# SixTen and Associates
## Mandate Reimbursement Services

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***RECEIVED***
October 09, 2015
***Commission on State Mandates***


October 9, 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-10 and 13-904133-I-12
**Riverside Unified School District**
498/83 Notification of Truancy - **Audit #2**
Fiscal Years: 2003-04, 2004-05, 2005-06, and 2006-07
Original and Revised Incorrect Reduction Claims

I have received the Commission Draft Proposed Decision (DPD) dated September 21, 2015, for the above-referenced incorrect reduction claims, to which I respond on behalf of the District.

PART A. TOTAL CLAIMED NOTIFICATIONS

In Finding 1, the original and revised audit reports determined that the District overstated costs in the amount of $799 by overstating total claimed notifications of truancy distributed by 24 (0.13% of the 17,943 claimed) in FY 2003-04 and 33 (0.17% of the 19,134 claimed) in FY 2004-05, "because attendance records did not support the number of initial truancy notifications claimed." The incorrect reduction claims assert that 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 to support the number of notifications distributed, that 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.6) indicates what may have occurred during the audit. The auditor accepted only attendance records because "(t)he district's attendance records are the 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 "we are unclear what 'additional standards' the district believes exists." The obvious addtional standard is the Controller's insistence for specific attendance records only, which would be underground rulemaking.

The Commission (DPD, 27) 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, twelve 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.

PART B. SAMPLED NOTIFICATIONS

In Finding 2, the original and revised audit reports disallowed $98,866 of the claimed costs for the audit period "for [sampled] students who did not accumulate the required number of unexcused absences or tardiness occurrences to be classified as truant under the mandated program." The sampled notifications were disallowed for three reasons: 63 as outside the ages of 6 through 18; 58 for accruing less than four absences/tardies; and, 1 for insufficient documentation.

| REASON FOR DISALLOWANCE | 2003-04 | 2005-06 | 2005-06 | Total |
|---|---|---|---|---|
| Elementary Schools (Daily Attendance) | | | | |
| Underage (less than 6 years) | 15 | 15 | 27 | 57 |
| Insufficient documentation | 0 | 0 | 0 | 0 |
| Less than 4 Absences | 21 | 25 | 11 | 57 |
| Total Disallowed | 36 | 40 | 38 | 114 |
| Sample Size | 148 | 148 | 147 | |
| Percentage Disallowance | 24.32% | 27.03% | 25.85% | |

Secondary Schools (Period Attendance)

| | | | | |
|---|---|---|---|---|
| Overage (18 years plus) | 2 | 2 | 2 | 6 |
| Insufficient documentation | 1 | 0 | 0 | 1 |
| Less than 4 Absences | | | 1 | 1 |
| Total Disallowed | 3 | 2 | 3 | 8 |
| | | | | |
| Sample Size | 148 | 148 | 148 | |
| Percentage Disallowance | 2.03% | 1.35% | 2.04% | |

1. Compulsory Attendance

The audit report disallowed 57 notices in the audit sample for the elementary schools (daily attendance accounting) for students that were younger than 6 years of age and disallowed 6 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. In the incorrect reduction claims the District asserted 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, 29) 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

The audit reports disallowed 58 notices in the audit sample for those students who had three but did not have four absences/tardies recorded in the attendance records for that

student. 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, 32) 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

The audit reports disallowed "some" of the audit sample for those students sampled who had less than three unexcused absences/tardies. These particular samples are currently an unidentified subset of the 58 notices discussed in item 2 a. 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

The incorrect reduction claims identified one sample notice in FY 2003-04 that was disallowed by the audit due to "insufficient documentation." The Commission (p.34) is unable to make findings on this disallowance of this single instance of insufficient documentation because of lack of evidence in the record and remands it to the Controller for reinstatement absent an adequate explanation. The District agrees.

The District's agreement with these three Commission findings is limited to the extent of the actual number of sampled notices involved, but not as to the extrapolation of these sampled notices.

PART C. STATISTICAL SAMPLING AND EXTRAPOLATION OF FINDINGS

For Fiscal Years 2003-04, 2004-05, and 2005-06, the Controller examined a random sample of initial truancy notices to determine which notifications were unallowable for the reasons stated above. The audit sampled 886 notifications out of a total universe of 52,665 (the 454 notices for FY 2005-06 for two elementary schools were extrapolated separately). The extrapolation of the 122 disallowed sampled notifications is 7,208 (plus an addtional 117 for the two elementary schools), in the amount of $98,866, for the three years.

