

STATE *of* CALIFORNIA
**COMMISSION ON STATE
MANDATES**



**REPORT TO THE
LEGISLATURE:
INCORRECT REDUCTION
CLAIMS**

**January 1, 2024 –
December 31, 2024**

Joe Stephenshaw
Chairperson
Director of the
Department of
Finance

Fiona Ma
Vice Chairperson
State Treasurer

Malia Cohen
State Controller

Samuel Assefa
Director of the
Office of Planning
and Research

Karen Greene Ross
Public Member

Lee Adams
County Supervisor
County of Sierra

Renee Nash
School District Board Member
Eureka Union School District

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814
(916) 323-3562
www.csm.ca.gov

Table of Contents

INTRODUCTION.....	3
SUMMARY OF COMPLETED CLAIMS.....	4
A. Decided Incorrect Reduction Claims	4
<i>California Assessment of Student Performance and Progress (CAASPP),</i> 22-1401-I-01	4

INTRODUCTION

Government Code section 17602 requires the Commission on State Mandates (Commission) to report to the Legislature “the number of individual and consolidated incorrect reduction claims decided during the preceding calendar year and whether and why the reduction was upheld or overturned.” This report fulfills that requirement.

Government Code section 17561(d) authorizes the State Controller’s Office (Controller) to audit 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 (incorrect reduction claims or IRCs). If the 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.

One IRC decision was completed by the Commission between January 1, 2024, and December 31, 2024 and zero IRCs are pending.

SUMMARY OF COMPLETED CLAIMS

A. Decided Incorrect Reduction Claims

California Assessment of Student Performance and Progress (CAASPP), 22-1401-I-01
Education Code Section 60640, as Amended by Statutes 2013, Chapter 489 (AB 484)
and Statutes 2014, Chapter 32 (SB 858)

California Code of Regulations, Title 5, Sections 850, 852, 853, 853.5, 857, 861(b)(5),
864 (Register 2014, Nos. 6, 30, and 35)

Fiscal Years 2015-2016 and 2016-2017

Claimant: Fresno Unified School District

Incorrect Reduction Claim Filed: December 21, 2022

Decision Adopted: September 27, 2024

This IRC addresses reductions made by the State Controller’s Office (Controller) to costs claimed by the Fresno Unified School District (claimant) for fiscal years 2015-2016 and 2016-2017 (audit period) for the *California Assessment of Student Performance and Progress (CAASPP)* program. *CAASPP* requires school districts test students in grades three through eight and grade 11 in English Language Arts and Mathematics using a secured browser-based testing platform. The Controller reduced all of the claimant’s costs for the purchase of 5,155 new computing devices and broadband internet services during the audit period, totaling \$2,295,922. The Controller found the claimant did not provide supporting documentation showing its existing supply of computing devices and broadband internet services was insufficient to administer the test to its pupils during the testing window provided by the California Department of Education (CDE) as required by the Parameters and Guidelines. The Controller further found the claimant’s existing supply of computing devices and broadband internet services were sufficient to complete testing for all eligible pupils within the testing window according to the tool provided by the CDE and the testing contractor called the “Smarter Balanced Technology Readiness Calculator” (SBAC Calculator). The claimant disputes these findings.

The Commission finds the Controller’s reduction is correct as a matter of law. Under the Parameters and Guidelines, claimants are eligible for reimbursement to provide “a computing device, the use of an assessment technology platform, and the adaptive engine” to administer the *CAASPP* assessments to all pupils via computer, which includes the acquisition of and ongoing compliance with “minimum technology requirements” identified by the *CAASPP* contractor (the Smarter Balanced Assessment Consortium, or SBAC).¹ However, the Decision and Parameters and Guidelines explicitly found school districts are only required to adhere to the *minimum technology specifications* provided by SBAC, consistent with the plain language of the test claim regulations.² The Commission determined “minimum technology specifications” include

¹ Exhibit B, Controller’s Late Comments on the IRC, filed October 2, 2023, page 112 (Parameters and Guidelines).

