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RECEIVED
May 4, 2015
**Commission on
State Mandates**

May 1, 2015

LATE FILING

Heather Halsey
Executive Director
COMMISSION ON STATE MANDATES
980 9th Street, Suite 300
Sacramento, CA 95814

Re: INCORRECT REDUCTION CLAIM ON: CHAPTER 498 STATUTES OF 1983;
CHAPTER 4, STATUTES OF 1999.
THE STULL ACT PROGRAM : FISCAL YEARS 1997-1998, 1998-1999, 1999-2000,
2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005.
Oceanside Unified School District; Claimant
Rebuttal Comments

Dear Ms. Halsey:

The following information is provided in rebuttal to the State Controller's Office ("Controller") response dated March 27, 2015, to the Claimant's Incorrect Reduction Claim. (IRC)

I. **INTRODUCTION**

On September 27, 2005, the Commission on State Mandates ("Commission") adopted the Parameters and Guidelines for the activities of the Stull Act set forth in Chapter 498, Statutes (Chapter 498/83); Chapter 4, Statutes of 1999 (Chapter 4/99) and Education Code sections 44660-44665. The Stull Act required school districts to develop and adopt specific guidelines to evaluate and assess certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives.

Oceanside Unified School District ("the District") filed claims for reimbursement of costs that the District incurred during Fiscal Years 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005 to implement the state mandated Stull Program Act.

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Claimants' Rebuttal Comments

The District claimed \$1,286,956 for reimbursement of costs for the salaries and benefits of the school site staff and related indirect costs. The Controller denied \$1,270,420 contending the District did not support claimed costs with source documents.

II.

PARAMETERS AND GUIDELINES

The approved parameters and guidelines required reimbursement for the following activities:

1. Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs demanded by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives.
2. Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science grades 2-11 as it reasonably relates to the progress of pupils towards the state adopted academic contents standards as measured by state adopted assessment tests.
3. Evaluate and assess the performance of permanent certificated and non-instructional employees that that perform the requirements of educational programs demanded by state or federal law and receive an unsatisfactory evaluation in the years in which the permanent certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664. (Exhibit B, p. 8.)

The District contends the following activities are reimbursable:

1. Preparing for the evaluation;
2. Goals and objectives conference with instructor;
3. Pre-observation conference with instructor;
4. Classroom observation with instructor;
5. Post-observation conference with instructor;
6. Final conference with instructor;

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7. Conducting final conferences; written evaluations;
8. District reporting. (Exhibit M.)

All the above relates to the review of the employee's instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives. The Controller's unilateral determination that the aforementioned activities are ineligible is not supported by the parameters and guidelines or any other authoritative document.

III.

DISTRICT PROVIDED TIME RECORDS FOR MANDATED COSTS.

The District provided a list of employees, title, hourly rate for each fiscal year that evaluations were performed, (Exhibit E, F, G, H, I, J, K, L.) as well as employee average time records for mandated costs. (Exhibit M.) Each employee recorded their average time performing evaluation activities for the period of Fiscal Year 1997-98 through Fiscal Year 2004-05. The time spent by District employees to conduct the reimbursable activities would average 6-7 hours per employee.

The District complied with the evaluation requirements contained in Article 15 of the Collective Bargaining Agreement for years 1997- 2005, probationary certificated employees evaluated at least once each school year and permanent certificated employees evaluated at least once every other school year. (Exhibit "N".)

Despite the production of this supporting documentation, the Audit Report stated "The District did not provide source documents supporting the average time or access to employee evaluations to support the number of employees evaluated." (Exhibit D, p. 8.)

IV.

CLAIMANTS TIME STUDY IS REASONABLE BASED ON OTHER AUDITS.

A review of other similar Controller audits provides support for the amounts asserted by the claimant. Controller's audits concluded the average time spent for the evaluation in Poway Unified School District, 1.52 hours for permanent, 3.57 for non-permanent, and 12.93 for unsatisfactory evaluations. (Exhibit P; p. 15.)

In the audit of Norwalk-LaMirada Unified School District the Controller allowed 1.89 hours for permanent, 3.07 for non-permanent, and 12.99 for unsatisfactory. (Exhibit "Q"; p. 16.)

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In the Long Beach Unified School District audit, the Controller applied an average of 2.14 hours to each fiscal year. (Exhibit "R"; p. 16.) Long Beach provided a listing of all evaluators (principals and vice principals) for the audit period, including the payroll and benefit information. (The claimant provided the same information.) Controller then calculated an average productive rate (PHR) that was applied to allowable evaluations in each fiscal year. (Exhibit "R"; p. 10.)

During the Elk Grove Unified School District, Controller determined a rounded average of 2.5 hours per evaluation for permanent employees and 5.0 for unsatisfactory evaluations. (Exhibit "S", p.11)

In the audit of Castrol Valley Unified School District, Controller accepted an average of 3.57 per evaluation for permanent employees and 7.88 for unsatisfactory evaluations. (Exhibit "T", p.15.) (The following chart lists the school districts and their average time per evaluation.)

DISTRICT	PERMANENT	NON-PERMANENT	UNSATISFACTORY
Poway	2	3	13
Norwalk	1.89	3.7	12.99
Long Beach	2.14	N/A	4.88
Elk Grove	2.50	N/A	5.00
Castro Valley	3.57	3.89	7.88

Documentation submitted by the claimant supports the reasonable time spent per evaluation of 6.40 hours FY 1997-98 and 6.50 in FY 1998-1999. For the claimant's time to be limited by Controller to .30 minutes is far below the other times accepted in School District audits and is inconsistent with the documentation submitted by the claimant. As a result Controller's decision to disallow the reimbursement claim is unreasonable, as well as arbitrary and capricious.

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V.

CONTROLLER IMPROPERLY DENIED CLAIMANT'S EVALUATIONS FOR FY 1997-1998.

The Controller allowed four evaluations for FY 1997-1998. As illustrated in the chart below, the claimant's documentation supports 67 evaluations, an amount the Controller accepted for FY 1998-1999.

1997-98	Employee Name	Claimed Hours	Time Per Evaluations	Evaluations
	Rob Rowe	66.67 (E/3)	395 minutes (Ex. M/38)	10
	Dan Daris	97.29 (E/3)	467 minutes (Ex. M/25)	12
	Frank Gomez	29.14 (E/3)	269 minutes (Ex. M/41)	6
	Kim Marguarat	39.13 (E/3)	313 minutes (Ex. M/32)	7
	Pat Barnes	57.23 (E/3)	448 minutes (Ex. M/02)	7
	Peg Cowman	32.07 (E/3)	457 minutes (Ex. M/32)	4
	Phyllis Morgan	52.25 (E/3)	418 minutes (Ex. M/6)	7
	Raye Clendening	36.00 (E/3)	360 minutes (Ex. M/12)	6
	Sherry Freeman	46.75 (E/4)	330 minutes (Ex. M/34)	8
TOTAL EVALUATIONS 1997-98				67

Controller allowed a total of four evaluations for FY 1997-98. The preceding chart lists 67 evaluations, consisted with the number of evaluations for FY1998-1999 that was accepted by the Controller. (District started using File Maker in 2005. The information prior to that time, more than ten years ago, is currently inaccessible.)

Claimants' Rebuttal Comments

1998-99	Employee Name	Claimed Hours	Time Per Evaluations	Evaluations
	Rob Rowe	50.00 (F/3)	395 minutes (Ex. M/38)	8
	Brian Kolb (Ex. F/3)	40.67 (F/3)	305 minutes (Ex. M/02)	8
	Martha Munden	74.70 (F/3)	498 minutes (Ex. M/39)	9
	Pat Barnes (Ex. F/3)	57.23 (F/3)	448 minutes (Ex. M/02)	7
	Kim Marguarat (Ex. F/3)	39.13 (F/3)	313 minutes (Ex. M/32)	7
	Peg Cowman	32.07 (F/3)	457 minutes (Ex. M/32)	4
	Raye Clendening	45.00 (F/3)	360 minutes (Ex. M/12)	7
	Garry Shoeton	118.15 (F/3)	417 minutes (Ex. M/33)	7
	Sherry Freeman	44.00 (F/4)	330 minutes (Ex. M/34)	8
TOTAL EVALUATIONS 1998-99				55

Without any evidence to the contrary, Controller arbitrarily denied the reimbursement claims for FY 1997-98 through Fiscal Year 2004-05, disregarding the reliable and unrefuted documentary evidence. Controller's decision is an abuse of discretion, arbitrary, capricious, and unsupported by the test claim and P & G's.

VI.
CONCLUSION

Oceanside's documentation complied with the requirements of the P & G's and more than met their burden in producing evidence supporting their claim. Controller in effect established a clear and convincing standard, resulting in Oceanside being denied of their constitutional right to be reimbursed for the increased costs. Oceanside contends allowance of

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Executive Director
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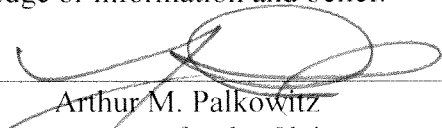
Claimants' Rebuttal Comments

four evaluations is erroneous and is not supported by the evidence. An allocation of .5 for each evaluation is unreasonable.

There can be no doubt the District's school site staff performed the reimbursable activities. The District has submitted sufficient documentation to prove each school site performed the activities of assessing and evaluating the certificated employees as required by the mandate. The statistical method used by the District is reasonable and non-excessive.

The District accepts the Controller's allowable total evaluations of 1,149 (State Controller Office IRC Comments; p. 108) adjusted for the evaluations for FY 1997-1998 for a total of 1,212. The Claimant's adjusted reimbursement claim for FY 1997-1998 to FY 2004-2005 in the amount of \$181,800.00 is based on an average hourly rate of \$60.00 per hour at 2.5 hours per evaluation.

I declare, by my signature below, that the statements made in this document are true and complete to the best of my own personal knowledge or information and belief.



Arthur M. Palkowitz
Attorney for the Claimants

AMP/llm

EXHIBIT P

POWAY UNIFIED SCHOOL DISTRICT

Audit Report

STULL ACT PROGRAM

Chapter 498, Statutes of 1983,
and Chapter 4, Statutes of 1999

July 1, 1997, through June 30, 2011



JOHN CHIANG
California State Controller

August 2014



JOHN CHIANG
California State Controller

August 20, 2014

Todd Gutschow, President
Board of Education
Poway Unified School District
14435 Harvest Court
Poway, CA 92064

Dear Mr. Gutschow:

The State Controller's Office audited the costs claimed by Poway Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2011.

The district claimed \$4,161,778 for the mandated program. Our audit found that \$943,147 is allowable and \$3,218,631 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for non-mandated activities. The State paid the district \$415,123. Allowable costs claimed exceed the amount paid by \$528,024.

If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (Commission). 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 Commission's website at www.csm.ca.gov/docs/IRCFForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: John P. Collins, Ed.D., Superintendent
Poway Unified School District
Malliga Tholandi, Associate Superintendent, Business Support Services
Poway Unified School District
Naomi Sweet, Administrative Assistant II, Finance
Poway Unified School District
Joy Ramiro, Director, Finance
Poway Unified School District
Brent Watson, Executive Director
Business Advisory Services
San Diego County Office of Education
Peter Foggiato, Director
School Fiscal Services Division
California Department of Education
Carol Bingham, Senior Fiscal Policy Advisor
Government Affairs Division
California Department of Education
Thomas Todd, Assistant Program Budget Manager
Education Systems Unit
California Department of Finance
Jay Lal, Manager
Division of Accounting and Reporting
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Poway Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2011.

The district claimed \$4,161,778 for the mandated program. Our audit found that \$943,147 is allowable and \$3,218,631 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for non-mandated activities. The State paid the district \$415,123. Allowable costs claimed exceed the amount paid by \$528,024.

Background

Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999, added Education Code sections 44660-44665. The legislation provided reimbursement for specific activities related to evaluation and assessment of the performance of "certificated personnel" within each school district, except for those employed in local, discretionary educational programs.

On May 27, 2004, the Commission on State Mandates (Commission) determined that the legislation imposed a state mandate reimbursable under Government Code section 17514.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The Commission adopted the parameters and guidelines on September 27, 2005. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

The Commission approved reimbursable activities as follows:

- Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal laws as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives (Education Code section 44662(b) as amended by Chapter 498, Statutes of 1983).
- Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils toward the state adopted academic content standards as measured by state adopted assessment tests (Education Code section 44662(b) as amended by Chapter 4, Statutes of 1999).
- Assess and evaluate permanent certificated, instructional, and non-instructional employees that perform the requirements of educational programs mandated by state or federal law and receive an unsatisfactory evaluation in the years in which the permanent certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664. The additional

evaluations shall last until the employee achieves a positive evaluation, or is separated from the school district (Education Code section 44664 as amended by Chapter 498, Statutes of 1983).

Objectives, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Stull Act Program for the period of July 1, 1997, through June 30, 2011.

The objectives of our audit were to determine whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

The legal authority to conduct this audit is provided by Government Code sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. We conducted this performance 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. Our audit scope did not assess the efficiency or effectiveness of program operations.

To achieve our audit objectives, we performed the following audit procedures:

- Interviewed employees, completed the internal control questionnaire, and performed a walk-through of the cost components of each claim.
- Traced costs claimed to supporting documentation that showed when the costs were incurred, the validity of such costs, and their relationship to mandated activities.

Conclusion

Our audit found an instance of noncompliance with the requirements outlined above. This instance is described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, Poway Unified School District claimed \$4,161,778 for costs of the Stull Act Program. Our audit found that \$943,147 is allowable and \$3,218,631 is unallowable.

For the fiscal year (FY) 1997-98 claim, the State paid the district \$19,546. Our audit found that \$58,111 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$38,565, contingent upon available appropriations.

For the FY 1998-99 through FY 2007-08 claims, the State made no payment to the district. Our audit found that \$707,875 is allowable. The State will pay allowable costs claimed, contingent upon available appropriations.

For the FY 2008-09 claim, the State paid the district \$211,391. Our audit found that \$82,364 is allowable. The State will offset \$129,027 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

For the FY 2009-10 claim, the State paid the district \$184,186. Our audit found that \$61,569 is allowable. The State will offset \$122,617 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

For the FY 2010-11 claim, the State made no payment to the district. Our audit found that \$33,228 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$33,228, contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft audit report on July 9, 2014. Malliga Tholandi, Associate Superintendent, Business Support Services, responded by letter dated July 25, 2014 (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 Poway Unified School District, the San Diego 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, CPA
Chief, Division of Audits

August 20, 2014

**Schedule 1—
Summary of Program Costs
July 1, 1997, through June 30, 2011**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 1997, through June 30, 1998</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 224,521	\$ 55,108	\$ (169,413)
Training	—	—	—
Total direct costs	224,521	55,108	(169,413)
Indirect costs	12,237	3,003	(9,234)
Total program costs	<u>\$ 236,758</u>	58,111	<u>\$ (178,647)</u>
Less amount paid by state		(19,546)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 38,565</u>	
<u>July 1, 1998, through June 30, 1999</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 167,088	\$ 56,190	\$ (110,898)
Training	—	—	—
Total direct costs	167,088	56,190	(110,898)
Indirect costs	7,235	2,433	(4,802)
Total program costs	<u>\$ 174,323</u>	58,623	<u>\$ (115,700)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 58,623</u>	
<u>July 1, 1999, through June 30, 2000</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 326,643	\$ 57,779	\$ (268,864)
Training	—	—	—
Total direct costs	326,643	57,779	(268,864)
Indirect costs	9,995	1,768	(8,227)
Total program costs	<u>\$ 336,638</u>	59,547	<u>\$ (277,091)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 59,547</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2000, through June 30, 2001</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 355,176	\$ 60,534	\$ (294,642)
Training	—	—	—
Total direct costs	355,176	60,534	(294,642)
Indirect costs	14,314	2,440	(11,874)
Total program costs	<u>\$ 369,490</u>	62,974	<u>\$ (306,516)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 62,974</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 411,447	\$ 63,211	\$ (348,236)
Training	—	—	—
Total direct costs	411,447	63,211	(348,236)
Indirect costs	19,091	2,933	(16,158)
Total program costs	<u>\$ 430,538</u>	66,144	<u>\$ (364,394)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 66,144</u>	
<u>July 1, 2002, through June 30, 2003</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 365,399	\$ 64,623	\$ (300,776)
Training	—	—	—
Total direct costs	365,399	64,623	(300,776)
Indirect costs	16,553	2,927	(13,626)
Total program costs	<u>\$ 381,952</u>	67,550	<u>\$ (314,402)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 67,550</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2003, through June 30, 2004</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 306,838	\$ 66,573	\$ (240,265)
Training	—	—	—
Total direct costs	306,838	66,573	(240,265)
Indirect costs	15,342	3,329	(12,013)
Total program costs	<u>\$ 322,180</u>	69,902	<u>\$ (252,278)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 69,902</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 360,085	\$ 69,034	\$ (291,051)
Training	—	—	—
Total direct costs	360,085	69,034	(291,051)
Indirect costs	18,617	3,569	(15,048)
Total program costs	<u>\$ 378,702</u>	72,603	<u>\$ (306,099)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 72,603</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 326,394	\$ 73,158	\$ (253,236)
Training	—	—	—
Total direct costs	326,394	73,158	(253,236)
Indirect costs	16,940	3,797	(13,143)
Total program costs	<u>\$ 343,334</u>	76,955	<u>\$ (266,379)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 76,955</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2006, through June 30, 2007</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 210,698	\$ 77,144	\$ (133,554)
Training	2,820	2,836	16
Total direct costs	213,518	79,980	(133,538)
Indirect costs	11,850	4,437	(7,413)
Total program costs	<u>\$ 225,368</u>	84,417	<u>\$ (140,951)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 84,417</u>	
<u>July 1, 2007, through June 30, 2008</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 238,589	\$ 82,572	\$ (156,017)
Training	2,434	2,383	(51)
Total direct costs	241,023	84,955	(156,068)
Indirect costs	11,931	4,205	(7,726)
Total program costs	<u>\$ 252,954</u>	89,160	<u>\$ (163,794)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 89,160</u>	
<u>July 1, 2008, through June 30, 2009</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 229,598	\$ 77,428	\$ (152,170)
Training	2,148	1,593	(555)
Total direct costs	231,746	79,021	(152,725)
Indirect costs	9,803	3,343	(6,460)
Total program costs	<u>\$ 241,549</u>	82,364	<u>\$ (159,185)</u>
Less amount paid by state		(211,391)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (129,027)</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2009, through June 30, 2010</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 175,637	\$ 58,631	\$ (117,006)
Training	314	185	(129)
Total direct costs	175,951	58,816	(117,135)
Indirect costs	8,235	2,753	(5,482)
Total program costs	<u>\$ 184,186</u>	61,569	<u>\$ (122,617)</u>
Less amount paid by state		(184,186)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (122,617)</u>	
<u>July 1, 2010, through June 30, 2011</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 272,262	\$ 31,772	\$ (240,490)
Training	183	126	(57)
Total direct costs	272,445	31,898	(240,547)
Indirect costs	11,361	1,330	(10,031)
Total program costs	<u>\$ 283,806</u>	33,228	<u>\$ (250,578)</u>
Less amount paid by state		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 33,228</u>	
<u>Summary: July 1, 1997, through June 30, 2011</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 3,970,375	\$ 893,757	\$ (3,076,618)
Training	7,899	7,123	(776)
Total direct costs	3,978,274	900,880	(3,077,394)
Indirect costs	183,504	42,267	(141,237)
Total program costs	<u>\$ 4,161,778</u>	943,147	<u>\$ (3,218,631)</u>
Less amount paid by state		(415,123)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 528,024</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

FINDING— Overstated salaries and benefits and related indirect costs

The district claimed \$3,978,274 in salaries and benefits and \$183,504 in related indirect costs for the audit period. We found that \$3,077,394 in salaries and benefits is unallowable. The costs are unallowable primarily because the district claimed reimbursement for non-mandated evaluation costs (\$3,076,618) and training costs (\$776). Related indirect costs totaled \$141,237.

The following table summarizes the unallowable salaries and benefits and related indirect costs by fiscal year:

Fiscal Year	Salaries and Benefits				Total Audit Adjustment [(C)+(D)]
	(A) Claimed	(B) Allowable	(C) Adjustment [(B)-(A)]	(D) Indirect Costs Adjustment	
1997-98	\$ 224,521	\$ 55,108	\$ (169,413)	\$ (9,234)	\$ (178,647)
1998-99	167,088	56,190	(110,898)	(4,802)	(115,700)
1999-2000	326,643	57,779	(268,864)	(8,227)	(277,091)
2000-01	355,176	60,534	(294,642)	(11,874)	(306,516)
2001-02	411,447	63,211	(348,236)	(16,158)	(364,394)
2002-03	365,399	64,623	(300,776)	(13,626)	(314,402)
2003-04	306,838	66,573	(240,265)	(12,013)	(252,278)
2004-05	360,085	69,034	(291,051)	(15,048)	(306,099)
2005-06	326,394	73,158	(253,236)	(13,143)	(266,379)
2006-07	213,518	79,980	(133,538)	(7,413)	(140,951)
2007-08	241,023	84,955	(156,068)	(7,726)	(163,794)
2008-09	231,746	79,021	(152,725)	(6,460)	(159,185)
2009-10	175,951	58,816	(117,135)	(5,482)	(122,617)
2010-11	272,445	31,898	(240,547)	(10,031)	(250,578)
	<u>\$ 3,978,274</u>	<u>\$ 900,880</u>	<u>\$ (3,077,394)</u>	<u>\$ (141,237)</u>	<u>\$ (3,218,631)</u>

Time Log Activities

The time logs determined the time it took district evaluators to perform 11 activities within the teacher evaluation process. The district evaluated permanent, probationary, and temporary certificated instructional teachers. The time log results reported time for meetings, observation, report writing, and other activities within the evaluation process.

The time logs determined it takes district evaluators an average of 3 hours per permanent teacher to complete an evaluation, and an average of 5.42 hours per probationary/temporary teacher to complete an evaluation.

Six of the 11 activities the district identified in its time logs are not reimbursable under the mandate. The six non-reimbursable activities include:

- Conducting a certificated planning conference with the certificated staff member to review his or her goals and objectives;
- Conducting a pre-observation conference with the certificated staff member;
- Conducting a post-observation conference with the certificated staff member;
- Conducting a mid-year evaluation conference with the temporary or probationary certificated staff member;
- Conducting a final evaluation conference with certificated staff member; and
- Discussing STAR results and how to improve instructional abilities with the certificated staff member.

The program's parameters and guidelines do not allow conferences (pre-, post-, and final observation conferences) between the evaluators and teachers, as conferences were required before the enactment of the test claim legislation. Therefore, these activities do not impose a new program or higher level of service.

The parameters and guidelines do not allow reimbursement for discussing STAR results, as this activity is not listed as a reimbursable activity in the parameters and guidelines.

The district's time logs identified an activity described as "Receiving training, inside or outside the district on evaluating certificated staff." We reviewed this information, along with district's additional training documentation, in our Calculation of Allowable Training Costs section.

We determined that the time spent on the following four activities is reimbursable:

- Classroom observations;
- Completing certificated observation form;
- Writing the mid-year evaluation report (temporary or probationary staff member only); and
- Writing the final evaluation report.

The time logs found that it takes the district evaluators an average of 1.52 hours per permanent teacher evaluation and 3.57 hours per probationary/temporary teacher (non-permanent) evaluation to complete allowable activities within the evaluation process. In addition, the time logs supported that it takes the district evaluators an average of 12.93 hours per unsatisfactory teacher evaluation to complete allowable activities within the evaluation process.

Completed Evaluations

The district did not keep track of completed evaluations during the audit period. To support claimed evaluations, we used the data the district gathered from its time logs as a completed teacher evaluations database. We cross-checked the database with the district's employee listings to ensure that teachers were employed at the district each year and that their information was accurate. Once completed, we reviewed the completed teacher evaluations for each fiscal year to ensure that only eligible evaluations were counted for reimbursement. The parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of education programs mandated by state or federal law during specific evaluation periods.

The following table shows evaluations identified that are not reimbursable under the mandated program:

<u>Fiscal Year</u>	<u>Number of Completed Evaluations</u>		
	<u>District- Provided</u>	<u>Audited</u>	<u>Difference</u>
2006-07	508	535	27
2007-08	539	555	16
2008-09	559	459	(100)
2009-10	552	426	(126)
2010-11	165	163	(2)
Totals	<u>2,323</u>	<u>2,138</u>	<u>(185)</u>

The non-reimbursable evaluations included the following:

- Assistant principals, directors, librarians, nurses, coordinators, program specialists, psychologists, speech therapists, staff developers, and Teacher on Special Assignment (TOSA) employees who are not certificated instructional employees;
- Adult education, hourly, and ROTC teachers who do not perform the requirements of the program that is mandated by state or federal law;
- Teachers claimed multiple times in one school year;
- Permanent biannual teachers claimed every year rather than every other year; and
- Permanent five-year teachers claimed multiple times in a five-year period rather than once every five years.

Calculation of Allowable Evaluation Costs

To arrive at allowable salaries and benefits for “evaluation activities” from fiscal year (FY) 2006-07 through FY 2010-11, we multiplied the number of allowable evaluations by allowable hours per evaluation and claimed productive hourly rates.

For the remaining years, we used the data for FY 2006-07 as the “base” year. We applied an implicit price deflator to total allowable evaluation activities costs in FY 2006-07 to determine allowable evaluation activities costs for FY 1997-98 through FY 2005-06.

The following table summarizes allowable evaluation costs by fiscal year.

Fiscal Year	Evaluation activities		
	Claimed	Allowable	Audit Adjustment
1997-98	\$ 224,521	\$ 55,108	\$ (169,413)
1998-99	167,088	56,190	(110,898)
1999-2000	326,643	57,779	(268,864)
2000-01	355,176	60,534	(294,642)
2001-02	411,447	63,211	(348,236)
2002-03	365,399	64,623	(300,776)
2003-04	306,838	66,573	(240,265)
2004-05	360,085	69,034	(291,051)
2005-06	326,394	73,158	(253,236)
2006-07	210,698	77,144	(133,554)
2007-08	238,589	82,572	(156,017)
2008-09	229,598	77,428	(152,170)
2009-10	175,637	58,631	(117,006)
2010-11	272,262	31,772	(240,490)
Total	<u>\$ 3,970,375</u>	<u>\$ 893,757</u>	<u>\$ (3,076,618)</u>

We then applied the applicable indirect cost rates to allowable evaluation activities to calculate allowable indirect costs of \$41,912 for this component.

Calculation of Allowable Training Costs

The district claimed training hours from FY 2006-07 through FY 2010-11, totaling \$7,899 for the audit period. We found that \$7,123 in training costs is reimbursable under the mandate and \$776 is not reimbursable. The primary reason for the non-reimbursable costs was insufficient supporting documentation. The district did not provide sufficient documentation to support the costs related to the one-time activity of training staff on the implementation of the reimbursable activities listed in the parameters and guidelines.

