

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 27, 2015

Mr. Keith Petersen
SixTen & Associates
P.O. Box 340430
Sacramento, CA 95834-0430

Ms. Jill Kanemasu
State Controller's Office
Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
Collective Bargaining and Collective Bargaining Agreement Disclosure, 05-4425-I-09
Statutes 1975, Chapter 961; Statutes 1991, Chapter 1213
Fiscal Years 1999-2000, 2000-2001, 2001-2002
San Mateo Community College District, Claimant

Dear Mr. Petersen and Ms. Kanemasu:

The draft proposed decision for the above-named matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the draft proposed decision by **June 17, 2015**. You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, July 24, 2015**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about July 10, 2015. 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 1187.9(b) of the Commission's regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey
Executive Director

ITEM __
INCORRECT REDUCTION CLAIM
DRAFT PROPOSED DECISION

Government Code Sections 3540-3549.9

Statutes 1975, Chapter 961; Statutes 1991, Chapter 1213

Collective Bargaining and Collective Bargaining Agreement Disclosure

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

05-4425-I-09

San Mateo Community College District, Claimant

EXECUTIVE SUMMARY

Overview

This incorrect reduction claim (IRC) challenges the State Controller's Office (Controller) audit reductions to the San Mateo Community College District's (claimant) reimbursement claims for costs incurred in fiscal years 1999-2000, 2000-2001, and 2001-2002 for the *Collective Bargaining and Collective Bargaining Agreement Disclosure* program. The following issues are in dispute:

- Whether the statutory deadline for the audit of the 1999-2000 reimbursement claim was met.
- The reduction of \$638,022 (plus related indirect costs) for salaries and benefits due to the Controller's findings of insufficient documentation supporting the hours claimed and incorrect productive hourly rate calculations; and
- Reduction of \$5,153 for materials and supplies due to the Controller's finding of insufficient documentation.

Collective Bargaining and Collective Bargaining Agreement Program

On July 17, 1978, the Board of Control, predecessor to the Commission, found that Statutes 1975, chapter 961 imposed a reimbursable state mandate. On March 26, 1998, the Commission adopted a second test claim decision on Statutes 1991, chapter 1213. Parameters and guidelines for the two programs were consolidated on August 20, 1998 and amended on January 27, 2000.

At the time the reimbursement claims at issue were prepared and submitted to the Controller, the applicable parameters and guidelines were those adopted on January 27, 2000. These parameters and guidelines authorize reimbursement for costs incurred to comply with sections 3540 through 3549.1 of the Government Code, and "regulations promulgated by the Public Employment Relations Board." The parameters and guidelines divide the reimbursable activities into seven components: (1) determination of appropriate bargaining units for representation and determining the exclusive representation and representatives; (2) Elections and decertification elections of unit representatives if the Public Employment Relations Board determines that a representation question exists and orders an election; (3) Negotiations, as specified; (4) Impasse proceedings and mediation; (5) Collective bargaining agreement disclosure; (6) contract

administration and adjudication of contract disputes, including grievances; (7) Unfair labor practice adjudication process and public notice complaints.¹

Procedural History

Claimant signed the reimbursement claim for fiscal year 1999-2000 on January 10, 2001,² and the fiscal year 2000-2001 and 2001-2002 claims on January 10, 2002 and January 15, 2003,³ respectively. The Controller contacted the district regarding the audit on April 15, 2003⁴ and held an audit entrance conference on April 28, 2003.⁵ The Controller issued a revised draft audit report on April 21, 2004.⁶ Claimant submitted comments on the draft audit report on May 12, 2004.⁷ The Controller issued the final audit report on August 6, 2004.⁸ Claimant filed this IRC on September 6, 2005.⁹ Commission staff requested that the Controller submit information on the audit on August 29, 2014. The Controller requested an extension of time to submit information on the audit on September 18, 2014. The Controller filed late comments on the IRC on October 7, 2014.¹⁰ On May 27, 2015, Commission staff issued the draft proposed decision on the IRC.

Commission Responsibilities

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

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced,

¹ Exhibit A, IRC, pages 29-35.

² Exhibit A, IRC, page 79.

³ Exhibit A, pages 122 and 160.

⁴ Exhibit B, Controller's comments on the IRC, page 25 and tab 18, page 207.

⁵ Exhibit B, Controller's comments on the IRC, pages 6 and 23.

⁶ Exhibit A, IRC, page 57.

⁷ Exhibit A, IRC, pages 57 and 66-70.

⁸ Exhibit A, IRC, page 51.

⁹ Exhibit A, IRC.

¹⁰ Exhibit B, Controller's comments on the IRC. Note that pursuant to Government Code section 17553(d) "the Controller shall have no more than 90 days after the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the Commission." However, in this instance, due to the backlog of IRCs, these late comments have not delayed consideration of this item and so have been included in the analysis and proposed decision.

section 1185.9 of the Commission's regulations requires the Commission to send the statement of decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller 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 6.¹¹ 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."¹²

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support.¹³ This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.¹⁴

The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with claimant.¹⁵ In addition, sections 1185.1(f)(3) and 1185.2(c) of the Commission's regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹⁶

Claims

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

¹¹ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

¹² *County of Sonoma, supra*, 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

¹³ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

¹⁴ *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.

¹⁵ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

¹⁶ Government Code section 17559(b): [A] claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record."

Issue	Description	Staff Recommendation
<p>Whether the audit of the fiscal year 1999-2000 claim is barred by the deadline in Government Code Section 17558.5.</p>	<p>Claimant asserts that the claim for fiscal year 1999-2000 was beyond the statute of limitations when the Controller issued its final audit report on August 6, 2004. Claimant argues that the 1999-2000 claim was subject to audit no later than December 31, 2003 (based on the claim filing date of January 10, 2001), and that the Controller was required to <i>complete</i> the audit within the two-year deadline for IRCs.</p>	<p><i>The 1999-2000 audit was timely</i> - The plain language of Government Code section 17558.5 does not require the Controller to “complete” the audit within a specified time, but says that reimbursement claims are “subject to audit” within two years after the end of the calendar year in which the reimbursement claim was filed. The phrase “subject to audit” sets a time during which a claimant is on notice that an audit may occur, but does not require audit completion. The reimbursement claim was filed in January 2001, so the audit had to be initiated by December 31, 2003. The audit was initiated in April 2003, within the statutory deadline, and was timely.</p> <p>Staff also finds that the audit was completed in a timely manner, on August 6, 2004, within 16 months of initiation.</p>
<p>Reduction of salary and benefit costs claimed under G3 and G6 of the parameters and guidelines because claimant did not provide adequate supporting documentation.</p>	<p>Components G3 and G6 of the parameters and guidelines list reimbursable activities in the collective bargaining program, e.g., negotiations. Section H3 requires claimants to submit documentation showing the classification of the employees involved, the amount of time spent on the mandated activities, and the employees’ hourly rate, and requires the worksheet used to compute the hourly rate to be submitted with the claim.</p>	<p><i>Incorrect</i> - When these reimbursement claims were filed, Government Code section 17564 stated that “claims for direct and indirect costs filed pursuant to Section 17561 shall be filed <i>in the manner prescribed in the parameters and guidelines.</i>” The court in <i>Clovis Unified School Dist.</i>, interpreted these parameters and guidelines and found that claimants need only “[s]upply workload data requested ... to support the</p>

		<p>level of costs claimed” and “[s]how the classification of the employees involved, amount of time spent, and their hourly rate”; nothing is said about “source documents.”¹⁷ The claimant complied with these requirements by filing summary schedules with the claims. Therefore, this reduction is incorrect as a matter of law.</p>
<p>Reduction to the fiscal year 2000-2001 and 2001-2002 reimbursement claims for productive hourly rates based on payroll records compared to salaries claimed</p>	<p>The Controller found that claimant had over-reported salary information for three employees in 2000-2001, and for four employees in 2001-2002.</p> <p>The parameters and guidelines, in Section H3, require claimants to identify the hourly rate for each employee and to submit a worksheet used to compute the hourly rate with the claim.</p>	<p><i>Incorrect</i> -There is no evidence in the record to support the Controller’s finding that the rates reported with the reimbursement claims conflict with the claimant’s payroll records. The payroll records discussed by the Controller are not included in the record for this IRC, and the claimant has not admitted any mistakes in the salary rates reported in the reimbursement claims. Although the Controller prepared “schedules” summarizing the reductions, these summaries are considered hearsay and not evidence supporting the facts asserted by the Controller. The Commission’s regulations require that all assertions of fact must be supported by documentary evidence. Thus, the reduction is not supported by evidence in the record and is therefore arbitrary, capricious, or entirely lacking in evidentiary support.</p>

¹⁷ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 807.

