

# **CARLSBAD UNIFIED SCHOOL DISTRICT**

Audit Report

## **THE STULL ACT PROGRAM**

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

*July 1, 2005, through June 30, 2009*



**JOHN CHIANG**  
California State Controller

June 2012



**JOHN CHIANG**  
**California State Controller**

June 15, 2012

Kelli Moors, President  
Board of Trustees  
Carlsbad Unified School District  
6225 El Camino Real  
Carlsbad, CA 92009

Dear Ms. Moors:

The State Controller's Office audited the costs claimed by the Carlsbad 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, 2005, through June 30, 2009.

The district claimed \$512,761 for the mandated program. Our audit disclosed that \$238,660 is allowable and \$274,101 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for activities not reimbursable under the mandated program. The State paid the district \$89,625. Allowable costs claimed exceed the amount paid by \$149,035.

If you disagree with the audit finding, you may file an Incorrect 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](http://www.csm.ca.gov/docs/IRCFORM.pdf).

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

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD**  
Chief, Division of Audits

JVB/vb

cc: John A. Roach, Ed.D., Superintendent  
Carlsbad Unified School District  
Devin Vodicka, Assistant Superintendent, Business Services  
Carlsbad Unified School District  
Torrie Norton, Assistant Superintendent, Personnel Services  
Carlsbad Unified School District  
Nancy Navarro, Director, Fiscal Services  
Carlsbad Unified School District  
Mark C. Anderson, President, Board of Education  
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Thomas Todd, Principal Program Budget Analyst  
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State Controller's Office

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# Audit Report

## Summary

The State Controller's Office audited the costs claimed by the Carlsbad 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, 2005, through June 30, 2009.

The district claimed \$512,761 for the mandated program. Our audit disclosed that \$238,660 is allowable and \$274,101 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for activities not reimbursable under the mandated program. The State paid the district \$89,625. Allowable costs claimed exceed the amount paid by \$149,035.

## Background

Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999, added Education Code sections 44660-44665. The legislation provided specific reimbursement for 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 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 towards 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 (i.e., every other year).

The additional evaluations shall last until the employee archives 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, 2005, through June 30, 2009.

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

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

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

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

## **Conclusion**

Our audit disclosed 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, the Carlsbad Unified School District claimed \$512,761 for costs of the Stull Act Program. Our audit disclosed that \$238,660 is allowable and \$274,101 is unallowable.

For the fiscal year (FY) 2005-06 claim, the State made no payment to the district. Our audit disclosed that \$59,555 is allowable. The State will pay allowable costs claimed, totaling \$59,555, contingent upon available appropriations.

For the FY 2006-07 claim, the State made no payment to the district. Our audit disclosed that \$43,370 is allowable. The State will pay allowable costs claimed, totaling \$43,370, contingent upon available appropriations.

For the FY 2007-08 claim, the State made no payment to the district. Our audit disclosed that \$75,643 is allowable. The State will pay allowable costs claimed, totaling \$75,643, contingent upon available appropriations.

For the FY 2008-09 claim, the State paid the district \$89,625. Our audit disclosed that \$60,092 is allowable. The State will offset \$29,533 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 2, 2012. Devin Vodicka, Assistant Superintendent, responded by letter dated May 9, 2012 (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 Carlsbad 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  
Chief, Division of Audits