The following table summarizes claimed, allowable, and unallowable salaries and benefits related to training costs by fiscal year using the claimed PHRs:

Fiscal Year	Training		Audit
	Claimed	Allowable	Adjustment
2006-07	\$ 2,820	\$ 2,836	\$ 16
2007-08	2,434	2,383	(51)
2008-09	2,148	1,593	(555)
2009-10	314	185	(129)
2010-11	183	126	(57)
Total	<u>\$ 7,899</u>	<u>\$ 7,123</u>	<u>\$ (776)</u>

We applied the applicable indirect cost rates to allowable training costs to calculate allowable indirect costs of \$355 for this component.

The parameters and guidelines (section IV.A.1) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives.

Reimbursement for this activity is limited to:

- a. Reviewing the employee's instructional techniques and strategies and adherence to curricular objectives, and
- b. Including in the written evaluation of the certificated instructional employees the assessment of these factors during the following evaluation periods:
 - o Once each year for probationary certificated employees;
 - o Every other year for permanent certificated employees; and
 - o Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.A.2) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils towards the state adopted academic content standards as measured by state adopted assessment tests.

Reimbursement for this activity is limited to:

- a. Reviewing the results of the Standardized Testing and Reporting test as it reasonably relates to the performance of those certificated employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11, and

- b. Including in the written evaluation of those certificated employees the assessment of the employee's performance based on the Standardized Testing and Reporting results for the pupils they teach during the evaluation periods specified in Education Code section 44664, and described below:
- Once each year for probationary certificated employees;
 - Every other year for permanent certificated employees; and
 - Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.C—Training) state that training staff on implementing the reimbursable activities listed in Section IV of the parameters and guidelines is reimbursable as a one-time activity for each employee.

The parameters and guidelines (section IV—Reimbursable Activities) also state:

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

Recommendation

Commencing in FY 2012-13, the district elected to participate in a block grant program, pursuant to Government Code section 17581.6, in lieu of filing annual mandated cost claims. If the district chooses to opt out of the block grant program, we recommend that the district ensure that claimed costs are based on actual costs, are for activities reimbursable under the program's parameters and guidelines, and are supported by contemporaneous source documentation.

District's Response

PART I. TIME STUDY ACTIVITIES

Using time study forms prepared by our mandate consultant, District staff evaluators recorded the time spent over the course of the year-long process to evaluate certificated staff during FY 2006-07 through FY 2010-11. The annual cost of the evaluation process is based on the average time to implement eleven different components of the annual employee evaluation process, multiplied by the number of evaluations performed each year, and then multiplied by the average productive

hourly rates (salary and benefits) for the evaluators. For the eleven components, the total average time to complete the evaluation process based on the District time study documents and the audited allowable times are as follows:

<u>Evaluation Type</u>	<u>District Ave. Hours Time Study</u>	<u>Audited Ave. Hours Allowed</u>
Permanent	3.0	1.52
Probation/Temporary	5.42	3.57
Unsatisfactory	n/a	12.93

The reported average time for each of the eleven evaluation activities was calculated by the auditor. At this time, the District has no objection to the audited average District time for each of the activities. The District does disagree with the audited total time which excludes six activities.

The Six Non-Reimbursable Activities

The draft audit report states six of the eleven activities identified in the time study are not reimbursable:

1. Goals and objectives conference
2. Pre-observation conference
5. Post-observation conference
6. Mid-year evaluation conference
9. Final evaluation conference
10. Discussing STAR results

A seventh activity, training (11), was removed from the time study and separately adjusted.

The draft audit report states that conferences between the evaluators and evaluated person are not reimbursable because they were required before the enactment of the test claim legislation and thus do not impose a new program or higher level of service. The District disagrees with this disallowance. The mandate reimburses the new program requirement to "evaluate and assess" which necessarily involves a comprehensive process. The conferences are one part of a continuum of evaluation and assessment steps, none of which individually completes the mandate. The conferences and related tasks are effective and efficient methods to evaluate and assess employees and necessary to communicate the findings of the evaluation to the employee. Whether the conferences in general were required as a matter of law before the Stull Act is a statewide issue for the Commission on State Mandates.

The Four Allowed Activities

The draft audit report states that four of the eleven activities identified by the district are reimbursable:

3. Classroom observations (formal and informal);
4. Observation form preparation

7. Mid-year evaluation report preparation
8. Final evaluation report.

The District agrees that these activities are reimbursable.

SCO's Comments

Time Study Activities

Our finding and recommendation are unchanged. The conferences between the teachers and evaluators are non-reimbursable activities.

The district states in its response that “the mandate reimburses the new program requirement to ‘evaluate and assess’ which necessarily involves a comprehensive process.” We disagree. Not all activities from the evaluation process are reimbursable. The mandate reimburses only those activities that impose a new requirement or higher level of service for the agencies.

The program’s parameters and guidelines (sections IV.A.1, IV.A.2, and IV.B.1) specify that reimbursement is limited to only those activities outlined in each section. Section IV.B.1 identifies reimbursable evaluation conferences only for those instances in which an unsatisfactory evaluation took place for certificated instructional or non-instructional personnel in those years in which the employee would not have otherwise been evaluated.

The district claimed costs for the conferences resulting from evaluations completed under sections IV.A.1 and IV.A.2 of the parameters and guidelines. Sections IV.A.1 and IV.A.2 do not identify evaluation conferences or any other types of conferences as reimbursable activities.

Furthermore, the Commission found in its statement of decision that conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation.

Under prior law, the evaluation was to be prepared in writing and a copy of the evaluation was to be given to the employee. A meeting was to be held between the certificated employee and the evaluator to discuss the evaluation and assessment. The Commission indicated in its statement of decision document that:

...the 1975 test claim legislation did not amend the requirements in Former Education Code sections 13488 and 13489 to prepare written evaluations of certificated employees, receive responses to those evaluations, and conduct a meeting with the certificated employee to discuss the evaluation...

Furthermore, the 1983 test claim statute still requires school districts to prepare the evaluation in writing, to transmit a copy to the employee, and to conduct a meeting with the employee to discuss the evaluation and assessment. These activities are not new.

However, the 1983 test claim statute amended the evaluation requirements by adding two new evaluation factors relating to 1) the instructional techniques and strategies used by the employee, and 2) the employee's adherence to curricular objectives. The Commission found that Education Code section 44662, subdivision (b), as amended by Statutes of 1983, Chapter 498, imposed a new requirement on school districts to:

...evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives.

Reimbursement is limited to the additional requirements imposed by the amendments. The additional requirements include the review of the employee's instructional techniques and strategies and adherence to curricular objectives, and to include in the written evaluation of the certificated instructional employees the assessment of only these factors. Conference activities do not impose a new program or higher level of service.

District's Response

PART 2. COMPLETED AND ALLOWABLE EVALUATIONS

A. Time Study (FY 2006-07 through FY 2010-11)

The District has no ongoing database of names and position information for the evaluations conducted each fiscal year retroactive to FY 1997-98 (none was required by the claiming instructions). This information is available from the time study form for each evaluation conducted from FY 2006-07 through FY 2010-11. The auditor sorted the time study information by fiscal year and teacher name, and removed "unallowable evaluations": non-instructional employees, unallowable job titles, duplicates, and evaluations not found during field work. "Unsatisfactory evaluations" were removed so a separate time average could be applied. The auditor provided the following table of modifications to the provided time study universe:

Evaluations form time logs		2,323
Add: Evaluations found during testing		<u>138</u>
Total evaluations		2,461
Less:		
Non-instructional employees	39	
Unallowable job titles	8	
Duplicates	243	
No evaluation found during testing	14	
Group evaluation	<u>19</u>	<u>323</u>
Total audited allowable evaluations		2,138
(2,133) routine and 5 unsatisfactory)		

The draft audit report disallows about 13% (323) of the 2,461 evaluations included in the time study. The draft audit report states these evaluations were disallowed for five reasons:

1. Assistant principals, directors, librarians, nurses, coordinators, program specialists, and Teachers on Special Assignment (TOSA) employees who are not certificated instructional employees.

This category of 39 disallowed evaluations comprises about 2% of the evaluations included in the time study. The parameters and guidelines states that the mandate is to evaluate the performance of “certificated instructional employees.” All certificated personnel are “instructional” personnel even if some are not classroom teachers. The audit report does not indicate how these other certificated personnel are not implementing the “curricular objectives.” The District does agree that the portion of the mandate relating to the evaluation of compliance with the testing assessment standards (the STAR component) is limited to classroom teachers because the parameters and guidelines specifically states “employees that teach” specified curriculum. A Commission on State Mandates decision will be needed since this is an issue of statewide significance relevant to all Stull Act audits.

2. Adult education, hourly, and ROTC teachers who do not perform the requirements of the program that is mandated by state or federal law.

This category of 8 disallowed evaluations comprises less than 1% of the evaluations included in the time study. For purposes of the Stull Act reimbursement, adult education teachers are properly excluded from the total allowed for reimbursement since they are not provided K-12 instruction. However, the draft audit report does not state a basis to exclude the other instructors from the time study.

3. Teacher evaluations claimed multiple times in one school year.

This category of 243 disallowed evaluations comprises about 10% of the evaluations included in the time study. Potential and legitimate “duplicate” evaluations generally occur as a result of an employee transferring to another school during the evaluation cycle, or a change in employment status of the employee. The District agrees that for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each employee within the annual cycle.

4. Permanent biannual teacher evaluations claimed every year rather than every other year.

This category was not separately identified by the audit. The District has particular reasons for performing an evaluation of some permanent teachers more often than biannually. However, for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each employee every other year after the employee attains permanent status.

5. Permanent five-year teachers claimed multiple times in a five-year period rather than once every five years.

This category was not separately identified by the audit. The District has particular reasons for performing an evaluation of some permanent teachers more often than every five years. However, for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each permanent employee every fifth year after the employee attains fifth-year permanent status.

There are two other adjustment reasons not addressed by the draft audit report:

6. No evaluation found during testing

This category of 14 disallowed evaluations comprises less than 1% of the evaluations included in the time study. These disallowances appear to result when a time study form from an employee exists but no evaluation form was found in the employee file. The District asserts that the time study form is sufficient documentation that the evaluation occurred.

7. Group evaluation

This category of 19 disallowed evaluations comprises less than 1% of the evaluations included in the time study. The draft audit report does not state a basis to exclude this type of evaluation from the time study.

SCO's Comments

Completed and Allowable Evaluations – Time Study (FY 2006-07 through FY 2010-11)

Our finding and recommendation are unchanged.

- 1. Assistant principals, directors, librarians, nurses, coordinators, program specialists, and Teachers on Special Assignment (TOSA) employees who are not certificated instructional employees.*

The district states that “All certificated personnel are ‘instructional’ personnel even if some are not classroom teachers.” We disagree.

The language of the parameters and guidelines and the Commission statement of decision address the difference between certificated instructional employees and certificated non-instructional employees.

In its statement of decision, the Commission identifies instructional employees as teachers, and non-instructional employees as principals and various administrators. The Commission further states that the test claim legislation, as it relates to evaluation and assessment of certificated non-instructional employees, does not constitute a new program or higher level of service.

In addition, the parameters and guidelines clearly identify reimbursable components and activities as they relate to certificated instructional and certificated non-instructional personnel. Our draft report identifies a finding related to the component of evaluating instructional techniques and strategies and adherence to curricular objectives for the certificated instructional employees. The intent of this component is to evaluate the elements of classroom instruction. Assistant principals, directors, librarians, nurses, coordinators, program specialists, and TOSAs do not provide classroom instruction and are considered “non-instructional” certificated personnel.

2. *Adult education, hourly, and ROTC teachers who do not perform the requirements of the program that is mandated by state or federal law.*

Regarding the issue of adult education teachers, the district states that they are “properly excluded from the total allowed for reimbursement. . . .” However, the district also states that “the draft audit report does not state a basis to exclude the other instructors from the time study.” The hourly teacher was excluded because former Education Code section 13489 was amended (in 1973) to exclude hourly teachers from the requirement to evaluate and assess on a continuing basis. The ROTC teachers were excluded because, per Education Code 51750, the establishment of a school course in military science and tactics is optional, and not a required course of study for any student. Therefore, the ROTC course is not mandated.

3. *Teacher evaluations claimed multiple times in one school year.*

The district agrees that “only one complete evaluation should be counted for each employee within the annual cycle. . . .”

4. *Permanent biannual teacher evaluations claimed every year rather than every other year.*

The district agrees that “only one complete evaluation should be counted for each employee every other year after the employee attains permanent status.”

5. *Permanent five-year teachers claimed multiple times in a five-year period rather than once every five years.*

The district agrees that “only one complete evaluation should be counted for each permanent employee every fifth year after the employee attains fifth-year permanent status.”

6. *No evaluation found during testing*

The district asserts that the “time study form is sufficient documentation that the evaluation occurred.” We disagree.

During the fieldwork portion of the audit, we selected a sample of evaluations to test for compliance with the parameters and guidelines. Our review of the tested sample found fourteen evaluations that could not be located by the district. We excluded those fourteen evaluations from the total allowable population.

7. *Group evaluation*

During fieldwork, we found that an evaluator completed only one evaluation for twenty different employees. However, these employees were each listed separately in the total population of completed evaluations. Since we found evidence that these employees were part of a single evaluation, we only allowed one evaluation.

District's Response

PART 2. COMPLETED AND ALLOWABLE EVALUATIONS

B. Extrapolation of Prior Years (FY 1997-98 through FY 2005-06)

In the absence of the previously mentioned database of the number of evaluations conducted each fiscal year, the audit used the cost date for FY 2006-07 as a "base" year and applied an Implicit Price Deflator to total allowable evaluation costs for FY 2006-07 to determine allowable evaluation costs for each of FY 1997-98 through FY 2005-06.

The District believes that this extrapolation method overlooks the fact that the number of staff evaluated during these prior years would have been larger than those in later years. The audit uses averages for the years 1997-98 thru 2005-06 of 309 permanent, 115 probationary and temporary, and 1 unsatisfactory evaluation per year (425 total), based upon the time study results for the period 2006-07 thru 2010-11. This represents about 30% of the District teachers for those years. If the same percentage were applied to prior years, there would be a minimum of 413 permanent, 128 probationary and temporary evaluations for a total of 541 evaluations per year for the period 1997-98 thru 2005-06. The District is continuing its work on this comparative data and will present it in the incorrect reduction claim.

SCO's Comments**Completed and Allowable Evaluations – Extrapolation of Prior Years (FY 1997-98 through FY 2005-06)**

Our finding and recommendation are unchanged.

The district asserts that the extrapolation method used for this audit "overlooks the fact that the number of staff evaluated during these prior years would have been larger than those in later years." The district has not provided evidence to support their assertion, but says it will provide this comparative data in the incorrect reduction claim.

District's Response

PART 3. TRAINING COSTS

The District claimed training time for staff during the time study period (FY 2006-07 through FY 2010-11) totaling \$7,899. The draft audit report determined that \$7,123 is reimbursable and \$776 is not because some of the same district employees were claimed for more than one fiscal year. The District disagrees with this disallowance. Meetings with the principals and other evaluators to commence the annual evaluation cycle are reasonable and necessary when the collective bargaining contract or the District evaluation process changes. As a separate issue, the audit should include training costs in the prior year extrapolation process.

SCO's Comments

Training Costs

Our finding and recommendation are unchanged.

The district disagrees with the unallowable duplicate training hours claimed for the same employees. The district states that:

Meetings with the principals and other evaluators to commence the annual evaluation cycle are reasonable and necessary when the collective bargaining contract or the District evaluation process changes.

The parameters and guidelines state that the district may claim reimbursement to "train staff on implementing the reimbursable activities" and that training is reimbursable as a "one-time activity for each employee."

The district believes that the meetings with the principals and other evaluators are "reasonable and necessary" activities. However, the reimbursement is limited to only those activities outlined in the parameters and guidelines (section IV.C).

The district also believes that training costs should have been included in the prior year extrapolation process. We disagree. Training costs are a one-time activity, for which the district did not provide any supporting documentation to verify compliance with the parameters and guidelines in the years prior to FY 2006-07.

**OTHER ISSUE—
Public Records
Request**

The district's response included other comments related to the mandates cost claims. The district's comments and SCO's response are presented below.

District's Response

Pursuant to Government Code Section 6253, the District requests copies of all audit work papers in support of the audit findings. The District requests that the Controller provide the District any and all written audit instructions, memoranda, or other writings in effect and applicable during the claiming periods to the findings.

SCO's Comment

The SCO will respond to the district's request in a separate letter.

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

BOARD OF EDUCATION
Kimberley Beatty
Marc Davis
Todd Gutschow
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Penny Ranftle

SUPERINTENDENT
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POWAY UNIFIED SCHOOL DISTRICT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 25, 2014

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

Re: Poway Unified School District
Stull Act Mandate Audit
FY 1997-98 through FY 2010-11

Dear Mr. Spano:

This letter is the response of the Poway Unified School District to the draft audit report dated July 9, 2014, received by the District on July 16, 2014, for the above-referenced program and fiscal years, transmitted by the letter from Jeffrey V. Brownfield, Chief, Division of Audits, State Controller's Office.

The District appreciated the opportunity to utilize a time study of the mandate program activities to replace the original documentation for the historic claim years. The time study is a reasonable method to fulfill the Controller's expectations for cost accounting and documentation. However, the District will file an incorrect reduction claim due to the limited scope of activities approved for reimbursement. The District disagrees with the Controller's interpretation of the Stull Act legislation and the test claim findings. From the discussion at the audit entrance and exit conferences, as well as the results of previous audits at other districts, it is clear that this disagreement cannot be resolved at this point. A Commission on State Mandates decision will be needed since these are issues of statewide significance relevant to all Stull Act audits.

Findings: Overstated salaries and benefits and related indirect costs

The District claimed \$3,978,274 in salaries and benefits and \$183,504 in related indirect costs for the audit period. The audit determined that \$3,077,394 in salaries and benefits are unallowable evaluation costs (\$3,076,618) and training costs (\$776). Related unallowable indirect costs totaled \$141,237.

PART 1. TIME STUDY ACTIVITIES

Using time study forms prepared by our mandate consultant, District staff evaluators recorded the time spent over the course of the year-long process to evaluate certificated staff during FY 2006-07 through FY 2010-11. The annual cost of the evaluation process is based on the average time to implement eleven different components of the annual employee evaluation process, multiplied by the number of evaluations performed each year, and then multiplied by the average productive hourly rates (salary and benefits) for the evaluators. For the eleven components, the total average time to complete the evaluation process based on the District time study documents and the audited allowable times are as follows:

Evaluation Type	District Ave. Hours <u>Time Study</u>	Audited Ave. Hours <u>Allowed</u>
Permanent	3.0	1.52
Probationary/Temporary	5.42	3.57
Unsatisfactory	n/a	12.93

The reported average time for each of the eleven evaluation activities was calculated by the auditor. At this time, the District has no objection to the audited average District time for each of the activities. The District does disagree with the audited total time which excludes six activities.

The Six Non-Reimbursable Activities

The draft audit report states six of the eleven activities identified in the time study are not reimbursable:

1. Goals and objectives conference
2. Pre-observation conference
5. Post-observation conference
6. Mid-year evaluation conference
9. Final evaluation conference
10. Discussing STAR results

A seventh activity, training (11), was removed from the time study and separately adjusted.

The draft audit report states that conferences between the evaluators and evaluated person are not reimbursable because they were required before the enactment of the test claim legislation and thus do not impose a new program or higher level of service. The District disagrees with this disallowance. The mandate reimburses the new program requirement to "evaluate and assess" which necessarily involves a comprehensive process. The conferences are one part of a continuum of evaluation and assessment steps, none of which individually completes the mandate. The conferences and related tasks are effective and efficient methods to evaluate and assess employees and necessary to communicate the findings of the evaluation to the employee. Whether the conferences in general were required as a matter of law before the Stull Act is a statewide issue for the Commission on State mandates.

The Four Allowed Activities

The draft audit report states that four of the eleven activities identified by the district are reimbursable:

3. Classroom observations (formal and informal);
4. Observation form preparation
7. Mid-year evaluation report preparation
8. Final evaluation report.

The District agrees that these activities are reimbursable.

PART 2. COMPLETED AND ALLOWABLE EVALUATIONS

A. Time Study (FY 2006-07 through FY 2010-11)

The District has no ongoing database of names and position information for the evaluations conducted each fiscal year retroactive to FY 1997-98 (none was required by the claiming instructions). This information is available from the time study form for each evaluation conducted from FY 2006-07 through FY 2010-11. The auditor sorted the time study information by fiscal year and teacher name, and removed "unallowable evaluations": non-instructional employees, unallowable job titles, duplicates, and evaluations not found during field work. "Unsatisfactory evaluations" were removed so a separate time average could be applied. The auditor provided the following table of modifications to the provided time study universe:

Evaluations from time logs		2,323
Add: Evaluations found during testing		<u>138</u>
Total evaluations		2,461
Less:		
Non-instructional employees	39	
Unallowable job titles	8	
Duplicates	243	
No evaluation found during testing	14	
Group evaluation	<u>19</u>	<u>323</u>
Total audited allowable evaluations (2,133 routine and 5 unsatisfactory)		2,138

The draft audit report disallows about 13% (323) of the 2,461 evaluations included in the time study. The draft audit report states these evaluations were disallowed for five reasons:

1. Assistant principals, directors, librarians, nurses, coordinators, program specialists, and Teachers on Special Assignment (TOSA) employees who are not certificated instructional employees.

This category of 39 disallowed evaluations comprises about 2% of the evaluations included in the time study. The parameters and guidelines state that the mandate is to evaluate the performance of "certificated instructional employees." All certificated personnel are "instructional" personnel even if some are not classroom teachers. The audit report does not indicate how these other certificated personnel are not implementing the "curricular objectives." The District does agree that the portion of the mandate relating to the evaluation of compliance with the testing assessment standards (the STAR component) is limited to classroom teachers because the parameters and guidelines specifically state "employees that teach" specified curriculum. A Commission on State Mandates decision will be needed since this is an issue of statewide significance relevant to all Stull Act audits.

2. Adult education, hourly, and ROTC teachers who do not perform the requirements of the program that is mandated by state or federal law.

This category of 8 disallowed evaluations comprises less than 1% of the evaluations included in the time study. For purposes of the Stull Act reimbursement, adult education teachers are properly excluded from the total allowed for reimbursement since they are not providing K-12 instruction. However, the draft audit report does not state a basis to exclude the other instructors from the time study.

3. Teacher evaluations claimed multiple times in one school year.

This category of 243 disallowed evaluations comprises about 10% of the evaluations included in the time study. Potential and legitimate "duplicate" evaluations generally occur as a result of an employee transferring to another school during the evaluation cycle, or a change in employment status of the employee. The District agrees that for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each employee within the annual cycle.

4. Permanent biannual teacher evaluations claimed every year rather than every other year.

This category was not separately identified by the audit. The District has particular reasons for performing an evaluation of some permanent teachers more often than biannually. However, for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each employee every other year after the employee attains permanent status.

5. Permanent five-year teachers claimed multiple times in a five-year period rather than once every five years.

This category was not separately identified by the audit. The District has particular reasons for performing an evaluation of some permanent teachers more often than every five years. However, for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each permanent employee every fifth year after the employee attains fifth-year permanent status.

There are two other adjustment reasons not addressed by the draft audit report:

6. No evaluation found during testing

This category of 14 disallowed evaluations comprises less than 1% of the evaluations included in the time study. These disallowances appear to result when a time study form for an employee exists but no evaluation form was found in the employee file. The District asserts that the time study form is sufficient documentation that the evaluation occurred.

7. Group evaluation

This category of 19 disallowed evaluations comprises less than 1% of the evaluations included in the time study. The draft audit report does not state a basis to exclude this type of evaluation from the time study.

B. Extrapolation of Prior Years (FY 1997-98 through FY 2005-06)

In the absence of the previously mentioned database of the number of evaluations conducted each fiscal year, the audit used the cost data for FY 2006-07 as a "base" year and applied an Implicit Price Deflator to total allowable evaluation costs for FY 2006-07 to determine allowable evaluation costs for each of FY 1997-98 through FY 2005-06.

The District believes that this extrapolation method overlooks the fact that the number of staff evaluated during these prior years would have been larger than those in later years. The audit uses averages for the years 1997-98 thru 2005-06 of 309 permanent, 115 probationary and temporary, and 1 unsatisfactory evaluation per year (425 total), based upon the time study results for the period 2006-07 thru 2010-11. This represents about 30% of the District teachers for those years. If the same percentage were applied to the prior years, there would be a minimum of 413 permanent, 128 probationary and temporary evaluations for a total of 541 evaluations per year for the period 1997-98 thru 2005-06. The District is continuing its work on this comparative data and will present it in the incorrect reduction claim.

PART 3. TRAINING COSTS

The District claimed training time for staff during the time study period (FY 2006-07 through FY 2010-11) totaling \$7,899. The draft audit report determined that \$7,123 is reimbursable and \$776 is not because some of the same district employees were claimed for more than one fiscal year. The District disagrees with this disallowance. Meetings with the principals and other evaluators to commence the annual evaluation cycle are reasonable and necessary when the collective bargaining contract or the District evaluation process changes. As a separate issue, the audit should include training costs in the prior year extrapolation process.

Public Records Request

Pursuant to Government Code Section 6253, the District requests copies of all audit work papers in support of the audit findings. The District requests that the Controller provide the District any and all written audit instructions, memoranda, or other writings in effect and applicable during the claiming periods to the findings.

Sincerely,



Malliga Tholandi
Associate Superintendent, Business Support Services
Poway Unified School District

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

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

EXHIBIT Q

NORWALK-LA MIRADA UNIFIED SCHOOL DISTRICT

Audit Report

STULL ACT PROGRAM

Chapter 498, Statutes of 1983,
and Chapter 4, Statutes of 1999

July 1, 1997, through June 30, 2011



JOHN CHIANG
California State Controller

May 2014



JOHN CHIANG
California State Controller

May 27, 2014

Margarita Rios, President
Board of Education
Norwalk-La Mirada Unified School District
12820 Pioneer Boulevard
Norwalk, CA 90650

Dear Ms. Rios:

The State Controller's Office audited the costs claimed by Norwalk-La Mirada Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2011.

The district claimed \$4,366,931 for the mandated program. Our audit found that \$751,351 is allowable and \$3,615,580 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for estimated costs and non-mandated activities, and misstated productive hourly rates. The State paid the district \$859,122. The amount paid exceeds allowable costs claimed by \$107,771.