<p>Reduction to the fiscal year 2000-2001 and 2001-2002 reimbursement claims for productive hourly rates based on claimant's calculation that deducted estimated break time taken by employees.</p>	<p>The Controller found that deducting estimated break time is not allowable under the Controller's claiming instructions and added 120 hours to the productive hours claimed.</p>	<p><i>Incorrect</i> - The claimant's reimbursement claims contain a salary and benefits chart that identifies the productive hourly rates, but there is no evidence in the record showing that the claimant deducted 120 hours for break time. The reduction of hours is not supported by evidence in the record and is therefore arbitrary, capricious, or entirely lacking in evidentiary support.</p>
<p>Reduction of \$5,133 for materials and supplies based on lack of supporting documentation</p>	<p>The Controller reduced costs claimed for materials and supplies because the claimant did not provide source documentation to support costs of materials and supplies, printing, and postage in fiscal years 1999-2000 and 2000-2001.</p>	<p><i>Incorrect</i> - At the time these reimbursement claims were filed in 2001 and 2002, Government Code section 17564 stated that "claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed by the parameters and guidelines."</p> <p>There is no language in the parameters and guidelines for the <i>Collective Bargaining and Collective Bargaining Agreement Disclosure</i> program, as interpreted by the court in <i>Clovis Unified School Dist.</i>, requiring claimants to provide source documentation (such as invoices, purchase orders, or receipts) to support a claim of reimbursement for materials and supplies. In this case, the claimant complied with the parameters and guidelines.¹⁸ Therefore, this reduction is incorrect as a matter of law.</p>

¹⁸ *Clovis Unified School Dist.*, *supra*, 188 Cal.App.4th 794, 807.

Staff Analysis

A. The Audit of the Fiscal Year 1999-2000 Claim is Not Barred by the Deadlines in Government Code Section 17558.5.

The claimant alleges that the Controller did not complete the audit of the reimbursement claim filed for fiscal year 1999-2000 within the applicable deadlines so that the audit adjustments for that fiscal year are barred.¹⁹ Claimant argues that the phrase “subject to audit” requires the Controller “to complete” the audit no later than two years after the end of the calendar year in which the claim is filed.²⁰ According to claimant, its 1999-2000 claim was mailed to the Controller on January 10, 2001, so the claim was subject to audit no later than December 31, 2003.²¹ The audit was initiated no later than April 28, 2003, the date of the entrance conference. The Controller’s final audit report was issued on August 6, 2004.

At the time the reimbursement claims were filed, they were “subject to audit,” pursuant to the 1996 version of section 17558.5, “no later than two years after the end of the calendar year that the reimbursement claim is filed or last amended.” 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 interpretation is also consistent with the Legislature’s 2002 amendment to Government Code section 17558.5, clarifying that “subject to audit” means “subject to the initiation of an audit.” In this case, the reimbursement claim filed for 1999-2000 was subject to audit at any time before December 31, 2003. Since the audit began in April 2003, staff finds that it was timely initiated.

Staff further finds that the audit was timely completed. Before Government Code section 17558.5 was amended effective January 1, 2005, there was no statutory deadline for the completion of an audit. Under common law principles, however, the Controller had to complete an audit within a reasonable period of time after it was initiated. In this case, the audit was completed when the final audit report was issued on August 6, 2004, less than 16 months after the audit was initiated. Therefore, there is no evidence of an unreasonable delay in the completion of the audit.

B. The Controller’s Reduction of \$638,022²² for Salaries and Benefits is Incorrect as a Matter of Law and Not Supported by Evidence in the Record.

The Controller reduced salary and benefit costs claimed during the audit period for collective bargaining negotiations, component G3 of the reimbursable activities, by \$599,399, finding that claimant did not provide adequate supporting documentation to verify the time spent by employees during “at-the table” negotiations and for negotiation planning and preparation sessions, or for AFT release time for bargaining unit representatives participating in the negotiation sessions. The Controller also reduced \$32,455 in salary and benefit costs claimed during the audit period under component G6, for grievance resolution and training, because the

¹⁹ Exhibit A, IRC, pages 15-20.

²⁰ Exhibit A, IRC, pages 17-20.

²¹ Exhibit A, IRC, page 17.

²² This amount does not include related indirect costs (see audit finding 3, Exhibit A, p. 63).

claimant did not provide supporting documentation. The Controller further reduced salary and benefit costs by \$6,168 because the claimant used an incorrect productive hourly rate.²³

1. *The Controller's reduction of salary and benefit costs claimed under components G3 and G6 of the parameters and guidelines because it found that claimant did not provide adequate supporting documentation is incorrect as a matter of law.*

Section H3 of the parameters and guidelines requires claimants to submit documentation showing the classification of the employees involved, the amount of time spent on the mandated activities, and the employees' hourly rate.

Claimant, for all fiscal years at issue, sought reimbursement for salary and benefits under components G3 and G6, by submitting "summary schedules" (a phrase used by the Controller)²⁴ with its reimbursement claims. The summary schedules show that the claimant complied with the documentation requirements in section H3 of the parameters and guidelines that requires showing "the classification of the employees involved, amount of time spent, and their hourly rate."²⁵

The Controller, however, reduced the costs claimed for "unsupported salaries and benefits" by \$631,854 (plus related indirect costs) because it found that the claimant "*did not provide source documents to validate employees' hours charged, such as individual activity log sheets, meeting sign-in sheets, and time records.*"²⁶

Staff finds that the Controller's reduction is incorrect as a matter of law. From 2000 through 2004, when these reimbursement claims were filed, Government Code section 17564 stated that "claims for direct and indirect costs filed pursuant to Section 17561 shall be filed *in the manner prescribed in the parameters and guidelines.*"²⁷

Moreover, the court in *Clovis Unified School Dist.*, found that the parameters and guidelines for this program do not require source documents to verify the costs claimed. Claimants need only comply with the parameters and guidelines and "[s]upply workload data requested ... to support the level of costs claimed" and "[s]how the classification of the employees involved, amount of time spent, and their hourly rate"; nothing is said about "source documents."²⁸

Accordingly, staff finds that the Controller's \$631,854 reduction of claimed costs for salaries and benefits (plus related indirect costs) is incorrect as a matter of law and should be reinstated to the claimant.

²³ Exhibit A, IRC, page 60.

²⁴ Exhibit B, Controller's comments on the IRC, page 14.

²⁵ See Exhibit A, IRC, pages 93-117 for 1999-2000, 134-157 for 2000-2001 and 173-205 for 2001-2002.

²⁶ Exhibit A, IRC, page 60. (Emphasis added.)

²⁷ Statutes 1999, chapter 643. Statutes 2004, chapter 890 (A.B.2856) added "and claiming instructions" to this provision, effective January 1, 2005.

²⁸ *Clovis Unified School Dist.*, *supra*, 188 Cal.App.4th 794, 807.

2. *The Controller's reduction of \$6,168 to the fiscal year 2000-2001 and 2001-2002 reimbursement claims based on a finding of miscalculated productive hourly rates is arbitrary, capricious, or entirely lacking in evidentiary support.*

The Controller found that the claimant claimed an incorrect number of annual productive hours because:

- The Controller traced salary rates claimed for all employees included in the audit sample and found instances where information from the district's payroll system supported a different salary. The Controller states it "made copies" of the information it obtained from the district's payroll system to support the "larger" adjustments.
- The Controller found that the claimant deducted 120 hours per year from annual productive hours for estimated break time taken by employees. The Controller found that the deduction of break time is incorrect and not allowed by the claiming instructions.
 - a) The reduction of productive hourly rates based on payroll records compared to salaries claimed is entirely lacking in evidentiary support.

The Controller found that claimant had reported higher than actual salary information for three employees in 2000-2001 based on a review of the claimant's payroll records. The Controller found that claimant had reported higher than actual salary and information for four employees again in 2001-2002.²⁹

Section H3 of the parameters and guidelines require claimants to identify the hourly pay rate for each employee and to submit a worksheet used to compute the hourly rate with the claim. The claimant complied with these requirements in its worksheets, which the Controller refers to as "summary schedules". The 2000-2001 and 2001-2002 reimbursement claims both contain worksheets that identify the employees' name, title, annual salary, and hourly rate of pay.³⁰ The Controller, however, traced the salary rates claimed for all of the employees included in the audit sample to claimant's payroll records. Although the court in *Clovis* concluded that the parameters and guidelines do not require the claimant to provide source documents, such as payroll records,³¹ the Controller alleges that the payroll records support a different salary for some of the claimed employees.

