

ITEM 7
INCORRECT REDUCTION CLAIM
FINAL STAFF ANALYSIS
AND
PROPOSED STATEMENT OF DECISION

Education Code Section 51225.3, Statutes 1983, Chapter 498

Graduation Requirements

05-4435-I-50 and 08-4435-I-52

Fiscal Years: 1998-1999, 1999-2000, 2000-2001, and 2001-2002

Clovis Unified School District, Claimant

Executive Summary

Attached is the draft proposed statement of decision for this matter. The executive summary and the proposed statement of decision also function as the draft staff analysis, as required by section 1185.05 of the Commission's regulations.

Overview

This incorrect reduction claim (IRC) challenges reductions made by the State Controller's Office (SCO) to reimbursement claims filed by Claimant, Clovis Unified School District for the *Graduation Requirements* program for fiscal years 1998-1999, 1999-2000, 2000-2001, and 2001-2002.¹ Pursuant to the SCO's second revised audit issued April 30, 2007, reductions were made for claimed teacher salaries, benefits, and related indirect costs in the amount of \$216,502; materials, supplies, and related indirect costs in the amount of \$317,955; and costs for contracted services claimed for construction projects at four high schools in the amount of \$3,377,241. The claimant does not dispute the SCO's reduction of the claimed costs for the construction projects,² but continues to dispute the reductions for teacher salaries and benefits, materials and supplies, and their related indirect costs in the amount of \$534,457.³ The claimant seeks a determination from the Commission on State Mandates (Commission) pursuant to Government Code section 17551(d) that the SCO incorrectly reduced the claims, and requests that the SCO reinstate the \$534,457 reduced.

¹ Exhibit A, Claimant's IRC, filed September 6, 2005 and Exhibit B, Revised IRC filed August 4, 2008.

² Exhibit B, Claimant's Revised IRC filed August 4, 2008, page 8.

³ In this respect, the claimant's revised IRC refers to the first final audit and does not address the second revised final audit. The Commission did not receive a revised IRC addressing the second revised final audit. (Exhibit B, page 6.) Although the claimant has not specifically addressed the findings in the second revised audit, these IRCs remain pending and are still in dispute.

Procedural History

On October 22, 2004, the SCO issued the first audit report on the reimbursement claims at issue in this IRC. On September 6, 2005, claimant filed an IRC for fiscal years 1998-1999, 2000-2001, and 2001-2002 (05-4435-I-50). On February 5, 2005, the Sacramento Superior Court issued a ruling on six consolidated writs of mandate challenging IRC decisions adopted by the Commission on the *Graduation Requirements* program, finding that the Commission's decision upholding the SCO audits had incorrectly required the claimants for those IRCs to offset costs by laying off teachers.⁴

Following the court's order, on September 30, 2005, the SCO issued a revised audit report, and on April 30, 2007, the SCO issued a second revised audit report. On October 18, 2007, the SCO filed comments on the IRC 05-4435-I-50. On August 4, 2008, claimant filed a revised an IRC for fiscal years 1998-1999, 2000-2001, and 2001-2002 (08-4435-I-52). On August 26, 2008, Commission staff issued a Notice of Complete Revised Filing and Consolidation of IRCs (05-4435-I-50, 08-4435-I-52). On July 13, 2011, the SCO filed comments on the consolidated IRCs.

On April 7, 2014, Commission staff issued the draft staff analysis and proposed statement of decision. On April 28, 2014, claimant and the SCO filed comments on the draft staff analysis and proposed statement of decision.⁵

Claims

The following chart provides a brief summary of the claims and issues raised and staff's recommendation.

Subject	Description	Staff Recommendation
Claimant asserts that the audits of the 1998-1999 and 1999-2000 reimbursement claims were conducted beyond the statute of limitations.	At the time these reimbursement claims were filed, Government Code section 17558.5 stated the following: A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to audit by the SCO no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. However, if no funds are appropriated for the program for the fiscal year for which the claim is made, the	<i>Deny:</i> Staff finds that audit of the 1998-1999 and 1999-2000 reimbursement claims was timely. The plain language of Government Code section 17558.5 does not require the SCO to "complete" the audit within any specified period of time. The plain language of the statute provides that reimbursement claims are "subject to audit" within two years after the end of the calendar year that the reimbursement claim was filed. The phrase "subject to audit" does not require the completion of the

⁴ Exhibit I, *San Diego Unified School District v. Commission on State Mandates*, No. 03CS01401.

⁵ Exhibit E, SCO, Division of Audits Comments filed July 13, 2014.

