

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
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Norwalk-La Mirada Unified School District
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Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Official	3
Restricted Use	3
Schedule 1—Summary of Program Costs	4
Finding and Recommendation	9
Attachment—District’s Response to Draft Audit Report	

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**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<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**



*Where EVERY Student is Given EVERY Opportunity to
Demonstrate EXCELLENCE*

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.

BOARD OF EDUCATION

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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:

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Fraud Risk Questionnaire

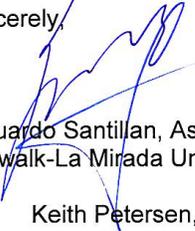
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Public Records Request

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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**

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