

# **CASTRO VALLEY UNIFIED SCHOOL DISTRICT**

Audit Report

## **THE STULL ACT PROGRAM**

Chapter 498, Statutes of 1983;  
and Chapter 4, Statutes of 1999

*July 1, 1997, through June 30, 2010*



**JOHN CHIANG**  
California State Controller

July 2013



**JOHN CHIANG**  
**California State Controller**

July 25, 2013

Jo A.S. Loss, President  
Board of Education  
Castro Valley Unified School District  
4400 Alma Avenue  
Castro Valley, CA 94546

Dear Mr. Loss:

The State Controller's Office audited the costs claimed by the Castro Valley Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983; and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2010.

The district claimed \$3,776,958 for the mandated program. Our audit found that \$733,430 is allowable (\$737,573 less a \$4,143 penalty for filing a late claim) and \$3,043,528 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for estimated costs, non-mandated activities, overstated training costs, and misstated productive hourly rates. The State paid the district \$277,602. Allowable costs claimed exceed the amount paid by \$455,828.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the CSM's website at [www.csm.ca.gov/docs/IRCForm.pdf](http://www.csm.ca.gov/docs/IRCForm.pdf).

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, at (916) 323-5849.

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD, CPA**  
Chief, Division of Audits

JVB/nh

cc: Jim Negri, Superintendent  
Castro Valley Unified School District  
Candi Clark, Ed.D., Assistant Superintendent  
Castro Valley Unified School District  
Gael Treible, Director  
Castro Valley Unified School District  
Sherri Beetz, Ed.D., Assistant Superintendent  
Castro Valley Unified School District  
Joaquin J. Rivera, President, Board of Education  
Alameda County Office of Education  
Scott Hannan, Director  
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Carol Bingham, Director  
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California Department of Education  
Thomas Todd, Assistant Program Budget Manager  
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State Controller's Office

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by the Castro Valley Unified School District for the legislatively mandated Stull Act Program (Chapter 498, Statutes of 1983; and Chapter 4, Statutes of 1999) for the period of July 1, 1997, through June 30, 2010.

The district claimed \$3,776,958 for the mandated program. Our audit found that \$733,430 is allowable (\$737,573 less a \$4,143 penalty for filing a late claim) and \$3,043,528 is unallowable. The costs are unallowable primarily because the district claimed reimbursement for estimated costs, non-mandated activities, overstated training costs, and misstated productive hourly rates. The State paid the district \$277,602. Allowable costs claimed exceed the amount paid by \$455,828.

## Background

The Stull Act (Chapter 498, Statutes of 1983, and Chapter 4, Statutes of 1999), added Education Code sections 44660-44665. The legislation provided reimbursement for specific activities related to evaluation and assessment of the performance of "certificated personnel" within each school district, except for those employed in local, discretionary educational programs.

On May 27, 2004, the Commission on State Mandates (CSM) determined that the legislation imposed a state mandate reimbursable under Government Code section 17514.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on September 27, 2005. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

The Commission approved reimbursable activities as follows:

- Evaluate and assess the performance of certificated instructional employees who perform the requirements of educational programs mandated by state or federal laws as it reasonably relates to the instructional techniques and strategies used by the employee and the employee's adherence to curricular objectives (Education Code section 44662(b) as amended by Chapter 498, Statutes of 1983).
- Evaluate and assess the performance of certificated instructional employees who teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils toward the state adopted academic content standards as measured by state adopted assessment tests (Education Code section 44662(b) as amended by Chapter 4, Statutes of 1999).
- Assess and evaluate permanent certificated, instructional, and non-instructional employees who perform the requirements of educational programs mandated by state or federal law and receive an unsatisfactory evaluation in the years in which the permanent

certificated employee would not have otherwise been evaluated pursuant to Education Code section 44664. The additional evaluations shall last until the employee achieves a positive evaluation, or is separated from the school district (Education Code section 44664 as amended by Chapter 498, Statutes of 1983).

## **Objective, Scope, and Methodology**

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Stull Act Program for the period of July 1, 1997, through June 30, 2010.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

## **Conclusion**

Our audit found instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, the Castro Valley Unified School District claimed \$3,776,958 for costs of the Stull Act Program. Our audit found that \$733,430 is allowable (\$737,573 less a \$4,143 penalty for filing a late claim) and \$3,043,528 is unallowable.