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 website at www.csm.ca.gov/docs/IRCForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/mh

cc: Ruth Pérez, Ed.D, Superintendent
Norwalk-La Mirada Unified School District
Estuardo Santillan, Assistant Superintendent
Business Services
Norwalk-La Mirada Unified School District
Manuel Cardoso, Director of Fiscal Services
Norwalk-La Mirada Unified School District
Wayne Shannon, Assistant Superintendent
Human Resources
Norwalk-La Mirada Unified School District
Steve Fericean, Administrative Assistant
Human Resources
Norwalk-La Mirada Unified School District
Marlene Dunn, Director
Business Advisory Services
Los Angeles County Office of Education
Peter Foggiato, Director
School Fiscal Services Division
California Department of Education
Carol Bingham, Senior Fiscal Policy Advisor
Government Affairs Division
California Department of Education
Thomas Todd, Assistant Program Budget Manager
Education Systems Unit
California Department of Finance
Jay Lal, Manager
Division of Accounting and Reporting
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Norwalk-La Mirada Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2011.

The district claimed \$4,366,931 for the mandated program. Our audit found that \$751,351 is allowable and \$3,615,580 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for estimated costs and non-mandated activities, and misstated productive hourly rates. The State paid the district \$859,122. The amount paid exceeds allowable costs claimed by \$107,771.

Background

Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999, added Education Code sections 44660-44665. The legislation provided reimbursement for specific activities related to evaluation and assessment of the performance of "certificated personnel" within each school district, except for those employed in local, discretionary educational programs.

On May 27, 2004, the Commission on State Mandates (CSM) determined that the legislation imposed a state mandate reimbursable under Government Code section 17514.

The program's parameters and guidelines establish the State mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on September 27, 2005. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

The Commission approved reimbursable activities as follows:

- Evaluate and assess the performance of certificated instructional employees who perform the requirements of educational programs mandated by state or federal laws as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives (Education Code section 44662(b) as amended by Chapter 498, Statutes of 1983).
- Evaluate and assess the performance of certificated instructional employees who teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils toward the state adopted academic content standards as measured by state adopted assessment tests (Education Code section 44662(b) as amended by Chapter 4, Statutes of 1999).

- Assess and evaluate permanent certificated, instructional, and non-instructional employees who perform the requirements of educational programs mandated by state or federal law and receive an unsatisfactory evaluation in the years in which the permanent certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664. The additional evaluations shall last until the employee achieves a positive evaluation, or is separated from the school district (Education Code section 44664 as amended by Chapter 498, Statutes of 1983).

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Stull Act Program for the period of July 1, 1997, through June 30, 2011.

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 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. Except for the issue noted below, 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.

Conclusion

Our audit found an instance of noncompliance with the requirements outlined above. This instance is described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, Norwalk-La Mirada Unified School District claimed \$4,366,931 for costs of the Stull Act Program. Our audit found that \$751,351 is allowable and \$3,615,580 is unallowable.

For the fiscal year (FY) 1997-98 claim, the State paid the district \$9,297. Our audit found that \$35,091 is allowable. The State will pay the allowable costs claimed that exceed the amount paid, totaling \$25,794, contingent upon available appropriations.

For the FY 1998-99 through FY 2007-08 claims, the State made no payments to the district. Our audit found that \$541,689 is allowable. The State will pay allowable costs claimed, contingent upon available appropriations.

For the FY 2008-09 claim, the State paid the district \$566,879. Our audit found that \$55,894 is allowable. The State will offset \$510,985 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

For the FY 2009-10 claim, the State paid the district \$281,946. Our audit found that \$56,036 is allowable. The State will offset \$225,910 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

For the FY 2010-11 claim, the State paid the district \$1,000. Our audit found that \$62,641 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$61,641, contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft audit report on April 28, 2014. Estuardo Santillan, Assistant Superintendent, Business Services, responded by letter dated May 8, 2014 (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 Norwalk-La Mirada Unified School District, the Los Angeles 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, CPA
Chief, Division of Audits

May 27, 2014

**Schedule 1—
Summary of Program Costs
July 1, 1997, through June 30, 2011**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment
<u>July 1, 1997, through June 30, 1998</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 104,662	\$ 32,615	\$ (72,047)
Training	—	—	—
Total direct costs	104,662	32,615	(72,047)
Indirect costs	7,944	2,476	(5,468)
Total program costs	<u>\$ 112,606</u>	35,091	<u>\$ (77,515)</u>
Less amount paid by the State		(9,297)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 25,794</u>	
<u>July 1, 1998, through June 30, 1999</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 112,463	\$ 37,372	\$ (75,091)
Training	—	—	—
Total direct costs	112,463	37,372	(75,091)
Indirect costs	8,626	2,866	(5,760)
Total program costs	<u>\$ 121,089</u>	40,238	<u>\$ (80,851)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 40,238</u>	
<u>July 1, 1999, through June 30, 2000</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 197,347	\$ 40,444	\$ (156,903)
Training	—	—	—
Total direct costs	197,347	40,444	(156,903)
Indirect costs	13,518	2,770	(10,748)
Total program costs	<u>\$ 210,865</u>	43,214	<u>\$ (167,651)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 43,214</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment
<u>July 1, 2000, through June 30, 2001</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 232,354	\$ 54,316	\$ (178,038)
Training	—	—	—
Total direct costs	232,354	54,316	(178,038)
Indirect costs	15,684	3,666	(12,018)
Total program costs	<u>\$ 248,038</u>	57,982	<u>\$ (190,056)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 57,982</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 256,963	\$ 60,198	\$ (196,765)
Training	—	—	—
Total direct costs	256,963	60,198	(196,765)
Indirect costs	17,371	4,070	(13,301)
Total program costs	<u>\$ 274,334</u>	64,268	<u>\$ (210,066)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 64,268</u>	
<u>July 1, 2002, through June 30, 2003</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 289,883	\$ 51,056	\$ (238,827)
Training	—	—	—
Total direct costs	289,883	51,056	(238,827)
Indirect costs	21,509	3,788	(17,721)
Total program costs	<u>\$ 311,392</u>	54,844	<u>\$ (256,548)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 54,844</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment
<u>July 1, 2003, through June 30, 2004</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 304,642	\$ 54,838	\$ (249,804)
Training	—	—	—
Total direct costs	304,642	54,838	(249,804)
Indirect costs	21,995	3,959	(18,036)
Total program costs	<u>\$ 326,637</u>	58,797	<u>\$ (267,840)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 58,797</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 339,664	\$ 55,295	\$ (284,369)
Training	—	—	—
Total direct costs	339,664	55,295	(284,369)
Indirect costs	12,839	2,090	(10,749)
Total program costs	<u>\$ 352,503</u>	57,385	<u>\$ (295,118)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 57,385</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 378,436	\$ 52,331	\$ (326,105)
Training	1,898	1,872	(26)
Total direct costs	380,334	54,203	(326,131)
Indirect costs	12,942	1,854	(11,088)
Total program costs	<u>\$ 393,276</u>	56,057	<u>\$ (337,219)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 56,057</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment
<u>July 1, 2006, through June 30, 2007</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 421,281	\$ 52,503	\$ (368,778)
Training	—	—	—
Total direct costs	421,281	52,503	(368,778)
Indirect costs	23,002	2,867	(20,135)
Total program costs	<u>\$ 444,283</u>	55,370	<u>\$ (388,913)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 55,370</u>	
<u>July 1, 2007, through June 30, 2008</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 202,836	\$ 48,925	\$ (153,911)
Training	2,227	1,746	(481)
Total direct costs	205,063	50,671	(154,392)
Indirect costs	11,586	2,863	(8,723)
Total program costs	<u>\$ 216,649</u>	53,534	<u>\$ (163,115)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 53,534</u>	
<u>July 1, 2008, through June 30, 2009</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 617,697	\$ 52,952	\$ (564,745)
Training	1,274	459	(815)
Total direct costs	618,971	53,411	(565,560)
Indirect costs	28,782	2,483	(26,299)
Total program costs	<u>\$ 647,753</u>	55,894	<u>\$ (591,859)</u>
Less amount paid by the State		(566,879)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (510,985)</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment
<u>July 1, 2009, through June 30, 2010</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 273,506	\$ 54,240	\$ (219,266)
Training	175	153	(22)
Total direct costs	273,681	54,393	(219,288)
Indirect costs	8,265	1,643	(6,622)
Total program costs	<u>\$ 281,946</u>	56,036	<u>\$ (225,910)</u>
Less amount paid by the State		(281,946)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (225,910)</u>	
<u>July 1, 2010, through June 30, 2011</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 406,534	\$ 59,840	\$ (346,694)
Training	—	—	—
Total direct costs	406,534	59,840	(346,694)
Indirect costs	19,026	2,801	(16,225)
Total program costs	<u>\$ 425,560</u>	62,641	<u>\$ (362,919)</u>
Less amount paid by the State		(1,000)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 61,641</u>	
<u>Summary: July 1, 1997, through June 30, 2011</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 4,138,268	\$ 706,925	\$ (3,431,343)
Training	5,574	4,230	(1,344)
Total direct costs	4,143,842	711,155	(3,432,687)
Indirect costs	223,089	40,196	(182,893)
Total program costs	<u>\$ 4,366,931</u>	751,351	<u>\$ (3,615,580)</u>
Less amount paid by the State		(859,122)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (107,771)</u>	

Finding and Recommendation

**FINDING—
Overstated salaries
and benefits and
related indirect costs**

The district claimed \$4,143,842 in salaries and benefits and \$223,089 in related indirect costs for the audit period. We found that \$3,432,687 in salaries and benefits is unallowable. The costs are unallowable primarily because the district claimed reimbursement for non-mandated evaluation costs (\$3,431,343) and training costs (\$1,344). Related indirect costs totaled \$182,893.

The following table summarizes the unallowable salaries and benefits and related indirect costs by fiscal year:

Fiscal Year	Salaries and Benefits			(D)	Total
	(A) Claimed	(B) Allowable	(C) Adjustment	Indirect Costs Adjustment	Audit Adjustment [(C)+(D)]
1997-98	\$ 104,662	\$ 32,615	\$ (72,047)	\$ (5,468)	\$ (77,515)
1998-99	112,463	37,372	(75,091)	(5,760)	(80,851)
1999-2000	197,347	40,444	(156,903)	(10,748)	(167,651)
2000-01	232,354	54,316	(178,038)	(12,018)	(190,056)
2001-02	256,963	60,198	(196,765)	(13,301)	(210,066)
2002-03	289,883	51,056	(238,827)	(17,721)	(256,548)
2003-04	304,642	54,838	(249,804)	(18,036)	(267,840)
2004-05	339,664	55,295	(284,369)	(10,749)	(295,118)
2005-06	380,334	54,203	(326,131)	(11,088)	(337,219)
2006-07	421,281	52,503	(368,778)	(20,135)	(388,913)
2007-08	205,063	50,671	(154,392)	(8,723)	(163,115)
2008-09	618,971	53,411	(565,560)	(26,299)	(591,859)
2009-10	273,681	54,393	(219,288)	(6,622)	(225,910)
2010-11	406,534	59,840	(346,694)	(16,225)	(362,919)
	<u>\$ 4,143,842</u>	<u>\$ 711,155</u>	<u>\$ (3,432,687)</u>	<u>\$ (182,893)</u>	<u>\$ (3,615,580)</u>

Unsupported Costs

The majority of the costs claimed by the district were unsupported because they were based on time records identifying estimated average time increments, which were not completed contemporaneously.

At the entrance conference, the district acknowledged that the time documentation submitted with the claims represented estimated averages of the time spent completing teacher evaluations. The district requested to proceed with a full-year time study during FY 2012-13 as a substitute for records of actual time spent on teacher evaluations. We suspended the audit while the district performed the time study. The district applied the time study results to the audit period.

Time Study Activities

The time study determined the time it took district evaluators to perform eight activities within the teacher evaluation process. The district evaluated permanent, probationary, and temporary certificated instructional teachers. The time study results reported time for meetings, observation, report writing, and other activities within the evaluation process.

The time study determined that it takes district evaluators an average of 4.40 hours per permanent teacher to complete an evaluation, and an average of 5.07 hours per probationary/temporary teacher (non-permanent) to complete an evaluation.

Five of the eight activities the district identified in its time study are not reimbursable under the mandate. The five non-reimbursable activities include:

1. Conducting a goals and objectives conference with the certificated staff member to review their goals and objectives;
2. Conducting a pre-observation conference with the certificated staff member;
3. Conducting a post-observation conference with the certificated staff member;
4. Conducting a final evaluation conference with the certificated staff member; and
5. Discussing STAR results and how to improve instructional abilities with this certificated staff member outside of the activities identified.

The program's parameters and guidelines do not allow reimbursement for conferences (pre-, post-, and final observation conferences) between the evaluators and teachers, as this activity was required before the enactment of the test claim legislation. Therefore, these activities do not impose a new program or higher level of service.

The parameters and guidelines do not allow reimbursement for discussing STAR results, as this activity is not listed as a reimbursable activity in the parameters and guidelines. In addition, interviews with the district evaluators revealed that discussing STAR results entailed conducting group meetings of overall STAR performance and areas in need of improvement, rather than separately evaluating each individual teacher performance based on STAR results.

We determined that the time spent on the following three activities is reimbursable:

1. Classroom observations (formal and informal);
2. Writing a report regarding observations; and
3. Writing the final evaluation report.

The time study results found that it takes district evaluators an average of 1.89 hours per permanent teacher evaluation and 3.07 hours per probationary/temporary teacher (non-permanent) to complete allowable activities within the evaluation process. In addition, the time study supported that it takes the district evaluators an average of 12.99 hours per unsatisfactory teacher evaluation to complete allowable activities within the evaluation process.

Completed Evaluations

The district did not keep track of completed evaluations during the audit period. To support claimed evaluations, the district created a database of completed teacher evaluations by reviewing employee files. Once completed, we reviewed the completed teacher evaluations for each fiscal year to ensure that only eligible evaluations were counted for reimbursement. The parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of education programs mandated by state or federal law during specific evaluation periods.

The following table shows evaluations identified that are not reimbursable under the mandated program:

<u>Fiscal Year</u>	<u>Number of Completed Evaluations</u>		
	<u>District- Provided</u>	<u>Audited</u>	<u>Difference</u>
1997-98	384	217	(167)
1998-99	412	237	(175)
1999-2000	439	240	(199)
2000-01	534	300	(234)
2001-02	558	330	(228)
2002-03	481	272	(209)
2003-04	493	298	(195)
2004-05	474	284	(190)
2005-06	421	251	(170)
2006-07	376	252	(124)
2007-08	361	234	(127)
2008-09	382	243	(139)
2009-10	373	259	(114)
2010-11	440	318	(122)
Totals	<u>6,128</u>	<u>3,735</u>	<u>(2,393)</u>

The non-reimbursable evaluations included the following:

- Counselors, literacy coaches, school nurses, disabilities service resource, paraeducators, Title I resource, and Teachers on Special Assignment (TOSAs) who are not certificated instructional employees;
- Non-special education preschool teachers and adult education teachers who do not perform the requirements of the program that are mandated by state or federal law;
- Duplicate teacher evaluations claimed multiple times in one school year; and
- Permanent biannual teacher evaluations claimed every year rather than every other year.

Average Productive Hourly Rate (PHR)

The district claimed an average productive hourly rate (PHR) for the district’s evaluators in each fiscal year. Using the completed teacher evaluations database, we obtained a list of all evaluators at the district. We recalculated each evaluator’s PHR, using the district-provided payroll data. We then calculated an average rate for FY 2005-06 through FY 2010-11. The older records were kept on an inactive system that the district was unable to reasonably access. However, based on our analysis of the recent five fiscal years and review of the rates for the older years, we accepted the rates for the prior years as claimed.

The following table shows the PHR audit adjustments by fiscal year:

<u>Average Productive Hourly Rate</u>			
<u>Fiscal Year</u>	<u>Claimed</u>	<u>Audited</u>	<u>Difference</u>
2006-07	73.39	73.46	0.07
2007-08	74.37	75.85	1.48
2008-09	80.31	76.54	(3.77)
2009-10	81.59	76.57	(5.02)
2010-11	98.69	75.51	(23.18)

The misstated average PHRs resulted in overstated costs of \$23,648. Of that amount, \$23,528 relates to allowable evaluation costs and \$120 relates to allowable training costs. The overstated costs are included in the evaluation and training cost adjustments.

Calculation of Allowable Evaluation Costs

To arrive at allowable salaries and benefits in each fiscal year, we multiplied the number of allowable evaluations by allowable hours per evaluation and average audited PHRs.

The following table summarizes allowable evaluation costs by fiscal year using the audited PHRs.

Fiscal Year	Evaluation activities		
	Claimed	Allowable	Audit Adjustment
1997-98	\$ 104,662	\$ 32,615	\$ (72,047)
1998-99	112,463	37,372	(75,091)
1999-2000	197,347	40,444	(156,903)
2000-01	232,354	54,316	(178,038)
2001-02	256,963	60,198	(196,765)
2002-03	289,883	51,056	(238,827)
2003-04	304,642	54,838	(249,804)
2004-05	339,664	55,295	(284,369)
2005-06	378,436	52,331	(326,105)
2006-07	421,281	52,503	(368,778)
2007-08	202,836	48,925	(153,911)
2008-09	617,697	52,952	(564,745)
2009-10	273,506	54,240	(219,266)
2010-11	406,534	59,840	(346,694)
Total	<u>\$ 4,138,268</u>	<u>\$ 706,925</u>	<u>\$ (3,431,343)</u>

We then applied the applicable indirect cost rates to allowable evaluation activities to calculate allowable indirect costs of \$40,007 for this component.

Calculation of Allowable Training Costs

The district claimed training hours in several fiscal years, totaling \$5,574 for the audit period. We found that \$4,230 in training costs is reimbursable under the mandate and \$1,344 is not reimbursable. The primary reason for the unsupported training costs was district employees exceeding one-time training. The district did not support that the additional training hours related to one-time training on other reimbursable activities listed in the parameters and guidelines.

The following table summarizes claimed, allowable, and unallowable salaries and benefits related to training costs by fiscal year using the audited PHRs:

Fiscal Year	Training		
	Claimed	Allowable	Audit Adjustment
2005-06	\$ 1,898	\$ 1,872	\$ (26)
2007-08	2,227	1,746	(481)
2008-09	1,274	459	(815)
2009-10	175	153	(22)
Total	<u>\$ 5,574</u>	<u>\$ 4,230</u>	<u>\$ (1,344)</u>

For FY 2005-06, the district incorrectly claimed costs related to training as travel and training rather than salaries and benefits. We reclassified the district's training costs to salaries and benefits. We then applied the applicable indirect cost rates to allowable training costs to calculate allowable indirect costs of \$189 for this component.

The parameters and guidelines (section IV.A.1) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives.

Reimbursement for this activity is limited to:

- a. Reviewing the employee's instructional techniques and strategies and adherence to curricular objectives, and
- b. Including in the written evaluation of the certificated instructional employees the assessment of these factors during the following evaluation periods:
 - o Once each year for probationary certificated employees;
 - o Every other year for permanent certificated employees; and
 - o Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.A.2) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils towards the state adopted academic content standards as measured by state adopted assessment tests.

Reimbursement for this activity is limited to:

- a. Reviewing the results of the Standardized Testing and Reporting test as it reasonably relates to the performance of those certificated employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11, and
- b. Including in the written evaluation of those certificated employees the assessment of the employee's performance based on the Standardized Testing and Reporting results for the pupils they teach during the evaluation periods specified in Education Code section 44664, and described below:
 - o Once each year for probationary certificated employees;
 - o Every other year for permanent certificated employees; and

- Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.C—Training) state that the district may train staff on implementing the reimbursable activities listed in Section IV of the parameters and guidelines (one-time activity for each employee).

The parameters and guidelines (section IV—Reimbursable Activities) also state:

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

Recommendation

Commencing in FY 2013-14, the district elected to participate in a block grant program, pursuant to Government Code section 17581.6, in lieu of filing annual mandated cost claims. If the district chooses to opt out of the block grant program, we recommend that the district ensure that claimed costs are based on actual costs, are for activities reimbursable under the program's parameters and guidelines, and are supported by contemporaneous source documentation.

District's Response

A. TIME STUDY

The District's claims were based on our consultant's forms which are declarations of estimated average time to implement the mandated activities by the staff who implemented the mandate. The auditor would not accept these forms because they were not "contemporaneous" documents. At the entrance conference the District requested to proceed with a full-year time study during FY 2012-13 since this method has been accepted by the Controller for audits of other districts.

This time study was conducted using forms prepared by our consultant and acceptable to the auditor. The annual cost of evaluations is calculated based on the average time from the time study to implement eight different components of the annual employee evaluation process, multiplied by the number of evaluations performed each year, and then multiplied by the average productive hourly rates (salary and benefits) for the evaluators. For the eight time study components, the total average time to complete the evaluation process based on the District documentation and the audited allowable times are as follows:

<u>Eval Type</u>	<u>Audited Avg. Hours Time Study</u>	<u>Audited Avg. Hours Allowed</u>	<u>Percentage Allowed</u>
Permanent	4.40	1.89	43%
Non-Permanent	5.07	3.07	61%
Unsatisfactory	14.20	12.99	91%

At this time, the District has no objection to the auditor's calculation of the reported time study hours. However, the District does disagree with the scope of activities allowed for reimbursement.

Five Non-Reimbursable Activities

The draft audit report states five of the eight activities identified in the time study are not reimbursable:

1. Conducting a goals and objectives conference with the certificated staff member to review their goals and objectives;
2. Conducting a pre-observation conference with the certificated staff member;
3. Conducting a post-observation conference with the certificated staff member;
4. Conducting a final evaluation conference with the certificated staff member; and
5. Discussing STAR results and how to improve instructional abilities with this certificated staff member outside of the activities identified.

The draft audit report states that conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation and thus are not imposing a new program or higher level of service. The District disagrees with this disallowance. The mandate reimburses the new program requirement to "evaluate and assess" which necessarily involves a comprehensive process. The conferences are one part of a continuum of evaluation and assessment steps, none of which individually completes the mandate. The conferences and related tasks are effective and efficient methods to evaluate and assess employees and necessary to communicate the findings of the evaluation to the employee. Whether the conferences in general were required as a matter of law before the Stull Act is a decision for the Commission pursuant to a future incorrect reduction claim.

Three Allowed Activities

The draft audit report states that three of the eight activities identified by the district are reimbursable:

6. Classroom observations (formal and informal);
7. Writing a report regarding observations; and
8. Writing the final evaluation report.

The District agrees that these activities are reimbursable.

B. COMPLETED/ALLOWABLE EVALUATIONS

The draft audit report states that the program's parameters and guidelines allow reimbursement for those evaluations conducted for *certificated instructional personnel who perform the requirements of education programs mandated by state or federal law*. The draft audit report disallows about 40% of about 6,128 evaluations included in the District database of completed evaluations prepared for the audit. The evaluations were disallowed for five reasons:

1. Counselors, literacy coaches, school nurses, disabilities service resource, paraeducators, Title 1 resource, and TOSAs [Teachers on Special Assignments] who are not certificated instructional employees.

This category comprises about 5% of the evaluations included in the time study. The parameters and guidelines state that the mandate is to evaluate the performance of "certificated instructional employees." All certificated personnel are "instructional" personnel even if some are not classroom teachers. The audit report does not indicate how these other certificated personnel are not implementing the "curricular objectives." The District does agree that the portion of the mandate relating to the evaluation of compliance with the testing assessment standards (the STAR component) is limited to classroom teachers because the parameters and guidelines specifically state "employees that teach" specified curriculum. A Commission on State Mandates decision will be needed since this is an issue of statewide significance relevant to all Stull Act audits,

2. Non-special education preschool teachers and adult education teachers who do not perform the requirements of the program that is mandated by state or federal law.

This category comprises about 2% of the evaluations included in the time study. Federal law requires preschool instruction for special education pupils as part of the pupil's Individual Education Program. If the teacher is providing instruction to special education preschool pupils, the teacher is implementing the federal mandate. This is also a statewide audit appeal issue. However, for purposes of the Stull Act reimbursement, adult education teachers are properly excluded from the total allowed for reimbursement.

3. Duplicate teacher evaluations claimed multiple times in one school year.

This category comprises about 32% of the evaluations included in the time study. Potential and legitimate "duplicate" evaluations generally occur as a result of an employee transferring to another school during the evaluation cycle, or a change in employment status of the employee. However, the majority of these disallowed evaluations result from the District procedure of treating the probationary annual evaluation cycle as two complete evaluations, with about half the time reported for each. However, for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each employee within the annual cycle, but with the staff time for the entire annual evaluation cycle.

4. Permanent biannual teacher evaluations claimed every year rather than every other year.

This category comprises less than 1% of the evaluations included in the time study. The District has particular reasons for performing an evaluation of some permanent teachers more often than biannually. However, for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each employee every other year after the employee attains permanent status.

C. AVERAGE PRODUCTIVE HOURLY RATES (PHR)

The draft audit report concludes that the claimed average productive hourly rates were misstated and resulted in overstated costs of \$23,648. This represents about 3% of the \$711,155 in audited salary and benefits claimed for the 14 years.

The auditor agreed with the average PHRs claimed for FY 1997-98 through 2005-06. However, the audited rates for FY 2006-07 through FY 2010-11 vary from 1/10 of 1% (FY 2006-07) to 23% (FY 2010-11). The significant source of the variance in FY 2010-11 results from the auditor using the names of the evaluators from the completed teacher evaluations database where the District used an average of the positions that typically perform the evaluations. The District has not completed its analysis of the variances and may respond to this issue in the incorrect reduction claim.

D. TRAINING COSTS

The District claimed training time for staff in four fiscal years, totaling \$5,574 for the audit period. The draft audit report determined that \$4,230 in training costs is reimbursable and \$1,344 is not because some of the same district employees were claimed for more than one fiscal year. The District disagrees with this disallowance. The mandate parameters and guidelines allow training costs as a one-time activity per employee. Annual meetings with the principals and other evaluators to commence the annual evaluation cycle are reasonable and necessary when the collective bargaining contract and District evaluation process changes.

SCO's Comment

Time Study

Our finding and recommendation is unchanged. Conferences between the teachers and evaluators are non-reimbursable activities.

The district states in its response that “the mandate reimburses the new program requirement to ‘evaluate and assess’ which necessarily involves a comprehensive process.” We disagree. Not all activities from the evaluation process are reimbursable. The mandate reimburses only those activities that impose a new requirement or higher level of service for the agencies.

The parameters and guidelines (sections IV.A.1, IV.A.2, and IV.B.1) specify that reimbursement is limited to only those activities outlined in each section. Section IV.B.1 identifies reimbursable evaluation conferences only for those instances when an unsatisfactory evaluation

took place for certificated instructional or non-instructional personnel in those years in which the employee would not have otherwise been evaluated.

The district claimed costs for the evaluation conferences resulting from evaluations completed under sections IV.A.1 and IV.A.2 of the parameters and guidelines. Sections IV.A.1 and IV.A.2 do not identify evaluation conferences or any other types of conferences as reimbursable activities.

Furthermore, the Commission on State Mandates (CSM) found in its statement of decision that evaluation conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation.

Under prior law, the evaluation was to be prepared in writing and a copy of the evaluation given to the employee. An evaluation meeting was to be held between the certificated employee and the evaluator to discuss the evaluation and assessment. The CSM indicated in its statement of decision document that:

...the 1975 test claim legislation did not amend the requirements in Former Education Code sections 13488 and 13489 to prepare written evaluations of certificated employees, receive responses to those evaluations, and conduct a meeting with the certificated employee to discuss the evaluation...