² Exhibit B, Controller’s Late Comments on the IRC, filed October 2, 2023, page 91 (Decision and Parameters and Guidelines); California Code of Regulations, title 5, section 857(e) (“The LEA *CAASPP* coordinator shall ensure current and ongoing

“desktop or laptop computers, iPads, or other tablet computers for which SBAC provides secure browser support to administer the *CAASPP* in the academic year; accompanied by a keyboard, headphones, and a pointing device; and connected to broadband internet service, providing at least 20 Kbps per student to be tested simultaneously.”³ The Commission also found “minimum technology specifications” include the number of computing devices and how much bandwidth is needed to administer the test to pupils within the testing window provided by section 855 of the CDE regulations, which for most pupils in grades three through eight is 60 days.⁴ The Decision explained SBAC’s minimum technology specifications did *not* require school districts to provide a computing device for every student, and the intention was to have school districts minimize the number of devices needed by having multiple students each use the same device, whether by rotating groups of students through a computer lab, moving “computers on wheels” between classrooms, or creating a pool of laptops and tablets to transport from one school to the next, taking advantage of the long regulatory testing window identified in the regulations.⁵ SBAC also designed the *CAASPP* assessment to be administered on older computing devices, and the technology specifications were “deliberately established as a low entry point to help ensure that technology-purchasing decisions are made based on instructional plans” and not on testing.⁶ Thus, the Commission found “districts that have compatible devices are *not* compelled by this mandate to purchase new computing devices or upgrade operating systems,” and if existing devices and technology infrastructure are insufficient to meet the minimum technology specifications, the claimant has the burden to provide documentation supporting a finding of increased costs required to administer the *CAASPP* tests in accordance with those specifications.⁷ In this respect, the Parameters and Guidelines explicitly require “Claimants shall maintain supporting documentation showing how their existing inventory of computing devices and accessories, technology infrastructure, and broadband internet service is not sufficient to administer the *CAASPP* test to all eligible pupils in the testing window, based on the minimum technical specifications identified by the contractor(s) or consortium.”⁸ The

compliance with the minimum technology specifications as identified by the *CAASPP* contractor(s) or consortium.”).

³ Exhibit B, Controller’s Late Comments on the IRC, filed October 2, 2023, page 98 (Decision and Parameters and Guidelines).

⁴ Exhibit B, Controller’s Late Comments on the IRC, filed October 2, 2023, page 100 (Decision and Parameters and Guidelines).

⁵ Exhibit B, Controller’s Late Comments on the IRC, filed October 2, 2023, pages 89-90 (Decision and Parameters and Guidelines).

⁶ Exhibit B, Controller’s Late Comments on the IRC, filed October 2, 2023, page 103 (Decision and Parameters and Guidelines, citing SBAC Technology Strategy Framework and Testing Device Requirements).

⁷ Exhibit B, Controller’s Late Comments on the IRC, filed October 2, 2023, pages 93, 98 (Decision and Parameters and Guidelines).

⁸ Exhibit B, Controller’s Late Comments on the IRC, filed October 2, 2023, page 115 (Parameters and Guidelines).

Commission's Decision adopting the Parameters and Guidelines, and the Parameters and Guidelines themselves, are regulatory in nature and are binding on the claimant.⁹

In this case, the Controller correctly found the documents provided by the claimant do not support a finding the existing inventory of devices was insufficient to comply with the minimum technology specifications to administer the *CAASPP* test to all eligible pupils within the testing window identified in CDE regulations and, thus, the Controller's reduction is correct as a matter of law. The claimant provided an inventory of its existing devices at the start of each fiscal year during the audit period.¹⁰ The Decision and Parameters and Guidelines recognizes an inventory of existing devices may establish a "baseline" by which to measure any required incremental increases in cost, but does *not* capture all of the information necessary to determine whether the district was compelled to purchase new devices or install new technology infrastructure to comply with the minimum technology specifications.¹¹

The claimant also used a shorter, 35-day testing window for all students (instead of the 60 days provided in CDE regulations for grades three through eight) and granted 75 percent more testing time to students on average than the State provided, which the claimant alleges impacted the number of devices needed. Although school districts have the authority under CDE regulations to shorten the testing window and to allow all students more time to complete the tests, both of which may increase the number of computing devices needed to administer the *CAASPP* test, those costs are triggered by local discretionary decisions, are outside of the "minimum technology specifications," and are not mandated by the state. The Parameters and Guidelines authorize reimbursement only for the "minimum technology specifications" required to administer the *CAASPP* test during the window period "provided in CDE regulations." The state-mandated program is designed to work within the district's existing resources. Thus, to be entitled to reimbursement, a claimant is required to show with supporting documentation its existing computing devices are insufficient to administer the *CAASPP* test to students within the 60-day testing window identified in the CDE regulations. If a claimant chooses to alter those minimum technology specifications causing it to purchase more devices, then reimbursement is not required. Thus, the Controller's reduction of costs for 5,155 new computers is correct as a matter of law.

