

KERN COUNTY SUPERINTENDENT OF SCHOOLS

Revised Audit Report

COLLECTIVE BARGAINING PROGRAM

Chapter 961, Statutes of 1975,
and Chapter 1213, Statutes of 1991

July 1, 2000, through June 30, 2003



JOHN CHIANG
California State Controller

February 2007



JOHN CHIANG
California State Controller

February 9, 2007

Larry E. Reider, Ed.D.
Kern County Superintendent of Schools
1300 17th Street
Bakersfield, CA 93301-4533

Dear Dr. Reider:

The State Controller's Office audited the costs claimed by the Kern County Superintendent of Schools (KCSOS) for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2000, through June 30, 2003. This revised final report supersedes the previously issued final report dated December 23, 2005. This final revised report revises Finding 4 from the previously issued report. As a result, allowable costs increased by \$58,155.

The KCSOS claimed \$326,981 for the mandated program. Our audit disclosed that \$298,863 is allowable and \$28,118 is unallowable. The unallowable costs occurred primarily because the KCSOS did not provide sufficient documentation to support a portion of claimed costs. The State paid the KCSOS \$240,708. The State will pay allowable costs claimed that exceed the amount paid, totaling \$58,155, contingent upon available appropriations.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). 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 COSM's Web site, at www.csm.ca.gov (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at csminfo@csm.ca.gov.

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

Sincerely,

Original signed by:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/jj:wq:vb

cc: Bud Burrow

Assistant Superintendent
Kern County Superintendent of Schools

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Revised Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Kern County Superintendent of Schools (KCSOS) for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2000, through June 30, 2003. The last day of fieldwork was July 13, 2004.

The KCSOS claimed \$326,981 for the mandated program. Our audit disclosed that \$298,863 is allowable and \$28,118 is unallowable. The unallowable costs occurred primarily because the KCSOS did not provide sufficient documentation to support a portion of the claimed costs. The State paid the KCSOS \$240,708. The State will pay allowable costs claimed that exceed the amount paid, totaling \$58,155, contingent upon available appropriations.

Background

In 1975, the State enacted the Rodda Act (Chapter 961, Statutes of 1975), requiring the employer and employee to meet and negotiate, thereby creating a collective bargaining atmosphere for public school employers. The legislation created the Public Employment Relations Board to issue formal interpretations and rulings regarding collective bargaining under the Act. In addition, the legislation established organizational rights of employees and representational rights of employee organizations, and recognized exclusive representatives relating to collective bargaining.

On July 17, 1978, the Board of Control (now the Commission on State Mandates [COSM]) determined that the Rodda Act imposed a state mandate upon school districts reimbursable under *Government Code* Section 17561.

Chapter 1213, Statutes of 1991, added *Government Code* Section 3547.5, requiring school districts to publicly disclose major provisions of a collective bargaining effort before the agreement becomes binding.

On August 20, 1998, the COSM determined that this legislation also imposed a state mandate upon school districts reimbursable under *Government Code* Section 17561. Costs of publicly disclosing major provisions of collective bargaining agreements that districts incurred after July 1, 1996, are allowable.

Claimants are allowed to claim increased costs. For claim components G1 through G3, increased costs represent the difference between the current-year Rodda Act activities and the base-year Winton Act activities (generally, fiscal year [FY] 1974-75), as adjusted by the implicit price deflator. For components G4 through G7, increased costs represent actual costs incurred.

The KCSOS filed combined claims on behalf of its nine schools and four learning centers, and the following five school districts in Kern County: Elk Hills Elementary School District, Lost Hills Union School District, Greenfield Union School District, Rosedale Union School District, and Midway School District.

The seven components are as follows.

- G1–Determining bargaining units and exclusive representatives
- G2–Election of unit representatives
- G3–Costs of negotiations
- G4–Impasse proceedings
- G5–Collective bargaining agreement disclosure
- G6–Contract administration
- G7–Unfair labor practice costs

Parameters and Guidelines, adopted by the COSM on October 22, 1980 (last amended on January 27, 2000), establishes the state mandate and defines criteria for reimbursement. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for each mandate requiring state reimbursement to assist school districts and county superintendents of schools in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Collective Bargaining Program for the period of July 1, 2000, through June 30, 2003.