Furthermore, the 1983 test claim statute still requires school districts to prepare the evaluation in writing, to transmit a copy to the employee, and to conduct a meeting with the employee to discuss the evaluation and assessment. These activities are not new.

However, the 1983 test claim statute amended the evaluation requirements by adding two new evaluation factors relating to 1) the instructional techniques and strategies used by the employee; and 2) the employee's adherence to curricular objectives. The CSM found that Education Code section 44662, subdivision (b), as amended by Statutes of 1983, Chapter 498, imposed a new required act on school districts to:

...evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives.

Reimbursement is limited to the additional requirements imposed by the amendments. The additional requirements include the review of the employee's instructional techniques and strategies and adherence to curricular objectives, and to include in the written evaluation of the certificated instructional employees the assessment of only these factors. Conference activities do not impose a new program or higher level of service.

Completed/Allowable Evaluations

1. *Counselors, literacy coaches, school nurses, disabilities service resource, paraeducators, Title 1 resource, and Teachers on Special Assignment who are not certificated instructional employees.*

Our finding and recommendation is unchanged. The district states that “All certificated personnel are ‘instructional’ personnel even if they are not classroom teachers.” We disagree.

The language of the parameters and guidelines and the CSM statement of decision address the difference between certificated instructional employees and certificated non-instructional employees.

In its statement of decision, the CSM identifies instructional employees as teachers and non-instructional employees as principals and various administrators. The CSM further states that the test claim legislation determined that evaluation and assessment of certificated non-instructional employees, do not constitute a new program or higher level of service.

In addition, the parameters and guidelines clearly identify reimbursable components and activities as they relate to certificated instructional and certificated non-instructional personnel. Our draft report identifies a finding related to the component of evaluating instructional techniques and strategies and adherence to curricular objectives for the certificated instructional employees. The intent of this component is to evaluate the elements of classroom instruction. Counselors, literacy coaches, school nurses, disabilities service resource, paraeducators, Title 1 resource, and TOSAs do not provide classroom instruction and are considered “non-instructional” certificated personnel.

2. *Non-special education preschool teachers and adult education teachers who do not perform the requirements of the program that is mandated by state or federal law.*

Our finding and recommendation is unchanged. The district states the following in its response:

Federal law requires preschool instruction for special education pupils as part of the pupil’s Individual Education Program. If the teacher is providing instruction to special education preschool pupils, the teacher is implementing the federal mandate.

Our finding indicated that the evaluations of the special education preschool teachers were allowed for reimbursement. The district’s response asserts that special education preschool teacher evaluations should be allowable. We agree on this issue.

Regarding the issue of adult education teachers, the district states that they were “properly excluded from the total allowed for reimbursement.” We agree.

3. *Duplicate teacher evaluations claimed multiple times in one school*

year.

Our finding and recommendation is unchanged.

The district states that “only one complete evaluation should be counted for each employee within the annual cycle...” We agree.

4. *Permanent biannual teacher evaluations claimed every year rather than every other year.*

Our finding and recommendation is unchanged.

The district states that “only one complete evaluation should be counted for each employee every other year after the employee attains permanent status.” We agree.

Average Productive Hourly Rates (PHR)

Our finding and recommendation is unchanged.

The district states that it has not completed its analysis of the rate variances and may respond to this issue in the incorrect reduction claim.

Training Costs

Our finding and recommendation is unchanged.

The district disagrees with the unallowable “duplicate” training hours claimed for the same employees. The district states that:

Annual meetings with the principals and other evaluators to commence the annual evaluation cycle are reasonable and necessary when the collective bargaining contract and District evaluation process changes.

The parameters and guidelines state that the district may claim reimbursement to “train staff on implementing the reimbursable activities” and that training is reimbursable as a “one-time activity for each employee.”

The district believes that the meetings with the principals and other evaluators are “reasonable and necessary” activities. However, the reimbursement is limited to only those activities outlined in the parameters and guidelines (section IV.C).

OTHER ISSUE— Fraud risk questionnaire

The district’s response included other comments related to the mandated cost claims. The district’s comments and SCO’s response are presented below.

District’s Response

The draft audit report states that the auditor was unable to assess the fraud risk because the district ‘did not respond’ to inquiries regarding fraud assessment. More precisely, the District stated that it would not submit written responses to the auditor’s questionnaire, but the District

was at all times available to verbally respond.

SCO's Comment

We agree with the district's response and have removed this language from the final audit report.

**OTHER ISSUE—
Public records
request**

The district's response included other comments related to the mandated cost claims. The district's comments and SCO's response are presented below.

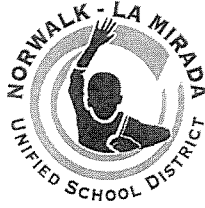
District's Response

The District requests copies of all audit work papers in support of the audit findings. The District requests that the Controller provide the District any and all written instructions, memoranda, or other writings in effect and applicable during the claiming periods to the findings. . . .

SCO's Comment

The SCO will responded to the district's request by letter separate from this audit report.

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



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12820 PIONEER BOULEVARD, NORWALK, CALIFORNIA 90650-2894
PHONE (562) 868-0431 • FAX (562) 868-7077

May 8, 2014

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

Re: Norwalk-La Mirada Unified School District
Stull Act Mandate Audit
FY 1997-98 through FY 2010-11

Dear Mr. Spano:

This letter is the response of the Norwalk-La Mirada Unified School District to the draft audit report dated April 28, 2014, received by e-mail on the same date, for the above-referenced program and fiscal years, transmitted by the letter from Jeffrey V. Brownfield, Chief, Division of Audits, State Controller's Office.

The District appreciated the opportunity to utilize a time study of the mandate program activities to replace the original documentation for the historic claim years. The time study is a reasonable method to fulfill the Controller's expectations for cost accounting and documentation. However, the District will file an incorrect reduction claim due to the limited scope of activities approved for reimbursement. The District disagrees with the Controller's interpretation of the Stull Act legislation and the test claim findings. From the discussion at the audit entrance and exit conferences, as well as the results of previous audits at other districts, it is clear that this disagreement cannot be resolved at this point. A Commission on State Mandates decision will be needed since this is an issue of statewide significance relevant to all Stull Act audits.

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Superintendent

Findings: Overstated salaries and benefits and related indirect costs

The District claimed \$4,143,842 in salaries and benefits and \$223,089 in related indirect costs for the audit period. The audit determined that \$3,432,687 in salaries and benefits is unallowable as unallowable evaluation costs (\$3,431,343) and training costs (\$1,344). Related unallowable indirect costs totaled \$182,893.

A. TIME STUDY

The District's claims were based on our consultant's forms which are declarations of estimated average time to implement the mandated activities by the staff who implemented the mandate. The auditor would not accept these forms because they were not "contemporaneous" documents. At the entrance conference the District requested to proceed with a full-year time study during FY 2012-13 since this method has been accepted by the Controller for audits of other districts.

This time study was conducted using forms prepared by our consultant and acceptable to the auditor. The annual cost of evaluations is calculated based on the average time from the time study to implement eight different components of the annual employee evaluation process, multiplied by the number of evaluations performed each year, and then multiplied by the average productive hourly rates (salary and benefits) for the evaluators. For the eight time study components, the total average time to complete the evaluation process based on the District documentation and the audited allowable times are as follows:

<u>Eval Type</u>	<u>Audited Avg. Hours Time Study</u>	<u>Audited Avg. Hours Allowed</u>	<u>Percentage Allowed</u>
Permanent	4.40	1.89	43%
Non-Permanent	5.07	3.07	61%
Unsatisfactory	14.20	12.99	91%

At this time, the District has no objection to the auditor's calculation of the reported time study hours. However, the District does disagree with the scope of activities allowed for reimbursement.

Five Non-Reimbursable Activities

The draft audit report states five of the eight activities identified in the time study are not reimbursable:

1. Conducting a goals and objectives conference with the certificated staff member to review their goals and objectives;

2. Conducting a pre-observation conference with the certificated staff member;
3. Conducting a post-observation conference with the certificated staff member;
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5. Discussing STAR results and how to improve instructional abilities with this certificated staff member outside of the activities identified.

The draft audit report states that conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation and thus are not imposing a new program or higher level of service. The District disagrees with this disallowance. The mandate reimburses the new program requirement to "evaluate and assess" which necessarily involves a comprehensive process. The conferences are one part of a continuum of evaluation and assessment steps, none of which individually completes the mandate. The conferences and related tasks are effective and efficient methods to evaluate and assess employees and necessary to communicate the findings of the evaluation to the employee. Whether the conferences in general were required as a matter of law before the Stull Act is a decision for the Commission pursuant to a future incorrect reduction claim.

Three Allowed Activities

The draft audit report states that three of the eight activities identified by the district are reimbursable:

6. Classroom observations (formal and informal);
7. Writing a report regarding observations; and
8. Writing the final evaluation report.

The District agrees that these activities are reimbursable.

B. COMPLETED/ALLOWABLE EVALUATIONS

The draft audit report states that the program's parameters and guidelines allow reimbursement for those evaluations conducted for *certificated instructional personnel who perform the requirements of education programs mandated by state or federal law*. The draft audit report disallows about 40% of about 6,128

evaluations included in the District database of completed evaluations prepared for the audit. The evaluations were disallowed for five reasons:

1. Counselors, literacy coaches, school nurses, disabilities service resource, paraeducators, Title 1 resource, and TOSAs who are not certificated instructional employees.

This category comprises about 5% of the evaluations included in the time study. The parameters and guidelines state that the mandate is to evaluate the performance of "certificated instructional employees." All certificated personnel are "instructional" personnel even if some are not classroom teachers. The audit report does not indicate how these other certificated personnel are not implementing the "curricular objectives." The District does agree that the portion of the mandate relating to the evaluation of compliance with the testing assessment standards (the STAR component) is limited to classroom teachers because the parameters and guidelines specifically state "employees that teach" specified curriculum. A Commission on State Mandates decision will be needed since this is an issue of statewide significance relevant to all Stull Act audits.

2. Non-special education preschool teachers and adult education teachers who do not perform the requirements of the program that is mandated by state or federal law.

This category comprises about 2% of the evaluations included in the time study. Federal law requires preschool instruction for special education pupils as part of the pupil's Individual Education Program. If the teacher is providing instruction to special education preschool pupils, the teacher is implementing the federal mandate. This is also a statewide audit appeal issue. However, for purposes of the Stull Act reimbursement, adult education teachers are properly excluded from the total allowed for reimbursement.

3. Duplicate teacher evaluations claimed multiple times in one school year.

This category comprises about 32% of the evaluations included in the time study. Potential and legitimate "duplicate" evaluations generally occur as a result of an employee transferring to another school during the evaluation cycle, or a change in employment status of the employee. However, the majority of these disallowed evaluations result from the District procedure of treating the probationary annual evaluation cycle as two complete evaluations, with about half the time reported for each. However, for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each employee within the annual cycle, but with the staff time for the entire annual evaluation cycle.

4. Permanent biannual teacher evaluations claimed every year rather than every other year.

This category comprises less than 1% of the evaluations included in the time study. The District has particular reasons for performing an evaluation of some permanent teachers more often than biannually. However, for purposes of the Stull Act reimbursement, only one complete evaluation should be counted for each employee every other year after the employee attains permanent status.

C. AVERAGE PRODUCTIVE HOURLY RATES (PHR)

The draft audit report concludes that the claimed average productive hourly rates were misstated and resulted in overstated costs of \$23,648. This represents about 3% of the \$711,155 in audited salary and benefits claimed for the 14 years. The auditor agreed with the average PHRs claimed for FY 1997-98 through 2005-06. However, the audited rates for FY 2006-07 through FY 2010-11 vary from 1/10 of 1% (FY 2006-07) to 23% (FY 2010-11). The significant source of the variance in FY 2010-11 results from the auditor using the names of the evaluators from the completed teacher evaluations database where the District used an average of the positions that typically perform the evaluations. The District has not completed its analysis of the variances and may respond to this issue in the incorrect reduction claim.

D. TRAINING COSTS

The District claimed training time for staff in four fiscal years, totaling \$5,574 for the audit period. The draft audit report determined that \$4,230 in training costs is reimbursable and \$1,344 is not because some of the same district employees were claimed for more than one fiscal year. The District disagrees with this disallowance. The mandate parameters and guidelines allow training costs as a one-time activity per employee. Annual meetings with the principals and other evaluators to commence the annual evaluation cycle are reasonable and necessary when the collective bargaining contract and District evaluation process changes.

Fraud Risk Questionnaire

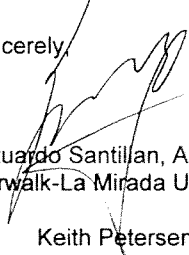
The draft audit report states that the auditor was unable to assess the fraud risk because the district "did not respond" to inquiries regarding fraud assessment. More precisely, the District stated that it would not submit *written* responses to the auditor's questionnaire, but the District was at all times available to *verbally* respond.

Public Records Request

The District requests copies of all audit work papers in support of the audit findings. The District requests that the Controller provide the District any and all written audit instructions, memoranda, or other writings in effect and applicable during the claiming periods to the findings.

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 possession of the agency and promptly notify the requesting party of that determination and the reasons therefore. Also, as required, when so notifying the District, the agency must state the estimated date and time when the records will be made available.

Sincerely,



Estuardo Santillan, Assistant Superintendent, Business Services
Norwalk-La Mirada Unified School District

c: Keith Petersen, President, SixTen and Associates

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

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

EXHIBIT R

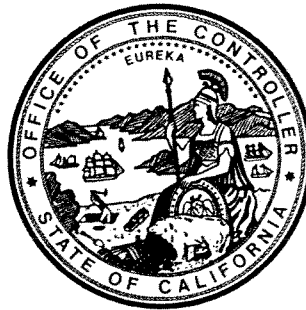
LONG BEACH UNIFIED SCHOOL DISTRICT

Audit Report

THE STULL ACT PROGRAM

Chapter 4198, Statutes of 1983;
and Chapter 4, Statutes of 1999

July 1, 2001, through June 30, 2010



JOHN CHIANG
California State Controller

August 2013



JOHN CHIANG
California State Controller

August 22, 2013

John McGinnis, President
Board of Education
Long Beach Unified School District
1515 Hughes Way
Long Beach, CA 90810

Dear Mr. McGinnis:

The State Controller's Office audited the costs claimed by the Long Beach Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983; and Chapter 4, Statutes of 1999) for the period of July 1, 2001, through June 30, 2010.

The district claimed \$2,978,750 for the mandated program. Our audit found that \$2,057,668 is allowable and \$921,082 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for estimated and ineligible costs. The State paid the district \$262,194. The State will pay allowable costs claimed that exceed the amount paid, totaling \$1,795,474, contingent upon available appropriations.

If you disagree with the audit findings, 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 website at www.csm.ca.gov/docs/IRCFForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: Christopher Steinhauser, Superintendent of Schools
Long Beach Unified School District
James Novak, Ed.D., Chief Business and Financial Officer
Long Beach Unified School District
Ruth Perez Ashley, Assistant Superintendent
HRS and Leadership Development
Long Beach Unified School District
Rebecca J. Turrentine, Ed.D., President, Board of Education
Los Angeles 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
Thomas Todd, Assistant Program Budget Manager
Education Systems Unit
California Department of Finance
Jay Lal, Manager
Division of Accounting and Reporting
State Controller's Office

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Audit Report

Summary

The State Controller's Office audited the costs claimed by the Long Beach Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983; and Chapter 4, Statutes of 1999) for the period of July 1, 2001, through June 30, 2010.

The district claimed \$2,978,750 for the mandated program. Our audit found that \$2,057,668 is allowable and \$921,082 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for estimated and ineligible costs. The State paid the district \$262,194. The State will pay allowable costs claimed that exceed the amount paid, totaling \$1,795,474, contingent upon available appropriations.

Background

The Stull Act (Chapter 498, Statutes of 1983; and Chapter 4, Statutes of 1999), added Education Code sections 44660-44665. The legislation provided reimbursement for specific activities related to evaluation and assessment of the performance of "certificated personnel" within each school district, except for those employed in local, discretionary educational programs.

On May 27, 2004, the Commission on State Mandates (CSM) determined that the legislation imposed a state mandate reimbursable under Government Code section 17514.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on September 27, 2005. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

The CSM approved reimbursable activities as follows:

- Evaluate and assess the performance of certificated instructional employees who perform the requirements of educational programs mandated by state or federal laws as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives (Education Code section 44662(b) as amended by Chapter 498, Statutes of 1983).
- Evaluate and assess the performance of certificated instructional employees who teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils toward the state adopted academic content standards as measured by state adopted assessment tests (Education Code section 44662(b) as amended by Chapter 4, Statutes of 1999).

- Assess and evaluate permanent certificated, instructional, and non-instructional employees who perform the requirements of educational programs mandated by state or federal law and receive an unsatisfactory evaluation in the years in which the permanent certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664. The additional evaluations shall last until the employee achieves a positive evaluation, or is separated from the school district (Education Code section 44664 as amended by Chapter 498, Statutes of 1983).

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Stull Act Program for the period of July 1, 2001, through June 30, 2010.

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.

Conclusion

Our audit found 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, the Long Beach Unified School District claimed \$2,978,750 for costs of the Stull Act Program. Our audit found that \$2,057,668 is allowable and \$921,082 is unallowable.

The State paid the district \$262,194. Our audit found that \$2,057,668 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$1,795,474, contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft audit report on July 16, 2013. James Novak, Ed.D., Chief Business and Financial Officer, responded by letter dated July 29, 2013 (Attachment), generally agreeing with the SCO's methodology, but addressing a few concerns. The final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of the Long Beach Unified School District, the Los Angeles 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, CPA
Chief, Division of Audits

August 22, 2013

**Schedule 1—
Summary of Program Costs
July 1, 2001, through June 30, 2010**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2001, through June 30, 2002</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 672,009	\$ 441,341	\$ (230,668)	
Total direct costs	672,009	441,341	(230,668)	
Indirect costs	34,810	22,861	(11,949)	
Total program costs	<u>\$ 706,819</u>	464,202	<u>\$ (242,617)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 464,202</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 352,176	\$ 139,795	\$ (212,381)	
Total direct costs	352,176	139,795	(212,381)	
Indirect costs	18,736	7,437	(11,299)	
Total program costs	<u>\$ 370,912</u>	147,232	<u>\$ (223,680)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 147,232</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 240,405	\$ 129,810	\$ (110,595)	
Total direct costs	240,405	129,810	(110,595)	
Indirect costs	12,597	6,802	(5,795)	
Total program costs	<u>\$ 253,002</u>	136,612	<u>\$ (116,390)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 136,612</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2004, through June 30, 2005</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 671,900	\$ 355,199	\$ (316,701)	
Total direct costs	671,900	355,199	(316,701)	
Indirect costs	46,025	24,331	(21,694)	
Total program costs	<u>\$ 717,925</u>	379,530	<u>\$ (338,395)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 379,530</u>		
<u>July 1, 2005, through June 30, 2006</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 227,362	\$ 354,175	\$ 126,813	
STAR results/assessment	1,503	—	(1,503)	
Training	1,297	1,247	(50)	
Total direct costs	230,162	355,422	125,260	
Indirect costs	15,858	24,489	8,631	
Total direct and indirect costs	246,020	379,911	133,891	
Less allowable costs that exceed costs claimed ²	—	(133,891)	(133,891)	
Total program costs	<u>\$ 246,020</u>	246,020	<u>\$ —</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 246,020</u>		
<u>July 1, 2006, through June 30, 2007</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 202,806	\$ 361,635	\$ 158,829	
STAR results/assessment	9,323	—	(9,323)	
Training	379	236	(143)	
Total direct costs	212,508	361,871	149,363	
Indirect costs	8,373	14,258	5,885	
Total direct and indirect costs	220,881	376,129	155,248	
Less allowable costs that exceed costs claimed ²	—	(155,248)	(155,248)	
Total program costs	<u>\$ 220,881</u>	220,881	<u>\$ —</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 220,881</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2007, through June 30, 2008</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 163,122	\$ 398,338	\$ 235,216	
STAR results/assessment	1,377	—	(1,377)	
Training	10,836	9,353	(1,483)	
Total direct costs	175,335	407,691	232,356	
Indirect costs	6,487	15,085	8,598	
Total direct and indirect costs	181,822	422,776	240,954	
Less allowable costs that exceed costs claimed ²	—	(240,954)	(240,954)	
Total program costs	<u>\$ 181,822</u>	181,822	<u>\$ —</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 181,822</u>		
<u>July 1, 2008, through June 30, 2009</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 135,882	\$ 230,434	\$ 94,552	
STAR results/assessment	8,942	—	(8,942)	
Training	2,499	1,400	(1,099)	
Total direct costs	147,323	231,834	84,511	
Indirect costs	6,261	9,853	3,592	
Total direct and indirect costs	153,584	241,687	88,103	
Less allowable costs that exceed costs claimed ²	—	(88,103)	(88,103)	
Total program costs	<u>\$ 153,584</u>	153,584	<u>\$ —</u>	
Less amount paid by the State		(134,409)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 19,175</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2009, through June 30, 2010</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 109,504	\$ 181,630	\$ 72,126	
STAR results/assessment	9,591	—	(9,591)	
Training	3,775	2,773	(1,002)	
Total direct costs	122,870	184,403	61,533	
Indirect costs	4,915	7,376	2,461	
Total direct and indirect costs	127,785	191,779	63,994	
Less allowable costs that exceed costs claimed ²	—	(63,994)	(63,994)	
Total program costs	<u>\$ 127,785</u>	127,785	<u>\$ —</u>	
Less amount paid by the State		(127,785)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		
<u>Summary: July 1, 2001, through June 30, 2010</u>				
Direct costs:				
Salaries and benefits:				
Evaluation activities	\$ 2,775,166	\$ 2,592,357	\$ (182,809)	
STAR results/assessment	30,736	—	(30,736)	
Training	18,786	15,009	(3,777)	
Total direct costs	2,824,688	2,607,366	(217,322)	
Indirect costs	154,062	132,492	(21,570)	
Total direct and indirect costs	2,978,750	2,739,858	(238,892)	
Less allowable costs that exceed costs claimed ²	—	(682,190)	(682,190)	
Total program costs	<u>\$ 2,978,750</u>	2,057,668	<u>\$ (921,082)</u>	
Less amount paid by the State		(262,194)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,795,474</u>		

¹ See the Finding and Recommendation section.

² Government Code section 17568 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in the SCO's claiming instructions. That deadline has expired for FY 2005-06 through FY 2009-10.

Finding and Recommendation

**FINDING—
Overstated salaries,
benefits, and related
indirect costs**

The district claimed \$2,824,688 in salaries and benefits, and \$154,062 in related indirect costs for the audit period. We determined that \$217,322 in salaries and benefits, and \$21,570 in related indirect costs are unallowable. The costs are unallowable primarily because the district claimed reimbursement for estimated and non-mandated costs.

The following table summarizes the unallowable salaries and benefits and related indirect costs by fiscal year:

Fiscal Year	Direct Costs: Salaries and Benefits				(E) Indirect Costs	Audit Adjustment [(D)+(E)]
	(A) Evaluation Activities	(B) STAR Results Review / Assessment	(C) Training	(D) Total [(A)+(B)+(C)]		
2001-02	\$ (230,668)	\$ -	\$ -	\$ (230,668)	\$ (11,949)	\$ (242,617)
2002-03	(212,381)	-	-	(212,381)	(11,299)	(223,680)
2003-04	(110,595)	-	-	(110,595)	(5,795)	(116,390)
2004-05	(316,701)	-	-	(316,701)	(21,694)	(338,395)
2005-06	126,813	(1,503)	(50)	125,260	8,631	133,891
2006-07	158,829	(9,323)	(143)	149,363	5,885	155,248
2007-08	235,216	(1,377)	(1,483)	232,356	8,598	240,954
2008-09	94,552	(8,942)	(1,099)	84,511	3,592	88,103
2009-10	72,126	(9,591)	(1,002)	61,533	2,461	63,994
Totals	<u>\$ (182,809)</u>	<u>\$ (30,736)</u>	<u>\$ (3,777)</u>	<u>\$ (217,322)</u>	<u>\$ (21,570)</u>	<u>\$ (238,892)</u>

Time Documentation FY 2001-02 through FY 2004-05

Time documentation provided by the district for fiscal year (FY) 2001-02 through FY 2004-05 was insufficient to support costs claimed primarily for the following reasons:

- Documentation provided was based on average time increments supported with time records that were not completed contemporaneously.
- Documentation provided did not identify the employee names, employment status, or teaching assignment. Therefore, the district did not support whether claimed evaluations met reimbursable criteria for frequency of evaluations specific to employment status and for program assignments mandated by state or federal law.

Time Documentation FY 2005-06 through FY 2009-10

The district provided time documentation for FY 2005-06 through FY 2009-10 that was based on actual time increments collected contemporaneously. The documentation also identified which employees were evaluated and reported reimbursable activities consistent with the program's parameters and guidelines:

- Evaluate the teachers' instructional techniques and strategies and adherence to curricular objectives.
- Provide written assessment of the evaluation of the instructional techniques and strategies and adherence to curricular objectives.
- Review the results of the Standardized Testing and Reporting (STAR) test as it relates to the performance of these employees who teach reading, writing, math, history/social sciences and science in grades 2 through 11.
- Provide written assessment of the teacher's performance based on the STAR results.

However, according to the district's representatives and the collective bargaining agreement, the district does not use Standardized Testing norms for teacher evaluation purposes. Therefore, time documentation listing these activities of reviewing the results of the Standardized Testing and Reporting test and providing a written assessment of the teacher's performance based on the STAR results is not reimbursable because the district does not perform these activities.

For the remaining two activities of evaluating the teachers' instructional techniques and strategies and providing written assessment of the evaluation, the time records submitted in FY 2005-06 through FY 2009-10 supported an average of 2.14 hours for district evaluators to complete the reimbursable activities. The documentation also supported the average of 4.88 hours for reimbursable unsatisfactory evaluations. We applied the average time increments to the entire audit period to determine allowable hours claimed.

Completed Evaluations

The district provided lists of certificated employee evaluations completed during the audit period. We used the district's data to ensure that only eligible evaluations were counted for reimbursement in each fiscal year. The program's parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of educational programs mandated by state or federal law during specific evaluations periods.