	time for the SCO to initiate an audit shall commence to run from the date of initial payment of the claim.	audit, but sets a time during which a claimant is on notice that an audit of a claim may occur.
Claimant asserts that the reduction made by the SCO for teacher salaries and benefits is inconsistent with the parameters and guidelines, is unreasonable, and is arbitrary and capricious and entirely lacking in evidentiary support.	The reimbursement claims for 1998-1999 and 1999-2000 list the names of teachers, aggregate salary amounts, and a comparison of the number of science teachers in the base year (1985-1986) to the claim year. The documents, however, do not show any correlation between the increase in science teachers claimed and the actual additional science classes taught in order to comply with the mandate. For fiscal years 2000-2001 and 2001-2002, Claimant used the quarter load method to claim costs. The SCO recalculated each fiscal year claimed using the quarter load method. The SCO only reduced claimed direct and related indirect costs for salaries and benefits in fiscal year 1999-2000 in the amount of \$216,502. In each other fiscal year, the SCO's audit allowed additional costs, above what was claimed in the reimbursement claims for salary and benefit costs for those years. .	<i>Deny:</i> Claimant failed to provide evidence correlating increased costs for teachers salaries and benefits to the mandated program as required by the parameters and guidelines. Instead of reducing the costs \$0, the SCO applied the quarter load method to provide reimbursement. SCO's application of the quarter load method to reimburse claimant for these costs was therefore reasonable under these circumstances. The quarter load calculation used by the SCO resulted in an <i>increase</i> of salary and benefit costs for fiscal years 1998-1999, 2000-2001, and 2001-2002, with no reduction taken for these fiscal years. Thus, there has been no reduction for teacher salaries and benefits for fiscal years 1998-1999, 2000-2001, and 2001-2002. The Commission further finds that the partial reduction of claimed costs in the amount of \$216,502 for salary and benefits and related indirect costs in fiscal year 1999-2000, is reasonable, and not arbitrary, capricious, or entirely lacking in evidentiary support. .
Claimant asserts the reduction made by the SCO for the materials and supplies and related indirect costs is inconsistent with	For fiscal year 1998-1999 and 1999-2000, Clovis claimed reimbursement for materials and supplies based on a formula, similar to the one used for teacher salaries in the first	<i>Deny:</i> The SCO's decision to reject the methodology used by Clovis in these fiscal years was reasonable and based on the plain language of the parameters and guidelines, which requires the

<p>the parameters and guidelines, unreasonable, and is arbitrary, capricious, and entirely lacking in evidentiary support.</p>	<p>two claim years, that determined an incremental increase in materials and supplies as a result of the mandate. As determined by the SCO, the formula did not identify the courses taught and did not measure the cost of supplying the additional science course mandated by the state in the claim years. For fiscal years 2000-2001 and 2001-2002, Clovis' claim for reimbursement was based on a formula that applied 50% of all high school science materials and supplies to the mandate. However, there is no evidence in the record to support an allegation that the mandate resulted in a 50% increase in costs for school districts.</p>	<p>claimant to show the increased costs for supplying the new science class mandated and further requires "[d]ocumentation of increased units of science course enrollments due to the enactment of [the test claim statute] necessitating such an increase" to support the costs claimed. In addition, SCO's application of the quarter load method to reimburse claimant for these costs was reasonable, and not arbitrary, capricious, or entirely lacking in evidentiary support.</p>
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Analysis

The two main issues in this IRC are as follows:

- 1) Applying a de novo standard of review, was the SCO required by statute to *complete* or only to *initiate* the audit within two years of the final audit report; and
- 2) Were the auditing standards applied by the SCO to reduce the reimbursement claims arbitrary, capricious, or entirely lacking in evidentiary support?

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the SCO has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.7 of the Commission's regulations requires the Commission to send the statement of decision to the SCO and request that the costs in the claim be reinstated.

In hearing and deciding on an IRC, Commission considers issues of law, including the interpretation of the requirements of the parameters and guidelines, de novo. With respect to auditing standards applied by the SCO, the Commission exercises "very limited review 'out of deference to...the legislative delegation of administrative authority of the agency, and to the presumed expertise of the agency within its scope of authority.'"⁶ The Commission "may not reweigh the evidence or substitute it's judgment for that of" the SCO.⁷ The Commission must

⁶ *Shapell Industries, Inc. v. Governing Board* (1991) 1 Cal.App.4th 218, at p. 230.

⁷ *American Bd. of Cosmetic Surgery, Inc, supra*, 162 Cal.App.4th at pgs. 547-548.

also review the SCO's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.⁸

A. The audit was conducted within the statute of limitations applicable to mandate reimbursement claims.

Staff finds that audit of the 1998-1999 and 1999-2000 reimbursement claims was timely. The plain language of Government Code section 17558.5 does not require the SCO to "complete" the audit within any specified period of time. The plain language of the statute provides that reimbursement claims are "subject to audit" within two years after the end of the calendar year that the reimbursement claim was filed. The phrase "subject to audit" does not require the completion of the audit, but sets a time during which a claimant is on notice that an audit of a claim may occur.

B. The reductions made by the SCO for teachers salaries and benefits, and materials and supplies, is consistent with the parameters and guidelines, is reasonable, and is not arbitrary and capricious or entirely lacking in evidentiary support.

The parameters and guidelines require the claimant to show the increased costs for staffing and supplying the new science class mandated, and further requires "[d]ocumentation of increased units of science course enrollments due to the enactment of [the test claim statute] necessitating such an increase" to support the costs claimed. As determined by the SCO, the claimant did not provide documentation to demonstrate that the amounts claimed reflect the actual "increased units of science course enrollment due to the enactment of" the test claim statute, as required by the parameters and guidelines. Thus, the SCO's decision to reject the methodology used by the claimant was reasonable and based on the plain language of the parameters and guidelines.

The Commission further finds that the SCO's application of the quarter load method to recalculate the costs for teacher salaries and benefits, and for materials and supplies, in each fiscal year claimed is reasonable. Although the quarter load methodology was not identified in the governing parameters and guidelines for these reimbursement claims, the SCO properly determined that Claimant did not comply with the parameters and guidelines by providing documentation sufficient to show the actual increased costs incurred as a direct result of the second science course mandated by the test claim statute. Claimant, has still not filed documentation, either to the SCO or in its filings with the Commission, to properly support its claim for reimbursement. Instead of reducing the claims to \$0, the SCO used a reasonable methodology to provide reimbursement to Claimant; a methodology that Claimant used for claiming reimbursement for teacher salaries and benefits in fiscal years 2000-2001 and 2001-2002.

