

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov



May 15, 2003

Mr. Steve Smith
Mandated Cost Systems, Inc.
2275 Watt Avenue, Suite C
Sacramento, CA 95 825

Mr. Mike Havey
State Controller's Office
Division of Accounting and Reporting
Local Reimbursement Section
3301 C Street, Suite 501
Sacramento, CA 95 8 16

RE: Final Staff Analysis – May 29, 2003 Hearing
Certification of Teacher Evaluator's Demonstrated Competence
0 1-4 13 6-I-4 1 through -47, Various Claimants
Education Code Section 35 160.5
Statutes 1983, Chapter 498

Dear Mr. Smith and Mr. Havey:

The final staff analysis for the *Certification of Teacher Evaluator's Demonstrated Competence* incorrect reduction claims (IRCs) filed by Mandated Cost Systems, Inc. on behalf of various claimants is complete and enclosed for your review. Claimants' names are listed on the first page of the staff analysis.

Commission Hearing

These IRCs are set for hearing on Thursday, **May 29, 2003**, at 9:30 am. in Room 126 of the State Capitol, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact Cathy Cruz at (9 16) 323-82 18 if you have any questions.

Sincerely,


PAULA HIGASHI
Executive Director

Enclosures

MAILED: 5/15/03
DATE: 5/15/03
INITIAL: VS
FAXED:
WORKING BINDER: _____

ITEM 5

INCORRECT REDUCTION CLAIMS STAFF ANALYSIS,

Education Code Section 35 160.5

Statutes 1983, Chapter 498

Claimants:

Elk Grove Unified School District (0 1-41 36-I-4 1),
Santa Maria-Bonita School District (0 1-4 136-I-42),
Milpitas Unified School District (01-4136-I-43),
Del Mar Union School District (0 1-4 13 6-I-44),
Saratoga Union Elementary School District (0 1-4 136-I-45),
Merced City Elementary School District (0 1-4136-1-46),
Davis Joint Unified School District (0 1-4 136-I-47)

Certification of Teacher Evaluator's Demonstrated Competence

EXECUTIVE SUMMARY

This analysis addresses the incorrect reduction claims (IRCs) filed by the seven above-named school districts on the *Certification of Teacher Evaluator's Demonstrated Competence* program. Education Code section 35160.5, as added by Statutes 1983, chapter 498, requires that the governing board of each school district shall, as a condition for the receipt of school apportionments, adopt rules and regulations on or before December 1, 1984, establishing district policies regarding:

- a) The certification of the demonstrated competence of administrators who would be conducting teacher evaluations.
- b) Assurances that probationary teachers will have their needs for training, assistance, and evaluations recognized by the district.
- c) Filing of parent complaints regarding district employees.

These IRCs were grouped for purposes of analysis because the primary issue regarding increased costs incurred is identical in each IRC.' For the reasons outlined in this analysis, staff recommends that the Commission deny these IRCs.

Claimants' Position

The seven claimants contend that the State Controller's Office (SCO) incorrectly reduced their claims, in an aggregate amount of \$475,103 for fiscal year 1995-1 996, for the cost of salaries and

¹ The Commission's regulations permit analyses of IRCs from different local entities to be combined if the claims contain similar issues (Cal. Code Regs., tit. 2, § 1185, subd. (c)). Unless otherwise specified, "claimants" refers to the seven above-named school districts.

benefits of probationary teachers in training. It is their position that the cost of probationary teachers receiving mandated additional training should be reimbursed because it is authorized by the parameters and guidelines under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator's Demonstrated Competence* program.

State Controller's Office Position

The SCO disallowed the cost of salaries and benefits of probationary teachers in training because the parameters and guidelines "do not provide for reimbursement. . . while they attend training."

CONCLUSION

Staff finds that the SCO did not incorrectly reduce the claimants' reimbursement claims on the *Certification of Teacher Evaluator's Demonstrated Competence* program based on the following findings:

- The cost of salaries and benefits for probationary teachers receiving additional training *outside their regular workday or work year* is not a reimbursable cost under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator's Demonstrated Competence* program.
- The cost of salaries and benefits for probationary teachers attending training and mentoring *during the course of their regular workday* is not a reimbursable cost under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator's Demonstrated Competence* program.