The table below summarizes the total number of evaluations by fiscal year, and lists evaluations not reimbursable under the mandated program:

Fiscal Year	District-reported Evaluations	Unallowable Evaluations				Unsatisfactory Evaluations *	Allowable Evaluations
		Duplicate Same Year	Duplicate Consecutive Year	Charter School	Job Classification/ Job name		
2001-02	4,349	(465)	-	(28)	(543)	-	3,313
2002-03	1,230	(60)	-	(12)	(146)	-	1,012
2003-04	1,147	(116)	(22)	-	(116)	(4)	889
2004-05	3,215	(330)	(7)	(16)	(476)	(2)	2,384
2005-06	2,790	(195)	(20)	(18)	(328)	(8)	2,221
2006-07	2,922	(269)	(25)	(22)	(449)	(7)	2,150
2007-08	3,224	(347)	(26)	(24)	(527)	(15)	2,285
2008-09	1,908	(200)	(23)	(9)	(383)	(14)	1,279
2009-10	1,391	(187)	(18)	(2)	(188)	(9)	987
Total	22,176	(2,169)	(141)	(131)	(3,156)	(59)	16,520

*Unsatisfactory evaluations represent the number of allowable unsatisfactory evaluations that were accounted for separately.

The non-reimbursable evaluations include the following:

- Permanent biennial and probationary teacher evaluations claimed more than once in a single year;
- Permanent biennial teacher evaluations claimed every year rather than every other year;
- Evaluations of principals, vice principals, counselors, and others who are not certificated instructional employees;
- Evaluations of preschool and ROTC teachers who do not perform the requirements of the program as mandated by state or federal law; and
- Evaluations of charter school teachers, which are not eligible for reimbursement per the program’s parameters and guidelines.

Average Productive Hourly Rate (PHR)

The district claimed individual productive hourly rates (PHR) for each evaluator in each fiscal year. However, the district’s documentation did not track how many and which evaluations were completed by specific evaluators. Therefore, it was impossible to determine allowable costs by applying the individual productive hourly rates to unknown number of completed allowable evaluations per each district’s evaluator. However, the district proposed an alternative methodology.

The district provided a listing of all evaluators (principals and vice principals) for the audit period, including the payroll and benefit information. We calculated an average PHR for all evaluators by fiscal year, and applied the average PHR to allowable evaluations in each fiscal year.

Calculation of Allowable Evaluation Costs

To arrive at allowable salaries and benefits in each fiscal year, we multiplied the number of allowable evaluations by allowable average hours per evaluation and average PHR. Allowable salaries and benefits incurred for evaluation activities totaled \$2,592,357 and unallowable costs totaled \$182,809 for the audit period. We then applied the applicable indirect cost rates to allowable salaries and benefits to calculate the allowable indirect costs for this component.

The following table summarizes claimed, allowable, and unallowable evaluation costs by fiscal year:

Fiscal Year	Evaluation Salaries and Benefits		Audit Adjustment [(B)-(A)]
	(A) Claimed	(B) Allowable	
2001-02	\$ 672,009	\$ 441,341	\$ (230,668)
2002-03	352,176	139,795	(212,381)
2003-04	240,405	129,810	(110,595)
2004-05	671,900	355,199	(316,701)
2005-06	227,362	354,175	126,813
2006-07	202,806	361,635	158,829
2007-08	163,122	398,338	235,216
2008-09	135,882	230,434	94,552
2009-10	109,504	181,630	72,126
Totals	<u>\$ 2,775,166</u>	<u>\$ 2,592,357</u>	<u>\$ (182,809)</u>

Evaluation Costs Related to STAR Results/Assessment

The district claimed \$30,736 in costs related to evaluating STAR results and the written assessment of STAR results for employee evaluations. As previously noted, the district’s collective bargaining agreement explicitly excluded Standardized Testing norms to be used as part of the evaluation process. The district’s representatives confirmed that these activities are not being performed as part of the evaluation process. Therefore, claimed costs associated with this activity are unallowable.

Calculation of Allowable Training Costs

The district claimed \$18,786 in training costs for the audit period. Our analysis revealed that \$15,009 in training costs was allowable and \$3,777 was unallowable for the audit period. The costs are unallowable primarily because the district claimed unsupported and ineligible training hours, exceeding a one-time training per employee requirement of the mandated program.

The following table summarizes claimed, allowable, and unallowable training costs by fiscal year:

Fiscal Year	Training Salaries and Benefits		Audit Adjustment [(B)-(A)]
	(A) Claimed	(B) Allowable	
2005-06	\$ 1,297	\$ 1,247	\$ (50)
2006-07	379	236	(143)
2007-08	10,836	9,353	(1,483)
2008-09	2,499	1,400	(1,099)
2009-10	3,775	2,773	(1,002)
Totals	<u>\$ 18,786</u>	<u>\$ 15,009</u>	<u>\$ (3,777)</u>

The parameters and guidelines (section IV.A.1) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee’s adherence to curricular objectives.

Reimbursement for this activity is limited to:

- a. Reviewing the employee’s instructional techniques and strategies and adherence to curricular objectives, and
- b. Including in the written evaluation of the certificated instructional employees the assessment of these factors during the following evaluation periods:
 - o Once each year for probationary certificated employees;
 - o Every other year for permanent certificated employees; and
 - o Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.A.2) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils towards the state adopted academic content standards as measured by state adopted assessment tests.

Reimbursement for this activity is limited to:

- a. Reviewing the results of the Standardized Testing and Reporting test as it reasonably relates to the performance of those certificated employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11, and
- b. Including in the written evaluation of those certificated employees the assessment of the employee's performance based on the Standardized Testing and Reporting results for the pupils they teach during the evaluation periods specified in Education Code section 44664, and described below:
 - o Once each year for probationary certificated employees;
 - o Every other year for permanent certificated employees; and
 - o Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.C—Training) state the district may train staff on implementing the reimbursable activities listed in Section IV of the parameters and guidelines. (One-time activity for each employee.)

The parameters and guidelines (section IV—Reimbursable Activities) also state:

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

Recommendation

We recommend that the district ensure that claimed costs are based on actual costs, are for activities reimbursable under the program's parameters and guidelines, and are supported by contemporaneous source documentation.

District's Response

This letter is in response to the draft audit report issued by the State Controller's Office (SCO) with regard to the Stull Act Program audit for the period from July 1, 2001 through June 30, 2010.

The District appreciates the professional courtesy of the SCO staff during the audit, and appreciates the opportunity to respond to the audit findings. The District generally agrees with the methodology the SCO staff utilized to determine a reasonable reimbursement rate for each fiscal year.

That said, the District has two significant areas of concern regarding the methodology used in identifying the Average Productive Hourly Rate (PHR) for each of the audit years. First, we believe SCO should have utilized the actual PHR determined for audit years 2005-06 through 2009-10 rather than applying an average (calculated as 2.14 hours) determined with respect to the entire period from 2005-06 through 2009-10. Second, we believe one of two alternate methods should be utilized in determining the appropriate PHR for audit years 2001-02 through 2004-05.

Concerns Regarding 2005-06 Through 2009-10

In order to determine the PHR for each audit year, the SCO began by examining actual data from fiscal years 2005-06 through 2009-10, and calculated averages for each of those five fiscal years. The results are as follows:

Fiscal Year	Average Productive Hourly Rate
2005-06	2.45 hours
2006-07	1.97 hours
2007-08	2.27 hours
2008-09	2.06 hours
2009-10	1.84 hours

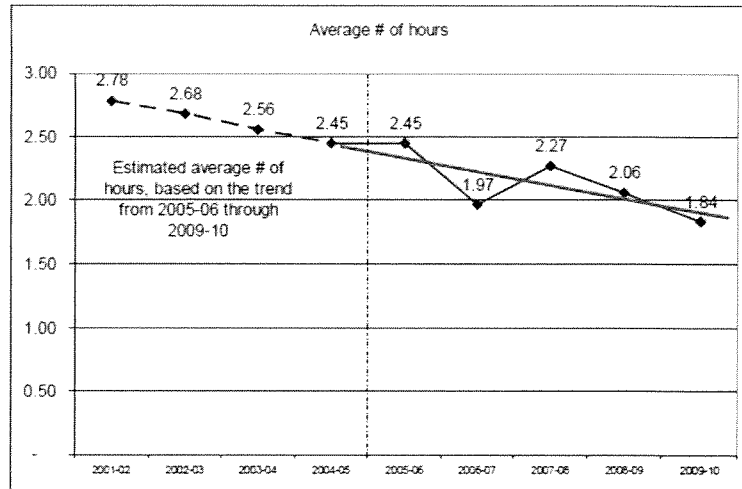
Rather than applying the actual known rates for each individual fiscal year, the SCO calculated an average for fiscal years 2005-06 through 2009-10, and applied the average (calculated to be 2.14 hours) to each fiscal year within that five year period. With respect to fiscal years, 2005-06 through 2009-10, it would seem to be more accurate to apply the known rates for each individual year rather than an average.

Accordingly, we request the SCO adjust the audit finding to reflect actual PHR determined for each of fiscal years 2005-06 through 2009-10.

Concerns Regarding 2001-02 Through 2004-05

We understand the SCO applied that PHR average of 2.14 hours (see above) to fiscal years 2001-02 through 2004-05. That resulted in PHR data from 2009-10 influencing funding for 2001-02. We suggest a better methodology would be to calculate PHR for this period on the basis of either (1) trend analysis reflecting a generally higher PHR in earlier years; or (2) the earliest year for which actual data is available (i.e. 2005-06).

We have charted the known PHR data for the period 2005-06 through 2009-10. That data is as follows:



The clear trend revealed by this data is that PHR was generally higher in earlier years, and would have been much higher than 2.14 during the 2001-02 through 2004-05 period. Using the “FORECAST” function in Microsoft Excel, we have determined an appropriate PHR for each individual fiscal year from 2001-02 through 2004-05. Those figures are as follows:

Fiscal Year	Average Productive Hourly Rate
2001-02	2.78 hours
2002-03	2.68 hours
2003-04	2.56 hours
2004-05	2.45 hours

While we believe use of these revised PHR numbers would be more consistent with the data, as an alternative (if SCO insists on use of actual data rather than projections), we would be willing to accept the SCO’s use of actual PHR data for the closest available year (i.e. the 2005-06 fiscal year) as a basis for auditing fiscal years 2001-02 through 2004-05. This approach has the benefit of using actual data from the nearest available year, and also results in use of a PHR figure that is more consistent with the trend analysis.

SCO’s Comments

The district’s response to the draft audit report addresses the concerns with the average time per allowable evaluation calculations. However, the district’s response inadvertently refers to the average time allotment as “PHR” – Productive Hourly Rate. The SCO’s comments below are in relation to the district’s comments regarding the average time allotment calculations.

1. Concerns Regarding 2005-06 Through 2009-10

The finding and recommendation remain unchanged.

The district generally agrees with the methodology the SCO staff utilized to determine a reasonable reimbursement rate for each fiscal

year. However, the district believes it would be more accurate to apply the average time increments per evaluation for each fiscal year individually rather than applying an overall average time allotment calculated by the SCO for FY 2005-06 through FY 2009-10. We disagree.

The district provided contemporaneous time documentation for evaluations completed for FY 2005-06 through FY 2009-10. The documentation for each fiscal year represented a varying number of time logs for completed evaluations. The district stated that the evaluation process remained consistent during the audit period. Therefore, we used the largest number of data points (i.e. time logs) for the entire period to calculate the most accurate time increment per evaluation, based on overall data combined for FY 2005-06 through FY 2009-10.

The district's request to use each fiscal year's individual average time increments rather than an overall period average would yield no difference in allowable costs. Applying an overall average of 2.14 hours per allowable evaluation revealed that the district will receive the entire costs claimed for FY 2005-06 through FY 2009-10.

In addition, we used the average of 2.14 hours per allowable evaluation to calculate allowable costs for the entire audit period to maintain the consistency of the evaluation process.

2. Concerns Regarding 2001-02 Through 2004-05

The finding and recommendation remain unchanged.

The district generally agrees with the methodology the SCO staff utilized to determine a reasonable reimbursement rate for each fiscal year. However, the district believes that applying an overall average of 2.14 hours per evaluation addressed above in item 1 to FY 2001-02 through FY 2004-05 results in average time data from FY 2009-10 that influences the allowable costs for FY 2001-02.

The district believes it is appropriate to use the earliest year data for which actual time records are available (i.e. FY 2005-06) to apply the "FORECAST" function in Microsoft Excel to determine average time increments individually for FY 2001-02 through FY 2004-05. We disagree.

Forecasting is a process of estimating the results based on past and present data. This process starts with certain assumptions and involves a degree of uncertainty with the predictions.

In this instance, the district's proposed method incorrectly presumes that five data points (i.e. average time increments calculated for each fiscal year starting FY 2005-06 through FY 2009-10) accurately represent a trend that results in higher averages for each preceding

year from FY 2001-02 through FY 2004-05. On the contrary, the average time increments calculated for FY 2005-06 (2.45 hours), FY 2006-07 (1.97 hours), and FY 2007-08 (2.27 hours) represent inconsistent year-to-year average hours variances.

To determine actual costs claimed for the years in question, we relied on actual time documentation to calculate the time increment that would most closely reflect the consistency of the evaluation process throughout the audit period. We examined over 4,000 time logs prepared by the district evaluators for FY 2005-06 through FY 2009-10 to calculate the overall average time increment of 2.14 hours per allowable evaluation. We applied this average to FY 2001-02 through FY 2004-05 because the district was unable to provide contemporaneous time documentation to support claimed costs.

We believe the average of 2.14 hours per allowable evaluation represents the most accurate average time allotment based on district-provided actual time records for the evaluation process that remained consistent throughout the audit period.

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



LONG BEACH UNIFIED SCHOOL DISTRICT

Office of the Chief Business and Financial Officer

1515 Hughes Way, CA 90810-1839 • (562) 997-8189 • FAX (562) 997-8284

July 29, 2013

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

Dear Mr. Spano:

This letter is in response to the draft audit report issued by the State Controller's Office (SCO) with regard to the Stull Act Program audit for the period from July 1, 2001 through June 30, 2010.

The District appreciates the professional courtesy of the SCO staff during the audit, and appreciates the opportunity to respond to the audit findings. The District generally agrees with the methodology the SCO staff utilized to determine a reasonable reimbursement rate for each fiscal year.

That said, the District has two significant areas of concern regarding the methodology used in identifying the Average Productive Hourly Rate (PHR) for each of the audit years. First, we believe SCO should have utilized the actual PHR determined for audit years 2005-06 through 2009-10 rather than applying an average (calculated as 2.14 hours) determined with respect to the entire period from 2005-06 through 2009-10. Second, we believe one of two alternate methods should be utilized in determining the appropriate PHR for audit years 2001-02 through 2004-05.

Concerns Regarding 2005-06 Through 2009-10

In order to determine the PHR for each audit year, the SCO began by examining actual data from fiscal years 2005-06 through 2009-10, and calculated averages for each of those five fiscal years. The results are as follows:

Fiscal Year	Average Productive Hourly Rate
2005-06	2.45 hours
2006-07	1.97 hours
2007-08	2.27 hours
2008-09	2.06 hours
2009-10	1.84 hours

Rather than applying the actual known rates for each individual fiscal year, the SCO calculated an average for fiscal years 2005-06 through 2009-10, and applied the average (calculated to be 2.14 hours) to each fiscal year within that five year period. With respect to fiscal years, 2005-06 through

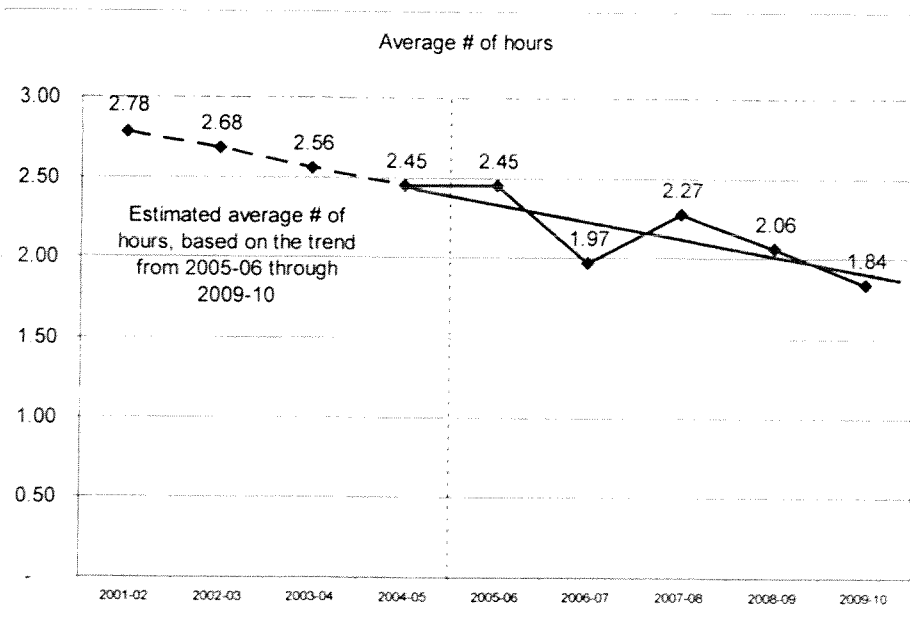
2009-10, it would seem to be more accurate to apply the known rates for each individual year rather than an average.

Accordingly, we request the SCO adjust the audit finding to reflect actual PHR determined for each of fiscal years 2005-06 through 2009-10.

Concerns Regarding 2001-02 Through 2004-05

We understand the SCO applied that PHR average of 2.14 hours (see above) to fiscal years 2001-02 through 2004-05. That resulted in PHR data from 2009-10 influencing funding for 2001-02. We suggest a better methodology would be to calculate PHR for this period on the basis of either (1) trend analysis reflecting a generally higher PHR in earlier years; or (2) the earliest year for which actual data is available (i.e. 2005-06).

We have charted the known PHR data for the period 2005-06 through 2009-10. That data is as follows:



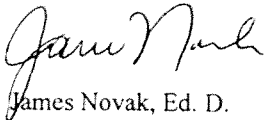
The clear trend revealed by this data is that PHR was generally higher in earlier years, and would have been much higher than 2.14 during the 2001-02 through 2004-05 period. Using the "FORECAST" function in Microsoft Excel, we have determined an appropriate PHR for each individual fiscal year from 2001-02 through 2004-05. Those figures are as follows:

Fiscal Year	Average Productive Hourly Rate
2001-02	2.78 hours
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2003-04	2.56 hours
2004-05	2.45 hours

While we believe use of these revised PHR numbers would be more consistent with the data, as an alternative (if SCO insists on use of actual data rather than projections), we would be willing to accept the SCO's use of actual PHR data for the closest available year (i.e. the 2005-06 fiscal year) as a basis for auditing fiscal years 2001-02 through 2004-05. This approach has the benefit of using actual data from the nearest available year, and also results in use of a PHR figure that is more consistent with the trend analysis.

The District thanks the SCO for the opportunity to respond to the audit findings.

Sincerely,



James Novak, Ed. D.
Chief Business and Financial Officer
Long Beach Unified School District

cc: Christopher Steinhauser, Superintendent
Ruth Perez Ashley, Assistant Superintendent, HRS and Leadership Development

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

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

EXHIBIT S

ELK GROVE UNIFIED SCHOOL DISTRICT

Audit Report

STULL ACT PROGRAM

Chapter 498, Statutes of 1983,
and Chapter 4, Statutes of 1999

July 1, 1997, through June 30, 2010



JOHN CHIANG
California State Controller

August 2013



JOHN CHIANG
California State Controller

August 23, 2013

Chet Madison, Sr., President
Board of Education
Elk Grove Unified School District
9510 Elk Grove-Florin Road
Elk Grove, CA 95624

Dear Mr. Madison:

The State Controller's Office audited the costs claimed by the Elk Grove Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2010.

The district claimed \$4,362,150 for the mandated program. Our audit found that \$2,158,736 is allowable and \$2,203,414 is unallowable. The costs are unallowable primarily because the district claimed estimated and ineligible costs. The State paid the district \$628,288. Allowable costs claimed exceed the amount paid by \$1,530,448.

If you disagree with the audit findings, 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 website at www.csm.ca.gov/docs/IRCForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/nh

cc: Steven M. Ladd, Ed.D, Superintendent
Elk Grove Unified School District
Rich Fagan, Associate Superintendent
Elk Grove Unified School District
Carrie Hargis, Director of Fiscal Services
Elk Grove Unified School District
Jacquelyn Levy, President, Board of Education
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
Thomas Todd, Assistant Program Budget Manager
Education Systems Unit
California Department of Finance
Jay Lal, Manager
Division of Accounting and Reporting
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Elk Grove Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2010.

The district claimed \$4,362,150 for the mandated program. Our audit found that \$2,158,736 is allowable and \$2,203,414 is unallowable. The costs are unallowable primarily because the district claimed estimated and ineligible costs. The State paid the district \$628,288. Allowable costs claimed exceed the amount paid by \$1,530,448.

Background

The Stull Act, Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999, added Education Code sections 44660-44665. The legislation provided reimbursement for specific activities related to evaluation and assessment of the performance of "certificated personnel" within each school district, except for those employed in local discretionary educational programs.

On May 27, 2004, the Commission on State Mandates (CSM) determined that the legislation imposed a state mandate reimbursable under Government Code section 17514.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on September 27, 2005. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

The Commission approved reimbursable activities as follows:

- Evaluate and assess the performance of certificated instructional employees who perform the requirements of educational programs mandated by state or federal laws as it reasonably relates to the instructional techniques and strategies used by the employee, and the employee's adherence to curricular objectives (Education Code section 44662 subdivision (b) as amended by Chapter 498, Statutes of 1983).
- Evaluate and assess the performance of certificated instructional employees who teach reading, writing, mathematics, history/social science, and science in grades 2 through 11 as it reasonably relates to the progress of pupils toward the State-adopted academic content standards as measured by State-adopted assessment tests (Education Code section 44662 subdivision (b), as amended by Chapter 4, Statutes of 1999).

- Assess and evaluate permanent certificated, instructional, and non-instructional employees who perform the requirements of educational programs mandated by State or federal law and receive an unsatisfactory evaluation in the years in which the permanent certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664. The additional evaluations shall last until the employee achieves a positive evaluation, or is separated from the school district (Education Code section 44664 as amended by Chapter 498, Statutes of 1983).

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Stull Act Program for the period of July 1, 1997, through June 30, 2010.

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.

Conclusion

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

For the audit period, the Elk Grove Unified School District claimed \$4,362,150 for costs of the Stull Act Program. Our audit found that \$2,158,736 is allowable and \$2,203,414 is unallowable.

For the fiscal year (FY) 1997-98 claim, the State paid the district \$18,475. Our audit found that \$114,513 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$96,038, contingent upon available appropriations.

For FY 1998-99 through FY 2004-05, FY 2006-07, and FY 2007-08 claims, the State made no payment to the district. Our audit found that \$1,458,105 is allowable. The State will pay allowable costs claimed, contingent upon available appropriations.

For the FY 2005-06 claim, the State paid the district \$139,177. Our audit found that the entire amount is allowable.

For the FY 2008-09 claim, the State paid the district \$221,236. Our audit found that \$247,802 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$26,566, contingent upon available appropriations.

For the FY 2009-10 claim, the State paid the district \$249,400. Our audit found that \$199,139 is allowable. The State will offset \$50,261 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

**Views of
Responsible
Official**

We issued a draft audit report on April 22, 2013. Rich Fagan, Associate Superintendent of Finance and School Support, responded by letter dated May 6, 2013 (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 Elk Grove 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, CPA
Chief, Division of Audits

August 23, 2013

**Schedule 1—
Summary of Program Costs
July 1, 1997, through June 30, 2010**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 1997, through June 30, 1998</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 215,385	\$ 108,113	\$ (107,272)	Finding 1
Total direct costs	215,385	108,113	(107,272)	
Indirect costs	12,751	6,400	(6,351)	Finding 2
Total direct and indirect costs	228,136	114,513	(113,623)	
Less late filing penalty ²	—	—	—	
Total program costs	<u>\$ 228,136</u>	114,513	<u>\$ (113,623)</u>	
Less amount paid by state		(18,475)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 96,038</u>		
<u>July 1, 1998, through June 30, 1999</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 379,092	\$ 110,601	\$ (268,491)	Finding 1
Total direct costs	379,092	110,601	(268,491)	
Indirect costs	20,130	5,873	(14,257)	Finding 2
Total direct and indirect costs	399,222	116,474	(282,748)	
Less late filing penalty ²	—	—	—	
Total program costs	<u>\$ 399,222</u>	116,474	<u>\$ (282,748)</u>	
Less amount paid by state		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 116,474</u>		
<u>July 1, 1999, through June 30, 2000</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 493,048	\$ 115,377	\$ (377,671)	Finding 1
Total direct costs	493,048	115,377	(377,671)	
Indirect costs	24,159	5,653	(18,506)	Finding 2
Total direct and indirect costs	517,207	121,030	(396,177)	
Less late filing penalty ²	—	—	—	
Total program costs	<u>\$ 517,207</u>	121,030	<u>\$ (396,177)</u>	
Less amount paid by state		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 121,030</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 2000, through June 30, 2001</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 389,885	\$ 120,017	\$ (269,868)	Finding 1
Total direct costs	389,885	120,017	(269,868)	
Indirect costs	20,235	6,229	(14,006)	Finding 2
Total direct and indirect costs	410,120	126,246	(283,874)	
Less late filing penalty ²	—	—	—	
Total program costs	<u>\$ 410,120</u>	126,246	<u>\$ (283,874)</u>	
Less amount paid by state		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 126,246</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 340,432	\$ 143,409	\$ (197,023)	Finding 1
Total direct costs	340,432	143,409	(197,023)	
Indirect costs	13,617	5,736	(7,881)	Finding 2
Total direct and indirect costs	354,049	149,145	(204,904)	
Less late filing penalty ²	—	—	—	
Total program costs	<u>\$ 354,049</u>	149,145	<u>\$ (204,904)</u>	
Less amount paid by state		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 149,145</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 465,746	\$ 175,293	\$ (290,453)	Finding 1
Total direct costs	465,746	175,293	(290,453)	
Indirect costs	37,446	14,094	(23,352)	Finding 2
Total direct and indirect costs	503,192	189,387	(313,805)	
Less late filing penalty ²	—	—	—	
Total program costs	<u>\$ 503,192</u>	189,387	<u>\$ (313,805)</u>	
Less amount paid by state		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 189,387</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 436,433	\$ 192,026	\$ (244,407)	Finding 1
Total direct costs	436,433	192,026	(244,407)	
Indirect costs	24,702	10,869	(13,833)	Finding 2
Total direct and indirect costs	461,135	202,895	(258,240)	
Less late filing penalty ²	—	—	—	
Total program costs	<u>\$ 461,135</u>	202,895	<u>\$ (258,240)</u>	
Less amount paid by state		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 202,895</u>		
<u>July 1, 2004, through June 30, 2005</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 402,938	\$ 160,881	\$ (242,057)	Finding 1
Total direct costs	402,938	160,881	(242,057)	
Indirect costs	15,916	6,355	(9,561)	Finding 2
Total direct and indirect costs	418,854	167,236	(251,618)	
Less late filing penalty ²	—	—	—	
Total program costs	<u>\$ 418,854</u>	167,236	<u>\$ (251,618)</u>	
Less amount paid by state		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 167,236</u>		
<u>July 1, 2005, through June 30, 2006</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 130,965	\$ 160,269	\$ 29,304	Finding 1
Training	297	341	44	Finding 1
Total direct costs	131,262	160,610	29,348	
Indirect costs	7,915	12,512	4,597	Finding 2
Total direct and indirect costs	139,177	173,122	33,945	
Less allowable costs that exceed costs claimed ³	—	(33,945)	(33,945)	
Total program costs	<u>\$ 139,177</u>	139,177	<u>\$ —</u>	
Less amount paid by state ⁴		(139,177)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 2006, through June 30, 2007</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 187,316	\$ 180,355	\$ (6,961)	Finding 1
Total direct costs	187,316	180,355	(6,961)	
Indirect costs	14,648	14,104	(544)	Finding 2
Total program costs	<u>\$ 201,964</u>	194,459	<u>\$ (7,505)</u>	
Less amount paid by state		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 194,459</u>		
<u>July 1, 2007, through June 30, 2008</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 215,617	\$ 181,729	\$ (33,888)	Finding 1
Total direct costs	215,617	181,729	(33,888)	
Indirect costs	11,277	9,504	(1,773)	Finding 2
Total program costs	<u>\$ 226,894</u>	191,233	<u>\$ (35,661)</u>	
Less amount paid by state		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 191,233</u>		
<u>July 1, 2008, through June 30, 2009</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 242,517	\$ 237,723	\$ (4,794)	Finding 1
Total direct costs	242,517	237,723	(4,794)	
Indirect costs	10,283	10,079	(204)	Finding 2
Total program costs	<u>\$ 252,800</u>	247,802	<u>\$ (4,998)</u>	
Less amount paid by state		(221,236)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 26,566</u>		
<u>July 1, 2009, through June 30, 2010</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 236,825	\$ 189,098	\$ (47,727)	Finding 1
Total direct costs	236,825	189,098	(47,727)	
Indirect costs	12,575	10,041	(2,534)	Finding 2
Total program costs	<u>\$ 249,400</u>	199,139	<u>\$ (50,261)</u>	
Less amount paid by state		(249,400)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (50,261)</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>Summary: July 1, 1997, through June 30, 2010</u>				
Direct costs				
Salaries and benefits				
Evaluation activities	\$ 4,136,199	\$ 2,074,891	\$ (2,061,308)	
Training	297	341	44	
Total direct costs	4,136,496	2,075,232	(2,061,264)	
Indirect costs	225,654	117,449	(108,205)	
Total direct and indirect costs	4,362,150	2,192,681	(2,169,469)	
Less allowable costs that exceed costs claimed	—	(33,945)	(33,945)	
Less late filing penalty	—	—	—	
Total program costs	<u>\$ 4,362,150</u>	2,158,736	<u>\$ (2,203,414)</u>	
Less amount paid by state		(628,288)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,530,448</u>		

¹ See the Findings and Recommendations section.