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

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Section 17558.5. We did not audit the KCSOS's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the KCSOS'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 disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the SCSOS claimed \$326,981 for costs of the Collective Bargaining Program. Our audit disclosed that \$298,863 is allowable and \$28,118 is unallowable.

For FY 2000-01, the State paid the KCSOS \$165,747. Our audit disclosed that \$200,460 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$34,713, contingent upon available appropriations.

For FY 2001-02, the State paid the KCSOS \$52,925. Our audit disclosed that \$63,305 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$10,380, contingent upon available appropriations.

For FY 2002-03, the State paid the KCSOS \$22,036. Our audit disclosed that \$35,098 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$13,062, contingent upon available appropriations.

Views of Responsible Officials

We issued a draft audit report on July 15, 2005. Steve Mattern, Director, KCSOS Financial Services, responded by letter dated September 12, 2005 (Attachment), agreeing with the audit results except for Finding 4. This final audit report includes the KCSOS's response.

This revised final audit report revises Finding 4 (unreported offsetting reimbursements) from our final audit report issued December 23, 2005. As a result, allowable costs increased by \$58,155. We advised Bud Burrow, KCSOS Assistant Superintendent, of the revised final audit report on January 9, 2007.

Restricted Use

This report is solely for the information and use of the Kern County Superintendent of Schools, 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

**Revised Schedule 1—
Summary of Program Costs
July 1, 2000, through June 30, 2003**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>	<u>Reference¹</u>
<u>July 1, 2000, through June 30, 2001</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 101,382	\$ 92,755	\$ (8,627)	Finding 1
Travel and training	44,361	—	(44,361)	Finding 3
Contracted services	<u>57,581</u>	<u>101,982</u>	<u>44,401</u>	Finding 3
Increased direct costs, G1 through G3	<u>203,324</u>	<u>194,737</u>	<u>(8,587)</u>	
Components activities G4 through G7:				
Salaries and benefits	240	102	(138)	Finding 1
Travel and training	40	—	(40)	Finding 3
Contracted services	<u>1,133</u>	<u>1,133</u>	<u>—</u>	Finding 3
Increased direct costs, G4 through G7	<u>1,413</u>	<u>1,235</u>	<u>(178)</u>	
Total increased direct costs, G1 through G7	204,737	195,972	(8,765)	
Indirect costs	<u>10,745</u>	<u>4,488</u>	<u>(6,257)</u>	Findings 1, 3
Total program costs	<u>\$ 215,482</u>	200,460	<u>\$ (15,022)</u>	
Less amount paid by the State		<u>(165,747)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 34,713</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 20,516	\$ 13,478	\$ (7,038)	Finding 1
Travel and training	13,797	—	(13,797)	Finding 3
Contracted services	<u>10,342</u>	<u>24,139</u>	<u>13,797</u>	Finding 3
Increased direct costs, G1 through G3	<u>44,655</u>	<u>37,617</u>	<u>(7,038)</u>	
Components activities G4 through G7:				
Salaries and benefits	5,029	4,719	(310)	Finding 1
Travel and training	—	—	—	
Contracted services	<u>21,073</u>	<u>19,993</u>	<u>(1,080)</u>	Finding 2
Increased direct costs, G4 through G7	<u>26,102</u>	<u>24,712</u>	<u>(1,390)</u>	
Total increased direct costs, G1 through G7	70,757	62,329	(8,428)	
Indirect costs	<u>3,051</u>	<u>976</u>	<u>(2,075)</u>	Findings 1, 3
Total program costs	<u>\$ 73,808</u>	63,305	<u>\$ (10,503)</u>	
Less amount paid by the State		<u>(52,925)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 10,380</u>		