The quarter load calculation used by the SCO resulted in an *increase* of salary and benefit costs for fiscal years 1998-1999, 2000-2001, and 2001-2002, with no reduction taken for these fiscal years. Thus, there has been no reduction for teacher salaries and benefits for fiscal years 1998-1999, 2000-2001, and 2001-2002. The application of the quarter load method did result in a reduction of costs claimed for teacher salaries and benefits in fiscal year 1999-2000, and a reduction of costs claimed for materials and supplies in all four fiscal years claimed. Clovis has

⁸ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

not argued that the SCO's quarter load methodology resulted in a math error or miscalculation, and there is no evidence in the record that a miscalculation occurred.

The Commission SCO is entitled to substantial deference with regard to audit decisions, since it is the agency with the delegated authority and expertise to audit reimbursement claims. Thus, the Commission finds that the SCO's use of the quarter load method in the audit of these claims, and the resulting reduction to costs claimed for teacher salaries and benefits in fiscal year 1999-2000, and for materials and supplies in all four fiscal years, was reasonable and within the SCO's authority.

Accordingly, the Commission finds that the reduction of claimed costs in the total amount of \$534,457 is reasonable; not arbitrary, capricious, or entirely lacking in evidentiary support; and, is therefore correct.

Conclusion and Recommendation

Pursuant to Government Code section 17551(d) and section 1185.7 of the Commission's regulations, staff concludes that the SCO conducted the audits within the required timeframes and that SCO's partial reduction of claimed costs for teacher salary and benefits, materials and supplies, and related indirect costs is reasonable, and not arbitrary, capricious, or entirely lacking in evidentiary support. Therefore the reductions are correct.

Staff recommends that the Commission adopt the proposed statement of decision to deny this IRC and authorize staff to make any technical, non-substantive changes following the hearing.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM
ON:

Education Code Section 51225.3, as Added
by Statutes 1983, Chapter 498

Fiscal Years 1998-1999, 1999-2000,
2000-2001, and 2001-2002

Clovis Unified School District, Claimant.

Case No.: CSM 05-4435-I-50, 08-4435-I-52

Graduation Requirements

STATEMENT OF DECISION
PURSUANT TO GOVERNMENT CODE
SECTION 17500 ET SEQ.; CALIFORNIA
CODE OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5. ARTICLE 7

(Adopted May 30, 2014)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this incorrect reduction claim (IRC) during a regularly scheduled hearing on May 30, 2014. [Witness list will be included in the final statement of decision.]

The law applicable to the Commission's determination of a reimbursable state- mandated program is article XIII B, section 6 of the California Constitution, Government Code, sections 17500 et seq., and related case law.

The Commission [adopted/modified] the staff analysis to [approve/partially approve/deny] the IRC at the hearing by a vote of [vote count will be included in the final statement of decision].

Summary of the Findings

This IRC challenges reductions made by the State Controller's Office (SCO) to reimbursement claims filed by Claimant, Clovis Unified School District for the *Graduation Requirements* program for fiscal years 1998-1999, 1999-2000, 2000-2001, and 2001-2002. Pursuant to the SCO's second revised audit issued April 30, 2007, reductions were made for claimed teacher salary, benefits, and related indirect costs in the amount of \$216,502; and for materials, supplies, and related indirect costs in the amount of \$317,955. The claimant seeks a determination from the Commission pursuant to Government Code section 17551(d) that the SCO incorrectly reduced the claims, and requests that the SCO reinstate the \$534,457 reduced.

The Commission denies this IRC. The parameters and guidelines require the claimant to show the increased costs for staffing and supplying the new science class mandated, and further requires "[d]ocumentation of increased units of science course enrollments due to the enactment of [the test claim statute] necessitating such an increase" to support the costs claimed. As determined by the SCO, the claimant did not provide documentation to demonstrate that the amounts claimed reflect the actual "increased units of science course enrollment due to the enactment of" the test claim statute, as required by the parameters and guidelines. Thus, the SCO's decision to reject the methodology used by the claimant was reasonable and based on the plain language of the parameters and guidelines.

The Commission further finds that the SCO's application of the quarter load method to recalculate the costs for teacher salaries and benefits, and for materials and supplies, in each fiscal year claimed is reasonable. Although the quarter load methodology was not identified in the governing parameters and guidelines for these reimbursement claims, the SCO properly determined that Claimant did not comply with the parameters and guidelines by providing documentation sufficient to show the actual increased costs incurred as a direct result of the second science course mandated by the test claim statute. Claimant has still not filed documentation, either with the SCO or with the Commission as a part of this claim, to properly support its claim for reimbursement. Instead of reducing the claims to \$0, the SCO used a reasonable methodology to provide reimbursement to Claimant; a methodology that Claimant used for claiming reimbursement for teacher salaries and benefits in fiscal years 2000-2001 and 2001-2002.

The quarter load calculation used by the SCO resulted in an *increase* of salary and benefit costs for fiscal years 1998-1999, 2000-2001, and 2001-2002, with no reduction taken for these fiscal years. Thus, there has been no reduction for teacher salaries and benefits for fiscal years 1998-1999, 2000-2001, and 2001-2002. The application of the quarter load method did result in a reduction of costs claimed for teacher salaries and benefits in fiscal year 1999-2000, and a reduction of costs claimed for materials and supplies in all four fiscal years claimed. Clovis has not argued that the SCO's quarter load methodology resulted in a math error or miscalculation, and there is no evidence in the record that a miscalculation occurred.

The SCO's audit decisions are entitled to deference, since it is the agency with the delegated authority and expertise to audit reimbursement claims. Thus, the Commission finds that the SCO's use of the quarter load method in the audit of these claims, and the resulting reduction to costs claimed for teacher salaries and benefits in fiscal year 1999-2000, and for materials and supplies in all four fiscal years, was reasonable and within the SCO's authority.