STAFF RECOMMENDATION

Staff recommends that the Commission adopt this staff analysis and deny the *Certification of Teacher Evaluator's Demonstrated Competence* IRCs filed by the seven claimants listed at page 13.

CHRONOLOGY

Test Claim

- 09/20/84 San Jose Unified School District filed a test claim with the Board of Control
- 09/26/85 Commission on State Mandates (Commission) determined that Statutes 1983, chapter 498 imposes reimbursable state mandated costs
- 10/24/85 Commission adopted its Statement of Decision
- 04/24/86 Commission adopted original parameters and guidelines
- 01/24/91 Commission amended parameters and guidelines
- 09/95 State Controller's Office (SCO) issued claiming instructions
- 07/22/96 Education Trailer Bill to the Budget Act of 1996 (Stats. 1996, ch. 204) repealed this mandate effective with the 1996- 1997 fiscal year

Incorrect Reduction Claims (IRCs)

- 11/19/96
- 11/26/97 Claimants filed reimbursement claims for fiscal year 1995-1 996
- 08/5/98 SCO issued remittance advices
- 10/13/98
- 03/29/99 Claimants requested the SCO to reconsider its payment action
- 12/11/98
- 10/25/01 SCO issued final notices of adjustment
- 11/09/01 Elk Grove Unified School District, Santa Maria-Bonita School District, Milpitas Unified School District, Del Mar Union School District, Saratoga Union Elementary School District, and Merced City Elementary School District filed IRCs with the Commission
- 11/19/01 Commission sent copies of the IRCs filed on November 9, 2001, to the SCO
- 12/12/01 Davis Joint Unified School District filed its IRC with the Commission
- 12/21/01 Commission sent a copy of the IRC filed on December 12, 2001, to the SCO
- 02/20/02 SCO filed comments on the claimants IRCs
- 04/09/03 Draft staff analysis issued
- 05/15/03 Final staff analysis issued

COMMISSION AUTHORITY

Government Code section 1755 1, subdivision (d), requires the Commission to determine whether the SCO has incorrectly reduced payments to a local agency or school district. That section states the following:

The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 17561.

Government Code section 17561, subdivision (d), authorizes the SCO to audit 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.

If the Commission determines that a reimbursement claim has been incorrectly reduced, California Code of Regulations, title 2, section 1185.1, requires the Commission to submit its Statement of Decision to the SCO and request that all costs that were incorrectly reduced be reinstated.

SUMMARY OF THE MANDATE AND CLAIMS

On October 24, 1985, the Commission adopted its decision that the *Certification of Teacher Evaluator's Demonstrated Competence* program constitutes a reimbursable state-mandated program. Education Code section 35160.5, as added by Statutes 1983, chapter 498, requires that the governing board of each school district shall, as a condition for the receipt of school apportionments, adopt rules and regulations on or before December 1, 1984, establishing district policies regarding:

- a) The certification of the demonstrated competence of administrators who would be conducting teacher evaluations.
- b) Assurances that probationary teachers will have their needs for training, assistance, and evaluations recognized by the district.
- c) Filing of parent complaints regarding district employees.

On April 24, 1986, the Commission adopted the original parameters and guidelines. These parameters and guidelines were subsequently amended on January 24, 1991, and described the following activities as eligible for reimbursement:

- A. Certification that personnel assigned to evaluate teachers have demonstrated competence in instructional methodologies and evaluation for teachers they are assigned to evaluate. The determination of whether school personnel meet the district's adopted policies shall be made by the governing board. [¶] . . . [¶]
- B. The establishment of district or county office of education policies ensuring that each probationary certificated employee is assigned to a school within the district with assurances that his or her status as a new teacher and his or her potential needs for training, assistance, and evaluations will be recognized by the district or county office of education.
 1. Training, assisting, and evaluating probationary teachers over and above that usually provided to permanent teachers by the district or county office of education. Copies of the approved previous policy must be included with claims for reimbursement. The cost of services or activities provided to probationary teachers funded by the Mentor Teacher Program cannot be claimed as a reimbursable cost.
 - a. Time provided by personnel, other than the site principal, to train, assist or evaluate -probationary teachers.
 - b. Training materials and clerical services for probationary teachers.
 - c. Registration fees and travel costs of probationary teachers attending training activities.