There is no evidence in the record, however, to support the Controller's finding that the rates reported with the reimbursement claims conflict with the claimant's payroll records. The payroll records discussed by the Controller are not included in the record for this IRC, and the claimant has not admitted any mistakes in the salary rates reported in the reimbursement claims. The Controller-prepared "schedules" summarizing the reductions are considered hearsay and not evidence supporting the facts asserted by the Controller.³² The Commission's regulations

²⁹ Exhibit B, Controller's comments on the IRC, pages 15-16, 181.

³⁰ Exhibit A, IRC, pages 121 and 135-145, 188-189.

³¹ *Clovis Unified School Dist.*, *supra*, 188 Cal.App.4th 794, 807.

³² Evidence Code sections 1200, et seq. The schedules are out-of-court statements that are not made under oath or affirmation, but are offered for the truth of the matter asserted. Under the Commission's regulations, hearsay evidence may be used only for the purpose of supplementing

require that all assertions of fact be supported by documentary evidence.³³ Accordingly, staff finds that the reduction of costs based on changes to the hourly rates of pay is incorrect.

- b) The Controller's reduction to the productive hours, by adding break time back into the calculation, is not supported by evidence in the record and is, therefore, arbitrary, capricious, or entirely lacking in evidentiary support.

The Controller's reduced the productive hours claimant used to calculate hourly rates because it found that the claimant had deducted 120 hours per year for estimated break time taken by employees. The Controller found that this deduction is not allowable under the applicable claiming instructions and added 120 hours to the productive hours. The Controller limited the revised productive hours to only those seven employees whose claimed salary rates did not agree with the claimant's payroll records.³⁴

The Commission's regulations require that all assertions of fact must be supported by documentary evidence.³⁵ The claimant's reimbursement claims contain a salary and benefits chart that identifies the productive hourly rates,³⁶ but there is no evidence in the record showing the claimant deducted 120 hours for break time.

Accordingly, staff finds that the reduction of \$6,168 based on the Controller's recalculation of productive hourly rates is entirely lacking in evidentiary support, is incorrect, and the costs should be reinstated to the claimant.

C. The Reduction of \$5,133 for Materials and Supplies is Incorrect as a Matter of Law.

The Controller reduced costs claimed for materials and supplies by \$5,133 because the claimant did not provide source documentation to support costs claimed for materials and supplies, printing, and postage in fiscal years 1999-2000 (\$1,431) and 2000-2001 (\$3,702).³⁷

Section H4 of the parameters and guidelines state the following for reimbursing services and supplies: "only expenditures which can be identified as a direct cost as a result of the mandate can be claimed."³⁸ The parameters and guidelines do not require claimants to provide source documentation (such as invoices, purchase orders, or receipts) to support a claim of reimbursement for materials and supplies.

or explaining other evidence, but shall *not* be sufficient itself to support a finding unless it would be admissible over objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5(a).)

³³ California Code of Regulations, title 2, sections 1185.2(c), 1187.5; see also Government Code section 17559.

³⁴ Exhibit B, Controller's comments on the IRC, page 16.

³⁵ California Code of Regulations, title 2, sections 1185.2(c), 1187.5; see also Government Code section 17559.

³⁶ Exhibit A, IRC, pages 120-121, 158-159, and 206-207.

³⁷ Exhibit B, Controller's comments on the IRC, page 20.

³⁸ Exhibit A, IRC, page 36.

Moreover, at the time the claimant filed these reimbursement claims in 2001 and 2002, Government Code section 17564 stated that “claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed by the parameters and guidelines.”

In this case, the claimant complied with the parameters and guidelines by listing its costs for services and supplies in its 1999-2000 and 2000-2001 claims,³⁹ identified as a direct cost as a result of the mandate, and the parameters and guidelines do not require any supporting documentation beyond the summary schedules that the claimant submitted. Accordingly, staff finds that the reduction of \$5,133 for materials and supplies is incorrect as a matter of law and should be reinstated to the claimant.

Conclusion

Pursuant to Government Code section 17551(d), staff finds the following:

- The audit of the fiscal year 1999-2000 claim is not barred by the deadline in Government Code section 17558.5;
- The claimant complied with the documentation requirements in the parameters and guidelines so that the Controller’s reductions for salaries and benefits and materials and supplies are not correct as a matter of law; and
- The Controller’s reductions for productive hourly rate calculations are entirely lacking in evidentiary support.

Therefore, the Controller is requested to reinstate all \$735,450 reduced, consistent with these findings, pursuant to section 1185.9 of the Commission’s regulations.

Staff Recommendation

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

³⁹ Exhibit A, IRC, pages 87 and 117 (for the 1999-2000 claim). The audit finding was rounded up to \$1,431, (Exhibit A, IRC, p. 62). For its 2000-2001 claim, see pages 130, 139, and 157. The audit finding was rounded up to \$3,702 (Exhibit A, IRC, p. 62).

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM
ON:

Government Code Sections 3540-3549.9

Statutes 1975, Chapter 961; Statutes 1991,
Chapter 1213

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

San Mateo Community College District,
Claimant

Case No.: 05-4425-I-09

*Collective Bargaining and Collective
Bargaining Agreement Disclosure*

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

(Adopted July 24, 2015)

DECISION

The Commission on State Mandates (Commission) heard and decided this incorrect reduction claim (IRC) during a regularly scheduled hearing on July 24, 2015. [Witness list will be included in the adopted 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 section 17500 et seq., and related case law.

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

Summary of the Findings

The Commission finds the following:

- The audit of the fiscal year 1999-2000 claim is not barred by the deadline in Government Code section 17558.5;
- San Mateo Community College District (claimant) complied with the documentation requirements in the parameters and guidelines so that the Controller's reductions for salaries and benefits and materials and supplies are not correct as a matter of law; and
- The Controller's reductions for productive hourly rate calculations entirely lacking in evidentiary support.

Therefore, the Controller is requested to reinstate all \$735,450 reduced, consistent with these findings, pursuant to section 1185.9 of the Commission's regulations.

COMMISSION FINDINGS

I. Chronology

- 01/10/01 Claimant signed the reimbursement claim for fiscal year 1999-2000.⁴⁰
- 01/10/02 Claimant signed the reimbursement claim for fiscal year 2000-2001.⁴¹
- 01/15/03 Claimant signed the reimbursement claim for fiscal year 2001-2002.⁴²
- 04/15/03 Controller contacted the district regarding the audit.⁴³
- 04/28/03 Audit entrance conference held.⁴⁴
- 04/21/04 Controller issued a revised draft audit report.⁴⁵
- 05/12/04 Claimant submitted comments on the draft audit report.⁴⁶
- 08/06/04 Controller issued the final audit report.⁴⁷
- 09/06/05 Claimant filed this IRC.⁴⁸
- 08/29/14 Commission staff requested that the Controller submit information on the audit.
- 09/18/14 Controller requested an extension of time to submit information on the audit, which was granted for good cause to October 3, 2014.
- 10/07/14 Controller filed late comments on the IRC.⁴⁹
- 05/27/15 Commission staff issued the draft proposed decision on the IRC.

II. Background

A. Collective Bargaining and Collective Bargaining Agreement Disclosure Program

On July 17, 1978, the Board of Control, predecessor to the Commission, found that Statutes 1975, chapter 961 imposed a reimbursable state mandate. On October 22, 1980, parameters and guidelines were adopted, which were amended several times. On March 26, 1998, the Commission adopted a second test claim decision on Statutes 1991, chapter 1213.⁵⁰ Parameters

⁴⁰ Exhibit A, IRC, page 79. (Citations to the record are to PDF page numbers.)

⁴¹ Exhibit A, IRC, page 122.

⁴² Exhibit A, IRC, page 160.

⁴³ Exhibit B, Controller's comments on the IRC, page 25 and tab 18, page 207.

⁴⁴ Exhibit B, Controller's comments on the IRC, pages 6 and 23.

⁴⁵ Exhibit A, IRC, page 57.

⁴⁶ Exhibit A, IRC, pages 57 and 66-70.

⁴⁷ Exhibit A, IRC, page 51.

⁴⁸ Exhibit A, IRC.

⁴⁹ Exhibit B, Controller's comments on the IRC.