² The district filed its FY 1997-98 through FY 2004-05 initial reimbursement claims by the due date specified in Government Code section 17560, and amended the claims after the due date. Pursuant to Government Code section 17568, the State assessed a late filing penalty equal to 10% of allowable costs that exceed the timely filed claim amount, with no maximum penalty amount (for claims amended on or after September 30, 2002). Allowable costs do not exceed the initial amount claimed for FY 1997-98 through FY 2004-05. Therefore, there is no late claim penalty.

³ Government Code section 17568 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in the SCO's claiming instructions. That deadline has expired for FY 2005-06.

⁴ Payment from funds appropriated under Chapter 724, Statutes of 2010 (Assembly Bill No. 1610).

Findings and Recommendations

FINDING 1— Overstated salaries and benefits

The district claimed \$4,136,496 in salaries and benefits for the audit period. We determined that \$2,075,232 is allowable and \$2,061,264 is unallowable. The costs are unallowable primarily for the following reasons:

- The district misstated hours and reimbursable activities for fiscal year (FY) 2000-01 through FY 2009-10, totaling \$1,829,712 in overstated costs.
- The district did not provide documentation supporting evaluations completed for FY 1997-98 through FY 1999-2000, totaling \$753,434. We determined allowable costs for this period by using the current audit results for FY 2000-01, and applying the Implicit Price Deflator to determine prior year costs.
- The district underclaimed evaluations for FY 2000-01 through FY 2009-10, totaling \$518,788.
- The district miscalculated productive hourly rates for FY 2000-01 through FY 2009-10 totaling \$3,050 in understated costs.
- The district underclaimed training costs for FY 2005-06 by \$44. The district claimed \$297; we determined that \$341 is allowable.

The following table summarizes the unallowable salaries and benefits by fiscal year:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Amount Allowable</u>	<u>Audit Adjustment</u>
1997-98	\$ 215,385	\$ 108,113	\$ (107,272)
1998-99	379,092	110,601	(268,491)
1999-2000	493,048	115,377	(377,671)
2000-01	389,885	120,017	(269,868)
2001-02	340,432	143,409	(197,023)
2002-03	465,746	175,293	(290,453)
2003-04	436,433	192,026	(244,407)
2004-05	402,938	160,881	(242,057)
2005-06	131,262	160,610	29,348
2006-07	187,316	180,355	(6,961)
2007-08	215,617	181,729	(33,888)
2008-09	242,517	237,723	(4,794)
2009-10	236,825	189,098	(47,727)
Total salaries and benefits	<u>\$ 4,136,496</u>	<u>\$ 2,075,232</u>	<u>\$ (2,061,264)</u>

Time Documentation and Unallowable Activities

The time documentation submitted by the district represented multiple claiming methodologies throughout the audit period. We reviewed each claiming methodology and concluded that the time documentation was insufficient to support costs claimed. The claiming methodologies were as follows:

- For FY 1997-98 through 2004-05, the time documentation consisted of the year-end estimates of hours that were completed in the form of a survey. The time surveys represented hours that were estimated at the end of each fiscal year. We did not accept the time surveys in support of claimed costs because they were not completed contemporaneously and also varied greatly from other subsequent time tracking methodologies employed by the district in later years.
- Starting in FY 2005-06, the district evaluators maintained evaluation hours via time tracking forms. In many instances however, the forms did not segregate claimed hours and therefore, did not provide sufficient detail to accurately determine the reimbursable activities.

The varying claiming methodologies resulted in inconsistent time documentation practices throughout the audit period. We noted the following during our review of the time tracking forms for FY 2005-06 through FY 2009-10:

- The time increments for the same activity varied greatly from year to year and from one tracking methodology to another.
- The documentation provided lacked a detailed account of activities for the hours claimed. The district did not support the reasonableness of varying efforts, by evaluators based on the limited documentation that did provide adequate detail.
- Some documentation that included the detailed account of claimed activities identified unallowable activities claimed, such as pre-, post-, or goals conferences. However, the hours were recorded in one-time block and did not provide time increments by each specific activity. The district did not segregate the unallowable hours because claimed hours were not accounted for separately for each step in the evaluation process.
- Some documentation also presented a single time block for multiple evaluations of employees without identifying the employee names and the time it took for each evaluation. Therefore, the district did not support whether those unidentified evaluations met reimbursable criteria for frequency of evaluations specific to employment status and for program assignments mandated by state or federal law.
- The district-provided documentation did not support the amount of follow-up evaluations that were performed as a result of potentially unsatisfactory evaluations.

Average Hours per Evaluation

The district used an average time allotment per evaluation for FY 2006-07, FY 2007-08, and FY 2008-09 to calculate claimed costs. For FY 2006-07, the time allotment per evaluation ranged from 1 hour to 3.5 hours. For FY 2007-08, the allotment was fixed at 2.5 hours, and for FY 2008-09 it was fixed at 2.42 hours.

We determined a rounded average of 2.5 hours per evaluation based on the sample of documentation that provided adequate detail about activities claimed and identified specific evaluations completed. We

applied this average time allotment to all allowable evaluations for the tested period of FY 2000-01 through FY 2009-10. We determined the allowable evaluations based on our analysis of all evaluations completed for certificated personnel within the district throughout the audit period.

For the allowable unsatisfactory evaluations, we doubled the average of 2.5 hours, to a total of 5 hours to account for the additional reimbursable activities.

Allowable Evaluations

The district used its Quintessential School Systems (QSS) database to track evaluations received throughout the audit period. We used the district's data to ensure that only eligible evaluations were counted for reimbursement in each fiscal year. The program's parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of educational programs mandated by state or federal law during specific evaluation periods.

The data provided for completed evaluations was not complete for the first three years of the audit period. Therefore, we used the data for FY 2000-01 as the "base" year, in which the evaluation data was most complete. After completing our analysis of allowable evaluations for FY 2000-01 through FY 2009-10, we then applied an Implicit Price Deflator to the total allowable costs in FY 2000-01 to determine allowable costs for FY 1999-2000, FY 1998-99, and FY 1997-98.

The table below summarizes the total number of evaluations by fiscal year, and lists evaluations not reimbursable under the mandated program:

Fiscal Year	Claimed Evaluations	Duplicate Same Year	Duplicate Consecutive Years	Charter Schools	Job Site / Job Name	Unsatisfactory Evaluations *	Allowable Evaluations
2000-01	988	(79)	-	(2)	(133)	-	774
2001-02	1,517	(400)	(52)	(3)	(144)	(3)	915
2002-03	1,729	(396)	(35)	-	(222)	(3)	1,073
2003-04	1,656	(340)	(25)	-	(126)	(8)	1,157
2004-05	1,372	(298)	(28)	-	(77)	(3)	966
2005-06	1,418	(359)	(20)	(1)	(89)	(3)	946
2006-07	1,534	(353)	(23)	-	(124)	(1)	1,033
2007-08	1,550	(344)	(18)	-	(138)	(1)	1,049
2008-09	1,771	(244)	(20)	(6)	(168)	(1)	1,332
2009-10	1,398	(143)	(71)	(2)	(137)	(2)	1,043
Total	14,933	(2,956)	(292)	(14)	(1,358)	(25)	10,288

* Unsatisfactory evaluations represent the number of allowable unsatisfactory evaluations that were accounted for separately.

The non-reimbursable evaluations included the following:

- Duplicate teacher evaluations claimed multiple times in one school year;
- Permanent biannual teacher evaluations claimed every year rather than every other year;
- Evaluations of employees at charter schools and non-instructional school sites;
- Principals, vice principals, directors, counselors, psychologists, librarians (and others) who are not certificated instructional employees; and
- Certificated instructional employees who worked on educational programs not mandated by state or federal law.

Additional Evaluators

Our review of the allowable evaluations found that many evaluators were not included in the claims. The evaluators were principals or vice principals who completed the evaluation of the certificated employees in the audit period, but those evaluations were omitted from the claims. Because we applied the average time increment of 2.5 hours per evaluation to all eligible evaluations in the audit period, we calculated allowable costs for those evaluations that were not claimed. The summary table of allowable evaluations, presented above, includes the additional evaluations that we identified as a result of our analysis. The total audit adjustment for the additional evaluators totaled \$518,788 for FY 2000-01 through FY 2009-10.

Productive Hourly Rates

The district used a hybrid system of claiming productive hourly rates. For any employees whose actual productive hours fell below 1,800, the district used actual hours for each employee. For those employees whose productive hours were greater than 1,800, the district capped the hours at 1,800 and did not use actual productive hours.

The SCO's State Mandated Cost Manual states that school districts may use one of the following methods to compute productive hourly rates:

- Actual annual productive hours for each employee;
- The weighted-average annual productive hours for each job title; or
- 1,800 annual productive hours for all employees.

The hybrid system used by the district is not an acceptable method of computing productive hourly rates. Therefore, we recalculated productive hourly rates for evaluators using the payroll and benefit rate data provided by the district and used actual productive hours to calculate the rates. We then applied the recalculated rates to allowable evaluation hours. The adjustment related to productive hourly rate calculation totaled \$3,050 for FY 2000-01 through FY 2009-10.

Implicit Price Deflator

Given the documentation limitations for FY 1997-98, FY 1998-99, and FY 1999-2000, we agreed with the district to use the Implicit Price Deflator and apply it to allowable costs for FY 2000-01, when the supporting documentation was most complete. We used the allowable salaries and benefits in FY 2000-01 as the “base” year and applied the Implicit Price Deflator to the three earliest years in the audit period. Allowable salaries and benefits in FY 2000-01 totaled \$120,017. Using the Implicit Price Deflator resulted in the following allowable salaries and benefits: \$115,377 for FY 1999-2000; \$110,601 for FY 1998-99; and \$108,113 for FY 1997-98. The total salaries and benefits adjustment for FY 1997-98 through FY 1999-2000 was \$753,434.

Training Costs

The district claimed \$297 in training costs for FY 2005-06. Our analysis revealed allowable training costs of \$341 for FY 2005-06. The \$44 understated training costs occurred primarily because the district used incorrect productive hourly rates for the employees receiving training.

The program’s parameters and guidelines (section IV.A.1) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee’s adherence to curricular objectives.

Reimbursement for this activity is limited to:

- a. Reviewing the employee’s instructional techniques and strategies and adherence to curricular objectives, and
- b. Including in the written evaluation of the certificated instructional employees the assessment of these factors during the following evaluation periods:
 - Once each year for probationary certificated employees;
 - Every other year for permanent certificated employees; and
 - Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rates the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV – Reimbursable Activities) also state:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be

traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual costs was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Recommendation

We recommend that the district ensure that claimed costs are based on actual costs, are for activities reimbursable under the program's parameters and guidelines, and are supported by contemporaneous source documentation.

District's Response

1. Supporting Documentation vs. Corroborating Documentation

The documentation which supports EGUSD's initial claims meets the definition of supporting documentation contained in the Stull Act guidelines. The guidelines state that a source document is a document created at or near the same time the actual cost was incurred for the event "or activity in question". In the case of the Stull Act initial claims, EGUSD administrators did in fact complete time records at or near the time of the "activity in question" was being performed. The "activity in question" is a teacher evaluation. District administrators prepared time records in the first few months of 2006 which documented the costs actually incurred to carry out the eligible mandated teacher evaluation activities. Evaluating and assessing the performance of teachers was ongoing at the time the initial claim documentation was prepared. Therefore this guideline was met.

In addition, the guidelines state that source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts. EGUSD's actual costs are supported by time records and are traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. Therefore, this guideline was met.

2. No District could meet SCO's initial claim supporting documentation interpretation

To address initial claim situations like the Stull Act program, a broad interpretation was envisioned by the Commission. The guidelines do not say "the specific event or activity in question", the guidelines say the "event or activity in question." Without a broader interpretation, no claimant could ever meet this incorrect interpretation of the contemporaneous standard that SCO is applying to EGUSD in this audit. How else could a claimant notified for the first time regarding the Stull Act program at the end of 2005 be able to have or prepare "contemporaneous documentation" for costs incurred from FY 1997/98 through 2004/05? SCO needs to re-examine its position on this issue. If SCO does not re-examine its position, it will create an unfair and illegal result where the handful districts whose initial Stull Act claims were field audited by SCO are penalized while similarly situated claimants get paid.

3. Audit Status Meeting on May 10, 2012

EGUSD's position on its initial claim documentation was explained at length to SCO auditors during a status meeting held May 10, 2012 at EGUSD. At the conclusion of this meeting, SCO indicated they would review this position along with the initial claim documentation. Eight months later, on January 23, 2013 SCO contacted EGUSD to schedule an exit conference. EGUSD had no contact with the SCO auditors during this eight month time frame. EGUSD was led to believe that SCO was reviewing and analyzing the large volume of time records provided to SCO that properly supported the initial claims. However, EGUSD's articulated position regarding the initial claim documentation was not mentioned in the Draft Report. It is unclear to EGUSD what SCO had actually done during this eight month period. No rebuttal to EGUSD's position was provided. SCO simply changed its characterization of the initial claim documentation from "corroborating documentation" to the following:

"For FY 1997-98 through 2004-05, the time documentation consisted of the year-end estimates of hours that were completed in the form of a survey. The time surveys represented approximate hours that were estimated at the end of each fiscal year. We did not accept these documents in support of claimed costs because they were not completed contemporaneously and also varied greatly from other subsequent time tracking methodologies employed by the district in later years."

4. SCO inaccurately characterized EGUSD's initial claim documentation

The SCO description of the initial claims supporting documentation contained in the Draft Report is inaccurate in many ways. Specifically:

- A. "The initial claims were supported by surveys." This is not accurate as the initial claims were supported by time records, not surveys.
- B. "The initial claim documentation represented approximate hours that were estimated at the end of each fiscal year." This is not accurate as the time records were completed in early 2006 for all eight fiscal years which comprised the initial claim period. In addition, the guidelines were not adopted until 2005 so how could EGUSD be completing year end surveys for a reimbursement program that had not been approved by the Commission?
- C. "SCO did not accept these documents in support of claimed costs because they were not completed contemporaneously." This is not accurate as the time records were completely contemporaneously with teacher evaluation activity ongoing during the 2005/06 school year. These records were completed at or near the teacher evaluation activity in question which meets the definition in the guidelines. Refer to Section (1).
- D. "The initial claims varied greatly from other subsequent tracking methods employed by the district in later years." This statement is the only accurate one made by SCO regarding the initial claim years. However, by including this statement here, SCO is inferring the initial claim tracking method is inaccurate and that subsequent year's methods are accurate. This does not reconcile with SCO's statements in the Draft Report which were critical of the majority

of the results of later tracking methods. It should be noted that SCO decided that the small percentage of “properly documented” time records from the later years were sufficient to form the basis of the 2.5 hours per evaluation used to approve costs for the entire audit period.

In all of this analysis, SCO never asked the basic question of why one method yielded a higher average time than the other method. There is no guideline restriction which prevents claimants from utilizing different methods from one year to the next year.

5. The Reason Why the Methodologies Vary

The limited time documentation from the FY 2006/07 through 2008/09 periods used by SCO to derive its allowable 2.5 hours per evaluation did not include all eligible activity within the evaluation process. The forms provided by SCO to EGUSD on April 26, 2013 demonstrate that ongoing informal teacher observation time was not documented and included. This critical, ongoing and time consuming element of the teacher evaluation process was included within the supporting documentation for the initial claim years and is the main reason why the results of the different methods vary.

SCO recognized in its Final Audit Report of the Carlsbad Unified School District dated June 15, 2013 that informal observations are an eligible activity. SCO’s position regarding this activity is stated at the top of page eight of the Carlsbad Unified School District Final Report. EGUSD requests its time spent on this activity be approved as well.

6. Effective Date of the Guidelines is September 27, 2005

SCO’s interpretation of the contemporaneous documentation language contained in the guidelines is a moot point since the guidelines for the Stull Act program were adopted September 27, 2005 by the Commission. The initial claim period predates the date of guideline adoption. SCO’s application of an overly narrow interpretation of the supporting documentation guideline language to claims prior to the fiscal year 2005/06 violates the Clovis Unified School District appellate court decision dated September 21, 2010. This decision found SCO could not apply contemporaneous source documentation requirements (CSDR) prior to the date the CSDR language was actually approved by CSM and added to a program's guidelines. In addition, SCO is using an unlawful retroactive rule to reduce claims.

7. SCO did not complete the audit within two years

Government Code Section 17558.5, (a) states *“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.”*

SCO commenced the Stull Act Mandated Cost audit of EGUSD, for the period July 1, 1997/98 through June 30, 2009 with an engagement letter and documentation request dated October 12, 2010. It should be noted that SCO threatened to disallow all costs for the audit period in an email dated October 29, 2010 based on a mistaken belief that EGUSD had not provided requested documentation. SCO decided to redirect the assigned auditor to another project in November 2010 even though the audit had already commenced and the requested documentation provided. SCO resumed the audit in September 2011 while adding FY 2009110 to the audit scope. The Draft Report for this audit was not issued until April 22, 2013. The completion of this audit will have occurred beyond two years and is in violation of this statute.

In addition, Government Code Section 17558.5(e) states "Nothing in this section shall be construed to limit the adjustment of payments when inaccuracies are determined to be the result of the intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement." None of these exceptions apply to the EGUSD Stull Act audit, SCO simply commenced the audit, decided to postpone the audit and as a result did not complete the audit within two years.

8. Requested Action

EGUSD wants to be reimbursed for its actual cost to comply with this mandate. EGUSD's initial claims were properly documented and supported according to the guidelines and SCO's acceptance of this initial claim documentation would be acceptable to EGUSD. EGUSD has already communicated to SCO regarding data entry errors made on its initial claims.

In the alternative, EGUSD is still willing to provide SCO additional assurance regarding its actual costs of conducting teacher evaluations by conducting a time study as proposed in our letter dated April 8, 2013. This proposal was not made because EGUSD had concerns regarding the adequacy of the documentation supporting its initial claims but was made in order to come to an acceptable resolution of this audit for both parties and to avoid protracted and costly actions before the Office of Administrative Law, the Commission, and/or the courts.

On April 17, 2013, however, SCO rejected EGUSD's time study proposal. SCO's reasoning was arbitrary and EGUSD did not receive the same treatment afforded to another school district that did a poorer job on its documentation. EGUSD was rejected because a minimal amount of its incomplete documentation was accepted by SCO and now EGUSD somehow has to accept the results of this incomplete product. EGUSD requests that SCO reconsider its decision regarding a current time study or conversely, accept the initial claim documentation

SCO's Comments

1. Supporting Documentation vs. Corroborating Documentation

The finding and recommendation are unchanged.

The district believes the documentation that supports the district's initial claims met the definition of supporting documentation contained in the Stull Act Program's parameters and guidelines. The district states:

In the case of the Stull Act initial claims, EGUSD administrators did in fact complete time records at or near the time of the "activity in question" was being performed. The "activity in question" is a teacher evaluation. District administrators prepared time records in the first few months of 2006 which documented the costs actually incurred to carry out the eligible mandated teacher evaluation activities . . .

The district claims that time documentation completed in FY 2005-06 represents adequate support for costs claimed for FY 1997-98 through FY 2004-05. We disagree.

The parameters and guidelines state that "a source document is a document created at or near the same time the actual cost was incurred for the event or activity in question." The district's attempt to broadly define the "activity" as a teacher evaluation is misleading. The parameters and guidelines (Section IV) define specific activities that are reimbursable within the evaluation process. These specific activities require proper time documentation created at or near the time the actual costs were incurred.

The documentation submitted for the initial claim filing period of FY 1997-98 through FY 2004-05 did not properly support costs claimed as required by the program's parameters and guidelines. The documentation provided was not created at or near the time the actual costs were incurred. Claimed hours for these years were estimated, were not based on actual time documentation, and therefore were unallowable.

2. No District could meet SCO's initial claim supporting documentation interpretation

The finding and recommendation are unchanged.

The district believes the Commission on State Mandates (CSM) envisioned a broader interpretation for the application of contemporaneous source documentation rule. The district also believes that the SCO's position creates an unfair and illegal position for those districts that were audited. We disagree.

We are bound by the requirements of the program's parameters and guidelines. We conduct our audits in accordance with the criteria outlined in the parameters and guidelines. The parameters and guidelines provide a clear definition of appropriate supporting documentation as well as the reimbursement period to which these criteria apply. The reimbursement period begins on or after July 1, 1997, which is the beginning of the initial claim period.

3. Audit Status Meeting on May 10, 2012

The finding and recommendation are unchanged.

The district communicated its position on initial claim documentation during a status meeting held on May 10, 2012. The district believes that the SCO might not have given enough consideration to the district's comments and did not articulate the district's position in the draft audit report.

The intent of the draft audit report is to present the SCO's findings resulting from the audit. We issued the draft audit report on April 22, 2013, and presented the audit findings to the district. We discussed these findings during the exit conference held on March 7, 2013. At the exit conference, we stated that we took into account the district's comments from the May 10, 2012 status meeting and reviewed supporting documentation once more for the initial claim period of FY 1997-98 through FY 2004-05. The documentation provided for those years did not meet reimbursement criteria. The audit report identifies the reasons for which the time documentation was not adequate.

4. SCO inaccurately characterized EGUSD's initial claim documentation

The finding and recommendation are unchanged.

The district believes the description of the initial claims supporting documentation contained in the draft audit report is inaccurate.

- a. The district believes the initial claims were supported with proper time records rather than surveys. We disagree. The district did not provide any time sheets or time records collected at or near the time claimed hours were incurred in the initial claim years. Rather, the district provided documentation collected years after the costs were incurred. The time estimates were collected by means of surveying the staff that performed, or might have performed, claimed activities. The staff signing the forms included certifications declaring that their recollection of the time spent was true and correct. The forms were signed in early 2006 for activities that took place in FY 1997-98 through FY 2004-05. However, the parameters and guidelines state that declarations cannot be substituted for source documents.
- b. The district disagrees with the SCO's statement that the initial claim documentation represented time estimates rather than actual time. The district states that the time records for FY 1997-98 through FY 2004-05 were completed in FY 2005-06 for all eight fiscal years for the program adopted in the same year.

The parameters and guidelines state that a source document is “a document created at or near the same time the actual costs was incurred for the event or activity in question.” The parameters and guidelines also specify that these criteria apply to the entire reimbursement period beginning July 1, 1997. If the time records were completed “in early 2006 for all eight fiscal years which comprised the initial claim period,” these time records did not meet the reimbursement criteria. In addition, completing time records years after the hours were incurred involves estimating hours for activities that previously took place.

- c. The district disagrees with the SCO’s statement that the documents provided for FY 1997-98 through FY 2004-05 were not completed contemporaneously. The district believes that the time records to support the initial eight years were completed contemporaneously with teacher evaluation activity ongoing during FY 2005-06. We disagree.

Our audit revealed that the time documentation collected contemporaneously during the teacher evaluation process in FY 2005-06 was used to support claimed hours for FY 2005-06. The district used a separate set of documentation collected in the same fiscal year that represented the surveys sent out to the district’s evaluators. The surveys (already mentioned in item 4(a) above) estimated the time for activities that took place in FY 1997-98 through FY 2004-05. The district created two sets of documentation to support costs claimed in the initial eight years of the claim filing period and costs incurred in FY 2005-06.

- d. The district questions why “the SCO is inferring the initial claim tracking method is inaccurate and that subsequent year’s methods are accurate.” The district states that the draft audit report noted some deficiencies in the documentation presented for the later tracking methods. The district believes that our method to calculate the average 2.5 hours per evaluation may not be sufficient. We disagree.

The average of the 2.5 hours per allowable evaluation was based on the district’s own contemporaneous time documentation collected in later years of the audit period. While there is no restriction that prevents claimants from utilizing different methods to support claimed costs from one year to the next, these methods must comply with the requirements of the program. In this instance, the district did not provide proper support for FY 1997-98 through FY 2004-05 costs. Since the evaluation process was static year to year, we used time documentation collected contemporaneously in later years to form the basis of the average time allotment. We applied the average to the entire audit period.

We did note in the draft report some deficiencies with the time documentation collected contemporaneously. However, we also concluded that the average of 2.5 hours per evaluation was a reasonable time allowance based on time samples that did provide adequate detail to comply with the program’s parameters and guidelines.