- d. Costs of substitute teachers provided for probationary teachers so that they might attend training activities including visitations to other teachers' classrooms to observe teaching techniques (limited to three such visitations per semester).
 - e. Costs of consultants provided to train and assist probationary teachers if personnel with the required skills are not available within the school district or county office of education.
- C. The establishment of policies and procedures which parents or guardians of pupils enrolled in the district may use to present complaints regarding employees of the district that provide for appropriate mechanisms to respond to, and where possible resolve, the complaints.²

In September 1995, the SCO issued its claiming instructions.³ Section 5, "Reimbursable Components," provides the following:

B. Probationary Certificated Employee Policies

(2) Training, Assisting and Evaluating Probationary Teachers

The costs of training, assisting and evaluating probationary teachers, over and above that provided to permanent teachers, are reimbursable. The salary and benefits of personnel, not including the site principal, plus training materials and clerical services used to train, assist or evaluate probationary teachers are reimbursable. The cost of consultants for the purpose of training and assisting probationary teachers, if personnel with the required skills are not available within the school district or county office of education, is reimbursable. Registration fees, travel costs and the cost of substitute teachers provided for probationary teachers so that they can attend training activities, including visitation to observe other teacher's teaching techniques, are reimbursable. Visitations are limited to three visitations per semester.

The claimants filed their reimbursement claims for fiscal year 1995-1996 between November 19, 1996, and November 26, 1997. On August 5, 1998, the SCO sent the claimants notices of adjustment denying reimbursement for the salaries and benefits of probationary teachers in training. The claimants requested that the SCO reconsider its payment action between October 13, 1998, and March 29, 1999. The SCO issued final notices of adjustment between December 11, 1998, and October 25, 2001. Specifically, the letters stated:

[The] Parameters and Guidelines do not provide reimbursement for probationary teachers training costs. In lieu of that, the [parameters and guidelines] reimburse the cost of substitute teachers while the probationary teachers attend training activities.⁴

² Exhibit A, tab 1, page 33.

³ Exhibit A, tab 1, page 43.

⁴ Exhibit A, tab 1, page 103, 111; tab 2, page 199; tab 3, page 285; tab 4, pages 367, 375; tab page 457; tab 6 page 541; tab 7, pages 625, 633.

Thus, on November 9, 2001, and December 12, 2001, seven school districts filed IRCs on the *Certification of Teacher Evaluator's Demonstrated Competence* program.⁵ The seven claimants here contend that the SCO incorrectly reduced their claims, in an aggregate amount of \$475,103 for fiscal year 1995-1996, for the cost of salaries and benefits of probationary teachers in training. Table 1, as shown below, lists the alleged incorrect reduction for each individual claimant.

TABLE 1

Number	Claimant	Cost Categories Disallowed		Total Alleged Incorrect Reduction
		1 st & 2 nd year Probationary Teacher Time	Add'l Probationary Teachers Training Time	
01-4136-I-41	Elk Grove Unified School District	\$ 119,796	\$ 49,724	\$ 169,520
01-4136-I-42	Santa Maria-Bonita School District	4,656	6,215	10,871
01-4136-I-43	Milpitas Unified School District	6,336	25,030	*56,802
01-4136-I-44	Del Mar Union School District	28,855	2,583	31,438
01-4136-I-45	Saratoga Union Elementary School District	54,318	2,727	57,045
01-4136-I-46	Merced City Elementary School District	27,353	11,665	39,018
01-4136-I-47	Davis Joint Unified School District	96,516	13,893	110,409
TOTALS		\$ 337,833	\$ 111,837	\$ 475,103

STATEMENT OF ISSUES

DID THE STATE CONTROLLER'S OFFICE INCORRECTLY REDUCE THESE CLAIMS?

1. Is the cost of salaries and benefits for probationary teachers receiving additional training *outside their regular workday or work year* a reimbursable cost under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator's Demonstrated Competence* program?
2. Is the cost of salaries and benefits for probationary teachers attending training and mentoring *during the course of their regular workday* a reimbursable cost under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator's Demonstrated Competence* program?