⁵⁰ Commission on State Mandates, Test Claim Statement of Decision, 97-TC-08.

and guidelines for the two programs were consolidated on August 20, 1998, and amended again on January 27, 2000.⁵¹

B. Applicable Parameters and Guidelines

The reimbursement claims at issue in this IRC were filed for the 1999-2000, 2000-2001, and 2001-2002 fiscal years, and at the time these claims were prepared and submitted, the last amended version of the parameters and guidelines, adopted on January 27, 2000, were applicable. These parameters and guidelines authorize reimbursement for costs incurred to comply with sections 3540 through 3549.1, and “regulations promulgated by the Public Employment Relations Board.” The parameters and guidelines divide the reimbursable activities into seven groups of activities or “components” (G1 – G7), as follows:

- Determination of appropriate bargaining units for representation and determination of the exclusive representation and exclusive representatives (Component G1);
- Elections and decertification elections of unit representatives are reimbursable in the event the Public Employment Relations Board determines that a question of representation exists and orders an election held by secret ballot (Component G2);
- Negotiations: reimbursable functions include – receipt of exclusive representative’s initial contract proposal, holding of public hearings, providing a reasonable number of copies of the employer’s proposed contract to the public, development and presentation of the initial district contract proposal, negotiation of the contract, reproduction and distribution of the final contract agreement (Component G3);
- Impasse proceedings, including mediation, fact-finding, and publication of the findings of the fact-finding panel (Component G4);
- Collective bargaining agreement disclosure before the adoption of the agreement by the governing body (Component G5);
- Contract administration and adjudication of contract disputes either by arbitration or litigation, including grievances and administration and enforcement of the contract (Component G6); and
- Unfair labor practice adjudication process and public notice complaints (Component G7).⁵²

C. The Audit Findings of the Controller

The Controller reduced direct and related indirect costs claimed in fiscal years 1999-2000, 2000-2001, and 2001-2002 by \$730,450. Direct salary and benefit costs were reduced because the claimant provided summary schedules, but did not provide source documents, such as individual activity log sheets, meeting sign-in sheets, and time records, to validate employee hours charged

⁵¹ Exhibit A, IRC, pages 26-37.

⁵² Exhibit A, IRC, pages 26-37.

to the mandated program for negotiations (reimbursable activities, component G3) and contract administration/grievances and training (reimbursable activities, component G6).

The Controller specifically found that:

- The claimant did not provide supporting documentation for costs claimed under component G3 for some of its negotiation team members for at-the-table negotiations. The Controller reduced the unallowable hours for these employees by tracing their attendance at certain negotiation sessions to sign-in sheets and/or meeting notes. Unallowable costs amounted to \$128,517 plus related indirect costs for the audit period.
- The claimant did not provide supporting documentation for a portion of its negotiation team on negotiation planning and preparation sessions, which were claimed under component G3. Unallowable costs were \$253,200 plus related indirect costs for the audit period.
- The claimant did not provide supporting documentation for AFT release time claimed under component G3 for bargaining unit representatives participating in negotiation sessions. Specifically, no documentation was provided indicating the dates and hours worked. The Controller reduced the unallowable hours for these employees by tracing their attendance at certain negotiation sessions to sign-in sheets and/or meeting notes. Unallowable costs were \$217,682 plus related indirect costs for the audit period.
- The claimant did not provide supporting documentation for all time claimed under component G6 for grievance resolution. Unallowable costs were \$16,612 plus related indirect costs for the audit period.
- The claimant did not provide any supporting documentation for time spent on employee training activities claimed under component G6. No documentation was provided indicating the dates and amount of time spent for training sessions, the names of employees who attended training sessions, or any information indicating whether or not training was limited to administration/interpretation of the negotiated contract. Unallowable costs were \$15,843 plus related indirect costs for the audit period.⁵³
- The claimant overstated salaries and benefits claimed for certain employees and improperly calculated the productive hourly rate, resulting in a \$6,168 reduction for the audit period. Specifically, the Controller found that the claimant overstated the annual salaries and related benefits for a few employees when compared to the claimant's payroll records. The Controller also found that the claimant computed productive hours by deducting 120 hours per year for estimated break time even though the Controller's claiming instructions do not identify estimated break time as an allowable deduction for productive hourly rate calculations.⁵⁴

⁵³ Exhibit A, IRC, pages 60-63. Exhibit B, Controller's comments on the IRC, pages 11-12.

⁵⁴ Exhibit A, IRC, page 60. Exhibit B, Controller's comments on the IRC, page 12.

- The claimant did not provide any source documentation to support claimed costs of \$5,133 for materials and supplies during the audit period.⁵⁵

The claimant disputes these reductions, and also alleges that the Controller did not timely audit the fiscal year 1999-2000 reimbursement claim.

III. Positions of the Parties

A. San Mateo Community College District

Claimant argues that the Controller has not provided a reason each employee's costs were disallowed other than stating that the district did not provide documentation supporting the validity of distribution of these employees to the claim. Claimant points out that the parameters and guidelines require showing the classifications of the employees involved, amount of time spent and their hourly rate, all of which were reported in the claims. Claimant argues that the propriety of the adjustments cannot be determined until the Controller states the reason for each change to the employee payroll information. Claimant asserts that the Controller's insistence on time logs and other forms of documentation for both labor and materials are a ministerial preference and an unpublished standard that exceed the parameters and guidelines and is not enforceable absent a rulemaking that would put the claimant on notice.⁵⁶

Claimant also maintains that the 1999-2000 claim was beyond the statute of limitations for an audit when the Controller issued its August 6, 2004 audit report, and raises a discrepancy regarding amounts the state paid to claimant in fiscal years 1999-2001.

B. State Controller's Office

It is the Controller's position that the audit adjustments are correct and that this IRC should be denied. The Controller states that unallowable salary and benefit costs were claimed because claimant did not adequately support employee hours charged to the mandated program and misstated the productive hourly rate for certain employees based on the claimant's payroll records. The Controller argues that claimant has not complied with the parameters and guidelines by merely providing an amount on the Controller's claim schedule. The Controller further points out that claimant did not comply with its own documentation policies and procedures for this program. As to the reduction for materials and supplies, the Controller states that no documentation was provided to show that claimant's expenditures were related to the mandated program.⁵⁷

IV. Discussion

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

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the

⁵⁵ Exhibit A, IRC, page 62. Exhibit B, Controller's comments on the IRC, pages 20-21.

⁵⁶ Exhibit A, IRC, pages 9-12.

⁵⁷ Exhibit B, Controller's comments on the IRC, pages 14-20.

Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission’s regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller 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 6.⁵⁸ 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.”⁵⁹

With regard to the Controller’s audit decisions, the Commission must determine whether they 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.⁶⁰ 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.’ ”⁶¹

The Commission must review the Controller’s audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.⁶² In addition, sections 1185.1(c) and 1185.2(f)(3) of the Commission’s regulations require that any assertions of fact by

⁵⁸ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

⁵⁹ *County of Sonoma, supra*, 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

⁶⁰ *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.

⁶¹ *American Bd. of Cosmetic Surgery, Inc, supra*, 162 Cal.App.4th at pgs. 547-548.

⁶² *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.⁶³

A. The Audit of the Fiscal Year 1999-2000 Claim is Not Barred by the Deadlines in Government Code Section 17558.5.

The claimant alleges that the Controller did not complete the audit of the reimbursement claim filed for fiscal year 1999-2000 within the applicable deadlines so that the audit adjustments for that fiscal year are barred.⁶⁴

The time to audit a reimbursement claim is provided in Government Code section 17558.5. At the time the reimbursement claim in this case was filed in January 2001,⁶⁵ Government Code section 17558.5, as amended by Statutes 1995, chapter 945 (eff. July 1, 1996), stated:

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.⁶⁶

Claimant states that funds were provided for this program so that the first sentence of Government Code section 17558.5 applies, requiring the reimbursement claim to be subject to audit "no later than two years after the end of calendar year in which the reimbursement claim is filed or last amended..."⁶⁷ The claimant argues that the phrase "subject to audit" requires the Controller "to complete" the audit no later than two years after the end of the calendar year in which the claim is filed.⁶⁸ According to claimant, its 1999-2000 claim was mailed to the Controller on January 10, 2001, so the claim was subject to audit no later than December 31, 2003.⁶⁹ The audit was initiated no later than April 28, 2003, the date of the entrance conference. The Controller's final audit report was issued on August 6, 2004.

⁶³ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

⁶⁴ Exhibit A, IRC, pages 15-20.

⁶⁵ Exhibit A, IRC, page 79.

⁶⁶ Government Code section 17558.5 (Stats. 1995, ch. 945, (SB11)). Former Government Code section 17558.5 was originally added by the Legislature by Statutes 1993, chapter 906, effective January 1, 1994. The 1993 statute became inoperative on July 1, 1996, and was repealed on January 1, 1997 by its own terms.

⁶⁷ Government Code section 17558.5 (Stats. 1995, ch. 945 (SB 11); Exhibit A, IRC, beginning on page 24.

⁶⁸ Exhibit A, IRC, pages 17-20.

⁶⁹ Exhibit A, IRC, page 17.