For the fiscal year (FY) 1997-98 claim, the State paid the district \$14,123. Our audit found that \$37,286 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$23,163, contingent upon available appropriations.

For the FY 1998-99 through FY 2007-08 claims, the State made no payment to the district. Our audit found that \$597,592 is allowable. The state will pay allowable costs claimed, contingent upon available appropriations.

For FY 2008-09 and FY 2009-10 claims, the State paid the district \$263,479. Our audit found that \$98,552 is allowable. The State will offset \$164,927 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

**Views of  
Responsible  
Official**

We issued a draft audit report on May 31, 2013. Candi Clark, Assistant Superintendent of Business Services, responded by letter dated June 13, 2013 (Attachment), disagreeing with the audit results. This final audit report includes the district's response.

**Restricted Use**

This report is solely for the information and use of the Castro Valley Unified School District, the Alameda County Office of Education, the California Department of Education, the California Community Colleges Chancellor's Office, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

July 25, 2013

## Schedule 1— Summary of Program Costs July 1, 1997, through June 30, 2010

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>
<u>July 1, 1997, through June 30, 1998</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 178,135	\$ 38,737	\$ (139,398)
Training	112	112	—
Total direct costs	178,247	38,849	(139,398)
Indirect costs	11,836	2,580	(9,256)
Total direct and indirect costs	190,083	41,429	(148,654)
Less late penalty <sup>2</sup>	—	(4,143)	(4,143)
Total program costs	<u>\$ 190,083</u>	37,286	<u>\$ (152,797)</u>
Less amount paid by State		(14,123)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 23,163</u>	
<u>July 1, 1998, through June 30, 1999</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 200,056	\$ 34,978	\$ (165,078)
Training	111	—	(111)
Total direct costs	200,167	34,978	(165,189)
Indirect costs	7,546	1,319	(6,227)
Total program costs	<u>\$ 207,713</u>	36,297	<u>\$ (171,416)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 36,297</u>	
<u>July 1, 1999, through June 30, 2000</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 295,149	\$ 49,089	\$ (246,060)
Training	134	—	(134)
Total direct costs	295,283	49,089	(246,194)
Indirect costs	5,138	854	(4,284)
Total program costs	<u>\$ 300,421</u>	49,943	<u>\$ (250,478)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 49,943</u>	

**Schedule 1 (continued)**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>
<u>July 1, 2000, through June 30, 2001</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 352,606	48,295	(304,311)
Training	134	—	(134)
Total direct costs	352,740	48,295	(304,445)
Indirect costs	12,734	1,743	(10,991)
Total program costs	<u>\$ 365,474</u>	50,038	<u>(315,436)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 50,038</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 328,673	\$ 58,340	\$ (270,333)
Training	144	—	(144)
Total direct costs	328,817	58,340	(270,477)
Indirect costs	13,711	2,433	(11,278)
Total program costs	<u>\$ 342,528</u>	60,773	<u>(281,755)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>60,773</u>	
<u>July 1, 2002, through June 30, 2003</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 343,891	\$ 56,577	\$ (287,314)
Training	144	—	(144)
Total direct costs	344,035	56,577	(287,458)
Indirect costs	22,604	3,717	(18,887)
Total program costs	<u>\$ 366,639</u>	60,294	<u>\$ (306,345)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 60,294</u>	

## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>
<u>July 1, 2003, through June 30, 2004</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 364,224	\$ 56,140	(308,084)
Training	4,545	2,183	(2,362)
Total direct costs	368,769	58,323	(310,446)
Indirect costs	19,065	3,015	(16,050)
Total program costs	<u>\$ 387,834</u>	61,338	<u>\$ (326,496)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 61,338</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 390,092	\$ 58,803	\$ (331,289)
Training	3,604	—	(3,604)
Total direct costs	393,696	58,803	(334,893)
Indirect costs	14,961	2,235	(12,726)
Total program costs	<u>\$ 408,657</u>	61,038	<u>\$ (347,619)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 61,038</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 334,437	\$ 56,701	\$ (277,736)
Training	18,948	18,487	(461)
Total direct costs	353,385	75,188	(278,197)
Indirect costs	15,150	3,406	(11,744)
Total program costs	<u>\$ 368,535</u>	78,594	<u>\$ (289,941)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 78,594</u>	

## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>
<u>July 1, 2006, through June 30, 2007</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 265,656	\$ 65,815	\$ (199,841)
Training	14,794	3,339	(11,455)
Total direct costs	280,450	69,154	(211,296)
Indirect costs	15,846	3,907	(11,939)
Total program costs	<u>\$ 296,296</u>	73,061	<u>\$ (223,235)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		\$ 73,061	
<u>July 1, 2007, through June 30, 2008</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 237,501	\$ 62,017	\$ (175,484)
Training	2,192	998	(1,194)
Total direct costs	239,693	63,015	(176,678)
Indirect costs	12,177	3,201	(8,976)
Total program costs	<u>\$ 251,870</u>	66,216	<u>\$ (185,654)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 66,216</u>	
<u>July 1, 2008, through June 30, 2009</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 208,644	\$ 47,741	\$ (160,903)
Training	1,725	1,190	(535)
Total direct costs	210,369	48,931	(161,438)
Indirect costs	9,319	2,168	(7,151)
Total program costs	<u>\$ 219,688</u>	51,099	<u>\$ (168,589)</u>
Less amount paid by State		(192,259)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (141,160)</u>	

## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>
<u>July 1, 2009, through June 30, 2010</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 66,204	\$ 44,390	\$ (21,814)
Training	419	—	(419)
Total direct costs	66,623	44,390	(22,233)
Indirect costs	4,597	3,063	(1,534)
Total program costs	<u>\$ 71,220</u>	47,453	<u>\$ (23,767)</u>
Less amount paid by State		(71,220)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (23,767)</u>	
<u>Summary: July 1, 1997, through June 30, 2010</u>			
Direct costs:			
Salaries and benefits			
Evaluation activities	\$ 3,565,268	\$ 677,623	\$ (2,887,645)
Training	47,006	26,309	(20,697)
Total direct costs	3,612,274	703,932	(2,908,342)
Indirect costs	164,684	33,641	(131,043)
Total direct and indirect costs	3,776,958	737,573	(3,039,385)
Less late penalty	—	(4,143)	(4,143)
Total program costs	<u>\$ 3,776,958</u>	733,430	<u>\$ (3,043,528)</u>
Less amount paid by State		(277,602)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 455,828</u>	

<sup>1</sup> See the Finding and Recommendation section.

<sup>2</sup> The district filed its FY 1997-98 initial reimbursement claim after the due date specified in Government Code section 17560. Pursuant to Government Code section 17561, subdivision (d) (3), the State assessed a late filing penalty equal to 10% of allowable costs, with no maximum penalty amount.

# Finding and Recommendation

**FINDING—  
Overstated salaries  
and benefits and  
related indirect costs**

The district claimed \$3,612,274 in salaries and benefits and \$164,684 in related indirect costs for the audit period. We determined that \$2,908,342 in salaries and benefits is unallowable. The costs are unallowable primarily because the district claimed reimbursement for non-mandated activities (\$2,839,221), overstated training costs (\$20,129), and misstated productive hourly rates (\$48,992). Related indirect costs totaled \$131,043.

The following table summarizes the unallowable salaries and benefits and related indirect costs by fiscal year:

Fiscal Year	Direct Costs: Salaries and Benefits					
	(A) Evaluation Activities <sup>1</sup>	(B) Training <sup>1</sup>	(C) Productive Hourly Rates	(D) Total [(A)+(B)+(C)]	(E) Indirect Costs	Audit Adjustment [(D) + (E)]
1997-98	\$ (136,258)	\$ -	\$ (3,140)	\$ (139,398)	\$ (9,256)	\$ (148,654)
1998-99	(164,128)	(111)	(950)	(165,189)	(6,227)	(171,416)
1999-2000	(237,370)	(134)	(8,690)	(246,194)	(4,284)	(250,478)
2000-01	(296,473)	(134)	(7,838)	(304,445)	(10,991)	(315,436)
2001-02	(265,385)	(144)	(4,948)	(270,477)	(11,278)	(281,755)
2002-03	(282,615)	(144)	(4,699)	(287,458)	(18,887)	(306,345)
2003-04	(300,665)	(2,309)	(7,472)	(310,446)	(16,050)	(326,496)
2004-05	(325,137)	(3,604)	(6,152)	(334,893)	(12,726)	(347,619)
2005-06	(277,924)	-	(273)	(278,197)	(11,744)	(289,941)
2006-07	(195,041)	(11,482)	(4,773)	(211,296)	(11,939)	(223,235)
2007-08	(178,923)	(1,145)	3,390	(176,678)	(8,976)	(185,654)
2008-09	(163,669)	(503)	2,734	(161,438)	(7,151)	(168,589)
2009-10	(15,633)	(419)	(6,181)	(22,233)	(1,534)	(23,767)
<b>Totals</b>	<b>\$ (2,839,221)</b>	<b>\$ (20,129)</b>	<b>\$ (48,992)</b>	<b>\$ (2,908,342)</b>	<b>\$ (131,043)</b>	<b>\$ (3,039,385)</b>

<sup>1</sup> Amounts were calculated using claimed average productive hourly rates.

### Unsupported Costs

The majority of the costs claimed by the district were unallowable because they were based on time records that identified estimated average time increments that were not completed contemporaneously.

Prior to the start of the audit, district representatives conducted a partial-year time study in FY 2009-10 and a full-year time study in FY 2010-11 as a substitute for records of actual time spent on teacher evaluations. The time study results were applied to the audit period.

### Time Study Activities

The time study documented the time it took district evaluators to perform eight activities within the teacher evaluation process. The district evaluated permanent, probationary, and temporary certificated instructional teachers. The time study results reported time for meetings, observation, report writing, and other activities within the evaluation process.

The time study determined it takes district evaluators an average of 5.81, 6.25, and 5.12 hours per permanent, probationary, and temporary teacher respectively to complete an evaluation.

Five of the eight activities the district identified in their time study are not reimbursable under the mandate. The five non-reimbursable activities include:

1. Conducting a goals and objectives conference with the certificated staff member;
2. Conducting a pre-observation conference with the certificated staff member;
3. Conducting a post-observation conference with the certificated staff member;
4. Conducting a final evaluation conference with the certificated staff member; and
5. Discussing STAR results and instructional abilities improvement opportunities with the certificated staff members.

Conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation. These activities are not imposing a new program or higher level of service. Conferences including pre-, post-, and final observation conferences are not reimbursable.

Discussing STAR results is not reimbursable because it is not listed as a reimbursable activity in the parameters and guidelines. In addition, interviews with the district evaluators revealed that discussing STAR results entailed conducting group meetings of overall STAR performance and areas in need of improvement rather than separately evaluating each individual teacher performance based on STAR results.

We determined that the time spent on the following three activities is reimbursable:

1. Classroom observations (formal and informal);
2. Writing a report regarding observations; and
3. Writing the final evaluation report.

The time study results revealed that it takes the district evaluators an average of 3.57, 3.89, and 3.37 hours per permanent, probationary, and temporary teacher evaluation respectively to complete allowable activities within the evaluation process. In addition, the time study supported that it takes the district evaluators an average of 7.88 hours per unsatisfactory teacher evaluation to complete allowable activities within the evaluation process.

### **Completed Evaluations**

The district did not keep track of completed evaluations during the audit period. To support claimed evaluations, the district created a database of completed teacher evaluations by reviewing employee files. Once

completed, we reviewed the completed teacher evaluations for each fiscal year to ensure that only eligible evaluations were counted for reimbursement. The program’s parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of education programs mandated by state or federal law during specific evaluation periods.

The following table shows evaluations identified that are not reimbursable under the mandated program:

Fiscal Year	Number of Completed Evaluations		
	District-provided	Audited	Difference
1997-98	209	204	(5)
1998-99	192	182	(10)
1999-2000	245	237	(8)
2000-01	232	217	(15)
2001-02	256	244	(12)
2002-03	251	235	(16)
2003-04	238	229	(9)
2004-05	251	235	(16)
2005-06	246	232	(14)
2006-07	256	242	(14)
2007-08	227	217	(10)
2008-09	184	167	(17)
2009-10	191	151	(40)
Totals	<u>2,978</u>	<u>2,792</u>	<u>(186)</u>

The non-reimbursable evaluations included the following:

- Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers who are not certificated instructional employees;
- Preschool teachers who do not perform the requirements of the program that is mandated by state or federal law;
- Duplicate teacher evaluations claimed multiple times in one school year;
- Permanent biannual teacher evaluations claimed every year rather than every other year; and
- Permanent five-year teacher evaluations claimed multiple times in a five-year period rather than once every five years.