Revised Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2002, through June 30, 2003</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 12,717	\$ 11,451	\$ (1,266)	Finding 1
Travel and training	—	—	—	
Contracted services	<u>22,174</u>	<u>21,186</u>	<u>(988)</u>	Finding 2
Increased direct costs, G1 through G3	<u>34,891</u>	<u>32,637</u>	<u>(2,254)</u>	
Components activities G4 through G7:				
Salaries and benefits	117	109	(8)	Finding 1
Travel and training	—	—	—	
Contracted services	<u>1,742</u>	<u>1,742</u>	<u>—</u>	
Increased direct costs, G4 through G7	<u>1,859</u>	<u>1,851</u>	<u>(8)</u>	
Total increased direct costs, G1 through G7	36,750	34,488	(2,262)	
Indirect costs	<u>941</u>	<u>610</u>	<u>(331)</u>	Findings 1, 3
Total program costs	<u>\$ 37,691</u>	35,098	<u>\$ (2,593)</u>	
Less amount paid by the State		<u>(22,036)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 13,062</u>		
<u>Summary: July 1, 2000, through June 30, 2003</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 134,615	\$ 117,684	\$ (16,931)	Finding 1
Travel and training	58,158	—	(58,158)	Finding 3
Contracted services	<u>90,097</u>	<u>147,307</u>	<u>57,210</u>	Findings 2, 3
Increased direct costs, G1 through G3	<u>282,870</u>	<u>264,991</u>	<u>(17,879)</u>	
Components activities G4 through G7:				
Salaries and benefits	5,386	4,930	(456)	Finding 1
Travel and training	40	—	(40)	Finding 3
Contracted services	<u>23,948</u>	<u>22,868</u>	<u>(1,080)</u>	Finding 2
Increased direct costs, G4 through G7	<u>29,374</u>	<u>27,798</u>	<u>(1,576)</u>	
Total increased direct costs, G1 through G7	312,244	292,789	(19,455)	
Indirect costs	<u>14,737</u>	<u>6,074</u>	<u>(8,663)</u>	Findings 1, 3
Total program costs	<u>\$ 326,981</u>	298,863	<u>\$ (28,118)</u>	
Less amount paid by the State		<u>\$ (240,708)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 58,155</u>		

¹ See the Findings and Recommendations section.

Revised Findings and Recommendations

FINDING 1— Unsupported salaries and benefits

The KCSOS overclaimed \$17,387 of salaries and benefits for the audit period. The related indirect costs total \$1,241. The overstated salaries and benefits costs resulted from the following:

- The KCSOS claimed \$1,284 of ineligible costs for time spent by the KCSOS superintendent.
- The KCSOS did not support \$6,773 in administrator costs and \$3,819 in substitute teacher costs (\$10,224 for components G1 through G3 and \$368 for components G4 through G7).
- The KCSOS overstated productive hourly rates by \$5,511 (\$5,423 for components G1 through G3 and \$88 for components G4 through G7) because several certificated employees' benefits rates were computed using classified employees' benefits rate. Certificated employees received benefits at 13.81% compared to 25% for classified staff.

Following is a summary of the unallowable costs.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Components G1 through G3:				
Ineligible costs	\$ (1,059)	\$ (225)	\$ —	\$ (1,284)
Unsupported costs	(3,552)	(6,364)	(308)	(10,224)
Overstated hourly rate	(4,016)	(449)	(958)	(5,423)
Components G4 through G7:				
Unsupported costs	(138)	(230)	—	(368)
Overstated hourly rate	—	(80)	(8)	(88)
Subtotal	(8,765)	(7,348)	(1,274)	(17,387)
Related indirect costs	(586)	(562)	(93)	(1,241)
Audit adjustment	\$ (9,351)	\$ (7,910)	\$ (1,367)	\$ (18,628)

Parameters and Guidelines requires the claimant to show classification of the employees involved, amount of time spent, and their hourly rate. In addition, the guidelines require the claimant to show the costs of salaries and benefits for employer representatives participating in negotiations, the costs of substitute teachers for release time of exclusive bargaining unit representatives during negotiations, the job classifications of the bargaining unit representatives that required a substitute, and dates worked.

Parameters and Guidelines states that the claimant must support the level of costs claimed and that the claimant will only be reimbursed for the increased costs incurred. In addition, the *Parameters and Guidelines* states that the costs of the governing authority such as School Superintendent are not reimbursable under the program.