June 15, 2012

## Schedule 1— Summary of Program Costs July 1, 2005, through June 30, 2009

| Cost Elements  | Actual Costs<br>Claimed | Allowable<br>per Audit | Audit<br>Adjustment <sup>1</sup> |
|--|-------------------------|------------------------|----------------------------------|
| <u>July 1, 2005, through June 30, 2006</u>                   |                         |                        |                                  |
| Direct costs:  |                         |                        |                                  |
| Salaries and benefits  |                         |                        |                                  |
| Evaluation activities  | \$ 97,325               | \$ 54,081              | \$ (43,244)                      |
| Training   | 2,193                   | 2,193                  | —                                |
| Total direct costs   | 99,518                  | 56,274                 | (43,244)                         |
| Indirect costs   | 5,674                   | 3,281                  | (2,393)                          |
| Total program costs  | <u>\$ 105,192</u>       | 59,555                 | <u>\$ (45,637)</u>               |
| Less amount paid by the State                                |                         | —                      |                                  |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ 59,555</u>       |                                  |
| <u>July 1, 2006, through June 30, 2007</u>                   |                         |                        |                                  |
| Direct costs:  |                         |                        |                                  |
| Salaries and benefits  |                         |                        |                                  |
| Evaluation activities  | \$ 155,019              | \$ 37,956              | \$ (117,063)                     |
| Training   | 2,965                   | 2,775                  | (190)                            |
| Total direct costs   | 157,984                 | 40,731                 | (117,253)                        |
| Indirect costs   | 10,237                  | 2,639                  | (7,598)                          |
| Total program costs  | <u>\$ 168,221</u>       | 43,370                 | <u>\$ (124,851)</u>              |
| Less amount paid by the State                                |                         | —                      |                                  |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ 43,370</u>       |                                  |
| <u>July 1, 2007, through June 30, 2008</u>                   |                         |                        |                                  |
| Direct costs:  |                         |                        |                                  |
| Salaries and benefits  |                         |                        |                                  |
| Evaluation activities  | \$ 128,560              | \$ 70,602              | \$ (57,958)                      |
| Training   | 1,640                   | 1,549                  | (91)                             |
| Total direct costs   | 130,200                 | 72,151                 | (58,049)                         |
| Indirect costs   | 6,302                   | 3,492                  | (2,810)                          |
| Total program costs  | <u>\$ 136,502</u>       | 75,643                 | <u>\$ (60,859)</u>               |
| Less amount paid by the State                                |                         | —                      |                                  |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ 75,643</u>       |                                  |

## Schedule 1 (continued)

| Cost Elements  | Actual Costs<br>Claimed | Allowable<br>per Audit | Audit<br>Adjustment |
|--|-------------------------|------------------------|---------------------|
| <u>July 1, 2008, through June 30, 2009</u>                   |                         |                        |                     |
| Direct costs:  |                         |                        |                     |
| Salaries and benefits  |                         |                        |                     |
| Evaluation activities  | \$ 96,252               | \$ 56,594              | \$ (39,658)         |
| Training   | 608                     | —                      | (608)               |
| Total direct costs   | 96,860                  | 56,594                 | (40,266)            |
| Indirect costs   | 5,986                   | 3,498                  | (2,488)             |
| Total program costs  | <u>\$ 102,846</u>       | 60,092                 | <u>\$ (42,754)</u>  |
| Less amount paid by the State                                |                         | (89,625)               |                     |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ (29,533)</u>     |                     |
| <u>Summary: July 1, 2005, through June 30, 2009</u>          |                         |                        |                     |
| Direct costs:  |                         |                        |                     |
| Salaries and benefits  |                         |                        |                     |
| Evaluation activities  | \$ 477,156              | \$ 219,233             | \$ (257,923)        |
| Training   | 7,406                   | 6,517                  | (889)               |
| Total direct costs   | 484,562                 | 225,750                | (258,812)           |
| Indirect costs   | 28,199                  | 12,910                 | (15,289)            |
| Total program costs  | <u>\$ 512,761</u>       | 238,660                | <u>\$ (274,101)</u> |
| Less amount paid by the State                                |                         | (89,625)               |                     |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ 149,035</u>      |                     |

<sup>1</sup> See the Finding and Recommendation section.

# Finding and Recommendation

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

The district claimed \$484,562 in salaries and benefits and \$28,199 in related indirect costs for the audit period. We determined that \$258,812 in salaries and benefits and \$15,289 in related indirect costs are unallowable. The costs are unallowable primarily because the district claimed reimbursement for non-mandated activities.

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

|                             | Fiscal Year |              |             |             | Total        |
|-----------------------------|-------------|--------------|-------------|-------------|--------------|
|                             | 2005-06     | 2006-07      | 2007-08     | 2008-09     |              |
| Direct costs                |             |              |             |             |              |
| Salaries and benefits       |             |              |             |             |              |
| Evaluation activities       | \$ (43,244) | \$ (117,063) | \$ (57,958) | \$ (39,658) | \$ (257,923) |
| Training                    | —           | (190)        | (91)        | (608)       | (889)        |
| Total salaries and benefits | (43,244)    | (117,253)    | (58,049)    | (40,266)    | (258,812)    |
| Indirect costs              | (2,393)     | (7,598)      | (2,810)     | (2,488)     | (15,289)     |
| Audit adjustment            | \$ (45,637) | \$ (124,851) | \$ (60,859) | \$ (42,754) | \$ (274,101) |

*Unsupported Costs*

Initially, all costs claimed by the district were unallowable because they were based on average time increments supported with time records that were not completed contemporaneously.