**Average Productive Hourly Rate (PHR)**

The district claimed an average productive hourly rate (PHR) for the district’s evaluators in each fiscal year. Using the completed teacher evaluations database, we obtained a list of all evaluators at the district. We recalculated each evaluator’s PHR, using the district-provided payroll data. We then calculated an average rate in each fiscal year.

The following table shows the PHR audit adjustments by fiscal year:

Fiscal Year	Average Productive Hourly Rate		
	Claimed	Audited	Difference
1997-98	\$ 56.15	\$ 51.94	\$ (4.21)
1998-99	54.48	53.04	(1.44)
1999-2000	67.09	57.00	(10.09)
2000-01	72.05	61.99	(10.06)
2001-02	72.39	66.73	(5.66)
2002-03	72.90	67.31	(5.59)
2003-04	78.39	69.24	(9.15)
2004-05	78.02	70.63	(7.39)
2005-06	69.09	69.32	0.23
2006-07	80.48	75.01	(5.47)
2007-08	74.78	79.17	4.39
2008-09	74.78	79.38	4.60
2009-10	92.54	81.23	(11.31)

**Calculation of Allowable Evaluation Costs**

To arrive at allowable salaries and benefits in each fiscal year, we multiplied the number of allowable evaluations by allowable hours per evaluation and average audited PHRs.

The following table summarizes allowable evaluation costs by fiscal year using the audited PHRs.

Fiscal Year	Salaries and Benefits		
	Claimed	Allowable	Audit Adjustment
1997-98	\$ 178,135	\$ 38,737	\$ (139,398)
1998-99	200,056	34,978	(165,078)
1999-2000	295,149	49,089	(246,060)
2000-01	352,606	48,295	(304,311)
2001-02	328,673	58,340	(270,333)
2002-03	343,891	56,577	(287,314)
2003-04	364,224	56,140	(308,084)
2004-05	390,092	58,803	(331,289)
2005-06	334,437	56,701	(277,736)
2006-07	265,656	65,815	(199,841)
2007-08	237,501	62,017	(175,484)
2008-09	208,644	47,741	(160,903)
2009-10	66,204	44,390	(21,814)
<b>Total</b>	<b>\$ 3,565,268</b>	<b>\$ 677,623</b>	<b>\$ (2,887,645)</b>

We then applied the applicable indirect cost rates to allowable salaries and benefits to calculate allowable indirect costs of \$130,833 for this component.

**Calculation of Allowable Training Costs**

The district’s claims reported training hours in each fiscal year, totaling \$47,006 for the audit period. We concluded that \$26,309 in training costs is reimbursable under the mandate and \$20,697 is not reimbursable. The unallowable training costs primarily included ineligible hours attending training by the same employees exceeding a one-time per employee requirement, and ineligible hours attending various meetings that are not reimbursable under the mandated program.

The following table summarizes claimed, allowable, and unallowable training costs by fiscal year using the audited PHRs:

Fiscal Year	Salaries and Benefits		
	Claimed	Allowable	Audit Adjustment
1997-98	\$ 112	\$ 112	\$ -
1998-99	111	-	(111)
1999-2000	134	-	(134)
2000-01	134	-	(134)
2001-02	144	-	(144)
2002-03	144	-	(144)
2003-04	4,545	2,183	(2,362)
2004-05	3,604	-	(3,604)
2005-06	18,948	18,487	(461)
2006-07	14,794	3,339	(11,455)
2007-08	2,192	998	(1,194)
2008-09	1,725	1,190	(535)
2009-10	419	-	(419)
<b>Total</b>	<b>\$ 47,006</b>	<b>\$ 26,309</b>	<b>\$ (20,697)</b>

For FY 2005-06 and FY 2009-10, the district incorrectly claimed training costs in the Travel and Training rather than the Salaries and Benefits object accounts. We reclassified the district’s training costs to Salaries and Benefits.