The Controller asserts that the audit of the reimbursement claim is timely and that the phrase “subject to audit” in section 17558.5, as amended in 1995, means subject to the initiation of the audit and does not require the Controller to complete the audit within the two-year deadline. The Controller points out that there is no statutory language that requires the Controller to publish a final audit report before the two-year period expires. Rather, according to the dictionary, “subject to” means in a position or circumstance that places claimant under the power or authority of another. The Controller exercised its authority to audit the claims by contacting the claimant to provide notice well within the statute of limitations.⁷⁰

The Controller further asserts that since the reimbursement claim was filed in January 2001, an audit had to be initiated by December 31, 2003, and that the audit was timely initiated “by contacting the district on April 15, 2003, to inform it that we were preparing to conduct an audit of its Collective Bargaining claims.”⁷¹ The audit entrance conference was held on April 28, 2003.⁷²

The Commission finds that the audit of the 1999-2000 reimbursement claim was timely initiated and timely completed.

The plain language of Government Code section 17558.5, as added in 1995, does not require the Controller to “complete” the audit within any specified period of time. Rather, 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” 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 as follows:

...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 the initial payment of the claim.

While one rule of statutory construction states that the use of differing language in otherwise parallel statutory provisions (like the use of the word “initiate” in the second sentence, but not in the first sentence) supports an inference that a difference in meaning was intended by the Legislature, the Commission finds that inference is not supportable in this case.⁷³ Section 17558.5(a) is not a model of clarity. However, a careful reading of the language of the first and second sentences reveals that the primary difference between them is whether an appropriation has been made for the program. The second sentence clearly refers to situations where funds are *not* appropriated. It can reasonably be inferred from the context that the first sentence, in contrast, refers to situations where funds *are* appropriated. The use of the word “however” to begin the second sentence, signals the distinction between these two situations (when funds are

⁷⁰ Exhibit B, Controller’s comments on the IRC, page 25.

⁷¹ Exhibit B, Controller’s comments on the IRC, page 25 and tab 18, page 207. According to the Controller’s letter of April 15, 2003, the entrance conference was scheduled to be held April 28, 2003.

⁷² Exhibit B, Controller’s comments on the IRC, pages 6 and 23.

⁷³ *Fairbanks v. Superior Court* (2009) 46 Cal.4th 56, 62.

appropriated versus when they are not). There is nothing about the structure or language of the two sentences to suggest that the Legislature intended any other substantive differences between these two parallel sentences. In each situation, the Controller must perform some activity within a two-year period from either the end of the calendar year in which the reimbursement claim is filed or last amended, or from the initial payment of the claim. The use in the second sentence of the phrase “the time for the Controller to initiate an audit” refers back to “the time” defined in the first sentence, namely two years. Similarly, the use of “initiate” in the second sentence refers to what the Controller is required to do within the two-year period. Read in this way, the two sentences are parallel. In the first sentence, when there is an appropriation, the time to initiate an audit is two years. In the second sentence, when there is no appropriation, the time to initiate an audit is also within two years of the initial payment of the claim. The only difference between the two situations is the triggering event of an appropriation that determines when the two-year period to initiate an audit begins to run.

This interpretation is consistent with the Legislature’s 2002 amendment to Government Code section 17558.5, clarifying that “subject to audit” means “subject to the initiation of an audit,” as follows in underline and strikeout:

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 ~~two~~ three years after the ~~end of the calendar year in which the date that~~ 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 ~~made~~ filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim.⁷⁴

In this case, the reimbursement claim filed for fiscal year 1999-2000, filed in January 2001, was subject to the initiation of an audit at any time before December 31, 2003. Since the audit began no later than the April 28, 2003 entrance conference, it was timely initiated within the meaning of Government Code section 17558.5.

The Commission further finds that the audit was timely completed. Before Government Code section 17558.5 was amended effective January 1, 2005, there was no statutory deadline for the completion of an audit. Under common law principles, however, the Controller had to complete an audit within a reasonable period of time after it was initiated.⁷⁵ There is nothing on the face of the 1995 or 2002 versions of section 17558.5 that requires completion of the audit by a deadline, and claimant has not argued that the audit was not completed within a reasonable period of time. Therefore, the Commission finds that the audit was completed in a timely manner because it was completed when the final audit report was issued on August 6, 2004, less than 16 months after the audit was initiated. Therefore, there is no evidence of an unreasonable delay in the completion of the audit.

⁷⁴ Statutes 2002, chapter 1128 (AB 2834).

⁷⁵ Under appropriate circumstances, the defense of laches may operate to bar a claim by a public agency if there is evidence of unreasonable delay by the agency and resulting prejudice to the claimant. (*Cedar-Sinai Medical Center v. Shewry* (2006) 137 Cal.App.4th 964, 985-986.)

B. The Controller’s Reduction of \$638,022⁷⁶ for Salaries and Benefits is Incorrect as a Matter of Law and Not Supported by Evidence in the Record.

The Controller reduced salary and benefit costs claimed during the audit period under component G3 of the reimbursable activities, relating to collective bargaining negotiations, by \$599,399.⁷⁷ The Controller found that the claimant did not provide adequate supporting documentation to verify the time spent by employees during “at-the table” negotiations and for negotiation planning and preparation sessions. The Controller also found that the claimant did not provide adequate documentation supporting the costs claimed for AFT release time for bargaining unit representatives participating in the negotiation sessions.

The Controller also reduced the salary and benefit costs totaling \$32,455 claimed during the audit period under component G6, for grievance resolution and training, because the claimant did not provide supporting documentation.⁷⁸

The Controller further reduced salary and benefit costs by \$6,168 because it found the claimant used an incorrect productive hourly rate.⁷⁹

For the reasons below, the Commission finds that the Controller’s reductions based on the lack of supporting documentation are incorrect as a matter of law. The Commission further finds that the reduction of salary costs related to the calculation of productive hourly rates is entirely lacking in evidentiary support. All costs claimed for salaries and benefits should be reinstated to the claimant.

1. *The Controller’s reduction of salary and benefit costs claimed under components G3 and G6 of the parameters and guidelines because claimant did not provide adequate supporting documentation is incorrect as a matter of law.*
 - a) The documentation requirements for claiming salary and benefits under the Collective Bargaining Program are contained in the parameters and guidelines.

The parameters and guidelines for *Collective Bargaining and Collective Bargaining Agreement Disclosure* list the reimbursable activities in Section G (Claim Components). Component G3 identifies the costs eligible for reimbursement for negotiations, which include salary and benefit costs for employer representatives participating in negotiations and negotiation planning sessions, and substitutes for release time of bargaining unit representatives during negotiations. Section G3(f) further states that “[a] list showing the dates of all negotiation sessions held during the fiscal year being claimed must be submitted.”⁸⁰

Component G6 identifies the costs eligible for reimbursement for contract administration, adjudication of contract disputes either by arbitration or litigation, including grievance

⁷⁶ This amount does not include the related indirect costs (see audit finding 3, Exhibit A, p. 63).

⁷⁷ Exhibit A, IRC, page 60.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

⁸⁰ Exhibit A, IRC, page 31.

resolution, and a reasonable number of training sessions for supervisory and management personnel on contract administration and interpretation.⁸¹

Employee salary and benefit costs must be claimed in accordance with section H3 of the parameters and guidelines, which requires claimants to submit documentation showing the classification of the employees involved, the amount of time spent on the mandated activities, and the employees' hourly rate as follows:

Salary and Employees' Benefits: Show the classification of the employees involved, amount of time spent, and their hourly rate. The worksheet used to compute the hourly salary rate must be submitted with your claim. Benefits are reimbursable. Actual benefit percent must be itemized. If no itemization is submitted, 21 percent must be used for computation of claim costs. Identify the classification of employees committed to functions required under the Winton Act and those required by Chapter 961, Statutes, 1975.⁸²

Section H1 also requires claimants to "supply workload data as requested as part of the description to support the level of costs claimed."⁸³

The claiming instructions issued by the State Controller contain additional instructions to provide source documentation (much of which is created at or near the same time the actual cost was incurred) to support salary and benefit costs:

Source documents may include, but are not limited to, time logs evidencing actual costs claimed under Reimbursable Activities, time sheets, payroll records, canceled payroll warrants, organization charts, duty statements, pay rate schedules, and other documents evidencing the expenditure.⁸⁴

The claiming instructions issued in September 2001 similarly require that "[s]ource documents required to be maintained by the claimant may include, but are not limited to, *employee time records* that show the employee's actual time spent on this mandate."⁸⁵

The court in *Clovis Unified School Dist. v. Chiang* reviewed the documentation requirements for claiming salary and benefit costs under the *Collective Bargaining* program in fiscal years 1998-2003 (a time period that includes the reimbursement claims filed in this IRC). In *Clovis*, the Controller reduced costs for several state-mandated programs, including *Collective Bargaining*, in fiscal years 1998 through 2003 because the claimant failed to provide contemporaneous source documents to support the salary and benefit costs claimed. The Controller described contemporaneous source documents to include "employee time records or time logs, sign-in

⁸¹ Exhibit A, IRC, pages 33-34.

