of truant. When the three-year statute of limitations for the Commission on State Mandates (COSM) to change the Parameters and Guidelines ("Ps and Gs") elapsed without an update, the discrepancy could only be fixed through statute.

As the sponsor of this bill, I sought to direct the COSM to align the Ps and Gs with statute. Without this clarification, my auditors have been forced to disregard the statute declaring that parental notifications should occur at three absences and include eight specific pieces of information, as opposed to the four absences and five pieces of information specified in the Ps and Gs.

AB 1698 will ensure that all schools who notify parents when three unexcused absences accrue are appropriately reimbursed for their efforts.

It is unfortunate that a misalignment of Ps and Gs and statute took more than a decade to correct. As your State Controller, you have my assurance that I will continue to pursue the removal of bureaucratic obstacles to appropriate and on-time payment.

School District
July 18, 2007
Page 2

I hope we can work together again on common sense solutions to outdated or unworkable mandate processes.

Sincerely,

Original Signed By

JOHN CHIANG
California State Controller

cc: The Honorable Mike Eng