We then applied the applicable indirect cost rates to allowable salaries and benefits to calculate allowable indirect costs of \$210 for this component.

The parameters and guidelines (section IV.A.1) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee’s adherence to curricular objectives.

Reimbursement for this activity is limited to:

- a. Reviewing the employee's instructional techniques and strategies and adherence to curricular objectives, and
- b. Including in the written evaluation of the certificated instructional employees the assessment of these factors during the following evaluation periods:
  - o Once each year for probationary certificated employees;
  - o Every other year for permanent certificated employees; and
  - o Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.A.2) state that the following is reimbursable:

Evaluate and assess the performance of certificated instructional employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11 as it reasonably relates to the progress of pupils towards the state adopted academic content standards as measured by state adopted assessment tests.

Reimbursement for this activity is limited to:

- a. Reviewing the results of the Standardized Testing and Reporting test as it reasonably relates to the performance of those certificated employees that teach reading, writing, mathematics, history/social science, and science in grades 2 to 11, and
- b. Including in the written evaluation of those certificated employees the assessment of the employee's performance based on the Standardized Testing and Reporting results for the pupils they teach during the evaluation periods specified in Education Code section 44664, and described below:
  - o Once each year for probationary certificated employees;
  - o Every other year for permanent certificated employees; and
  - o Beginning January 1, 2004, every five years for certificated employees with permanent status who have been employed at least ten years with the school district, are highly qualified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

The parameters and guidelines (section IV.C—Training) state that the district may train staff on implementing the reimbursable activities listed in Section IV of the parameters and guidelines. (One-time activity for each employee.)

The parameters and guidelines (section IV—Reimbursable Activities) also state:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Recommendation

We recommend that the district ensure that claimed costs are based on actual costs, are for activities reimbursable under the program’s parameters and guidelines, and are supported by contemporaneous source documentation.

District’s Response

TIME STUDY ACTIVITIES \$2,839,221

The annual cost of evaluations is calculated based on the average time to implement eight different components of the annual employee evaluation process, multiplied by the number of evaluations performed each year, and then multiplied by the average productive hourly rates (salary and benefits) for the evaluators. For the eight components, the total average time to complete the evaluation process based on the district documentation and the audited allowable times are as follows:

Evaluation Type	District Ave. Hours Time Study	Audited Ave. Hours Allowed
Permanent	5.81	3.57
Probationary	6.25	3.89
Temporary	5.12	3.37
Unsatisfactory	None	7.88

The average time for the evaluation process was calculated by the auditor based on the District's staff time reports. At this time, the District has no objection to the auditor's calculations.

The draft audit report states five of the eight activities identified in the time study are not reimbursable:

- 1 Conducting a conference with the certificated staff member to review their goals and objectives;
- 2 Conducting a pre-observation conference with the certificated staff member;

- 3 Conducting a post-observation conference with the certificated staff member;
- 4 Conducting a final evaluation conference with the certificated staff member; and
- 5 Discussing STAR results and how to improve instructional abilities with the certificated staff member. The draft audit report states that conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation and thus are not imposing a new program or higher level of service.

The District disagrees with this disallowance. The mandate reimburses the new program requirement to “evaluate and assess” which necessarily involves a comprehensive process. The conferences are one part of a continuum of evaluation and assessment steps, none of which individually completes the mandate. The conferences and related tasks are effective and efficient methods to evaluate and assess employees and necessary to communicate the findings of the evaluation to the employee. Whether the conferences in general were required as a matter of law before the Stull Act is a decision for the Commission pursuant to a future incorrect reduction claim.

The draft audit report states that three of the eight activities identified by the district are reimbursable:

- 6 Classroom observations (formal and informal);
- 7 Writing a report regarding observations; and
- 8 Writing the final evaluation report.

The District agrees that these activities are reimbursable.