In addition, the claimant did not provide supporting documentation showing its existing broadband internet service was insufficient to comply with the *CAASP* program.¹² The claimant asserts it was necessary to improve network infrastructure to ensure equity to its students across the District, but the only documentation regarding its broadband internet services the claimant provided was a table showing broadband internet service expenses for fiscal year 2016-2017 totaling \$135,277.64, with a note from Phil Nuefeld,

⁹ *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1201; *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 798; Government Code sections 17561(d)(1), 17564(b), and 17571.

¹⁰ Exhibit A, IRC, filed December 21, 2022, page 104 (Final Audit Report).

¹¹ Exhibit B, Controller's Late Comments on the IRC, filed October 2, 2023, page 100 (Decision and Parameters and Guidelines).

¹² Exhibit B, Controller's Late Comments on the IRC, filed October 2, 2023, page 115 (Parameters and Guidelines).

the Executive Director of IT, that 30 percent was for *CAASPP*, or \$40,583.29.¹³ This is a source document showing the actual costs incurred, but it does not show the claimant was unable to provide 20 Kbps internet service to each student being tested simultaneously without making improvements to its broadband internet service. Thus, the Commission finds the Controller correctly determined “the district provided no supporting documentation to show that the networking upgrades were mandated, and no support to show how the existing infrastructure prevented it from conducting the *CAASPP* testing within the mandated 60-day window.”¹⁴ Thus, the Controller’s reduction of costs claimed for improving Broadband internet services is correct as a matter of law.

The Commission further finds the Controller’s reduction is not arbitrary, capricious, or without evidentiary support. As the supporting documentation the claimant provided gave no information showing how the number of existing devices and bandwidth were insufficient, the Controller exercised its audit authority to find the minimum number of computing devices and broadband internet service the claimant needed to administer *CAASPP* during the testing window using the SBAC calculator and information provided by the claimant, leaving open the possibility the claimant’s existing inventory of devices and broadband internet services was in fact insufficient, even if the supporting documents did not show it. The Controller found the claimant needed 2,459 devices and 49.18 Mbps broadband internet bandwidth to complete testing for all eligible pupils in the 60-day testing window provided in CDE regulations in fiscal year 2015-2016, and 2,440 devices and 48.80 Mbps broadband internet bandwidth in fiscal year 2016-2017; significantly less than the 31,816 devices in the claimant’s existing inventory in fiscal year 2015-2016 and 33,920 devices in fiscal year 2016-2017, and had sufficient existing bandwidth to meet the minimum technology specifications.¹⁵ A 35-day testing window would still only require 4,215 devices in fiscal year 2015-2016 and 4,182 devices in fiscal year 2016-2017 according to the SBAC calculator, well within the claimant’s existing inventory of 31,816 devices in fiscal year 2015-2016, and 33,920 devices in fiscal year 2016-2017.¹⁶

The claimant alleges this conclusion was arbitrary and capricious, because the Parameters and Guidelines do not require the number of devices needed be determined using the SBAC Calculator, and the calculator does not consider the choices made by the claimant and other “mitigating factors.”¹⁷ While the Parameters and Guidelines do not specifically require using the SBAC Calculator to determine the number of devices and bandwidth needed to administer *CAASPP* testing to all eligible pupils, the Parameters and Guidelines do require claimants comply with the minimum technology specifications identified by SBAC, and the Decision and Parameters and Guidelines recognized the SBAC Calculator as a tool to assist school districts in determining how to meet those specifications within the CDE testing window. Therefore, the decision to base the number of devices needed on the SBAC Calculator’s formula was not

¹³ Exhibit A, IRC, filed December 21, 2022, page 38.

¹⁴ Exhibit A, IRC, filed December 21, 2022, page 111 (Final Audit Report).

¹⁵ Exhibit A, IRC, filed December 21, 2022, page 105 (Final Audit Report).

¹⁶ Exhibit A, IRC, filed December 21, 2022, page 104 (Final Audit Report); Exhibit B, Controller’s Late Comments on the IRC, filed October 2, 2023, page 17.

¹⁷ Exhibit A, IRC, filed December 21, 2022, pages 17, 19.

arbitrary, capricious, or lacking in evidentiary support. Moreover, the Controller adequately considered the claimant's documentation, all relevant factors, and demonstrated a rational connection between those factors and the adjustments made to reduce the costs claimed.¹⁸

Accordingly, the Commission denies this IRC.

¹⁸ See *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.