⁸² Exhibit A, IRC, page 36.

⁸³ Exhibit A, IRC, page 35.

⁸⁴ Exhibit X, Controller's State Mandated Cost Manual issued September 2000, claiming instructions for *Collective Bargaining*, page 53.

⁸⁵ Exhibit A, IRC, page 47. Emphasis added.

sheets, invoices, and receipts.”⁸⁶ The Controller did not consider worksheets to be contemporaneous source documents, but secondary evidence that could be used to corroborate the source documents.⁸⁷ The court concluded that the Controller’s contemporaneous source document rule (CSDR) contained in the claiming instructions, as applied to the *Collective Bargaining* program during these fiscal years, was an unenforceable underground regulation and invalidated the audits.⁸⁸ The court further stated that the parameters and guidelines for the *Collective Bargaining* program did not require claimants to provide any “source documents” as follows:

As pertinent, the Collective Bargaining Program P & G’s require school districts seeking reimbursement for employee salary and benefit costs to simply “[s]upply workload data requested ... to support the level of costs claimed” and “[s]how the classification of the employees involved, amount of time spent, and their hourly rate”; **nothing is said about “source documents.”** The Controller’s Collective Bargaining Program-specific Claiming Instructions substantively mirror those of the Intradistrict Attendance Program, stating that source documents include employee time records, that show the employee’s actual time spent on the mandated function. (And as with the Intradistrict Attendance Program, the Commission, in early 2010, incorporated the Controller’s CSDR [contemporaneous source document rule] into the Collective Bargaining Program P & G’s ...)

Consequently, employing the same reasoning we have employed above, we conclude that the Controller’s CSDR is an underground, unenforceable regulation as applied to the audits of the School Districts’ Collective Bargaining Programs for the applicable periods roughly encompassing the fiscal years 1998 to 2003. (See fn. 2, ante.) These audits are invalidated to the extent they used the CSDR.⁸⁹

Moreover, before 2000, Government Code section 17564 required that claims for reimbursement to be filed “in the manner prescribed by the Controller.”⁹⁰ From 2000 through 2004, when these reimbursement claims were filed, the Legislature amended section 17564 to state that “claims for direct and indirect costs filed pursuant to Section 17561 shall be filed *in the manner prescribed in the parameters and guidelines.*”⁹¹ The Commission, like a court, presumes that by deleting the reference to the State Controller in section 17564(b), the Legislature intended to change the

⁸⁶ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 802.

⁸⁷ *Id.* at page 804.

⁸⁸ *Id.* at page 807.

⁸⁹ *Ibid.* Emphasis added.

⁹⁰ Statutes 1992, chapter 1041.

⁹¹ Statutes 1999, chapter 643. Statutes 2004, chapter 890 (A.B.2856) added “and claiming instructions” to this provision, effective January 1, 2005.

law.⁹² The plain language indicates that the intent was to change the claim filing requirements to comply with the parameters and guidelines rather than the claiming instructions.

Thus, pursuant to the amendment to Government Code section 17564 and the decision in *Clovis*, the Controller may not reduce reimbursement claims for the *Collective Bargaining* program in fiscal years 1999-2000, 2000-2001, and 2001-2002, on the ground that the claimant failed to provide source documents, such as time sheets or time logs, to support claims for salary and benefits. Claimants need only comply with the parameters and guidelines and “[s]upply workload data requested ... to support the level of costs claimed” and “[s]how the classification of the employees involved, amount of time spent, and their hourly rate”; nothing is said about “source documents.”⁹³

b) The reduction of salary and benefit costs claimed under components G3 and G6 is incorrect as a matter of law.

Claimant, for all fiscal years at issue, requested reimbursement for salary and benefits under components G3 and G6. To support the claims, the claimant submitted worksheets, described by the Controller as “summary schedules”, with its reimbursement claims.⁹⁴ The worksheets supporting the fiscal year 1999-2000 reimbursement claim are attachments on pages 93 through 117 of the IRC (Exhibit A) and show the claimant complied with section H3 of the parameters and guidelines, which requires showing “the classification of the employees involved, amount of time spent, and their hourly rate.” Specifically, pages 93-94 of the IRC identify the number of at-the-table negotiations (component G3) conducted with the AFSCME, AFT, and CSEA unions in the fiscal year and the employees involved in those negotiations. Page 95 identifies the release time claimed for bargaining unit representatives participating in the negotiation sessions under component G3, the names of the employees, the number of hours spent on the activity, the hourly rate of each employee, and the amount claimed for release time. Pages 96 and 97 identify two training dates under component G6 (March 21, 2000, and December 1, 2000), with a list of employee names and the number of hours spent in training. Pages 98 and 99 identify the employees who participated in negotiation planning and preparation (component G3), and the number of hours spent on these activities. And pages 100-117 identify all the costs claimed for at-the-table negotiations with each union, the planning and preparation sessions for bargaining with each union, grievance resolution, and training sessions, together with a listing of each employee, the employee’s classification, the amount of time spent on the activity, the hourly rate of pay, and the total amount claimed for each employee.

Claimant provided the same type of summary schedules to support the fiscal year 2000-2001 reimbursement claim⁹⁵ and 2001-2002 reimbursement claim⁹⁶ as it did for the 1999-2000 claim.

⁹² *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 55. It was not until 2004 that the statute was amended to require claims to be filed “in the manner prescribed in the parameters and guidelines *and the claiming instructions.*” (Emphasis added.)

⁹³ *Clovis Unified School Dist., supra*, 188 Cal.App.4th 794, 807.

⁹⁴ Exhibit B, Controller’s comments on the IRC, page 14.

⁹⁵ Exhibit A, IRC, pages 134-157.

⁹⁶ Exhibit A, IRC, pages 173-205.

The Commission finds that the claimant fully complied with the requirements in section H of the parameters and guidelines when claiming costs for salaries and benefits by supplying summary schedules with the claims that include “workload data requested ... to support the level of costs claimed” (section H1) and showing “the classification of the employees involved, amount of time spent, and their hourly rate” (section H3).

In finding 1 of the Final Audit Report, however, the Controller reduced costs claimed for “unsupported salaries and benefits” by \$631,854 (\$599,399 for G3 activities and \$32,455 for G6 activities, plus related indirect costs) because the claimant “*did not provide source documents* to validate employees’ hours charged, such as *individual activity log sheets, meeting sign-in sheets, and time records.*”⁹⁷ The Controller’s comments on the IRC further states that “the claimant did not adequately support employee hours charged to the mandated program,” so the Controller reduced the number of hours identified in the reimbursement claims by tracing employee attendance to sign-in sheets and meeting notes provided by the claimant.⁹⁸

The audit findings, based on the Controller’s requirement for the claimant to provide source documents to verify the actual time spent on the reimbursable activities, do not comply with the court’s findings in *Clovis Unified School Dist.*, which plainly held that the Controller’s contemporaneous source document rule is invalid and unenforceable as an underground regulation and that the parameters and guidelines for this program do not require source documents to verify the costs claimed.⁹⁹

Since the *Clovis* case is a final decision of the court addressing the merits of the issue presented here, the Commission, under principles of stare decisis, is required to apply the rule set forth by the court.¹⁰⁰ In addition, the *Clovis* decision is binding on the Controller under principles of collateral estoppel. Collateral estoppel applies when (1) the issue necessarily decided in the previous proceeding is identical to the one that is currently being decided; (2) the previous proceeding terminated with a final judgment on the merits; (3) the party against whom collateral estoppel is asserted is a party to or in privity with a party in the previous proceeding; and (4) the party against whom the earlier decision is asserted had a full and fair opportunity to litigate the issue.¹⁰¹

Accordingly, the Commission finds that the Controller’s reduction of claimed costs under components G3 and G6 of the parameters and guidelines for salaries and benefits (plus related indirect costs) because adequate supporting documentation was not provided is incorrect as a matter of law and the \$631,8954 reduced should be reinstated to the claimant.

2. *The Controller’s reduction of \$6,168 to the fiscal year 2000-2001 and 2001-2002 reimbursement claims based on a finding of miscalculated productive hourly rates is arbitrary, capricious, or entirely lacking in evidentiary support.*

⁹⁷ Exhibit A, IRC, page 60. (Emphasis added.)