Accordingly, the Commission finds that the reduction of claimed costs in the total amount of \$534,457 is reasonable; not arbitrary, capricious, or entirely lacking in evidentiary support; and, is therefore correct.

COMMISSION FINDINGS

Claimant

Clovis Unified School District

Chronology

- 10/22/04 SCO issued first audit report.
- 09/06/05 Claimant, Clovis Unified School District, filed an IRC for fiscal years 1998-1999, 2000-2001, and 2001-2002 (05-4435-I-50).⁹
- 09/16/05 Commission staff issued the Notice of Complete Filing.
- 09/30/05 SCO issued a revised audit report.
- 04/30/07 SCO issued a second revised audit report.

⁹ Exhibit A, IRC filed September 06, 2005.

10/11/07 SCO Division of Audits filed comments on IRC 05-4435-I-50.¹⁰

10/18/07 SCO Division of Reporting and Accounting filed comments on the IRC 05-4435-I-50.¹¹

08/04/08 Claimant filed a revised IRC for fiscal years 1998-1999, 2000-2001, and 2001-2002 (08-4435-I-52).¹²

08/26/08 Commission staff issued a Notice of Complete Revised Filing and Consolidation of IRCs (05-4435-I-50, 08-4435-I-52).

08/28/08 Commission staff issued a Notice of Corrected IRC Number.

07/13/11 SCO Division of Audits filed comments on the consolidated IRCs.¹³

04/07/14 Commission staff issued draft staff analysis and proposed statement of decision.¹⁴

04/28/14 SCO Division of Audits filed comments on the draft staff analysis and proposed statement of decision.¹⁵

04/28/14 Claimant filed comments on the draft staff analysis and proposed statement of decision.¹⁶

I. Background

This IRC challenges reductions made by the SCO to reimbursement claims filed by Clovis for the *Graduation Requirements* program for fiscal years 1998-1999, 1999-2000, 2000-2001, and 2001-2002. Pursuant to the SCO's second revised audit issued April 30, 2007, reductions were made for claimed teacher salary, benefits, and related indirect costs in the amount of \$216,502; materials, supplies, and related indirect costs in the amount of \$317,955; and costs for contracted services claimed for construction projects at four high schools in the amount of \$3,377,241. The claimant does not dispute the SCO's reduction of the claimed costs for the construction projects,¹⁷ but continues to dispute the reductions for teacher salaries and benefits, materials and supplies, and their related indirect costs in the amount of \$534,457.¹⁸ The claimant seeks a

¹⁰ Exhibit C, SCO Division of Audits Comments filed October 11, 2007.

¹¹ Exhibit D, SCO Division of Audits Comments filed October 18, 2007.

¹² Exhibit B, Claimant's Revised IRC filed August, 04, 2008.

¹³ Exhibit E, SCO Division of Audits Comments filed July 13, 2011.

¹⁴ Exhibit F, Draft Staff Analysis filed March 7, 2014.

¹⁵ Exhibit G, SCO Division of Audits Comments filed April 28, 2014.

¹⁶ Exhibit H, Claimant's Comments filed April 28, 2014.

¹⁷ Exhibit B, Claimant's Revised IRC filed August 4, 2008, page 8.

¹⁸ The revised IRC does not address the second revised audit report. Clovis did file comments on April 28, 2014 generally reasserting its claims in both the original IRC and the revised IRC. Although the claimant has not specifically addressed the findings in the second revised audit, these IRCs remain pending and are still in dispute.

determination from the Commission pursuant to Government Code section 17551(d) that the SCO incorrectly reduced the claims, and requests that the SCO reinstate the \$534,457 reduced.

The Graduation Requirements Program

On January 22, 1987, the Commission adopted a statement of decision approving the *Graduation Requirements* test claim on Education Code section 51225.3, as added by Statutes 1983, chapter 498. The test claim statute increased the number of science courses required for high school graduation from one science course to two science courses in biological and physical sciences. The Commission determined that the test claim statute constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-87 school year, to complete at least two courses in science before receiving a high school diploma. The parameters and guidelines, as last amended in 1991, are relevant for this IRC and authorize reimbursement for the “increased cost to school district[s] for staffing and supplying the new science classes mandated.”¹⁹

Reductions to Salaries and Benefits

For fiscal years 1998-1999 and 1999-2000, Clovis claimed reimbursement for teacher salaries and benefits based on a formula to determine the incremental increase in teacher salary costs as a result of the mandate. The formula calculated the increase in the total number of high school science teachers between the 1985-1986 base year and the claim years, and reduced that amount by the percentage increase in high school enrollment for that same period. That number was then multiplied by the claim year’s average annual salaries and benefits of a high school science teacher to determine the amount claimed for reimbursement. The SCO determined that the formula did not identify the courses taught; included salary and benefit costs of non-physical and biological science teachers; and did not deduct the percentage increase in science teachers related to factors other than the mandate, such as enrollment growth. In addition, the SCO’s audit found that claimant claimed salary and benefit costs for non-mandated courses; six non-physical/biological science teachers and 22 middle school teachers in fiscal year 1998-1999, and one non-physical/biological science teacher in fiscal year 1999-2000.²⁰

For fiscal years 2000-2001 and 2001-2002, claimant’s reimbursement claim used a quarter class load method. This method divides one-fourth of the total number of grade 9-12 pupils by the average science course size to arrive at the additional science courses required for the mandate. That number is then divided by the number of daily courses taught per teacher to determine the increased science teachers required by the mandate. That number is then multiplied by the claim years’ average science teacher salaries and benefits. Claimant did not identify any offsetting cost savings in its claims.

