

# SixTen and Associates

## Mandate Reimbursement Services

RECEIVED  
October 03, 2014  
Commission on  
State Mandates

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October 3, 2014

Heather Halsey, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Dear Ms. Halsey:

RE: CSM 05-4425-I-11  
**Gavilan Joint Community College District**  
**Collective Bargaining**  
Statutes of 1975, Chapter 961  
Fiscal Year: 1995-96  
Incorrect Reduction Claim

I have received the Commission Draft Proposed Decision (DPD) dated September 25, 2014, for the above-referenced incorrect reduction claim, to which I respond on behalf of the District.

This incorrect reduction claim, filed December 16, 2005, was initially rejected by the Commission letter dated December 27, 2005, which stated that the incorrect reduction claim was submitted more than three years following the Controller's "notices of adjustment" dated July 30, 1998 and July 10, 2002. The District appealed this executive director's decision by letter dated December 30, 2005. That letter raised several issues:

1. What Controller documents constitute "notice" from which a regulatory period of limitation can be measured?
2. What is the claimant's burden in going forward with an incorrect reduction claim regarding documentation originated and maintained by the Controller?
3. What is the authority of the Executive Director to unilaterally deny a claimant's statutory right to the incorrect reduction claim due process?

Issues one and two were not reached in the DPD which rejects jurisdiction of this appeal due to the expiration of the statute of limitations for filing an incorrect reduction claim (Title 2, CCR, Section 1185). The third issue was made academic when the Commission accepted the incorrect reduction claim by letter dated March 9, 2006.

Regarding the three-year statute of limitations to file an incorrect reduction claim, the Commission (DPD, 13 and 14) states:

Based on the analysis herein, the Commission finds that the IRC is not timely filed. Whether measured from the date of the earliest remittance advice, or the July 10, 2002 letter from the Controller to claimant, this IRC was filed well beyond the limitation for filing and there is no evidence in the record of any later notices of reductions.

Therefore, applying the three year period of limitation to the July 30, 1998 initial remittance advice means the limitation period expired on July 31, 2001 and applying the limitation to the *last letter in the record*, dated July 10, 2002, means the limitation period expired on July 10, 2005. In either case claimant had ample notice (between twenty-two and one-half months and three years) of the limitation. Based on the cases cited above, and those relied upon by the California Supreme Court in its reasoning, that period is more than sufficient to satisfy any due process concerns with respect to application of section 1185 of the Commission's regulations to this IRC. (*Emphasis added*)

Well after the incorrect reduction claim was filed, the District received a February 26, 2011, Controller's notice of adjudication of the FY 1995-96 annual claim. This notice now becomes the last Controller's adjudication notice letter. Therefore, consistent with the rationale stated by the Commission, the three year statute of limitations for the incorrect reduction claim would be moved forward to February 26, 2014, which is more than eight years after the incorrect reduction claim was filed.

It would seem that the Commission is now required to address the first issue of what constitutes "notice of adjustment," that is, the Controller's adjudication of an annual claim, for purposes of the statute of limitations for filing an incorrect reduction claim.

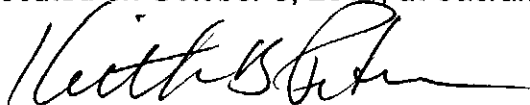
Regarding issue two above, the Commission should direct the Controller to provide copies of any other payment correspondence for the FY 1995-96 annual claim not already in the record.

#### **CERTIFICATION**

By my signature below, I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this submission is true and complete to the

best of my own knowledge or information or belief, and that any attached documents are true and correct copies of documents received from or sent by the District or state agency which originated the document.

Executed on October 3, 2014, at Sacramento, California, by



Keith B. Petersen, President  
SixTen & Associates

Attachment: Controller's FY 1995-96 annual claim review letter dated February 26, 2011

Service by Commission Electronic Drop Box



JOHN CHIANG  
 California State Controller  
 Division of Accounting and Reporting  
 FEBRUARY 26, 2011

CC43060  
 00232  
 2011/02/26

BOARD OF TRUSTEES  
 GAVILAN JOINT COMM COLL DIST  
 SANTA CLARA COUNTY  
 5055 SANTA TERESA BLVD  
 GILROY CA 95020

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MAR 14 2011

GAVILAN COLLEGE  
 PRESIDENT'S OFFICE

DEAR CLAIMANT:

RE: COLLECTIVE BARGAIN : 916/75-C

WE HAVE REVIEWED YOUR 1995/1996 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED 348,966.00

ADJUSTMENT TO CLAIM:

NO SUPPORTING DOCUMENTATION - 124,245.00

PRIOR PYMT TO/FR ANOTHER PGM - 164,124.00

TOTAL ADJUSTMENTS - 288,369.00

AMOUNT DUE CLAIMANT \$ 60,597.00

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT MARIETA DELFIN AT (916) 322-4320 OR IN WRITING AT THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875. DUE TO INSUFFICIENT APPROPRIATION, THE BALANCE DUE WILL BE FORTHCOMING WHEN ADDITIONAL FUNDS ARE MADE AVAILABLE.

SINCERELY,

*Ginny Brummels*  
 GINNY BRUMMELS, MANAGER

LOCAL REIMBURSEMENT SECTION  
 P. O. BOX 942850 SACRAMENTO, CA 94250-5875





JOHN CHIANG  
 California State Controller  
 Division of Accounting and Reporting  
 FEBRUARY 24, 2011

S43060  
 00011  
 2011/02/24

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MAR 2 2011

GAVILAN COLLEGE  
 PRESIDENT'S OFFICE

BOARD OF TRUSTEES  
 GAVILAN JT COMM COLL DIST  
 SANTA CLARA COUNTY  
 5055 SANTA TERESA BLVD  
 GILROY CA 95020

DEAR CLAIMANT:

RE: COLLECTIVE BARGAIN : 961/75-S

WE HAVE REVIEWED YOUR 1995/1996 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED	0.00
TOTAL ADJUSTMENTS (DETAILS BELOW)	290,270.00
TOTAL PRIOR PAYMENTS (DETAILS BELOW)	-290,270.00
AMOUNT DUE CLAIMANT	\$ 0.00

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT ELLEN SOLIS AT (916) 323-0698 OR IN WRITING AT THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875.

ADJUSTMENT TO CLAIM:		
PRIOR COLLECTIONS	126,146.00	
PRIOR PYMT TO/FR ANOTHER PGM	164,124.00	
TOTAL ADJUSTMENTS		290,270.00
PRIOR PAYMENTS:		
SCHEDULE NO. MA61222A		
PAID 01-30-1997	0.00	
SCHEDULE NO. MA51227E		
PAID 01-24-1996	-15,270.00	
TOTAL PRIOR PAYMENTS		-290,270.00

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MAR 03 2011

3/4 PDF to System

SINCERELY,

*Ginny Brummels*  
 GINNY BRUMMELS, MANAGER

LOCAL REIMBURSEMENT SECTION  
 P.O. BOX 942850 SACRAMENTO, CA 94250-5875

**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 October 6, 2014, I served the:

**Claimant Comments**

*Collective Bargaining*, 05-4425-I-11

Government Code Sections 3540-3549.9

Statutes 1975, Chapter 961

Fiscal Year 1995-1996

Gavilan Joint Community College District, Claimant

State Controller's Office, Requester 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 October 6, 2014 at Sacramento, California.



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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:** 8/18/14

**Claim Number:** 05-4425-I-11

**Matter:** Collective Bargaining

**Claimant:** Gavilan Joint 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.)

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