The district developed an alternative reimbursement methodology to determine allowable costs for fiscal year (FY) 2005-06 through FY 2008-09. The district’s representatives conducted a time study in FY 2010-11 as a substitute for records of actual time spent on teacher evaluations. The results were applied to the audit period.

*Time Study Activities*

The time study documented the time it took district evaluators to perform 22 separate activities of the teacher evaluation process. The district evaluated permanent, probationary, and temporary certificated instructional teachers. The time study results reported time for training, planning, preparation, meetings, observation, report writing, and other activities within the evaluation process.

The time study determined that it takes district evaluators an average of 10 hours and 38 minutes per teacher to complete an evaluation.

Out of the 22 activities the district identified in their time study, 19 activities are not reimbursable under the mandate. The 19 non-reimbursable activities include:

1. Preparing before training or planning meetings/conferences;
2. Training or planning meetings/conferences;

3. Preparing/organizing notes from training or planning meetings/conferences;
4. Preparing before meeting with teachers;
5. Conducting actual conference with teachers;
6. Preparing or organizing notes from meetings with teachers;
7. Preparing before “Pre-Observation” conferences with teachers;
8. Conducting “Pre-Observation” conferences with teachers;
9. Preparing/organizing notes from “Pre-Observation” conferences with teachers;
10. Preparing before classroom observations of teachers;
11. Preparing/organizing notes from classroom observations, finalizing Collect Data forms;
12. Reporting observations, preparing the Standards for Excellence in Teaching observation checklists;
13. Preparing before “Post-Observation” conferences with teachers;
14. Conducting “Post-Observation” conferences with teachers;
15. Preparing notes from “Post-Observation” conferences and preparing Reflecting Conference worksheets;
16. Preparing before Final Evaluation conferences with teachers;
17. Conducting Final Evaluation conferences with teachers;
18. Preparing/organizing notes from Final Evaluation conferences with teachers; and
19. Discussing the STAR results with teachers and assessing how to improve instructional abilities.

The activities related to planning, preparation, and organizing notes are not reimbursable under the mandate.

The district duplicated costs by including training activities in its time study and again as a direct cost item in each fiscal year. Further, training time reported in the time study is not an activity repetitive in nature and is not appropriate for a time study. We determined allowable time spent on training from the district’s original claims.

Conferences between the evaluators and teachers also 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, as well as pre-, post-, final observation conferences, and conference-related activities are not reimbursable.

Out of the 22 activities identified by the district, we determined that the time spent on the following three activities is reimbursable:

1. Conducting “informal” classroom observations;
2. Conducting “formal” classroom observations;
3. Writing Final Evaluation Reports and/or preparing Teacher Evaluation Report.

Based on the time study results, we concluded that it takes district evaluators an average of 5 hours and 8 minutes per teacher evaluation to complete allowable activities within the evaluation process.

*Completed Evaluations*

The district used Certificated Evaluation Log spreadsheets to keep track of completed evaluations sent to the Carlsbad Unified School District Personnel Services Department. We reviewed the Evaluation Logs 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 educational programs mandated by state or federal law during specific evaluation periods.

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

| Fiscal Year | Number of Evaluations |                     |             |
|-------------|-----------------------|---------------------|-------------|
|             | Per Time Study        | Allowable per Audit | Adjustments |
| 2005-06     | 178                   | 160                 | (18)        |
| 2006-07     | 112                   | 106                 | (6)         |
| 2007-08     | 209                   | 201                 | (8)         |
| 2008-09     | <u>161</u>            | <u>147</u>          | <u>(14)</u> |
| Totals      | <u>660</u>            | <u>614</u>          | <u>(46)</u> |

The non-reimbursable evaluations included the following:

- Principals, vice principals, directors, coordinators, counselors, psychologists, librarians, and library media specialists 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.

*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 productive hourly rates (PHR).