Before issuing the second revised audit report, the SCO issued audit reports in October 2004 and September 2005, reducing all costs claimed for science teacher salaries and benefits on several grounds including the fact that the district did not identify or report any offsetting cost savings or provide adequate supporting documentation. At the time these audit reports were released, a case challenging the offset issue in the *Graduation Requirements* program was

¹⁹ Exhibit I, Parameters and Guidelines as amended January 24, 1991.

²⁰ Exhibit C, SCO Division of Audits, Comments on the IRC, Tab 3, p. 6.

pending.²¹ Claimant was a party to the litigation and challenged the reduction of costs claimed for salaries and benefits in fiscal year 1997-1998. The court concluded that the Commission's decisions on IRCs, upholding the SCO's actions in several audits that reduced claims for teacher salary and benefits to \$0 on the ground that school districts failed to identify cost savings as a result of the layoff authority found in Education Code section 44955, were invalid. The court ruled that Education Code section 44955 did not require school districts to offset new science course requirements by laying off teachers in non-science positions; it merely allowed school districts to exercise their discretion whether to lay off teachers.²² Because the court ruled that school districts were not required to use section 44955 as an offset, the court invalidated that portion of the IRC decisions and the SCO's audit findings that precluded reimbursement by requiring the offset under section 44955. For purposes of remand back to the SCO for re-evaluation and to the Commission for determination, the court concluded that the SCO could properly require school districts to provide detailed documentation of offsetting savings directly resulting from their provision of the second science course.²³ The court further states on page 18 of its Ruling that:

Such a documentation requirement has a firm legal basis in subdivision (e) of Government Code section 17556 and California Code of Regulations, title 2, section 1183.1(a)(9). Further, the documentation requirement reflects a reasonable expectation that savings to offset the science teachers' salaries may be generated when students taking the second science course do not increase the number of classes that they take overall. Thus, the Controller can properly require claimants to demonstrate that the second science course has not increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided.

On remand, the SCO stated that the school districts failed to provide any documentation showing changes to the school day or school year as a result of the test claim statute. The SCO therefore presumed there were no changes to the school day or school year and that the district had offsetting cost savings for any science teachers hired to teach the mandated course. The SCO continued to deny the claimed amounts in full.

In its decisions on the IRCs that followed the SCO's determination to continue to deny reimbursement, the Commission determined that the SCO's presumptions were not supported by evidence, and conflicted with the court's decision that the test claim statute required an additional class that did not require a reallocation of resources.²⁴ Following that decision, the SCO reinstated all costs claimed, including those claimed by Clovis in fiscal year 1997-1998.

Following the Commission's decisions on remand, the SCO reevaluated the reimbursement claims in this case and issued the second revised audit report on April 30, 2007. The SCO re-

²¹ Exhibit I, *San Diego Unified School district v. Commission on State Mandates* (2004) Superior Court Case No. 03CS11401.

²² *Id.* at p. 17.

²³ *Id.* at pp. 17-18.

²⁴ Item 19, Final Staff Analysis, Reevaluation of Reimbursement Claims on Remand from Superior Court Decision, adopted July 28, 2006.

calculated the amounts eligible for reimbursement by applying the quarter class load method to teacher salary and benefit costs for all four fiscal years,²⁵ *which resulted in a reduction of direct salary and benefit costs in fiscal year 1999-2000 only*. The recalculation of costs for the other three fiscal years resulted in *increased* reimbursement to the claimant for the direct salary and benefit costs for those years. For fiscal year 1998-1999, the claimed teacher salary and benefit costs were \$554,076, and the SCO adjusted the claim and allowed reimbursement for that year in the amount of \$805,135 (an increase of \$251,059). For fiscal year 2000-2001, the claimed salary and benefit costs were \$955,872 and the SCO allowed reimbursement in the amount of \$1,008,130 (an increase of \$52,258). For fiscal year 2001-2002, the claimed salary and benefit costs were \$1,022,501 and the SCO allowed reimbursement of \$1,080,846 (an increase of \$58,345). For the year that costs were reduced (fiscal year 1999-2000), the claimed salary and benefit costs were \$1,482,352. The SCO allowed reimbursement of \$916,328 (a reduction of \$566,024), but adjusted that reduction of direct costs for salary and benefits by subtracting the increased allowances from the other three years, resulting in an overall reduction in direct salary and benefit costs of \$204,362, plus related indirect costs of \$12,140, for a total reduction of \$216,502 for fiscal year 1999-2000²⁶.

Reduction to Materials and Supplies

The *San Diego* court ruling did not address reimbursement for materials and supplies, but the SCO reevaluated the reimbursement claims for materials and supplies in 2007, and recalculated the claims using the quarter load method. Like the claims for teacher salaries and benefits, the SCO determined that Clovis did not have documentation to support the amounts claimed for materials and supplies.

For fiscal years 1998-1999 and 1999-2000, claimant claimed reimbursement for materials and supplies based on a formula, similar to the one used for teacher salaries in the first two claim years. As determined by the SCO, the formula did not identify the courses taught and did not measure the cost of supplying the additional science course mandated by the state in the claim years. For fiscal years 2000-2001 and 2001-2002, claimant claimed that 50% of all high school science materials and supplies were attributable to the mandate, but did not provide documentation to substantiate the claimed percentage.

In its second revised audit, the SCO took the documentation that claimant provided and applied the quarter class load methodology to the costs claimed for materials and supplies, which resulted in a reduction of direct and related indirect costs claimed for materials and supplies in all four fiscal years of \$317,955.