5. The Reason Why the Methodologies Vary

The finding and recommendation are unchanged.

The district states:

The limited time documentation from the FY 2006/07 through FY 2008/09 periods used by the SCO to derive its allowable 2.5 hours per evaluation did not include all eligible activity within the evaluation process. The forms provided by the SCO to EGUSD on April 26, 2013 demonstrate that ongoing informal teacher observation time was not documented and included. This critical, ongoing and time consuming element of the teacher evaluation process was included within the supporting documentation for the initial claim years and is the main reason why the results of the different methods vary.

The district's time documentation did not support the accuracy of the statement above. The district did not present any evidence supporting that informal observations took place on a regular basis and that those informal observations were not included in the claims for the later years of the audit period.

We disagree with the district's assertion that this activity was included in the supporting documentation for the initial claim years. The time documentation supporting the initial eight years of the audit period failed to segregate claimed hours into individual activities within the evaluation process. The documentation provided estimates of time for "Evaluate and Assess" and "Write-up" activities without providing further details about observations or other steps within the evaluation process. The district did not support whether other activities were included in the claimed hours.

The average per allowable evaluation (2.5 hours) was derived from documentation provided by the district. By signing the claims, the district is assuring the SCO that the information contained in the document is true and correct. If the district believes the documentation in the later years does not accurately reflect all eligible activities, it should make any necessary changes to its claiming process going forward.

6. Effective Date of the Guidelines is September 27, 2005

The finding and recommendation are unchanged.

The district believes that since the guidelines for the Stull Act Program were adopted September 27, 2005, and the initial claim period predates the date of the guideline adoption, all initial claims are not bound by the requirements of the program's parameters and guidelines. We disagree. The "initial claim period" claims are bound by the same requirements as any other claimed year. The adoption date of the guidelines is irrelevant.

7. SCO did not complete the audit within two years

The finding and recommendation are unchanged.

The district states that the SCO “commenced the Stull Act Mandated Cost audit of EGUSD, for the period of July 1, 1997, through June 30, 2009, with an engagement letter and documentation request dated October 12, 2010.” The district further states the SCO postponed the audit and resumed it in September 2011. Therefore, the district believes that the SCO did not complete the audit within two years.

The previous audit opened on October 12, 2010, was cancelled prior to conducting an entrance meeting and performing fieldwork. The current audit was initiated via a phone conversation on September 1, 2011, informing the district and obtaining a mutual understanding that it would be a new audit initiation of the current audit. The two year requirement, for the current audit, began on the initial contact date of September 1, 2011.

8. Requested Action

The finding and recommendation are unchanged.

The district is requesting reimbursement for its actual cost to comply with the mandate. The district is also asking for the SCO’s acceptance of the initial claim documentation. As an alternative, the district is asking to conduct a time study.

The purpose of the audit was to determine the actual increased costs incurred by the district to comply with the mandated program. The results of the audit found that claimed costs were overstated. The district is only entitled to reimbursement for costs that are mandate-related and properly supported. The audit report addresses why the district-submitted documentation is not adequate to support costs claimed in the initial eight years of the audit period.

We calculated 2.5 hours per evaluation based on time documentation the district collected contemporaneously, which was certified by the district when filing the claims. We applied the average to those years in which we had no contemporaneous time documentation to support the claimed costs.

The use of a time study would generally be appropriate in cases where the district did not collect any contemporaneous time records for the claimed period. However, the district provided contemporaneous time records supporting costs claimed. While the claims for the first eight years filed were based on estimated hours, the claims for the latter five years were based on contemporaneous time documentation collected by the district.

**FINDING 2—
Overstated indirect
costs**

The district claimed \$225,654 for indirect costs during the audit period. We determined that \$117,449 is allowable and the net amount of \$108,205 is unallowable (overstated by \$111,032 and understated by \$2,827). The overstatement of \$111,032 occurred as a result of the adjustments noted to salaries and benefits identified in audit Finding 1. The district also understated indirect costs totaling \$2,827 for FY 2005-06 because it understated its indirect cost rate in FY 2005-06.

The following table summarizes the claimed, allowable, and unallowable indirect costs for the audit period by fiscal year:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Amount Allowable</u>	<u>Audit Adjustment</u>
1997-98	\$ 12,751	\$ 6,400	\$ (6,351)
1998-99	20,130	5,873	(14,257)
1999-2000	24,159	5,653	(18,506)
2000-01	20,235	6,229	(14,006)
2001-02	13,617	5,736	(7,881)
2002-03	37,446	14,094	(23,352)
2003-04	24,702	10,869	(13,833)
2004-05	15,916	6,355	(9,561)
2005-06	7,915	12,512	4,597
2006-07	14,648	14,104	(544)
2007-08	11,277	9,504	(1,773)
2008-09	10,283	10,079	(204)
2009-10	12,575	10,041	(2,534)
Total indirect costs	<u>\$ 225,654</u>	<u>\$ 117,449</u>	<u>\$ (108,205)</u>

For FY 2005-06, the district claimed an indirect cost rate of 6.03% instead of the CDE-approved rate of 7.79%. We recalculated allowable indirect costs using the CDE-approved rate.

The parameters and guidelines (section V.B.) state that school districts must use the indirect cost rate approved by the California Department of Education.

Recommendation

We recommend that the district ensure that the indirect rates it claims agree with CDE-approved rates and that indirect costs are mandate-related and appropriately supported.

District's Response

The district did not respond to this finding.

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



Members of the Board

Jeanette J. Amavisca
Priscilla S. Cox
Carmine S. Forcina
Steve Ly
Chet Madison, Sr.
Anthony "Tony" Perez
Bobbie Singh-Allen

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(916) 686-7744
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Robert L. Trigg Education Center
9510 Elk Grove-Florin Road, Elk Grove, CA 95624

May 6, 2013

Jim Spano, CPA
Audit Bureau Chief
State Controller's Office Division of Audits
300 Capitol Mall, Suite 500
Sacramento, CA 95814

Subject: Response to the State Controller's Office Stull Act Mandated Cost Draft Audit Report.

Dear Mr. Spano,

We are in receipt of the State Controller's Office (SCO) Draft Report of the Elk Grove Unified School District's Stull Act Mandated Cost Program for the period July 1, 1997 through June 30, 2010. The Draft Report is dated April 22, 2013 and provides EGUSD with 15 days to provide a response regarding the accuracy of any findings. EGUSD provides the following response.

Finding 1

General Comment

EGUSD disagrees with the use of 2.5 hours as the actual average time spent on EGUSD eligible evaluation activities to apply to the eligible evaluations for FY 1997/98 through 2004/05 (initial claims). In addition, EGUSD disagrees with SCO's characterizations and conclusion regarding initial claim documentation.

Draft Report- April 22, 2013

The SCO Draft Report Finding 1, states the following regarding initial claim time documentation and unallowable activities:

"For FY 1997-98 through 2004-05, the time documentation consisted of the year-end estimates of hours that were completed in the form of a survey. The time surveys represented approximate hours that were estimated at the end of each fiscal year. We did not accept these documents in support of claimed costs because they were not completed contemporaneously and also varied greatly from other subsequent time tracking methodologies employed by the district in later years."

SCO Audit Status Document- April 23, 2012

In an audit status document provided to EGUSD on or about April 23, 2012, SCO described this documentation as follows:

“Per the program’s parameters and guidelines (IV. Reimbursable Activities), the documentation submitted for FY 1997-98 through FY 2004-05 represent “corroborating” documentation, but does not include contemporaneous records to support hours claimed.”

The documentation definitions that SCO is referring come from the *Stull Act Parameters and Guidelines* (guidelines) adopted September 27, 2005 by the Commission on State Mandates (Commission). These guidelines describe two categories of documentation as follows:

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

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations...Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.”

Based on its interpretation of the guidelines, SCO has concluded that the documentation supporting EGUSD’s initial claims was unacceptable because it was not completed contemporaneously and the documentation was corroborating documentation, and not supporting documentation. SCO appears to interpret the documentation language of the guidelines as requiring FY 1997/98 activity be documented in 1997/98, FY 1998/99 activity be documented in FY 1998/99 and so on. This was not the intent of the guidelines and would effectively prevent any initial claim documentation from ever being accepted under this interpretation.

District Response

1. Supporting Documentation vs. Corroborating Documentation

The documentation which supports EGUSD’s initial claims meets the definition of supporting documentation contained in the Stull Act guidelines. The guidelines state that a source document is a document created at or near the same time the actual cost was incurred for the event “or activity in question”. In the case of the Stull Act initial claims, EGUSD administrators did in fact complete time records at or near the time of the “activity in question” was being

performed. The “activity in question” is a teacher evaluation. District administrators prepared time records in the first few months of 2006 which documented the costs actually incurred to carry out the eligible mandated teacher evaluation activities. Evaluating and assessing the performance of teachers was ongoing at the time the initial claim documentation was prepared. Therefore this guideline was met.

In addition, the guidelines state that source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts. EGUSD’s actual costs are supported by time records and are traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. Therefore, this guideline was met.

2. No District could meet SCO’s initial claim supporting documentation interpretation

To address initial claim situations like the Stull Act program, a broad interpretation was envisioned by the Commission. The guidelines do not say “the specific event or activity in question”, the guidelines say the “event or activity in question.” Without a broader interpretation, no claimant could ever meet this incorrect interpretation of the contemporaneous standard that SCO is applying to EGUSD in this audit. How else could a claimant notified for the first time regarding the Stull Act program at the end of 2005 be able to have or prepare “contemporaneous documentation” for costs incurred from FY 1997/98 through 2004/05? SCO needs to re-examine its position on this issue. If SCO does not re-examine its position, it will create an unfair and illegal result where the handful districts whose initial Stull Act claims were field audited by SCO are penalized while similarly situated claimants get paid.

3. Audit Status Meeting on May 10, 2012

EGUSD’s position on its initial claim documentation was explained at length to SCO auditors during a status meeting held May 10, 2012 at EGUSD. At the conclusion of this meeting, SCO indicated they would review this position along with the initial claim documentation. Eight months later, on January 23, 2013 SCO contacted EGUSD to schedule an exit conference. EGUSD had no contact with the SCO auditors during this eight month time frame. EGUSD was led to believe that SCO was reviewing and analyzing the large volume of time records provided to SCO that properly supported the initial claims. However, EGUSD’s articulated position regarding the initial claim documentation was not mentioned in the Draft Report. It is unclear to EGUSD what SCO had actually done during this eight month period. No rebuttal to EGUSD’s position was provided. SCO simply changed its characterization of the initial claim documentation from “corroborating documentation” to the following:

“For FY 1997-98 through 2004-05, the time documentation consisted of the year-end estimates of hours that were completed in the form of a survey. The time surveys represented approximate hours that were estimated at the end of each fiscal year. We did not accept these documents in support of claimed costs because they were not completed contemporaneously and also varied greatly from other subsequent time tracking methodologies employed by the district in later years.”

4. SCO inaccurately characterized EGUSD's initial claim documentation

The SCO description of the initial claims supporting documentation contained in the Draft Report is inaccurate in many ways. Specifically:

- (A) "The initial claims were supported by surveys." This is not accurate as the initial claims were supported by time records, not surveys.
- (B) "The initial claim documentation represented approximate hours that were estimated at the end of each fiscal year." This is not accurate as the time records were completed in early 2006 for all eight fiscal years which comprised the initial claim period. In addition, the guidelines were not adopted until 2005 so how could EGUSD be completing year end surveys for a reimbursement program that had not been approved by the Commission?
- (C) "SCO did not accept these documents in support of claimed costs because they were not completed contemporaneously." This is not accurate as the time records were completely contemporaneously with teacher evaluation activity ongoing during the 2005/06 school year. These records were completed at or near the teacher evaluation activity in question which meets the definition in the guidelines. Refer to Section (1).
- (D) "The initial claims varied greatly from other subsequent tracking methods employed by the district in later years." This statement is the only accurate one made by SCO regarding the initial claim years. However, by including this statement here, SCO is inferring the initial claim tracking method is inaccurate and that subsequent year's methods are accurate. This does not reconcile with SCO's statements in the Draft Report which were critical of the majority of the results of later tracking methods. It should be noted that SCO decided that the small percentage of "properly documented" time records from the later years were sufficient to form the basis of the 2.5 hours per evaluation used to approve costs for the entire audit period.

In all of this analysis, SCO never asked the basic question of why one method yielded a higher average time than the other method. There is no guideline restriction which prevents claimants from utilizing different methods from one year to the next year.

5. The Reason Why the Methodologies Vary

The limited time documentation from the FY 2006/07 through 2008/09 periods used by SCO to derive its allowable 2.5 hours per evaluation did not include all eligible activity within the evaluation process. The forms provided by SCO to EGUSD on April 26, 2013 demonstrate that ongoing informal teacher observation time was not documented and included. This critical, ongoing and time consuming element of the teacher evaluation process was included within the supporting documentation for the initial claim years and is the main reason why the results of the different methods vary.

SCO recognized in its Final Audit Report of the Carlsbad Unified School District dated June 15, 2013 that informal observations are an eligible activity. SCO's position regarding this activity is stated at the top of page eight of the Carlsbad Unified School District Final Report. EGUSD requests its time spent on this activity be approved as well.

6. Effective Date of the Guidelines is September 27, 2005

SCO's interpretation of the contemporaneous documentation language contained in the guidelines is a moot point since the guidelines for the Stull Act program were adopted September 27, 2005 by the Commission. The initial claim period predates the date of guideline adoption. SCO's application of an overly narrow interpretation of the supporting documentation guideline language to claims prior to the fiscal year 2005/06 violates the Clovis Unified School District appellate court decision dated September 21, 2010. This decision found SCO could not apply contemporaneous source documentation requirements (CSDR) prior to the date the CSDR language was actually approved by CSM and added to a program's guidelines. In addition, SCO is using an unlawful retroactive rule to reduce claims.

7. SCO did not complete the audit within two years

Government Code Section 17558.5, (a) states "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."

SCO commenced the Stull Act Mandated Cost audit of EGUSD, for the period July 1, 1997/98 through June 30, 2009 with an engagement letter and documentation request dated October 12, 2010. It should be noted that SCO threatened to disallow all costs for the audit period in an email dated October 29, 2010 based on a mistaken belief that EGUSD had not provided requested documentation. SCO decided to redirect the assigned auditor to another project in November 2010 even though the audit had already commenced and the requested documentation provided. SCO resumed the audit in September 2011 while adding FY 2009/10 to the audit scope. The Draft Report for this audit was not issued until April 22, 2013. The completion of this audit will have occurred beyond two years and is in violation of this statute.

In addition, Government Code Section 17558.5((e) states "Nothing in this section shall be construed to limit the adjustment of payments when inaccuracies are determined to be the result of the intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement." None of these exceptions apply to the EGUSD Stull Act audit, SCO simply commenced the audit, decided to postpone the audit and as a result did not complete the audit within two years.

8. Requested Action

EGUSD wants to be reimbursed for its actual cost to comply with this mandate. EGUSD's initial claims were properly documented and supported according to the guidelines and SCO's acceptance of this initial claim documentation would be acceptable to EGUSD. EGUSD has already communicated to SCO regarding data entry errors made on its initial claims.

In the alternative, EGUSD is still willing to provide SCO additional assurance regarding its actual costs of conducting teacher evaluations by conducting a time study as proposed in our letter dated April 8, 2013. This proposal was not made because EGUSD had concerns regarding the adequacy of the documentation supporting its initial claims but was made in order to come to an acceptable resolution of this audit for both parties and to avoid protracted and costly actions before the Office of Administrative Law, the Commission, and/or the courts.

On April 17, 2013, however, SCO rejected EGUSD's time study proposal. SCO's reasoning was arbitrary and EGUSD did not receive the same treatment afforded to another school district that did a poorer job on its documentation. EGUSD was rejected because a minimal amount of its incomplete documentation was accepted by SCO and now EGUSD somehow has to accept the results of this incomplete product. EGUSD requests that SCO reconsider its decision regarding a current time study or conversely, accept the initial claim documentation.

Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Rich Fagan", with a horizontal line extending to the right.

Rich Fagan
Associate Superintendent of Finance & School Support
Elk Grove Unified School District

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

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

EXHIBIT T

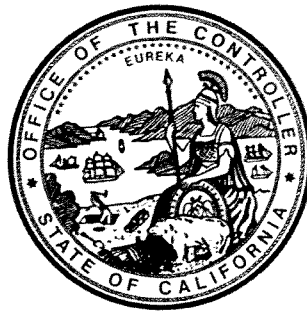
CASTRO VALLEY UNIFIED SCHOOL DISTRICT

Audit Report

THE STULL ACT PROGRAM

Chapter 498, Statutes of 1983;
and Chapter 4, Statutes of 1999

July 1, 1997, through June 30, 2010



JOHN CHIANG
California State Controller

July 2013



JOHN CHIANG
California State Controller

July 25, 2013

Jo A.S. Loss, President
Board of Education
Castro Valley Unified School District
4400 Alma Avenue
Castro Valley, CA 94546

Dear Mr. Loss:

The State Controller's Office audited the costs claimed by the Castro Valley Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983; and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2010.

The district claimed \$3,776,958 for the mandated program. Our audit found that \$733,430 is allowable (\$737,573 less a \$4,143 penalty for filing a late claim) and \$3,043,528 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for estimated costs, non-mandated activities, overstated training costs, and misstated productive hourly rates. The State paid the district \$277,602. Allowable costs claimed exceed the amount paid by \$455,828.

If you disagree with the audit findings, 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 website at www.csm.ca.gov/docs/IRCFForm.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, CPA
Chief, Division of Audits

JVB/nh

cc: Jim Negri, Superintendent
Castro Valley Unified School District
Candi Clark, Ed.D., Assistant Superintendent
Castro Valley Unified School District
Gael Treible, Director
Castro Valley Unified School District
Sherri Beetz, Ed.D., Assistant Superintendent
Castro Valley Unified School District
Joaquin J. Rivera, President, Board of Education
Alameda County Office of Education
Scott Hannan, Director
School Fiscal Services Division
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Carol Bingham, Director
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California Department of Education
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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Castro Valley Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983; and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2010.

The district claimed \$3,776,958 for the mandated program. Our audit found that \$733,430 is allowable (\$737,573 less a \$4,143 penalty for filing a late claim) and \$3,043,528 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for estimated costs, non-mandated activities, overstated training costs, and misstated productive hourly rates. The State paid the district \$277,602. Allowable costs claimed exceed the amount paid by \$455,828.

Background

The Stull Act (Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999), added Education Code sections 44660-44665. The legislation provided reimbursement for specific activities related to evaluation and assessment of the performance of "certificated personnel" within each school district, except for those employed in local, discretionary educational programs.

On May 27, 2004, the Commission on State Mandates (CSM) determined that the legislation imposed a state mandate reimbursable under Government Code section 17514.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on September 27, 2005. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

The Commission approved reimbursable activities as follows:

- Evaluate and assess the performance of certificated instructional employees who perform the requirements of educational programs mandated by state or federal laws as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives (Education Code section 44662(b) as amended by Chapter 498, Statutes of 1983).
- Evaluate and assess the performance of certificated instructional employees who teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils toward the state adopted academic content standards as measured by state adopted assessment tests (Education Code section 44662(b) as amended by Chapter 4, Statutes of 1999).
- Assess and evaluate permanent certificated, instructional, and non-instructional employees who perform the requirements of educational programs mandated by state or federal law and receive an unsatisfactory evaluation in the years in which the permanent

certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664. The additional evaluations shall last until the employee achieves a positive evaluation, or is separated from the school district (Education Code section 44664 as amended by Chapter 498, Statutes of 1983).

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Stull Act Program for the period of July 1, 1997, through June 30, 2010.

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.

Conclusion

Our audit found 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, the Castro Valley Unified School District claimed \$3,776,958 for costs of the Stull Act Program. Our audit found that \$733,430 is allowable (\$737,573 less a \$4,143 penalty for filing a late claim) and \$3,043,528 is unallowable.

For the fiscal year (FY) 1997-98 claim, the State paid the district \$14,123. Our audit found that \$37,286 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$23,163, contingent upon available appropriations.

For the FY 1998-99 through FY 2007-08 claims, the State made no payment to the district. Our audit found that \$597,592 is allowable. The state will pay allowable costs claimed, contingent upon available appropriations.

For FY 2008-09 and FY 2009-10 claims, the State paid the district \$263,479. Our audit found that \$98,552 is allowable. The State will offset \$164,927 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

**Views of
Responsible
Official**

We issued a draft audit report on May 31, 2013. Candi Clark, Assistant Superintendent of Business Services, responded by letter dated June 13, 2013 (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 Castro Valley Unified School District, the Alameda County Office of Education, the California Department of Education, the California Community Colleges Chancellor's Office, 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, CPA
Chief, Division of Audits

July 25, 2013

**Schedule 1—
Summary of Program Costs
July 1, 1997, through June 30, 2010**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 1997, through June 30, 1998</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 178,135	\$ 38,737	\$ (139,398)
Training	112	112	—
Total direct costs	178,247	38,849	(139,398)
Indirect costs	11,836	2,580	(9,256)
Total direct and indirect costs	190,083	41,429	(148,654)
Less late penalty ²	—	(4,143)	(4,143)
Total program costs	<u>\$ 190,083</u>	37,286	<u>\$ (152,797)</u>
Less amount paid by State		(14,123)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 23,163</u>	
<u>July 1, 1998, through June 30, 1999</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 200,056	\$ 34,978	\$ (165,078)
Training	111	—	(111)
Total direct costs	200,167	34,978	(165,189)
Indirect costs	7,546	1,319	(6,227)
Total program costs	<u>\$ 207,713</u>	36,297	<u>\$ (171,416)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 36,297</u>	
<u>July 1, 1999, through June 30, 2000</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 295,149	\$ 49,089	\$ (246,060)
Training	134	—	(134)
Total direct costs	295,283	49,089	(246,194)
Indirect costs	5,138	854	(4,284)
Total program costs	<u>\$ 300,421</u>	49,943	<u>\$ (250,478)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 49,943</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2000, through June 30, 2001</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 352,606	48,295	(304,311)
Training	134	—	(134)
Total direct costs	352,740	48,295	(304,445)
Indirect costs	12,734	1,743	(10,991)
Total program costs	<u>\$ 365,474</u>	50,038	<u>(315,436)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 50,038</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 328,673	\$ 58,340	\$ (270,333)
Training	144	—	(144)
Total direct costs	328,817	58,340	(270,477)
Indirect costs	13,711	2,433	(11,278)
Total program costs	<u>\$ 342,528</u>	60,773	<u>(281,755)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>60,773</u>	
<u>July 1, 2002, through June 30, 2003</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 343,891	\$ 56,577	\$ (287,314)
Training	144	—	(144)
Total direct costs	344,035	56,577	(287,458)
Indirect costs	22,604	3,717	(18,887)
Total program costs	<u>\$ 366,639</u>	60,294	<u>\$ (306,345)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 60,294</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2003, through June 30, 2004</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 364,224	\$ 56,140	(308,084)
Training	4,545	2,183	(2,362)
Total direct costs	368,769	58,323	(310,446)
Indirect costs	19,065	3,015	(16,050)
Total program costs	<u>\$ 387,834</u>	61,338	<u>\$ (326,496)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 61,338</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 390,092	\$ 58,803	\$ (331,289)
Training	3,604	—	(3,604)
Total direct costs	393,696	58,803	(334,893)
Indirect costs	14,961	2,235	(12,726)
Total program costs	<u>\$ 408,657</u>	61,038	<u>\$ (347,619)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 61,038</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 334,437	\$ 56,701	\$ (277,736)
Training	18,948	18,487	(461)
Total direct costs	353,385	75,188	(278,197)
Indirect costs	15,150	3,406	(11,744)
Total program costs	<u>\$ 368,535</u>	78,594	<u>\$ (289,941)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 78,594</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2006, through June 30, 2007</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 265,656	\$ 65,815	\$ (199,841)
Training	14,794	3,339	(11,455)
Total direct costs	280,450	69,154	(211,296)
Indirect costs	15,846	3,907	(11,939)
Total program costs	<u>\$ 296,296</u>	73,061	<u>\$ (223,235)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		\$ 73,061	
<u>July 1, 2007, through June 30, 2008</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 237,501	\$ 62,017	\$ (175,484)
Training	2,192	998	(1,194)
Total direct costs	239,693	63,015	(176,678)
Indirect costs	12,177	3,201	(8,976)
Total program costs	<u>\$ 251,870</u>	66,216	<u>\$ (185,654)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 66,216</u>	
<u>July 1, 2008, through June 30, 2009</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 208,644	\$ 47,741	\$ (160,903)
Training	1,725	1,190	(535)
Total direct costs	210,369	48,931	(161,438)
Indirect costs	9,319	2,168	(7,151)
Total program costs	<u>\$ 219,688</u>	51,099	<u>\$ (168,589)</u>
Less amount paid by State		(192,259)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (141,160)</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2009, through June 30, 2010</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 66,204	\$ 44,390	\$ (21,814)
Training	419	—	(419)
Total direct costs	66,623	44,390	(22,233)
Indirect costs	4,597	3,063	(1,534)
Total program costs	<u>\$ 71,220</u>	47,453	<u>\$ (23,767)</u>
Less amount paid by State		(71,220)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (23,767)</u>	
<u>Summary: July 1, 1997, through June 30, 2010</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 3,565,268	\$ 677,623	\$ (2,887,645)
Training	47,006	26,309	(20,697)
Total direct costs	3,612,274	703,932	(2,908,342)
Indirect costs	164,684	33,641	(131,043)
Total direct and indirect costs	3,776,958	737,573	(3,039,385)
Less late penalty	—	(4,143)	(4,143)
Total program costs	<u>\$ 3,776,958</u>	733,430	<u>\$ (3,043,528)</u>
Less amount paid by State		(277,602)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 455,828</u>	

¹ See the Finding and Recommendation section.

² The district filed its FY 1997-98 initial reimbursement claim after the due date specified in Government Code section 17560. Pursuant to Government Code section 17561, subdivision (d) (3), the State assessed a late filing penalty equal to 10% of allowable costs, with no maximum penalty amount.

Finding and Recommendation

**FINDING—
Overstated salaries
and benefits and
related indirect costs**

The district claimed \$3,612,274 in salaries and benefits and \$164,684 in related indirect costs for the audit period. We determined that \$2,908,342 in salaries and benefits is unallowable. The costs are unallowable primarily because the district claimed reimbursement for non-mandated activities (\$2,839,221), overstated training costs (\$20,129), and misstated productive hourly rates (\$48,992). Related indirect costs totaled \$131,043.