The following table summarizes the calculations by fiscal year.

|  | Fiscal Year      |                  |                  |                  | Total             |
|--|------------------|------------------|------------------|------------------|-------------------|
|  | 2005-06          | 2006-07          | 2007-08          | 2008-09          |                   |
| (A) Allowable evaluations                          | 160              | 106              | 201              | 147              |                   |
| (B) Allowable hours per evaluation                 | × 5.14           | × 5.14           | 5.14             | 5.14             |                   |
| (C) Total annual hours [(A) × (B)]                 | 822.4            | 544.8            | 1,033.1          | 755.6            |                   |
| (D) Average PHR                                    | × \$65.76        | × \$69.67        | × \$68.34        | × \$74.90        |                   |
| Total evaluation salaries and benefits [(C) × (D)] | <u>\$ 54,081</u> | <u>\$ 37,956</u> | <u>\$ 70,602</u> | <u>\$ 56,594</u> | <u>\$ 219,233</u> |

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

*Calculation of Allowable Training Costs*

The district’s original claims reported training hours in each fiscal year. The parameters and guidelines only allow training costs as a one-time activity per employee. We concluded that \$6,517 out of the \$7,406 claimed in training costs is reimbursable under the mandate. The unallowable training costs included duplicate training hours for the same employees.

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

|                  | Fiscal Year |                 |                |                 | Total           |
|------------------|-------------|-----------------|----------------|-----------------|-----------------|
|                  | 2005-06     | 2006-07         | 2007-08        | 2008-09         |                 |
| Claimed          | \$ 2,193    | \$ 2,965        | \$ 1,640       | \$ 608          | \$ 7,406        |
| Allowable        | 2,193       | 2,775           | 1,549          | —               | 6,517           |
| Audit adjustment | <u>\$ —</u> | <u>\$ (190)</u> | <u>\$ (91)</u> | <u>\$ (608)</u> | <u>\$ (889)</u> |

For FY 2005-06, the district claimed training costs in the Travel and Training reimbursable component. We reclassified the district’s training costs to Salaries and Benefits.

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:
  - 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 rates 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

#### **Time Study Activities**

... the District prepared a time-study based on the FY 2010-11 certificated staff evaluation cycle. The time study identified 22 discrete activities based on staff interviews. Actual time spent on these activities was collected from the employees involved. An average time spent for each of these activities was calculated. These average times per activity were assigned to a relevant job title or group of titles for purposes of

determining the appropriate productive hourly rate to be applied to each activity. However, the audit report allows only 3 of the 22 time study activities.

### 3 Activities Allowed

1. Conducting “informal” classroom observations
2. Conducting “formal” classroom observations
3. Writing Final Evaluation Reports and/or preparing Teacher Evaluation Report

### 19 Disallowed Activities

The remaining 19 activities were not approved for reimbursement. These can be grouped into three categories:

**Preparation activities:** The audit report disallows activities related to planning, preparation, and organizing of notes for the evaluations, because these activities are “not reimbursable under the mandate.” The audit report does not provide a legal citation or other source for this conclusion. Preparation is a reasonable and necessary part of implementing the evaluation mandate.

**Training:** The audit report concludes that training time is not a proper subject for a time study of repetitive activities. Instead, the audit report allows most of the training costs as direct costs, based on the District’s original claim documentation. The adjustment amount is \$889 based on the direct cost method. The training time included in the time study was intended to pertain to the annual repetitive process to train evaluators for the annual evaluation cycle. However, due to the parameters and guidelines limitation that training costs not be duplicated for any one employee, the direct cost method is a reasonable method of preventing duplication of these costs.

**Evaluation Conferences:** The audit report concludes that conferences between the evaluators and teachers are unallowable “because they were required before the enactment of the test claim legislation.” The audit report does not provide a legal citation or other source for this threshold conclusion that conferences were previously required by law. The mandate reimburses the new program requirement to “evaluate and assess” which necessarily involves a comprehensive process. The classroom observations 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. Even if conferences were part of previous evaluation procedures, either by law or practice, the subject matter of these conferences is now different as a result of the Stull Act.

### **Disallowed evaluations**

There were 660 evaluations claimed for the four fiscal years. The audit report disallowed 49 and approved 611. *Five reasons were stated in the audit report for excluding evaluations from the calculation of reimbursable costs.*

1. *Principals, vice principals, directors, coordinators, counselors, psychologists, librarians, and library media specialists who are not certificated instructional employees.*

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

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.

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.

#### SCO’s Comment

#### **Issue 1—Time Study Activities**

##### *Preparation activities:*

Our finding and recommendation are unchanged. The activities related to planning, preparation, and organizing notes are not listed as reimbursable activities in the program’s parameters and guidelines.