²⁵ In 2008, the Commission amended the parameters and guidelines for the *Graduation Requirements* program by adopting the quarter class load methodology for teacher salary and benefit costs. The Commission's adoption of this RRM formula was upheld by the court in *Department of Finance v. Commission on State Mandates*, Sacramento County Superior Court, Case No. 34-2010-80000529 (2013).

²⁶ Exhibit C, SCO Division of Audits Comments filed on the IRC, Tab 3, p. 4.

II. Position of the Parties

A. Claimant's Position

Claimant contends that the SCO incorrectly reduced its reimbursement claims, and that its claims should be fully reimbursed for the full amounts reduced. Claimant argues that the SCO failed to complete the audit and provide final audit findings to the claimant before the statute of limitations and, thus, the audit is void. Claimant further argues that the standards applied by the SCO were “arbitrary, capricious, entirely lacking in evidentiary support and in conflict with the Superior Court decision, Commission Order, and documentation requirements of the Parameters & Guidelines when the mandate costs were incurred” as follows:

- The parameters and guidelines do not require claimants to provide documentation.
- Clovis used reasonable methods for calculating reimbursement for teacher salaries and benefits, and for materials and supplies.
- The SCO's use of the quarter load method is an unpublished standard that is not contained in the parameters and guidelines.

B. State Controller's Office's Position

The SCO contends that the audit, based on the second revised audit report, is correct and that this IRC should be denied. The SCO also contends that the audit was properly conducted within the statute of limitations.

III. Discussion

Government Code section 17561(b) authorizes the SCO to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state mandated costs that the SCO determines is excessive or unreasonable. Government Code section 12410 further requires the SCO to:

[S]uperintend the fiscal concerns of the state. The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment.

Although the SCO is required to follow the parameters and guidelines when auditing a claim for mandate reimbursement, the SCO has broad discretion in determining how to audit claims. Government Code section 12410 provides in relevant part:

Whenever, in [the Controller's] opinion, the audit provided for by [Government Code section 925 et seq.] is not adequate, the Controller *may make such field or other audit* of any claim or disbursement of state money *as may be appropriate to such determination.* (Italics added.)

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the SCO has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.7 of the Commission's regulations requires the Commission to send the statement of decision to the SCO and request that the costs in the claim be reinstated.

The Commission must determine in this case whether the SCO's audit decisions were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard

used by the courts when reviewing an alleged abuse of discretion of a state agency.²⁷ Under this standard, the courts have found that:

When reviewing the exercise of discretion, “[t]he scope of review is limited, out of deference to the agency’s authority and presumed expertise: ‘The court may not reweigh the evidence or substitute its judgment for that of the agency. [Citation.]’” ... “In general ... the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support. . . .” [Citations.] When making that inquiry, the “ ‘ ‘court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute.’ ” [Citation.]”²⁸

Thus, with respect to the SCO’s authority and responsibility over state audits, the Commission exercises “very limited review ‘out of deference to...the legislative delegation of administrative authority of the agency, and to the presumed expertise of the agency within its scope of authority.’”²⁹ The Commission “may not reweigh the evidence or substitute it’s judgment for that of” the SCO.³⁰ The Commission must also review the SCO’s audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.³¹

In addition, the Commission must review questions of law *de novo*, without consideration of conclusions made by the SCO in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.³² The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”³³

A. The audit was conducted within the statute of limitations applicable to mandate reimbursement claims.

Claimant argues that the audit for the 1998-1999 and 1999-2000 reimbursement claims was completed beyond the statute of limitations provided by Government Code section 17558.5 and

²⁷ *Johnston v. Sonoma County Agricultural* (2002) 100 Cal.App.4th 973, 983-984. See also *American Bd. of Cosmetic Surgery, Inc v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

²⁸ *American Bd. of Cosmetic Surgery, Inc. supra*, 162 Cal.App.4th at pgs. 547-548.

²⁹ *Shapell Industries, Inc. v. Governing Board* (1991) 1 Cal.App.4th 218, at p. 230.

³⁰ *American Bd. of Cosmetic Surgery, Inc, supra*, 162 Cal.App.4th at pgs. 547-548.

³¹ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

³² *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

³³ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

is therefore void with respect to those claim years. The reimbursement claim for fiscal year 1998-1999 was filed December 27, 2000. The reimbursement claim for fiscal year 1999-2000 was filed on December 29, 2000. At the time these reimbursement claims were filed, Government Code section 17558.5 stated the following:

A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to audit by the Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. However, if no funds are appropriated for the program for the fiscal year for which the claim is made, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim.³⁴

Claimant contends that funds were appropriated for this program for the 1998-1999 and 1999-2000 claim years and, thus, the first sentence of section 17558.5 applies. Claimant asserts that the first sentence requires the SCO “to complete” the audit no later than two years after the end of the calendar year that the reimbursement claim was filed. Applying Claimant’s argument in this case, then, would require the completion of the audit for the 1998-1999 and 1999-2000 claims no later than December 31, 2003, and December 31, 2002, respectively. The SCO did not complete its first audit of these claims until October 22, 2004.

The SCO asserts that the “subject to audit” language in section 17558.5 refers to the time the audit is initiated. In this case, the SCO states that the audit was initiated on November 1, 2002, and an audit entrance conference occurred on November 18, 2002, and that both dates are within two years after the end of the calendar year in which the claims were filed.