For the reasons stated in the staff analysis, staff concludes that the SCO did not incorrectly reduce these reimbursement claims.

POSITIONS OF THE PARTIES

Claimants' Position

The claimants contend that the cost of salaries and benefits of probationary teachers receiving mandated additional training should be reimbursed because it is authorized by the parameters and guidelines under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator's Demonstrated Competence* program.

⁵ Exhibit A, tabs 1-7.

* The alleged incorrect reduction amount includes \$25,437 in new teacher training stipends.

The claimants assert that the cost of salaries and benefits of probationary teachers in training consist of two categories:

- 1) probationary teachers receiving one-on-one training and mentoring (over and above that provided to permanent teachers) during the course of their regular work day; and
- 2) probationary teachers costs related to working extra hours and a longer work year due to the mandated additional training requirements.

The claimants state that “the [Commission] should be guided by the common rule of interpretation which provides that where express provisions of a rule are clear and unambiguous the explicit meaning of those provisions, interpreted in their ordinary and popular sense, controls the interpretation? Therefore, the claimants assert that the first category is reimbursable because the parameters and guidelines provide reimbursement for costs of “training, assisting and evaluating probationary teachers *over and above that usually provided to permanent teachers.*”)

Further, the claimants contend that the second category is reimbursable because it is consistent with allowable costs of other mandated programs, such as *Physical Performance Testing* and *American Government Course Document Requirements*. While permanent teachers work a fixed number of days a year, the claimants assert that this mandate requires all probationary teachers to work additional days for teacher training, occurring either after the regular workday or at the end of the regular work year when a substitute teacher is not necessary. For example, the Elk Grove Unified School District states that its permanent teachers work 184 days a year while its probationary teachers work a total of 186 work days to accommodate two additional 7.5-hour days for teacher training.⁷

State Controller’s Office Position

The SCO argues that “[t]he parameters and guidelines simply do not provide for reimbursement of the wages of probationary teachers while they attend training.. . [n]otably absent is any reference to the salaries of probationary teachers.”⁸ In its final notices of adjustment, the SCO stated that the parameters and guidelines reimburse the cost of substitute teachers while the probationary teachers attend training. The SCO also notes that on April 4, 1995, the Stockton Unified School District (SUSD) submitted a request to amend the parameters and guidelines to include salaries and wages for probationary teachers while they attend training.⁹ However, this request was withdrawn by letter dated June 23, 1995.¹⁰ Therefore, the SCO concluded that the parameters and guidelines did not intend to provide reimbursement for the salary costs of probationary teachers while attending training.

⁶ Exhibit A, tab 1, page 5.

⁷ Exhibit A, tab 1, page 5. The number of additional training days for probationary teachers varies by claimant, ranging from half a day to two days. One claimant did not specify the number of additional days.

⁸ Exhibit B, tab 1, page 635; tab 2, page 669; tab 3, page 703; tab 4, page 735; tab 5, page 805; tab 6, page 881; tab 7, page 947.

⁹ Exhibit B, tab 1, page 641.

¹⁰ Exhibit B, page 653.

Therefore, the SCO disallowed the cost of salaries and benefits for training probationary teachers and associated indirect costs claimed under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator's Demonstrated Competence* program.

STAFF ANALYSIS

Background

The parameters and guidelines were originally adopted on April 24, 1986, and were subsequently amended on January 24, 1991, to allow reimbursement of individual administrator training of probationary teachers for a maximum of 10 days in any three-year period.

On April 4, 1995, the SUSD filed a request to amend the parameters and guidelines with the Commission. SUSD proposed to include the following language under Reimbursable Costs, section V.B. 1.:

- f. Probationary teacher time spent attending district or county office sponsored training sessions specific to probationary teachers after school or prior to the start of the school year.
- g. Probationary teacher time spent receiving assistance or training from district or county office employees as part of the probationary teacher training and assistance program.
- h. In-classroom probationary teacher time spent receiving training or assistance is not claimable.
- i. In cases where a substitute is provided, the claimant is only eligible to claim the substitute and not the probationary teacher's time.¹¹

SUSD asserted that these amendments were necessary because the parameters and guidelines did not address whether probationary teacher time receiving training, assistance, and evaluation, was reimbursable. SUSD maintained that district-sponsored training sessions prior to the start of the school year required probationary teachers to work one or two days earlier than permanent teachers, and thus, they worked a longer school year. During these training sessions, probationary teachers received orientation and training specific to their needs. Further, SUSD contended that the district-sponsored training sessions after school and the one-on-one training should be reimbursable because it took probationary teachers away from other duties.