The following table summarizes the unallowable salaries and benefits and related indirect costs by fiscal year:

Fiscal Year	Direct Costs: Salaries and Benefits					Audit Adjustment [(D) + (E)]
	(A) Evaluation Activities ¹	(B) Training ¹	(C) Productive Hourly Rates	(D) Total [(A)+(B)+(C)]	(E) Indirect Costs	
1997-98	\$ (136,258)	\$ -	\$ (3,140)	\$ (139,398)	\$ (9,256)	\$ (148,654)
1998-99	(164,128)	(111)	(950)	(165,189)	(6,227)	(171,416)
1999-2000	(237,370)	(134)	(8,690)	(246,194)	(4,284)	(250,478)
2000-01	(296,473)	(134)	(7,838)	(304,445)	(10,991)	(315,436)
2001-02	(265,385)	(144)	(4,948)	(270,477)	(11,278)	(281,755)
2002-03	(282,615)	(144)	(4,699)	(287,458)	(18,887)	(306,345)
2003-04	(300,665)	(2,309)	(7,472)	(310,446)	(16,050)	(326,496)
2004-05	(325,137)	(3,604)	(6,152)	(334,893)	(12,726)	(347,619)
2005-06	(277,924)	-	(273)	(278,197)	(11,744)	(289,941)
2006-07	(195,041)	(11,482)	(4,773)	(211,296)	(11,939)	(223,235)
2007-08	(178,923)	(1,145)	3,390	(176,678)	(8,976)	(185,654)
2008-09	(163,669)	(503)	2,734	(161,438)	(7,151)	(168,589)
2009-10	(15,633)	(419)	(6,181)	(22,233)	(1,534)	(23,767)
Totals	\$ (2,839,221)	\$ (20,129)	\$ (48,992)	\$ (2,908,342)	\$ (131,043)	\$ (3,039,385)

¹ Amounts were calculated using claimed average productive hourly rates.

Unsupported Costs

The majority of the costs claimed by the district were unallowable because they were based on time records that identified estimated average time increments that were not completed contemporaneously.

Prior to the start of the audit, district representatives conducted a partial-year time study in FY 2009-10 and a full-year time study in FY 2010-11 as a substitute for records of actual time spent on teacher evaluations. The time study results were applied to the audit period.

Time Study Activities

The time study documented the time it took district evaluators to perform eight activities within the teacher evaluation process. The district evaluated permanent, probationary, and temporary certificated instructional teachers. The time study results reported time for meetings, observation, report writing, and other activities within the evaluation process.

The time study determined it takes district evaluators an average of 5.81, 6.25, and 5.12 hours per permanent, probationary, and temporary teacher respectively to complete an evaluation.

Five of the eight activities the district identified in their time study are not reimbursable under the mandate. The five non-reimbursable activities include:

1. Conducting a goals and objectives conference with the certificated staff member;
2. Conducting a pre-observation conference with the certificated staff member;
3. Conducting a post-observation conference with the certificated staff member;
4. Conducting a final evaluation conference with the certificated staff member; and
5. Discussing STAR results and instructional abilities improvement opportunities with the certificated staff members.

Conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation. These activities are not imposing a new program or higher level of service. Conferences including pre-, post-, and final observation conferences are not reimbursable.

Discussing STAR results is not reimbursable because it is not listed as a reimbursable activity in the parameters and guidelines. In addition, interviews with the district evaluators revealed that discussing STAR results entailed conducting group meetings of overall STAR performance and areas in need of improvement rather than separately evaluating each individual teacher performance based on STAR results.

We determined that the time spent on the following three activities is reimbursable:

1. Classroom observations (formal and informal);
2. Writing a report regarding observations; and
3. Writing the final evaluation report.

The time study results revealed that it takes the district evaluators an average of 3.57, 3.89, and 3.37 hours per permanent, probationary, and temporary teacher evaluation respectively to complete allowable activities within the evaluation process. In addition, the time study supported that it takes the district evaluators an average of 7.88 hours per unsatisfactory teacher evaluation to complete allowable activities within the evaluation process.

Completed Evaluations

The district did not keep track of completed evaluations during the audit period. To support claimed evaluations, the district created a database of completed teacher evaluations by reviewing employee files. Once

completed, we reviewed the completed teacher evaluations for each fiscal year to ensure that only eligible evaluations were counted for reimbursement. The program’s parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of education programs mandated by state or federal law during specific evaluation periods.

The following table shows evaluations identified that are not reimbursable under the mandated program:

Fiscal Year	Number of Completed Evaluations		
	District-provided	Audited	Difference
1997-98	209	204	(5)
1998-99	192	182	(10)
1999-2000	245	237	(8)
2000-01	232	217	(15)
2001-02	256	244	(12)
2002-03	251	235	(16)
2003-04	238	229	(9)
2004-05	251	235	(16)
2005-06	246	232	(14)
2006-07	256	242	(14)
2007-08	227	217	(10)
2008-09	184	167	(17)
2009-10	191	151	(40)
Totals	<u>2,978</u>	<u>2,792</u>	<u>(186)</u>

The non-reimbursable evaluations included the following:

- Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers who are not certificated instructional employees;
- Preschool teachers who do not perform the requirements of the program that is mandated by state or federal law;
- Duplicate teacher evaluations claimed multiple times in one school year;
- Permanent biannual teacher evaluations claimed every year rather than every other year; and
- Permanent five-year teacher evaluations claimed multiple times in a five-year period rather than once every five years.

Average Productive Hourly Rate (PHR)

The district claimed an average productive hourly rate (PHR) for the district’s evaluators in each fiscal year. Using the completed teacher evaluations database, we obtained a list of all evaluators at the district. We recalculated each evaluator’s PHR, using the district-provided payroll data. We then calculated an average rate in each fiscal year.

The following table shows the PHR audit adjustments by fiscal year:

Fiscal Year	Average Productive Hourly Rate		
	Claimed	Audited	Difference
1997-98	\$ 56.15	\$ 51.94	\$ (4.21)
1998-99	54.48	53.04	(1.44)
1999-2000	67.09	57.00	(10.09)
2000-01	72.05	61.99	(10.06)
2001-02	72.39	66.73	(5.66)
2002-03	72.90	67.31	(5.59)
2003-04	78.39	69.24	(9.15)
2004-05	78.02	70.63	(7.39)
2005-06	69.09	69.32	0.23
2006-07	80.48	75.01	(5.47)
2007-08	74.78	79.17	4.39
2008-09	74.78	79.38	4.60
2009-10	92.54	81.23	(11.31)

Calculation of Allowable Evaluation Costs

To arrive at allowable salaries and benefits in each fiscal year, we multiplied the number of allowable evaluations by allowable hours per evaluation and average audited PHRs.

The following table summarizes allowable evaluation costs by fiscal year using the audited PHRs.

Fiscal Year	Salaries and Benefits		
	Claimed	Allowable	Audit Adjustment
1997-98	\$ 178,135	\$ 38,737	\$ (139,398)
1998-99	200,056	34,978	(165,078)
1999-2000	295,149	49,089	(246,060)
2000-01	352,606	48,295	(304,311)
2001-02	328,673	58,340	(270,333)
2002-03	343,891	56,577	(287,314)
2003-04	364,224	56,140	(308,084)
2004-05	390,092	58,803	(331,289)
2005-06	334,437	56,701	(277,736)
2006-07	265,656	65,815	(199,841)
2007-08	237,501	62,017	(175,484)
2008-09	208,644	47,741	(160,903)
2009-10	66,204	44,390	(21,814)
Total	\$ 3,565,268	\$ 677,623	\$ (2,887,645)

We then applied the applicable indirect cost rates to allowable salaries and benefits to calculate allowable indirect costs of \$130,833 for this component.

Calculation of Allowable Training Costs

The district’s claims reported training hours in each fiscal year, totaling \$47,006 for the audit period. We concluded that \$26,309 in training costs is reimbursable under the mandate and \$20,697 is not reimbursable. The unallowable training costs primarily included ineligible hours attending training by the same employees exceeding a one-time per employee requirement, and ineligible hours attending various meetings that are not reimbursable under the mandated program.

The following table summarizes claimed, allowable, and unallowable training costs by fiscal year using the audited PHRs:

Fiscal Year	Salaries and Benefits		
	Claimed	Allowable	Audit Adjustment
1997-98	\$ 112	\$ 112	\$ -
1998-99	111	-	(111)
1999-2000	134	-	(134)
2000-01	134	-	(134)
2001-02	144	-	(144)
2002-03	144	-	(144)
2003-04	4,545	2,183	(2,362)
2004-05	3,604	-	(3,604)
2005-06	18,948	18,487	(461)
2006-07	14,794	3,339	(11,455)
2007-08	2,192	998	(1,194)
2008-09	1,725	1,190	(535)
2009-10	419	-	(419)
Total	\$ 47,006	\$ 26,309	\$ (20,697)

For FY 2005-06 and FY 2009-10, the district incorrectly claimed training costs in the Travel and Training rather than the Salaries and Benefits object accounts. We reclassified the district’s training costs to Salaries and Benefits.

We then applied the applicable indirect cost rates to allowable salaries and benefits to calculate allowable indirect costs of \$210 for this component.

The parameters and guidelines (section IV.A.1) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee’s adherence to curricular objectives.

Reimbursement for this activity is limited to:

- a. Reviewing the employee's instructional techniques and strategies and adherence to curricular objectives, and
- b. Including in the written evaluation of the certificated instructional employees the assessment of these factors during the following evaluation periods:
 - o Once each year for probationary certificated employees;
 - o Every other year for permanent certificated employees; and
 - o Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.A.2) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils towards the state adopted academic content standards as measured by state adopted assessment tests.

Reimbursement for this activity is limited to:

- a. Reviewing the results of the Standardized Testing and Reporting test as it reasonably relates to the performance of those certificated employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11, and
- b. Including in the written evaluation of those certificated employees the assessment of the employee's performance based on the Standardized Testing and Reporting results for the pupils they teach during the evaluation periods specified in Education Code section 44664, and described below:
 - o Once each year for probationary certificated employees;
 - o Every other year for permanent certificated employees; and
 - o Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.C—Training) state that the district may train staff on implementing the reimbursable activities listed in Section IV of the parameters and guidelines. (One-time activity for each employee.)

The parameters and guidelines (section IV—Reimbursable Activities) also state:

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

Recommendation

We recommend that the district ensure that claimed costs are based on actual costs, are for activities reimbursable under the program’s parameters and guidelines, and are supported by contemporaneous source documentation.

District’s Response

TIME STUDY ACTIVITIES \$2,839,221

The annual cost of evaluations is calculated based on the average time to implement eight different components of the annual employee evaluation process, multiplied by the number of evaluations performed each year, and then multiplied by the average productive hourly rates (salary and benefits) for the evaluators. For the eight components, the total average time to complete the evaluation process based on the district documentation and the audited allowable times are as follows:

Evaluation Type	District Ave. Hours Time Study	Audited Ave. Hours Allowed
Permanent	5.81	3.57
Probationary	6.25	3.89
Temporary	5.12	3.37
Unsatisfactory	None	7.88

The average time for the evaluation process was calculated by the auditor based on the District’s staff time reports. At this time, the District has no objection to the auditor’s calculations.

The draft audit report states five of the eight activities identified in the time study are not reimbursable:

- 1 Conducting a conference with the certificated staff member to review their goals and objectives;
- 2 Conducting a pre-observation conference with the certificated staff member;

- 3 Conducting a post-observation conference with the certificated staff member;
- 4 Conducting a final evaluation conference with the certificated staff member; and
- 5 Discussing STAR results and how to improve instructional abilities with the certificated staff member. The draft audit report states that conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation and thus are not imposing a new program or higher level of service.

The District disagrees with this disallowance. The mandate reimburses the new program requirement to “evaluate and assess” which necessarily involves a comprehensive process. The conferences are one part of a continuum of evaluation and assessment steps, none of which individually completes the mandate. The conferences and related tasks are effective and efficient methods to evaluate and assess employees and necessary to communicate the findings of the evaluation to the employee. Whether the conferences in general were required as a matter of law before the Stull Act is a decision for the Commission pursuant to a future incorrect reduction claim.

The draft audit report states that three of the eight activities identified by the district are reimbursable:

- 6 Classroom observations (formal and informal);
- 7 Writing a report regarding observations; and
- 8 Writing the final evaluation report.

The District agrees that these activities are reimbursable.

COMPLETED/ALLOWABLE EVALUATIONS

The draft audit report states that the program's parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of education programs mandated by state or federal law during specific evaluation periods. The draft audit report disallows 186 of about 3,000 evaluations (about 6%) claimed for the thirteen years for five reasons:

1. *Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers who are not certificated instructional employees.*

The District disagrees with this disallowance. The parameters and guidelines state that the mandate is to evaluate the performance of “certificated instructional employees.” All certificated personnel are “instructional” personnel even if they are not classroom teachers. The audit report does not indicate how these other certificated personnel are not implementing state curricular objectives. The District does concur that the portion of the mandate relating to the evaluation of compliance with the testing assessment standards (the STAR component) is limited to classroom teachers because the parameters and guidelines specifically state “employees that teach” specified curriculum.

2. *Preschool teachers who do not perform the requirements of the program that is mandated by state or federal law.*

The District disagrees with this disallowance. Federal and State law requires preschool instruction for special education pupils as part of the pupil's Individual Education Program. If the teacher is providing instruction to special education preschool pupils, the teacher is implementing the special education mandate.

3. *Duplicate teacher evaluations claimed multiple times in one school year.*

Potential "duplicate" evaluations generally occur as a result of an employee transferring to another school during the evaluation cycle, or a change in employment status of the employee. The District concurs that only one complete evaluation should be counted for each employee

4. *Permanent biannual teacher evaluations claimed every year rather than every other year.*

The District concurs that only one complete evaluation should be counted for each employee every other year after the employee attains permanent status.

5. *Permanent five-year teacher evaluations claimed multiple times in a five-year period rather than once every five years.*

The District concurs that only one complete evaluation should be counted for each employee every fifth year after the employee attains permanent five-year status.

AVERAGE PRODUCTIVE HOURLY RATE (PHR) \$48,992

Of the \$3.6 million in salary and benefits claimed for the thirteen years, the draft audit report reduces this amount by \$48,992 (about 1.5%) based on the auditor's calculation of the average productive hourly rates. District staff has reviewed the auditor's calculations and we have no disputed amounts at this time.

TRAINING COSTS \$20,129

The draft audit reports states that the mandate parameters and guidelines only allow training costs as a one-time activity per employee. The disallowances are based on "duplicate" training hours for the "same" employees. The District disagrees with this disallowance. Most of the disallowed staff time was incurred for meetings with the principals and other evaluators to commence the annual evaluation cycle. These are reasonable and necessary when the collective bargaining contract and district evaluation process changes.

SCO's Comment

Time Study Activities

Our finding and recommendation are unchanged. The conferences between the teachers and evaluators are non-reimbursable activities.

The district states in its response that "the mandate reimburses the new

program requirement to ‘evaluate and assess’ which necessarily involves a comprehensive process.” We disagree. Not all activities from the evaluation process are reimbursable. The mandate reimburses only those activities that impose a new requirement or higher level of service for the agencies.

The parameters and guidelines (sections IV.A.1, IV.A.2, and IV.B.1) specify that reimbursement is limited to only those activities outlined in each section. Section IV.B.1 identifies reimbursable evaluation conferences only for those instances when an unsatisfactory evaluation took place for certificated instructional or non-instructional personnel in those years in which the employee would not have otherwise been evaluated.

The district claimed costs for the evaluation conferences resulting from evaluations completed under sections IV.A.1 and IV.A.2 of the parameters and guidelines. Sections IV.A.1 and IV.A.2 do not identify evaluation conferences or any other types of conferences as reimbursable activities.

Furthermore, the CSM found in its statement of decision that evaluation conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation.

Under prior law, the evaluation was to be prepared in writing and a copy of the evaluation given to the employee. An evaluation meeting was to be held between the certificated employee and the evaluator to discuss the evaluation and assessment. The CSM indicated in its statement of decision document that:

. . . the 1975 test claim legislation did not amend the requirements in Former Educate Code sections 13488 and 13489 to prepare written evaluations of certificated employees, receive responses to those evaluations, and conduct a meeting with the certificated employee to discuss the evaluation . . .

Furthermore, the 1983 test claim statute still requires school districts to prepare the evaluation in writing, to transmit a copy to the employee, and to conduct a meeting with the employee to discuss the evaluation and assessment. These activities are not new.

However, the 1983 test claim statute amended the evaluation requirements by adding two new evaluation factors relating to 1) the instructional techniques and strategies used by the employee, and 2) the employee’s adherence to curricular objectives. The CSM found that Education Code section 44662, subdivision (b), as amended by Statutes of 1983, Chapter 498, imposed a new required act on school districts to:

. . . evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee’s adherence to curricular objectives.

Reimbursement is limited to the additional requirements imposed by the

amendments. The additional requirements include the review of the employee's instructional techniques and strategies and adherence to curricular objectives, and to include in the written evaluation of the certificated instructional employees the assessment of only these factors. Conference activities do not impose a new program or higher level of service.

Completed/Allowable Evaluations

1. *Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers who are not certificated instructional employees.*

Our finding and recommendation are unchanged. The district states that "All certificated personnel are 'instructional' personnel even if they are not classroom teachers." We disagree.

The language of the program's parameters and guidelines and the CSM statement of decision address the difference between certificated instructional employees and certificated non-instructional employees.

In its statement of decision, the CSM identifies instructional employees as teachers and non-instructional employees as principals and various administrators. The CSM further states that the test claim legislation, as it relates to evaluation and assessment of certificated non-instructional employees, do not constitute a new program or higher level of service.

In addition, the parameters and guidelines clearly identify reimbursable components and activities as they relate to certificated instructional and certificated non-instructional personnel. Our draft report identifies a finding related to the component of evaluating instructional techniques and strategies and adherence to curricular objectives for the certificated instructional employees. The intent of this component is to evaluate the elements of classroom instruction. Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers do not provide classroom instruction and are considered "non-instructional" certificated personnel.

2. *Preschool teachers do not perform the requirements of the program that is mandated by state or federal law.*

Our finding and recommendation is unchanged. The district states the following in its response:

Federal and State law requires preschool instruction for special education pupils as part of the pupil's Individual Education Program. If the teacher is providing instruction to special education preschool pupils, the teacher is implementing the special education mandate.

Our finding indicated that the evaluations of the preschool teachers were excluded for reimbursement. The finding did not indicate that we excluded those teachers that work with special education pupils. The issue at hand is whether preschool teachers, in general, perform the requirements of educational programs mandated by state or federal law.

The district has not provided any documentation to support that preschool teachers previously excluded from reimbursement, if any, performed any activities related to special education pupils.

3. *Duplicate teacher evaluations claimed multiple times in one school year.*

The district concurs with our finding and recommendation.

4. *Permanent biannual teacher evaluations claimed every year rather than every other year.*

The district concurs with our finding and recommendation.

5. *Permanent five-year teacher evaluations claimed multiple times in a five-year period rather than once every five years.*

The district concurs with our finding and recommendation.

Average Productive Hourly Rate (PHR)

The district does not dispute our calculations at this time.

Training Costs

Our finding and recommendation are unchanged. The district disagrees with the unallowable “duplicate” training hours claimed for the same employees. The district states that:

Most of the disallowed staff time was incurred for meetings with the principals and other evaluators to commence the annual evaluation cycle. These are reasonable and necessary when the collective bargaining contract and district evaluation process changes.

The parameters and guidelines states that the district may claim reimbursement to “train staff on implementing the reimbursable activities.” The parameters and guidelines also state that training is reimbursable as a “one-time activity for each employee.”

The district believes that the meetings with the principals and other evaluators are “reasonable and necessary” activities. However, the reimbursement is limited to only those activities outlined in the parameters and guidelines (section IV.C).

**PUBLIC RECORDS
REQUEST**

The district's response included other comments related to the mandated cost claims. The district's comments and SCO's response are presented below.

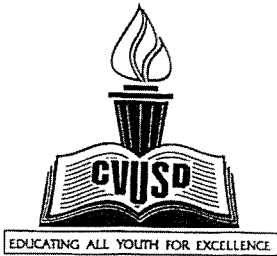
District's Response

The District requests copies of all audit work papers in support of the audit findings. The District requests that the Controller provide the District any and all written instructions, memoranda, or other writings in effect and applicable during the claiming periods to the findings. . .

SCO's Comment

The SCO responded to the district's request by a separate letter dated July 10, 2013.

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



Castro Valley Unified School District

BOARD OF EDUCATION

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Janice Friesen

SUPERINTENDENT

Jim Negri

P.O. BOX 2146 • CASTRO VALLEY, CALIFORNIA 94546 • (510) 537-3000 • Fax (510) 886-8962

June 13, 2013

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

Subject: Castro Valley Unified School District
Stull Act Mandate Audit
FY 1997-98 through FY 2009-10

Dear Mr. Spano:

This letter is the response of the Castro Valley Unified School District to the draft audit report dated May 31, 2013, received by e-mail on June 3, 2013, for the above-referenced program and fiscal years, transmitted by the letter from Jeffrey V. Brownfield, Chief, Division of Audits, State Controller's Office.

The District appreciated the opportunity to utilize a time study of the mandate program activities to replace the original documentation for the historic claim years. The time study is a reasonable method to fulfill the Controller's expectations for cost accounting and documentation. However, the District will file an incorrect reduction claim due to the limited scope of activities approved for reimbursement. The District disagrees with the Controller's interpretation of the Stull Act legislation and the test claim findings. From the discussion at the audit entrance and exit conferences, it is clear that this disagreement cannot be resolved at this point. A Commission on State Mandates decision will be needed since this is an issue of statewide significance relevant to all Stull Act audits.

Finding 1 Overstated salaries and benefits and related indirect costs

The draft audit report concludes that of the \$3,612,274 in salaries and benefits and \$164,684 in related indirect costs claimed for the audit period, that \$2,908,342 in salaries and benefits and \$131,043 in related indirect costs are unallowable, for several reasons:

TIME STUDY ACTIVITIES \$2,839,221



The annual cost of evaluations is calculated based on the average time to implement eight different components of the annual employee evaluation process, multiplied by the number of evaluations performed each year, and then multiplied by the average productive hourly rates (salary and benefits) for the evaluators. For the eight components, the total average time to complete the evaluation process based on the district documentation and the audited allowable times are as follows:

Evaluation Type	District Ave. Hours <u>Time Study</u>	Audited Ave. Hours <u>Allowed</u>
Permanent	5.81	3.57
Probationary	6.25	3.89
Temporary	5.12	3.37
Unsatisfactory	None	7.88

The average time for the evaluation process was calculated by the auditor based on the District's staff time reports. At this time, the District has no objection to the auditor's calculations.

The draft audit report states five of the eight activities identified in the time study are not reimbursable:

- 1 Conducting a conference with the certificated staff member to review their goals and objectives;
- 2 Conducting a pre-observation conference with the certificated staff member;
- 3 Conducting a post-observation conference with the certificated staff member;
- 4 Conducting a final evaluation conference with the certificated staff member; and
- 5 Discussing STAR results and how to improve instructional abilities with the certificated staff member.

The draft audit report states that conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation and thus are not imposing a new program or higher level of service.

The District disagrees with this disallowance. The mandate reimburses the new program requirement to "evaluate and assess" which necessarily involves a comprehensive process. The conferences are one part of a continuum of evaluation and assessment steps, none of which individually completes the mandate. The conferences and related tasks are effective and efficient methods to evaluate and assess employees and necessary to communicate the findings of the evaluation to the employee. Whether the conferences in general were required as a matter of law before the Stull Act is a decision for the Commission pursuant to a future incorrect reduction claim.



The draft audit report states that three of the eight activities identified by the district are reimbursable:

- 6 Classroom observations (formal and informal);
- 7 Writing a report regarding observations; and
- 8 Writing the final evaluation report.

The District agrees that these activities are reimbursable.

COMPLETED/ALLOWABLE EVALUATIONS

The draft audit report states that the program's parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of education programs mandated by state or federal law during specific evaluation periods. The draft audit report disallows 186 of about 3,000 evaluations (about 6%) claimed for the thirteen years for five reasons:

1. *Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers who are not certificated instructional employees.*

The District disagrees with this disallowance. The parameters and guidelines state that the mandate is to evaluate the performance of "certificated instructional employees." All certificated personnel are "instructional" personnel even if they are not classroom teachers. The audit report does not indicate how these other certificated personnel are not implementing state curricular objectives. The District does concur that the portion of the mandate relating to the evaluation of compliance with the testing assessment standards (the STAR component) is limited to classroom teachers because the parameters and guidelines specifically state "employees that teach" specified curriculum.

2. *Preschool teachers who do not perform the requirements of the program that is mandated by state or federal law.*

The District disagrees with this disallowance. Federal and State law requires preschool instruction for special education pupils as part of the pupil's Individual Education Program. If the teacher is providing instruction to special education preschool pupils, the teacher is implementing the special education mandate.

3. *Duplicate teacher evaluations claimed multiple times in one school year.*

Potential "duplicate" evaluations generally occur as a result of an employee transferring to another school during the evaluation cycle, or a change in employment status of the employee. The District concurs that only one complete evaluation should be counted for each employee

4. *Permanent biannual teacher evaluations claimed every year rather than every other year.*

The District concurs that only one complete evaluation should be counted for each employee every other year after the employee attains permanent status.



5. *Permanent five-year teacher evaluations claimed multiple times in a five-year period rather than once every five years.*

The District concurs that only one complete evaluation should be counted for each employee every fifth year after the employee attains permanent five-year status.

AVERAGE PRODUCTIVE HOURLY RATE (PHR) \$48,992

Of the \$3.6 million in salary and benefits claimed for the thirteen years, the draft audit report reduces this amount by \$48,992 (about 1.5%) based on the auditor's calculation of the average productive hourly rates. District staff has reviewed the auditor's calculations and we have no disputed amounts at this time.

TRAINING COSTS \$20,129

The draft audit reports states that the mandate parameters and guidelines only allow training costs as a one-time activity per employee. The disallowances are based on "duplicate" training hours for the "same" employees. The District disagrees with this disallowance. Most of the disallowed staff time was incurred for meetings with the principals and other evaluators to commence the annual evaluation cycle. These $A = \pi r^2$ reasonable and necessary when the collective bargaining contract and district evaluation process changes.

Public Records Request

The District requests copies of all audit work papers in support of the audit findings. The District requests that the Controller provide the District any and all written audit instructions, memoranda, or other writings in effect and applicable during the claiming periods to the findings.

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 possession of the agency and promptly notify the requesting party of that determination and the reasons therefore. Also, as required, when so notifying the District, the agency must state the estimated date and time when the records will be made available.

Sincerely,

Dr. Candi Clark
Assistant Superintendent of Business Services
Castro Valley Unified School District

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

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

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 May 5, 2015, I served the:

SCO Comments on IRC

Incorrect Reduction Claim

The Stull Act, 14-9825-I-01

Education Code Sections 44660-44665;

Statutes 1983, Chapter 498; Statutes 1999, Chapter 4

Fiscal Years: 1997-1998, 1998-1999, 1999-2000, 2000-2001,
2001-2002, 2002-2003, 2003-2004, and 2004-2005

Oceanside 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 May 5, 2015 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: 4/24/15

Claim Number: 14-9825-I-01

Matter: The Stull Act

Claimant: Oceanside 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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