The incorrect reduction claims assert 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.

**1. Underground Regulation**

The incorrect reduction claims assert 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, 42) 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, 37) *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."147

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, 39) 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, 39) 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 164), 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 same adjustment was made in Finding 3 of the Riverside revised audit.) 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 165), 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 166), 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 are is 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 is not contested here by any of the parties or the Commission.

The Commission (DPD, 37) 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, 38) 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 claims assert 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, 40-42) 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 these incorrect reduction claims 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.
>
> 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,

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[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.

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 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 reports the Controller cites, 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, 42) 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 method 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 numerous types of 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**

The Commission (DPD, 44) asserts:

> Moreover, there is no evidence in the record that the results are biased or unrepresentative "because a kindergarten pupil is more likely to be under-age and a special education pupil is more likely to be over-age," as asserted by claimant. 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.194 Moreover, absent evidence, the Commission and the Controller must presume that the schools within the claimant's district complied with the mandate in the same way.

a. Age of student

In the incorrect reduction claims, 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 that 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.

b. Random sample

The Commission 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.

c. Presumption of uniform compliance

The Commission 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 9, 2015, Proposed Decision, 27):

> 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 and 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. As indicated above, 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.87 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 Riverside, the Commission states that there is no evidence that the schools complied with the mandate in different ways. The opposite is also true. However, 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 Riverside 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**

| Elementary Schools | 2003-04 | 2004-05 | 2005-06 | Total |
|---|---|---|---|---|
| Audited notifications claimed | 9,214 | 9,395 | *7,562** | 26,171 |
| Total notices in entire sample | 148 | 148 | 147 | 443 |
| Percentage of the sample to total | 1.61% | 1.58% | 1.94% | 1.69% |
| Audit Results: | | | | |
| Alleged "noncompliant" notices | 36 | 40 | 38 | 114 |
| Percentage "noncompliant" | 24.32% | 27.03% | 25.85% | 25.73% |
| Secondary Schools | | | | |
| Audited notifications claimed | 8,705 | 9,706 | 8,083 | 26,494 |
| Total notices in entire sample | 148 | 148 | 147 | 443 |
| Percentage of the sample to total | 1.70% | 1.52% | 1.82% | 1.67% |
| Audit Results: | | | | |
| Alleged "noncompliant" notices | 3 | 2 | 3 | 8 |
| Percentage "noncompliant" | 2.03% | 1.35% | 2.04% | 1.81% |

* Net of unsupported truancies identified in Finding 1. The population of elementary schools sampled for FY 2005-06 totaled 8,016 (7,562 claimed and 454 unclaimed).

The Commission accepts the Controller's 50% error rate as reasonable. The Commission cites (DPD, 44) 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. 191

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 147 or 148 ( less than 1% difference) is essentially the same for populations which range from 7,562 to 9,706 (a 22% difference). The stated precision rate was plus or minus 8% even though the audited number of notices claimed in FY 2005-06 of 15,645 (7,562+8,083) is 18%

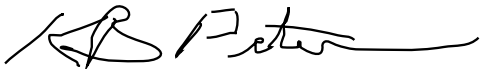
smaller than audited number of notices in FY 2004-05 of 19,101 (9,395+9,706). The matter of precision is not proved. The Controller was not compelled to restrict the sample size or precision.

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 9, 2015, at Sacramento, California, by



Keith B. Petersen, President
SixTen & Associates

Service by Commission Electronic Drop Box

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

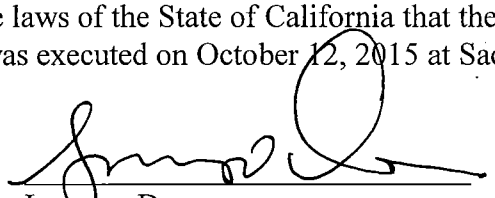
I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On October 12, 2015, I served the:

**Claimant Comments**
*Notification of Truancy*, 10-904133-I-10 and 13-904133-I-12
Education Code Section 48260.5
Statutes 1983, Chapter 498
Fiscal Years: 2003-2004, 2004-2005, 2005-2006, and 2006-2007
Riverside 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 12, 2015 at Sacramento, California.



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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 9/21/15

**Claim Number:** 10-904133-I-10 and 13-904133-I-12

**Matter:** Notification of Truancy

**Claimant:** Riverside 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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