The Commission finds that audit of the 1998-1999 and 1999-2000 reimbursement claims was timely. The plain language of Government Code section 17558.5 does not require the SCO to “complete” the audit within any specified period of time. The plain language of the statute provides that reimbursement claims are “subject to audit” within two years after the end of the calendar year that the reimbursement claim was filed. The phrase “subject to audit” does not require the completion of the audit, but sets a time during which a claimant is on notice that an audit of a claim may occur. This reading is consistent with the plain language of the second sentence, which establishes a longer period of time to initiate the audit when no funds are appropriated for the program. In this case, the reimbursement claims filed in 2000 and 2001 were subject to audit at any time before December 31, 2002 and 2003. Since the audit began in November 2002, it was timely.

Moreover, section 17558.5 was amended in 2002 to establish, for the first time, a requirement to “complete” the audit two years after the audit is commenced. As amended, it reads:

A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date the actual reimbursement claim is filed or last amended whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an

³⁴ Government Code section 17558.5 (Stats. 1995, ch. 945, (SB11)).

audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.³⁵

The 2002 amendment became effective on January 1, 2003, after the reimbursement claims were filed in 2000 and 2001 and, thus, does not apply to the audit in this case.³⁶ Based on the foregoing, the Commission finds that the audit of the reimbursement claims for fiscal years 1998-1999 and 1999-2000 is not barred by the statute of limitations.

B. The reduction made by the SCO for teacher salaries and benefits is consistent with the parameters and guidelines, reasonable, and is not arbitrary, capricious or entirely lacking in evidentiary support.

As stated in the Background, the only reimbursement claim for teacher salaries and benefits that was reduced by the SCO was the claim filed for fiscal year 1999-2000. There were no reductions in costs claimed for teacher salaries and benefits for fiscal years 1998-1999, 2000-2001, and 2001-2002, and, in fact, increased reimbursement was allowed by the SCO for those three fiscal years. Thus, there is no “incorrect reduction” to evaluate for fiscal years 1998-1999, 2000-2001, and 2001-2002. Nevertheless, Clovis continues to challenge the overall findings and adjustments made by the SCO, which rejected claimant’s original methodology used for claiming salary and benefit costs in all fiscal years and, thus, these issues are addressed below.

Claimant first argues that the parameters and guidelines do not require documentation to support the claim for teacher salaries and benefits. Claimant is wrong. The parameters and guidelines at issue in this case provide that school districts may claim the “[i]ncreased cost to school district for staffing and supplying the new science classes mandated,” and further requires “[d]ocumentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase” to support the costs claimed.³⁷ Thus, the parameters and guidelines do require documentation to support the reimbursement claim for the increased costs claimed to comply with additional science course mandated by the state.

The Commission further finds the SCO correctly determined that Clovis did not provide documentation to demonstrate that the amounts claimed for teacher salaries and benefits reflect the actual “increased units of science course enrollment due to the enactment of” the test claim statute, as required by the parameters and guidelines. Instead, the reimbursement claims for 1998-1999 and 1999-2000 list the names of science teachers, aggregate salary amounts, and a comparison of the total number of science teachers in the base year (1985-1986) to the claim year. The documents supporting the claims for those years, however, do not show any correlation between the science teachers listed and the actual additional science classes taught in order to comply with the mandate. Although the state mandates schools to provide two science courses,

³⁵ Government Code section 17558.5, (Amended by Stats. 2002, ch. 1128 (A.B. 2834) §14.5. Underline indicates changed text.

³⁶ Because this change in law affects the rights and liabilities of the parties, it may only be applied prospectively to reimbursement claims filed after January 1, 2003. (*Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282, 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.)

³⁷ Exhibit I, Parameters and Guidelines, p.3.

including biological and physical sciences, in grades 9 to 12 (with the test claim statute increasing the state requirement of one science course to two science courses) - state law, in Education Code section 51225.3 (a)(2), also allows school districts to offer, at their discretion, "other coursework as the governing board of the school district may by rule specify." By simply comparing the total number of science teachers in the base year to the total number of science teachers in the claim year, given the district's discretionary authority to offer more science courses than just the required biological and physical science courses, Claimant does not identify the number of teachers employed to teach the mandated science class. Thus, there is no evidence that the costs claimed for teacher salaries and benefits are limited to those costs incurred for the mandated program here. In addition, the SCO's audit found that Claimant claimed salary and benefit costs of six non-physical/biological science teachers in fiscal year 1998-1999 and 22 middle school teachers and one non-physical/biological science teacher in fiscal year 1999-2000.³⁸ Claimant has not filed evidence to rebut these findings.

Therefore, the SCO's decision to reject the methodology used by Claimant in these fiscal years was reasonable and based on the plain language of the parameters and guidelines, which requires the claimant to show the increased costs for staffing the new science class mandated and further requires "[d]ocumentation of increased units of science course enrollments due to the enactment of [the test claim statute] necessitating such an increase" to support the costs claimed. The Commission further finds that the SCO's application of the quarter load method to re-calculate the costs for teacher salaries and benefits in each of the four fiscal years at issue is reasonable, and not arbitrary and capricious. Claimant is correct that the parameters and guidelines did not identify the quarter load method of claiming costs when the reimbursement claims were filed in this case. However, as stated above, the SCO properly determined that Claimant did not comply with the parameters and guidelines by providing documentation sufficient to show the actual increased costs incurred for salaries and benefits as a direct result of the second science course mandated by the test claim statute. Claimant has still not filed documentation, either with the SCO or with the Commission as part of this IRC, to properly support its claim for reimbursement. Instead of reducing the claims to \$0, the SCO used a reasonable methodology to provide reimbursement to Clovis; a methodology that Clovis used in fiscal years 2000-2001 and 2001-2002. The quarter load calculation used by the SCO resulted in a reduction of direct costs for teachers' salaries and benefits in fiscal year 1999-2000 only, and in increased amounts allowed by the SCO in the other three fiscal years. Clovis has not argued that the SCO's quarter load methodology resulted in a math error or miscalculation, and there is no evidence in the record that a miscalculation occurred.