To support its position, SUSD noted parameters and guidelines for programs that provide reimbursement for employee time spent receiving training, such as the *Emergency Procedures, Earthquakes, and Disasters* program. Specifically, the *Emergency Procedures, Earthquakes, and Disasters* Parameters and Guidelines provide reimbursement for: "The cost incurred by the district of employees attending [emergency procedures] meetings to receive instruction,"

However, in a letter dated June 23, 1995, SUSD withdrew its request to amend the parameters and guidelines because "after numerous discussions with Commission staff and other interested parties, it is clear that any positive action resulting from clarifying this issue is more than offset by the possibility that re-opening this claim could result in the entire claim being denied."¹²

¹¹ Exhibit B, tab 1, page 648.

¹² Exhibit B, tab 1, page 653.

On July 22, 1996, the Education Trailer Bill to the Budget Act of 1996 (Stats. 1996, ch. 204) repealed this mandate beginning with the 1996-1997 fiscal year.

Issue 1: Is the cost of salaries and benefits for probationary teachers receiving additional training ***outside their regular workday or work year*** a reimbursable cost under the Probationary Certificated Employee Policies component of the ***Certification of Teacher Evaluator's Demonstrated Competence*** program?

The claimants contend that their districts required probationary teachers to work additional days each fiscal year for teacher training specifically attributable to this mandate. The claimants assert that while permanent teachers work a fixed number of days a year, this mandate requires all probationary teachers to work additional days for teacher training, occurring either after the regular workday or at the end of the regular work year when a substitute teacher is not necessary. Therefore, the claimants argue that the salary costs of probationary teachers to attend the training outside the regular workday or work year should be reimbursed because the training sessions exceed what is provided to permanent teachers.

The SCO maintains that “[t]he parameters and guidelines simply do not provide for reimbursement of the wages of probationary teachers while they attend training., , [n]otably absent is any reference to the salaries of probationary teachers.” In lieu of that, the SCO states that the parameters and guidelines reimburse the cost of substitute teachers while the probationary teachers attend training.

For the reasons provided below, staff finds that the SCO did not incorrectly reduce the claimants’ reimbursement claims for the cost of salaries and benefits for probationary teachers to attend the training outside the regular workday or work year.

To support its arguments, the claimants cited the Commission’s decision in the parameters and guidelines for *Physical Performance Tests* (CSM 96-365-01). Specifically, the Commission found that:

Increased costs for *substitute teacher time* during the school day *or for teacher stipends* to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. ¹³ (Emphasis added.)

The claimants also cited the Commission’s decision in the parameters and guidelines for *American Government Course Document Requirements* (97-TC-02), in which the Commission found the following to be reimbursable:

Either the cost of providing a *substitute teacher* for each teacher who attends a training session during the teacher’s normal classroom periods *or the additional payments* made to each teacher who attends a training session *outside the teacher’s normal classroom period* (after school or on Saturday). (Emphasis added.)¹⁴

It is true that the Commission previously found the cost of teachers to attend training sessions outside the regular school day to be reimbursable. However, in both of the above-mentioned programs, the Commission’s parameters and guidelines provided reimbursement for either the cost of a substitute teacher, if the training session was during the regular school day, or for teacher

¹³ Exhibit C, page 1004.

¹⁴ Exhibit D, page 1011.

stipends to attend training outside the regular school day. The parameters and guidelines here clearly provide reimbursement for the costs of substitute teachers so that probationary teachers could attend training activities. However, the parameters and guidelines do not explicitly provide reimbursement for teacher stipends to attend training outside the regular school day. Therefore, staff finds that the Commission intended that probationary teacher training be provided during the regular school day when a substitute teacher could be hired.