⁹⁸ Exhibit B, Controller’s comments on the IRC, page 11.

⁹⁹ *Clovis Unified School Dist.*, *supra*, 188 Cal.App.4th 794, 804 and 807.

¹⁰⁰ *Fenske v. Board of Administration* (1980) 103 Cal.App.3d 590, 596.

¹⁰¹ *Roos v. Red* (2006) 130 Cal.App.4th 870, 879-880.

Section H3 of the parameters and guidelines govern how to claim employee salary and benefits, and require the claimant to identify an employee's hourly rate of pay as follows:

Show the classification of the employees involved, amount of time spent, and their hourly rate. The worksheet used to compute the hourly salary rate must be submitted with your claim. Benefits are reimbursable. Actual benefit percent must be itemized. If no itemization is submitted, 21 percent must be used for computation of claim costs.¹⁰²

The parties agree that the calculation of a salaried employee's hourly rate of pay includes the employee's annual salary and benefits, and annual productive hours.¹⁰³ In this case, the claimant used the 21 percent benefit rate, which is not in dispute.¹⁰⁴ However, the Controller adjusted the productive hourly rates used by the claimant, resulting in a reduction for salary and benefits by \$6,168 in fiscal years 2000-2001 and 2001-2002, based on overstated salaries for a few employees. Auditors compared claimed amounts to the claimant's payroll records, finding an incorrect number of annual productive hours because:

- The Controller traced salary rates claimed for all employees included in the audit sample and found instances where information from the district's payroll system supported a different salary. The Controller states it "made copies" of the information it obtained from the district's payroll system to support the "larger" adjustments.¹⁰⁵
- The Controller found that the claimant deducted 120 hours per year from annual productive hours for estimated break time taken by employees. The Controller found that the deduction of break time is incorrect and not allowed by the claiming instructions.¹⁰⁶

The Controller recalculated productive hourly rates as follows:

To compute the audited productive hourly rate for the district's employees, the auditor used the district's Employee Earnings Reports, which were provided to the auditor by the district personnel. These reports came directly from the district's payroll system and reported the "gross earnings" paid to each employee for each fiscal year. The auditor used the gross earnings amount and the district's computation of productive hours in the re-calculation of each employee's productive hourly rate. Adjustments were made for rates that either exceeded or were less than productive hourly rates reported in the district's claims.¹⁰⁷

In addition, the Controller added the 120 hours deducted by the claimant for employee breaks, resulting in 1,750 productive hours instead of 1,620. Instead of applying this adjustment to the entire population of employees with allowable costs, the Controller limited the application of the

¹⁰² Exhibit A, IRC, page 35.

¹⁰³ The annual salary is added to the benefits, and that sum is divided by the productive hours.

¹⁰⁴ Exhibit B, Controller's comments on the IRC, pages 15-16.

¹⁰⁵ Exhibit B, Controller's comments on the IRC, page 16.

¹⁰⁶ Exhibit B, Controller's comments on the IRC, page 15.

¹⁰⁷ Exhibit B, Controller's comments on the IRC, page 15.

revised productive hours to only those employees whose claimed salary rates did not agree with the claimant's payroll records.¹⁰⁸

For the reasons below, the Commission finds that these reductions to productive hourly rates are entirely lacking in evidentiary support.

- a) The reduction of productive hourly rates based on payroll records compared to salaries claimed is entirely lacking in evidentiary support.

For 2000-2001, the Controller found that claimant had over-reported salary information for three employees (Harer \$444, Pontacq \$3,000, and Rivera \$580) based on a review of the claimant's payroll records. For 2001-2002, the Controller found that claimant had over-reported salary information for four employees (Harer, -\$84 was understated, and Rivera \$114, Thiele \$962, and Clinton \$1,392 were overstated) based on a review of the claimant's payroll records.¹⁰⁹ The Controller describes the reductions as follows:

For FY 2000-2001, we made adjustments to the productive hourly rates for three district employees (see Schedule of Unallowable Salaries and Benefits – Productive Hourly Rate Differences- FY 2000-01 (Tab 15). The adjustments resulted in a decrease to allowable costs of \$4,024. We traced the salary rates claimed for all of the employees included in our sample and found three instances in which information from the district's payroll system supported a different salary amount. We made copies of the information that we obtained from the district's payroll system supporting our adjustments.

For FY 2001-02, we made adjustments to the productive hourly rates for four district employees (see Schedule of Unallowable Salaries and Benefits – Productive Hourly Rate Differences – FY 2001-02 (Tab 16). The adjustments resulted in a net decrease to allowable costs of \$2,384 (overstatements of \$2,468 and an understatement of \$84). We traced the salary rates claimed for all of the employees included in our sample and found four instances in which information from the district's payroll system supported a different salary amount. We made copies of the information that we obtained from the district's payroll system supporting the two larger overstatements of \$962 and \$1,392. We did not make copies of the district's payroll information that we used to support an overstatement of \$114 and the understatement of \$84.¹¹⁰

The claimant questions these adjustments, contending that it properly reported the classification of the employees involved, the amount of time spent on the mandate, and each employee's hourly rate in accordance with the parameters and guidelines.¹¹¹

The Commission finds that that the Controller's adjustment of productive hourly rates based on the salaries identified in payroll records is entirely lacking in evidentiary support.

¹⁰⁸ Exhibit B, Controller's comments on the IRC, page 16.

¹⁰⁹ Exhibit B, Controller's comments on the IRC, pages 16, 181.

¹¹⁰ Exhibit B, Controller's comments on the IRC, page 16.

¹¹¹ Exhibit A, IRC, pages 11-12.

The parameters and guidelines require claimants, in Section H3, to identify the hourly rate of pay for each employee and to submit a worksheet used to compute the hourly rate with the claim. The claimant complied with these requirements in its summary schedules. The 2000-2001 and 2001-2002 reimbursement claims both contain worksheets that identify the employees' name, title, annual salary, and hourly rate of pay.¹¹² The Controller, however, traced the salary rates claimed for all of the employees included in the audit sample to claimant's employee earnings records. Although the court in *Clovis* concluded that the parameters and guidelines do not require the claimant to provide source documents, such as payroll records,¹¹³ the Controller said that claimant in this case provided those records to the auditor. Payroll records are considered public records,¹¹⁴ and the Controller contends the payroll records support a different salary for some of the employees claimed.

There is no evidence in the record, however, to support the Controller's finding that the rates reported with the reimbursement claims conflict with the claimant's payroll records. The payroll records discussed by the Controller are not included in the record for this IRC, and the claimant has not admitted any mistakes in the salary rates reported in the reimbursement claims. Although the Controller prepared "schedules" summarizing the reductions, these summaries are considered hearsay and not evidence supporting the facts asserted by the Controller.¹¹⁵ The Commission's regulations require that all assertions of fact must be supported by documentary evidence.¹¹⁶

Accordingly, the Commission finds that the reduction of costs based on changes to the hourly rates of pay is entirely lacking in evidentiary support.

- b) The Controller's reduction of productive hours, by adding break time back into the calculation, is not supported by evidence in the record and is, therefore, arbitrary, capricious, or entirely lacking in evidentiary support.

The Controller reduced the productive hours claimant used in calculating hourly rates because it found that the claimant deducted 120 hours per year for estimated break time taken by employees. The Controller found that a break time deduction is not allowable under the Controller's claiming instructions for these reimbursement claims. Thus, the Controller added 120 hours to the productive hours, resulting in 1,750 productive hours, instead of 1,620. Instead of applying this adjustment to the entire population of employees with allowable costs, the

¹¹² Exhibit A, IRC, pages 121 and 135-145, 188-189.

¹¹³ *Clovis Unified School Dist.*, *supra*, 188 Cal.App.4th 794, 807.

¹¹⁴ *International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 331-332.

¹¹⁵ Evidence Code sections 1200, et seq. The schedules are out-of-court statements that are not made under oath or affirmation, but are offered for the truth of the matter asserted. Under the Commission's regulations, hearsay evidence may be used only for the purpose of supplementing or explaining other evidence, but shall *not* be sufficient itself to support a finding unless it would be admissible over objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5(a).)

¹¹⁶ California Code of Regulations, title 2, sections 1185.2(c), 1187.5; see also Government Code section 17559.

Controller limited the application of the revised productive hours to only those seven employees identified in the section above whose claimed salary rates did not agree with the claimant's payroll records.¹¹⁷

The Commission finds that the Controller's reduction of costs claimed based on the productive hours is entirely lacking in evidentiary support.