Recommendation

We recommend that the KCSOS ensure that all claimed costs are eligible increased costs incurred as a result of the mandate and are supported by appropriate documentation.

KCSOS’s Response

... it does appear that some of the costs filed in the combined claim cannot be supported by the proper documentation while other costs were misclassified. We work closely with our mandated costs vendor to ensure that all costs claimed are properly and adequately documented. However, in this instance, some costs were misclassified while other costs cannot be adequately documented. For these reasons, we do not dispute findings one thru three.

SCO’s Comment

The finding and recommendation remain unchanged.

**FINDING 2—
Unallowable contract
services**

The KCSOS claimed unsupported contract services costs of \$2,068 for FY 2001-02 and FY 2002-03.

The unallowable costs resulted from the following.

- The KCSOS claimed \$988 in FY 2002-03 for administrative costs incurred by one of its consultants. The KCSOS did not provide documentation to substantiate that the activities were mandate-related.
- The KCSOS claimed \$1,080 in FY 2001-02 for costs incurred by one of its consultants for Lost Hills Union School District. The KCSOS did not provide any source documentation to substantiate the costs incurred.

Following is a summary of unallowable costs.

	Fiscal Year		Total
	2001-02	2002-03	
Components G1 through G3:			
Ineligible costs	\$ —	\$ (988)	\$ (988)
Components G4 through G7:			
Unsupported costs	(1,080)	—	(1,080)
Totals	<u>\$ (1,080)</u>	<u>\$ (988)</u>	<u>\$ (2,068)</u>

Parameters and Guideline states that the claimant must support the level of costs claimed and that the claimant will be reimbursed only for the increased costs incurred.

Recommendation

We recommend that the KCSOS establish an adequate recording and reporting system to ensure that all claimed costs are eligible increased costs incurred as a result of the mandate and are supported by appropriate documentation.

KCSOS’s Response

... it does appear that some of the costs filed in the combined claim cannot be supported by the proper documentation while other costs were misclassified. We work closely with our mandated costs vendor to

ensure that all costs claimed are properly and adequately documented. However, in this instance, some costs were misclassified while other costs cannot be adequately documented. For these reasons, we do not dispute findings one thru three.

SCO’s Comment

The finding and recommendation remain unchanged.

**FINDING 3—
Overstated indirect costs**

The KCSOS inappropriately allocated \$7,422 for indirect costs on contract services for the audit period.

The KCSOS’s indirect costs rate was calculated on direct costs excluding contract services costs. Therefore, it is inappropriate to calculate indirect costs on contract services. Furthermore, the claim form used to file the mandate claim stated that indirect costs are not to be allocated on contract services.

During the audit period, the KCSOS claimed \$2,971 in indirect costs on contract services. In addition, the KCSOS misclassified \$58,198 of contract services as travel and training, and claimed \$4,451 in indirect costs on that amount.

Following is a summary of the unallowable costs.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Indirect costs related to:				
Contract services	\$ (2,276)	\$ (457)	\$ (238)	\$ (2,971)
Contract services claimed as travel and training	<u>(3,395)</u>	<u>(1,056)</u>	<u>—</u>	<u>(4,451)</u>
Totals	<u>\$ (5,671)</u>	<u>\$ (1,513)</u>	<u>\$ (238)</u>	<u>\$ (7,422)</u>

Recommendation

We recommend that the KCSOS ensure that it allocates indirect costs only for those accounts used in developing the indirect cost rate.

KCSOS’s Response

. . . it does appear that some of the costs filed in the combined claim cannot be supported by the proper documentation while other costs were misclassified. We work closely with our mandated costs vendor to ensure that all costs claimed are properly and adequately documented. However, in this instance, some costs were misclassified while other costs cannot be adequately documented. For these reasons, we do not dispute findings one thru three.

SCO’s Comment

The finding and recommendation remain unchanged.

**FINDING 4—
Indirect cost pools
overstated**

The KCSOS's indirect cost pools included direct mandate-related costs claimed for the audit period. Therefore, the indirect cost pools and the resulting indirect cost rates were overstated. As a result, the KCSOS recovered duplicate costs when it applied its indirect cost rates to federal and state-funded programs.