The district states in its response that “preparation is a reasonable and necessary part of implementing the evaluation mandate.” While the district may believe that these activities are “reasonable and necessary”

activities, the reimbursement is limited to only those activities outlined in the parameters and guidelines (sections IV.A.1, IV.A.2, and IV.B.1). The district may file an amendment with the Commission on State Mandates (CSM) to amend the existing parameters and guidelines.

*Training:*

Our finding and recommendation are unchanged. The district stated that due to the parameters and guidelines limitation, the direct cost method used by the SCO in determining allowable costs is a reasonable method.

*Evaluation Conferences:*

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.

However, the district neither claimed reimbursement for, nor provided documentation supporting that unsatisfactory evaluations were completed during the audit period. Thus, the question remains whether the evaluation conferences are reimbursable for evaluations claimed 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 had to be reduced to writing and a copy of the evaluation had to be given to the employee. An evaluation meeting had 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 reduce the evaluation to 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 do the following:

... 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 are not imposing a new program or higher level of service.

## **Issue 2—Disallowed Evaluations**

- 1. Principals, vice principals, directors, coordinators, counselors, psychologists, librarians, and library media specialists 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, 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. Principals, vice principals, directors, coordinators, counselors, psychologists, librarians, and library media specialists 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 are 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 preschool teachers were excluded for reimbursement. The finding did not indicate that we excluded those teachers who work with special education pupils. The issue at hand is whether preschool teachers, in general, perform the requirements of the educational program mandated by state or federal law. We believe they do not.

The district has not provided any legal citation or other source to support its assertions. In addition, 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.

#### **Additional documentation provided by the district**

Subsequent to the issuance of the draft audit report, the district provided our office with additional documentation relating to the number of teacher evaluations we determined were allowable and unallowable.

The additional documentation included information for six individual teachers with the following clarifying information:

- Change of employment status,
- Corrected evaluation dates, and
- Corrected input errors.

After reviewing the additional documentation, we incorporated the information provided into our analysis of allowable teacher evaluations. Based on the teacher employment status and evaluation dates corrected by the district, we revised the allowable teacher evaluations as follows:

|                            | Fiscal Year |          |          |          | Total    |
|----------------------------|-------------|----------|----------|----------|----------|
|                            | 2005-06     | 2006-07  | 2007-08  | 2008-09  |          |
| Previous count of teachers | 162         | 105      | 201      | 143      |          |
| Additional documentation   | 160         | 106      | 201      | 147      |          |
| Difference                 | <u>(2)</u>  | <u>1</u> | <u>—</u> | <u>4</u> | <u>3</u> |

As a result, we concluded that three additional evaluations are allowable for the audit period. Subsequently, we reinstated \$1,220 in salary and benefits costs and \$80 in related indirect costs we previously identified as unallowable. We incorporated the additional evaluation activity costs into our Summary of Program Costs (Schedule 1).

**OTHER ISSUES**

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

**Management representation letter**

District’s Response

The district will not be providing the requested management representation letter since it could be construed as a waiver of future appeal rights.

SCO’s Comment

Our finding and recommendation are unchanged. We modified our audit report to disclose that the district declined to provide the written representation letter that is recommended by generally accepted government auditing standards.

**Public records request**

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 respond to the district’s request by a separate letter by June 29, 2012.

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

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**Carlsbad Unified School District**

6225 El Camino Real • Carlsbad, CA 92009  
(760) 331-5000 • FAX (760) 431-6707

*... a world class district*

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

May 9, 2012

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: Carlsbad Unified School District  
Stull Act Audit  
FY 2005-06 through FY 2008-09

Dear Mr. Spano:

This letter is the response of the Carlsbad Unified School District to the draft audit report dated May 2, 2012, received by e-mail on May 3, 2012, 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 conduct a time study of program costs to replace the original documentation. The time study is a reasonable method to fulfill the Controller's expectations for cost accounting and documentation. However, the District will later 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 exit conference on April 23, 2012, 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.

**Issue 1 Time study activities**

The audit report concludes that of the \$512,761 in salaries and benefits and related indirect costs claimed for the audit period, that \$237,360 is allowable and \$275,401 is "unallowable primarily because the district claimed reimbursement for non-mandated activities" rather than due to insufficient documentation.