The Commission's regulations require that all assertions of fact must be supported by documentary evidence.¹¹⁸ The claimant's reimbursement claims contain a salary and benefits chart that identifies the productive hourly rates,¹¹⁹ but there is no evidence in the record showing that the claimant deducted 120 hours for break time. In fact, dividing a few of the annual salaries identified by the claimant in the salary and benefit charts by the productive hourly rates identified in the charts, results in a calculation of 1,750 annual hours - the same number used by the Controller in its calculation.¹²⁰ Claimant asserts that the "District and the Controller [both] used 1,750 annual productive hours for their calculations."¹²¹ Thus, there is no evidence that the claimant deducted break time from the productive annual hours.

Accordingly, the Commission finds that the reduction of \$6,168 related to the Controller's recalculation of productive hourly rates is entirely lacking in evidentiary support and, thus, the costs should be reinstated to the claimant.

C. The Reduction of \$5,133 for Materials and Supplies is Incorrect as a Matter of Law.

The Controller reduced costs claimed for materials and supplies for fiscal years 1999-2000 and 2000-2001 by \$5,133. The Controller found that the district did not provide source documentation to support costs claimed for materials and supplies, printing, and postage in FY 1999-2000 (\$1,431) and FY 2000-2001 (\$3,702).¹²² According to the Controller, "in the absence

¹¹⁷ Exhibit B, Controller's comments on the IRC, page 16.

¹¹⁸ California Code of Regulations, title 2, sections 1185.2(c), 1187.5; see also Government Code section 17559.

¹¹⁹ Exhibit A, IRC, pages 120-121, 158-159, and 206-207.

¹²⁰ For example, for fiscal year 2000-2001, the annual earnings for employees Acena and Anderson are \$94,176.00 and their productive hourly rates are 53.81. (Exhibit A, IRC, p. 158.) Dividing 94,176 by 53.81, equals 1,750. For fiscal year 2001-2002, the annual earnings for employee Acena is \$100,764, divided by the productive hourly rate of 57.58, equals 1,750. (Exhibit A, IRC, p. 206.) The annual earnings of employee Albanese in fiscal year 2001-2002 is \$154,080, divided by the productive hourly rate for Mr. Albanese of 88.05, equals 1,750. (*Ibid.*)

¹²¹ Exhibit A, IRC, page 12. The claimant also states that "[i]n one case where a different total productive hours was used by the District, for the Chief Negotiator who was under contract for 7.5 hours per day, the Controller insisted on using 8 hours per day." (*Ibid.*) There is no indication in the final audit report or the Controller's comments, however, that the reduction resulting from the calculation of productive hourly rates had anything to do with Chief Negotiator's contracted hours.

¹²² Exhibit B, Controller's comments on the IRC, page 20.

of documentation to support costs claimed, it is not possible to determine whether the costs claimed were incurred as a result of the mandate or were even incurred at all.”¹²³

Claimant argues that this reduction is incorrect and states that the district reported these costs “based on financial accounting information prepared in the usual course of business.” Claimant also mentions that the Controller refused to accept credit card statements as documentation to support these costs.¹²⁴

For the reasons below, the Commission finds that the Controller incorrectly reduced these costs.

Section H4 of the parameters and guidelines describes documentation required to support a reimbursement claim for services and supplies: “Services and Supplies: only expenditures which can be identified as a direct cost as a result of the mandate can be claimed.”¹²⁵ There is no language in the parameters and guidelines for the *Collective Bargaining* program, however, requiring claimants to provide source documentation (such as invoices, purchase orders, or receipts) to support a claim of reimbursement for materials and supplies.¹²⁶

Moreover, at the time these reimbursement claims were filed in 2001 and 2002, Government Code section 17564 stated that “claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed by the parameters and guidelines.”¹²⁷ Prior to 2000, section 17564 required claims to be filed in the manner prescribed by the “claiming instructions.”¹²⁸

In this case, the claimant complied with the parameters and guidelines. For its 1999-2000 claim, claimant listed supplies and materials, postage, and printing, for a total of \$1,430.76.¹²⁹ For its 2000-2001 claim, claimant listed supplies and materials, postage, and printing, for a total of \$3,701.88.¹³⁰ Claimant identified these costs as a direct cost as a result of the mandate, and the parameters and guidelines do not require any documentation beyond the summary schedules that were submitted with the reimbursement claims.

Accordingly, the Commission finds that the reduction of \$5,133 for materials and supplies is incorrect as a matter of law and should be reinstated to the claimant.

¹²³ Exhibit B, Controller’s comments on the IRC, page 21.

¹²⁴ Exhibit A, IRC, pages 15-16.

¹²⁵ Exhibit A, IRC, page 36.

¹²⁶ *Clovis Unified School Dist.*, *supra*, 188 Cal.App.4th 794, 807.

¹²⁷ Statutes 1999, chapter 643. It was not until a 2004 amendment that claims were required to be filed “in the manner prescribed in the parameters and guidelines *and the claiming instructions.*” (Emphasis added.)

¹²⁸ Government Code section 17564, Statutes 1992, chapter 1041.

¹²⁹ Exhibit A, IRC, pages 87 and 117. The audit finding was rounded up to \$1,431, see Exhibit A, IRC, page 62.

¹³⁰ Exhibit A, IRC, pages 130, 139, and 157. The audit finding was rounded up to \$3,702, see Exhibit A, IRC, page 62.

V. Conclusion

Pursuant to Government Code section 17551(d), the Commission finds the following:

- The audit of the fiscal year 1999-2000 claim is not barred by the deadline in Government Code section 17558.5;
- The claimant complied with the documentation requirements in the parameters and guidelines so that the Controller's reductions for salaries and benefits and materials and supplies are not correct as a matter of law; and
- The Controller's reductions for productive hourly rate calculations are entirely lacking in evidentiary support.

Therefore, the Controller is requested to reinstate all \$735,450 reduced, consistent with these findings, pursuant to section 1185.9 of the Commission's regulations.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

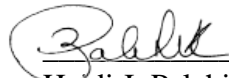
On May 27, 2015, I served the:

Draft Proposed Decision, Schedule for Comments, and Notice of Hearing

Collective Bargaining and Collective Bargaining Agreement Disclosure, 05-4425-I-09
Statutes 1975, Chapter 961; Statutes 1991, Chapter 1213
Fiscal Years 1999-2000, 2000-2001, 2001-2002
San Mateo County College District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 27, 2015 at Sacramento, California.



Heidi J. Palchik
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/24/15

Claim Number: 05-4425-I-09

Matter: Collective Bargaining

Claimant: San Mateo County Community College District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Kathy Blackwood, Executive Vice Chancellor, *San Mateo County Community College District*

District Office, 3401 CSM Dr., San Mateo, CA 94402

Phone: (650) 358-6869

blackwoodk@smccd.edu

Marieta Delfin, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-4320

mdelfin@sco.ca.gov

Eric Feller, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

eric.feller@csm.ca.gov

Donna Ferebee, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274

donna.ferebee@dof.ca.gov

Susan Geanacou, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Ed Hanson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
ed.hanson@dof.ca.gov

Cheryl Ide, Associate Finance Budget Analyst, *Department of Finance*
Education Systems Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Cheryl.ide@dof.ca.gov

Jill Kanemasu, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Jay Lal, *State Controller's Office (B-08)*
Division of Accounting & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0256
JLal@sco.ca.gov

Kathleen Lynch, *Department of Finance (A-15)*
915 L Street, Suite 1280, 17th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
kathleen.lynch@dof.ca.gov

Yazmin Meza, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Yazmin.meza@dof.ca.gov

Robert Miyashiro, *Education Mandated Cost Network*
1121 L Street, Suite 1060, Sacramento, CA 95814
Phone: (916) 446-7517
robertm@sscal.com

Jameel Naqvi, Analyst, *Legislative Analysts' Office*
Education Section, 925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8331
Jameel.naqvi@lao.ca.gov

Andy Nichols, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Christian Osmena, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
christian.osmena@dof.ca.gov

Arthur Palkowitz, *Stutz Artiano Shinoff & Holtz*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106

Phone: (619) 232-3122
apalkowitz@sashlaw.com

Keith Petersen, *SixTen & Associates*

Claimant Representative

P.O. Box 340430, Sacramento, CA 95834-0430

Phone: (916) 419-7093

kbsixten@aol.com

Sandra Reynolds, *Reynolds Consulting Group, Inc.*

P.O. Box 894059, Temecula, CA 92589

Phone: (951) 303-3034

sandrareynolds_30@msn.com

David Scribner, *Max8550*

2200 Sunrise Boulevard, Suite 240, Gold River, CA 95670

Phone: (916) 852-8970

dscribner@max8550.com

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-5849

jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

DSpeciale@sco.ca.gov