Moreover, the Commission amended the parameters and guidelines in 2008 by adopting the quarter load method as a reasonable reimbursement methodology (RRM) for claiming teacher salary and benefit costs as a result of the mandate. In its decision on the parameters and guidelines amendment, the Commission found that the formula uses each school district's actual numbers for enrollment, average science class size, and average teacher salary, and limits the costs claimed to the mandated science course taught in the claim year. Since the course has to be taken in one of the four years from grades 9-12, and it constitutes an additional class required to be provided by the school district, the methodology positively identifies the additional course by dividing total enrollment in grades 9-12 for the claim year by four. The Commission's decision

³⁸ Exhibit C, SCO Division of Audits Comments on the IRC, Tab 3, p. 6.

adopting the quarter load method recognized that school districts did not have detailed documentation of actual costs incurred to comply the mandate and, thus, the quarter load method, which uses information that schools have, was reasonable. In addition, the Commission's decision to adopt the quarter load method for this program was upheld by the court.³⁹

As stated above, the Commission exercises very limited review of the SCO's audit decisions out of deference to the SCO, the agency delegated with the authority and expertise to audit reimbursement claims. Thus, the Commission finds that the SCO's use of the quarter load method in the audit of these claims, and the resulting reduction to costs claimed in fiscal year 1999-2000 only, was reasonable and within the SCO's authority.

Therefore, the Commission finds that there has been no reduction of salary and benefit costs for fiscal years 1998-1999, 2000-2001, and 2001-2002. The Commission further finds that the partial reduction of claimed costs of \$216,502 for salary and benefits and related indirect costs in fiscal year 1999-2000, is reasonable, and not arbitrary, capricious, or entirely lacking in evidentiary support. The Commission therefore finds that the SCO's audit findings are not "incorrect."

C. The reduction made by the SCO for the materials and supplies and related indirect costs is consistent with the parameters and guidelines, reasonable, and is not arbitrary, capricious, or entirely lacking in evidentiary support.

The parameters and guidelines at issue in this case provide that school districts may claim the "[i]ncreased cost to school district for . . . supplying the new science classes mandated," and further requires "[d]ocumentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase" to support the costs claimed.⁴⁰

For fiscal year 1998-1999 and 1999-2000, Claimant claimed reimbursement for materials and supplies based on a formula, similar to the one used for teacher salaries in the first two claim years, that determined an incremental increase in materials and supplies as a result of the mandate. As determined by the SCO, the formula did not identify the courses taught and did not measure the cost of supplying the additional science course mandated by the state in the claim years.

For fiscal years 2000-2001 and 2001-2002, Claimant's claim for reimbursement was based on a formula that attributed 50 percent of all high school science materials and supplies to the mandate. However, there is no evidence in the record to support an allegation that the mandate resulted in a 50 percent increase in costs for science materials and supplies. Although the state mandates schools to provide two science courses in grades 9 to 12 (with the test claim statute increasing the state requirement of one science course to two science courses) - state law, in Education Code section 51225.3 (a)(2), also allows school districts to offer, at their discretion, "other coursework as the governing board of the school district may by rule specify." Thus, the actual total costs to a school district for science materials and supplies for a claim year may include costs for more than the state-mandated two science courses. In this respect, the 50

³⁹ *Department of Finance v. Commission on State Mandates*, Sacramento County Superior Court, Case No. 34-2010-80000529 (2013).

⁴⁰ Exhibit I, Parameters and Guidelines, page 3.

percent method proposed by Claimant could result in reimbursement for materials and supplies for courses that are not mandated by the state.

Thus, the Commission finds that the SCO's decision to reject the methodology used by Claimant in these fiscal years was reasonable and based on the plain language of the parameters and guidelines, which requires the claimant to show the increased costs for supplying the new science class mandated and further requires "[d]ocumentation of increased units of science course enrollments due to the enactment of [the test claim statute] necessitating such an increase" to support the costs claimed.

The Commission further finds that the SCO's application of the quarter load method to recalculate the costs for science materials and supplies is reasonable. The method applied to materials and supplies is similar to the method applied for teacher salaries and benefits. It identifies the number of mandated classes taught in the claim year, and then multiplies that number by the average allocation for material and supply costs given to all science classes. Although the parameters and guidelines did not identify the quarter load method of claiming costs when the reimbursement claims were filed in this case, the SCO's use of the quarter load method to reimburse Claimant for materials and supplies is reasonable here. As stated above, the SCO properly determined that Claimant did not comply with the parameters and guidelines by providing documentation sufficient to show the actual increased costs were incurred as a direct result of the second science course mandated by the test claim statute. Claimant has still not filed documentation either with the SCO or with the Commission in support of this IRC to properly support its claim for reimbursement, and, thus, the claim was properly reduced by the SCO. The Commission finds that the SCO's use of the quarter load method in this case, and the resulting reductions to the costs claimed for materials and supplies, is reasonable, and not arbitrary or capricious.

Therefore, the Commission finds that the partial reduction of claimed costs for materials and supplies and related indirect costs in the amount of \$317,955 is reasonable, and not arbitrary, capricious, or entirely lacking in evidentiary support.

IV. Conclusion

Pursuant to Government Code section 17551(d) and section 1185.7 of the Commission's regulations, the Commission concludes that the SCO's partial reduction of claimed costs for teacher salary and benefits, materials and supplies, and related indirect costs is reasonable, and not arbitrary, capricious, or entirely lacking in evidentiary support.

Accordingly, the Commission denies this incorrect reduction claim.