The KCSOS's fiscal year (FY) 2000-01, FY 2001-02, and FY 2002-03 indirect cost pools included mandate-related direct salary and benefit costs totaling \$74,110, \$14,776, and \$23,714, respectively. We allowed the direct costs claimed because the costs are mandate-related and properly supported. Although the indirect cost rates claimed were overstated, we concluded that the mandate-related indirect costs claimed were not materially affected. Therefore, we allowed the related indirect costs claimed. However, we did not calculate the duplicate costs that the KCSOS recovered by applying the overstated indirect cost rates to other federal and state-funded programs.

Office of Management and Budget Circular A-87, Attachment A, states that direct costs are those that can be identified specifically with a particular final cost objective. Indirect costs are costs incurred for a common or joint purpose benefiting more than one cost objective, but which are not readily assignable to the cost objectives benefited without effort disproportionate to the results achieved.

Recommendation

We recommend that the KCSOS notify the California Department of Education (CDE) that the KCSOS overstated its indirect cost rates by including mandate-related direct costs in its indirect cost pools. We recommend that the KCSOS work with the CDE to adjust subsequent years' indirect cost rates to account for the rates that were overstated during the audit period.

We also recommend that the KCSOS work with the CDE to identify the appropriate codes from the CDE's standardized account code structure that the KCSOS should use when costs are charged directly to federal and state-funded programs.

KCSOS's Response

However, we do disagree with the Controller's Office finding number four. The State Controller's Office (SCO) cites Parameters and Parameters and Guidelines (Ps and Gs) in its statement that "...only increased costs as a result of this mandate are allowable, and reimbursements received from any sources – including services fees collected, federal funds, and other state funds – are to be identified and deducted from this claim". SCO concludes that the portion of costs which are reimbursed indirectly via the indirect cost rate, after its application to federal and state sources, are to be offset with the claim. We feel this position is inappropriate according to the law, and is inconsistent with the School Mandated Costs Manual (SMCM).

Ps and Gs actually simply state that only "...increased costs..." will be reimbursed and is silent about items to be deducted (offset) from the claim.

Presumably, SCO is not taking issue as to whether or not “increased costs” are being claimed, as this question appears to be answered in the Commission on State Mandates STATEMENT OF DECISION, dated March 26, 1998, which concluded that the Collective Bargaining costs were indeed increased costs of a district and were therefore reimbursable. . . . Rather, it would seem that, based upon the proposed adjustment, that SCO was actually concentrating its focus on offsets to the claim.

The citing that SCO uses to support its position appears to be that of one from the SMCM which reads: “As noted previously, allowable costs are defined as those direct and indirect costs, less applicable credits, considered to be eligible for reimbursement. When all or part of the costs of a mandated program are specifically reimbursable from local assistance revenue sources (e.g., state, federal, foundation, etc.), only that portion of any increased costs payable from school district funds is eligible for reimbursement under the provisions of GC section 17561”.

Because audit guides and manuals can often be ambiguous, I sought clarification with the Government Code (GC). GC section 17513 states:

“Costs mandated by the federal government” means any increased costs incurred by a local agency of school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. “Costs mandated by the federal government” includes costs resulting from enactment of a state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements imposed upon the state would result in substantial monetary penalties or loss of funds to public or private persons in the state whether the federal law was enacted before or after the enactment of the state law, regulation, or executive order. “Costs mandated by the federal government” does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district.

Critical in the reading of the statute, in the last sentence, is the phrase *specifically reimbursed*. The intent of the statute is clear – “specifically reimbursed” is very restrictive and cannot be interpreted to mean from “any source, either directly or indirectly”. Reimbursement of costs through application of an indirect rate are, by definition, not “specifically reimbursed”.

The Manual actually uses this restrictive interpretation in its examples of the application of the Offset requirement. In its examples, the SMCM uses only specific, restricted sources which are used to pay a portion of the collective bargaining costs, to be offset with the mandated claim. No offset for any reimbursement from application of the indirect cost rate is used in any of the examples. Though the examples do not have the weight of law, they do show consistently that the SMCM actually interprets the law as it was intended, which is inconsistent with the interpretation in the finding in the SCO audit.