Moreover, the claimants state that the probationary teachers worked extra hours and a longer work year because the additional training was mandated by Education Code section 35 160.5.¹⁵ Education Code section 35160.5, as added by Statutes 1983, chapter 498, stated:

On or before December 1, 1984, the governing board of each school district shall, as a condition for the receipt of school apportionments from the State School Fund, adopt rules and regulations establishing school district policies as they relate to the following:

- a) Certification that personnel assigned to evaluate teachers have demonstrated competence in instructional methodologies and evaluation for teachers they are assigned to evaluate. The determination of whether school personnel meet the district's adopted policies shall be made by the governing board.
- b) The establishment of district policies ensuring that each probationary certificated employee is assigned to a school within the district with assurances that his or her status as a new teacher and his or her potential needs for training, assistance, and evaluations will be recognized by the district.
- c) The establishment of policies and procedures which parents or guardians of pupils enrolled in the district may use to present complaints regarding employees of the district. These policies and procedures shall provide for appropriate mechanisms to respond to and where possible to resolve, the complaints. These policies and procedures shall be established in consultation with employee organizations.

Staff finds that the plain language of the statute does not require additional training to be provided outside the regular workday or work year. Accordingly, neither the test claim statute, the Statement of Decision, the parameters and guidelines, nor the evidence in the record supports the claimants' contention that the state has mandated additional training to be provided outside the regular school year. In addition, since the 1959 Education Code,¹⁶ the state has required public schools to provide education for a minimum of 175 days in a fiscal year and 240 minutes in a day. Neither the school day, nor the school year, increased as a result of the test claim legislation. Therefore, there is no showing that the state mandated probationary teachers to attend additional training outside the regular workday or work year. If a school district chooses to increase the school day or the school year by requiring its probationary teachers to work additional days each fiscal year for teacher training, the district does so at its own discretion.

¹⁵ Repealed by Statutes 1996, chapter 204, effective July 22, 1996.

¹⁶ Education Code sections 41420, 46113, 46141, and 46142.

Therefore, staff finds that the cost of salaries and benefits for probationary teachers to attend the training outside the regular workday or work year is not reimbursable, and the SCO did not incorrectly reduce this portion of the claim.

Issue 2: Is the cost of salaries and benefits for probationary teachers attending training and mentoring **during the course of their regular workday** a reimbursable cost under the Probationary Certificated Employee Policies component of the ***Certification of Teacher Evaluator's Demonstrated Competence*** program?

The claimants contend that the cost of probationary teachers receiving mandated additional training during the regular workday should be reimbursed because it is authorized by the parameters and guidelines under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator's Demonstrated Competence* program. The claimants maintain that the parameters and guidelines provide reimbursement for costs of "training, assisting and evaluating probationary teachers *over and above, that usually provided to permanent teachers.*" The claimants assert that "the [Commission] should be guided by the common rule of interpretation which provides that where express provisions of a rule are clear and unambiguous the explicit meaning of those provisions, interpreted in their ordinary and popular sense, controls the interpretation."¹⁷ Therefore, the salary costs of probationary teachers receiving one-on-one training and mentoring during the course of their regular workday should be reimbursed.

The SCO maintains that "[t]he parameters and guidelines simply do not provide for reimbursement of the wages of probationary teachers while they attend training.. . [n]otably absent is any reference to the salaries of probationary teachers." The SCO states that, in lieu of that, the parameters and guidelines reimburse the cost of substitute teachers while the probationary teachers attend training. Further, the SCO states that a request to amend the parameters and guidelines to explicitly include salaries and wages for probationary teachers while they attend training was submitted by the SUSD on April 4, 1995. However, this request was subsequently withdrawn by letter dated June 23, 1995. Therefore, the SCO concluded that the parameters and guidelines did not intend to provide reimbursement for the salary costs of probationary teachers while attending training,

For the reasons provided below, staff finds that the SCO did not incorrectly reduce the claimants' reimbursement claim for the cost of salaries and benefits for probationary teachers attending training and mentoring during the course of their regular work day.