In response to the Controller's exclusion at the beginning of the audit of all of the original claim documentation, the District prepared a time-study based on the FY 2010-11 certificated staff evaluation cycle. The time study identified 22 discrete activities based on staff interviews. Actual time spent on these activities was collected from the employees involved. An average time spent for each of these activities was calculated. These average times per activity were assigned to a relevant job title or group of titles for purposes of determining the appropriate productive hourly rate to be applied to each activity. However, the audit report allows only 3 of the 22 time study activities.

### 3 Activities Allowed

1. Conducting "informal" classroom observations
2. Conducting "formal" classroom observations
3. Writing Final Evaluation Reports and/or preparing Teacher Evaluation Report

### 19 Disallowed Activities

The remaining 19 activities were not approved for reimbursement. These can be grouped into three categories:

**Preparation activities:** The audit report disallows activities related to planning, preparation, and organizing of notes for the evaluations, because these activities are "not reimbursable under the mandate." The audit report does not provide a legal citation or other source for this conclusion. Preparation is a reasonable and necessary part of implementing the evaluation mandate.

**Training:** The audit report concludes that training time is not a proper subject for a time study of repetitive activities. Instead, the audit report allows most of the training costs as direct costs, based on the District's original claim documentation. The adjustment amount is \$889 based on the direct cost method. The training time included in the time study was intended to pertain to the annual repetitive process to train evaluators for the annual evaluation cycle. However, due to the parameters and guidelines limitation that training costs not be duplicated for any one employee, the direct cost method is a reasonable method of preventing duplication of these costs.

**Evaluation Conferences:** The audit report concludes that conferences between the evaluators and teachers are unallowable "because they were required before the enactment of the test claim legislation." The audit report does not provide a legal citation or other source for this threshold conclusion that conferences were previously required by law. The mandate reimburses the new program requirement to "evaluate and assess" which necessarily involves a comprehensive process. The classroom observations 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. Even if conferences were part of previous evaluation procedures, either by law or practice, the subject matter of these conferences is now different as a result of the Stull Act.

## **Issue 2      Disallowed evaluations**

There were 660 evaluations claimed for the four fiscal years. The audit report disallowed 49 and approved 611. *Five reasons were stated in the audit report for excluding evaluations from the calculation of reimbursable costs.*

1. *Principals, vice principals, directors, coordinators, counselors, psychologists, librarians, and library media specialists who are not certificated instructional employees.*

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

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.

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.

Auditor's "Certificated Evaluation Log" Errata

After the April 23, 2012, exit conference, the District reviewed the auditor's schedule of disallowed evaluations and provided the following information to the auditor by e-mail dated April 27, 2012.

Fiscal Year    Employee

2005-2006            Ellen Weatherall

- The last reported evaluation date was listed as 10/24/04. That is incorrect; the date should have been recorded as 04/23/04.
- Evaluated on 05/09/09 and applied for a five-year evaluation on 05/23/09.
- Next evaluation due in 2013-14.

2006-2007            Janet Peabody

- Evaluated 06/14/06 by C. VanVooren at Jefferson Elementary School.
- Evaluated 05/16/07 by M. Watson at Aviara Oaks Middle School.
- Evaluated 05/12/09 by C. Millikin at Aviara Oaks Middle School.

Esmeralda Sandoval

- In 2005-06 applied for, but did not complete, Tier 2 and was not evaluated in May 2006; inaccurately logged.
- Evaluated 06/11/07 and 05/12/09.

2007-2008

All employees that were noted "No evaluation completed. Date of last evaluation was ...." were on a five-year evaluation plan, and the due dates were listed.

2008-2009            Jan Burda

04/23/04    Evaluation  
05/24/06    Signed 5-Year Evaluation Agreement

05/06/09 Evaluation – 5 Year  
10/19/09 Signed 5-Year Evaluation Agreement

Christine Kunkel

02/21/08 Changed status from Temporary to Probationary  
06/13/08 Evaluation – Probationary  
05/11/09 Evaluation – Permanent (1<sup>st</sup> year)

Joseph Purser

02/13/07 Evaluation – Temporary  
05/02/08 Evaluation – Probationary  
05/12/09 Evaluation – Permanent  
04/29/11 Evaluation – Permanent

**Management Representation Letter**

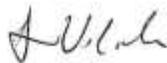
The District will not be providing the requested management representation letter since it could be construed as a waiver of future appeal rights.

**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 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,



Devin Vodicka, Assistant Superintendent  
Business Services  
Carlsbad Unified School District

c: Keith Petersen, President, SixTen and Associates

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