SCO's Comment

The KCSOS's response did not disprove that the indirect cost pools include direct mandate-related costs. We revised the audit finding to eliminate the monetary audit adjustment. However, our audit finding continues to report that the KCSOS's indirect cost pools inappropriately included mandate-related direct costs. We recommend that the KCSOS work with the CDE to resolve this issue.

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

September 12, 2005

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

Dear Mr. Spano:

This is the Kern County Superintendent of Schools' formal response to the State Controller's Office audit of costs for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2000 through June 30, 2003.

Regarding audit findings one thru three, it does appear that some of the costs filed in the combined claim cannot be supported by the proper documentation while other costs were misclassified. We work closely with our mandated costs vendor to ensure that all costs claimed are properly and adequately documented. However, in this instance, some costs were misclassified while other costs cannot be adequately documented. For these reasons, we do not dispute findings one thru three.

However, we do disagree with the Controller's Office finding number four. The State Controller's Office (SCO) cites Parameters and Guidelines (Ps and Gs) in its statement that "...only increased costs as a result of this mandate are allowable, and reimbursements received from any sources - including service fees collected, federal funds, and other state funds - are to be identified and deducted from this claim". SCO concludes that the portion of costs which are reimbursed indirectly via the indirect cost rate, after its application to federal and state sources, are to be offset with the claim. We feel that this position is inappropriate according to the law, and is inconsistent with the School Mandated Costs Manual (SMCM).

Ps and Gs actually simply state that only "...increased costs..." will be reimbursed and is silent about items to be deducted (offset) from the claim.

Presumably, SCO is not taking issue as to whether or not "increased costs" are being claimed, as this question appears to be answered in the Commission on State Mandates STATEMENT OF DECISION, dated March 26, 1998, which concluded that the Collective Bargaining costs were indeed increased costs of a district and were therefore reimbursable (NO. 97-TC-08 Collective Bargaining Disclosure STATEMENT OF DECISION TO GOVERNMENT CODE SECTION 17500 ET SEQ.; TITLE 2, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 2.5, ARTICLE 7). Rather, it would seem that, based upon the proposed adjustment, that SCO was actually concentrating its focus on offsets to the claim.

The citing that SCO uses to support its position appears to be that of one from the SMCM which reads: "As noted previously, allowable costs are defined as those direct and indirect costs, less applicable credits, considered to be eligible for reimbursement. When all or part of the costs of a

. . . advocates for children

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mandated program are specifically reimbursable from local assistance revenue sources (e.g., state, federal, foundation, etc.), only that portion of any increased costs payable from school district funds is eligible for reimbursement under the provisions of GC section 17561".

Because audit guides and manuals can often be ambiguous, I sought clarification with the Government Code (GC). GC section 17513 states:

"Costs mandated by the federal government" means any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. "Costs mandated by the federal government" includes costs resulting from enactment of a state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements imposed upon the state would result in substantial monetary penalties or loss of funds to public or private persons in the state whether the federal law was enacted before or after the enactment of the state law, regulation, or executive order. "Costs mandated by the federal government" does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district.

Critical in the reading of the statute, in the last sentence, is the phrase *specifically reimbursed*. The intent of the statute is clear - "specifically reimbursed" is very restrictive and cannot be interpreted to mean from "any source, either directly or indirectly". Reimbursement of costs through application of an indirect rate are, by definition, not "specifically reimbursed".

The Manual actually uses this restrictive interpretation in its examples of the application of the Offset requirement. In its examples, the SMCM uses only specific, restricted sources which are used to pay a portion of the collective bargaining costs, to be offset with the mandated claim. No offset for any reimbursement from application of the indirect cost rate is used in any of the examples. Though the examples do not have the weight of law, they do show consistently that the SMCM actually interprets the law as it was intended, which is inconsistent with the interpretation in the finding in the SCO audit.

We respectfully disagree with Finding 4 in its entirety.

Sincerely,

Larry E. Reider
Kern County Superintendent of Schools



Steve Mattern, Director
District Financial Services

SM:mo

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