Section V. of the parameters and guidelines, entitled "Reimbursable Costs," provides that the following costs are reimbursable:

- A. Certification that personnel assigned to evaluate teachers have demonstrated competence in instructional methodologies and evaluation for teachers they are assigned to evaluate, The determination of whether school personnel meet the district's adopted policies shall be made by the governing board. [¶] . . . [¶]
- B. The establishment of district or county office of education policies ensuring that each probationary certificated employee is assigned to a school within the district with assurances that his or her status as a new teacher and his or her potential needs for

¹⁷ Exhibit A, tab 1, page 5.

training, assistance, and evaluations will be recognized by the district or county office of education.

1. Training, assisting, and evaluating probationary teachers over and above that usually provided to permanent teachers by the district or county office of education. Copies of the approved previous policy must be included with claims for reimbursement. The cost of services or activities provided to probationary teachers funded by the Mentor Teacher Program cannot be claimed as a reimbursable cost.
 - a. Time provided by personnel, other than the site principal, to train, assist or evaluate probationary teachers.
 - b. Training materials and clerical services for probationary teachers.
 - c. Registration fees and travel costs of probationary teachers attending training activities.
 - d. *Costs of substitute teachers provided for probationary teachers so that they might attend training activities* including visitations to other teachers' classrooms to observe teaching techniques (limited to three such visitations per semester). (Emphasis added.)
 - e. Costs of consultants provided to train and assist probationary teachers if personnel with the required skills are not available within the school district or county office of education.
- C. The establishment of policies and procedures which parents or guardians of pupils enrolled in the district may use to present complaints regarding employees of the district that provide for appropriate mechanisms to respond to, and where possible resolve, the complaints.

The parameters and guidelines clearly provide reimbursement for the costs of substitute teachers so that probationary teachers can attend training activities, including visitations to other teachers' classrooms to observe teaching techniques. The SCO's claiming instructions mirrored the Commission's parameters and guidelines. Thus, staff finds, that based on the express language contained in the parameters and guidelines, the claimants are only entitled to reimbursement for salaries of substitute teachers while probationary teachers attend training and mentoring during the course of their regular workday.

In this case, training is explicitly included in the parameters and guidelines. However, to be eligible for reimbursement, a school district must incur increased costs mandated by the state as a result of complying with the test claim statute." Staff finds that school districts do not incur increased costs mandated by the state for the salaries and benefits of probationary teachers when they attend training and mentoring during the course of their regular workday. As discussed in Issue 1, neither the school day nor the school year increased as a result of the test claim legislation. Rather, training time is absorbed into the school day. Thus, there are no resultant increased costs mandated by the state to the school district for the probationary teacher who is being trained during the course of the regular school day. This is consistent with the

¹⁸ *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1283-1284; Government Code section 175 14.

Commission's decision in *Physical Performance Tests* (CSM 96-365-01), *Emergency Procedures, Earthquakes and Disasters* (CSM-4241), and *Standardized Testing and Reporting* (97-TC-23).

Accordingly, staff finds that the cost of salaries and benefits for probationary teachers to attend training and mentoring during the course of their regular workday is not reimbursable, and therefore, the SCO did not incorrectly reduce this portion of the claim.

CONCLUSION

Staff finds that the SCO did not incorrectly reduce the claimants' reimbursement claims on the *Certification of Teacher Evaluator's Demonstrated Competence* program based on the following findings :

- The cost of salaries and benefits for probationary teachers receiving additional training *outside their regular workday or work year* is not a reimbursable cost under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator 's Demonstrated Competence* program.
- The cost of salaries and benefits for probationary teachers attending training and mentoring *during the course of their regular workday* is not a reimbursable cost under the Probationary Certificated Employee Policies component of the *Certification of Teacher Evaluator 's Demonstrated Competence* program.

STAFF RECOMMENDATION

Staff recommends that the Commission adopt this staff analysis and deny the *Certification of Teacher Evaluator 's Demonstrated Competence* IRCs filed by:

1. Elk Grove Unified School District (0 1-4136-I-41),
2. Santa Maria-Bonita School District (0 1-4 136-I-42),
3. Milpitas Unified School District (0 1-4 136-I-43),
4. Del Mar Union School District (0 1-4 13 6-I-44),
5. Saratoga Union Elementary School District (0 1-4 136-I-45),
6. Merced City Elementary School District (0 1-41 36-I-46), and
7. Davis Joint Unified School District (01-4136-I-47).