#### COMPLETED/ALLOWABLE EVALUATIONS

The draft audit report states that the program's parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of education programs mandated by state or federal law during specific evaluation periods. The draft audit report disallows 186 of about 3,000 evaluations (about 6%) claimed for the thirteen years for five reasons:

1. *Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers who are not certificated instructional employees.*

The District disagrees with this disallowance. The parameters and guidelines state that the mandate is to evaluate the performance of “certificated instructional employees.” All certificated personnel are “instructional” personnel even if they are not classroom teachers. The audit report does not indicate how these other certificated personnel are not implementing state curricular objectives. The District does concur that the portion of the mandate relating to the evaluation of compliance with the testing assessment standards (the STAR component) is limited to classroom teachers because the parameters and guidelines specifically state “employees that teach” specified curriculum.

2. *Preschool teachers who do not perform the requirements of the program that is mandated by state or federal law.*

The District disagrees with this disallowance. Federal and State law requires preschool instruction for special education pupils as part of the pupil's Individual Education Program. If the teacher is providing instruction to special education preschool pupils, the teacher is implementing the special education mandate.

3. *Duplicate teacher evaluations claimed multiple times in one school year.*

Potential “duplicate” evaluations generally occur as a result of an employee transferring to another school during the evaluation cycle, or a change in employment status of the employee. The District concurs that only one complete evaluation should be counted for each employee

4. *Permanent biannual teacher evaluations claimed every year rather than every other year.*

The District concurs that only one complete evaluation should be counted for each employee every other year after the employee attains permanent status.

5. *Permanent five-year teacher evaluations claimed multiple times in a five-year period rather than once every five years.*

The District concurs that only one complete evaluation should be counted for each employee every fifth year after the employee attains permanent five-year status.

AVERAGE PRODUCTIVE HOURLY RATE (PHR)      \$48,992

Of the \$3.6 million in salary and benefits claimed for the thirteen years, the draft audit report reduces this amount by \$48,992 (about 1.5%) based on the auditor's calculation of the average productive hourly rates. District staff has reviewed the auditor's calculations and we have no disputed amounts at this time.

TRAINING COSTS      \$20,129

The draft audit reports states that the mandate parameters and guidelines only allow training costs as a one-time activity per employee. The disallowances are based on “duplicate” training hours for the “same” employees. The District disagrees with this disallowance. Most of the disallowed staff time was incurred for meetings with the principals and other evaluators to commence the annual evaluation cycle. These A = rrr 2 reasonable and necessary when the collective bargaining contract and district evaluation process changes.

### SCO's Comment

#### **Time Study Activities**

Our finding and recommendation are unchanged. The conferences between the teachers and evaluators are non-reimbursable activities.

The district states in its response that “the mandate reimburses the new

program requirement to ‘evaluate and assess’ which necessarily involves a comprehensive process.” We disagree. Not all activities from the evaluation process are reimbursable. The mandate reimburses only those activities that impose a new requirement or higher level of service for the agencies.

The parameters and guidelines (sections IV.A.1, IV.A.2, and IV.B.1) specify that reimbursement is limited to only those activities outlined in each section. Section IV.B.1 identifies reimbursable evaluation conferences only for those instances when an unsatisfactory evaluation took place for certificated instructional or non-instructional personnel in those years in which the employee would not have otherwise been evaluated.

The district claimed costs for the evaluation conferences resulting from evaluations completed under sections IV.A.1 and IV.A.2 of the parameters and guidelines. Sections IV.A.1 and IV.A.2 do not identify evaluation conferences or any other types of conferences as reimbursable activities.

Furthermore, the CSM found in its statement of decision that evaluation conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation.

Under prior law, the evaluation was to be prepared in writing and a copy of the evaluation given to the employee. An evaluation meeting was to be held between the certificated employee and the evaluator to discuss the evaluation and assessment. The CSM indicated in its statement of decision document that:

. . . the 1975 test claim legislation did not amend the requirements in Former Educate Code sections 13488 and 13489 to prepare written evaluations of certificated employees, receive responses to those evaluations, and conduct a meeting with the certificated employee to discuss the evaluation . . .

Furthermore, the 1983 test claim statute still requires school districts to prepare the evaluation in writing, to transmit a copy to the employee, and to conduct a meeting with the employee to discuss the evaluation and assessment. These activities are not new.

However, the 1983 test claim statute amended the evaluation requirements by adding two new evaluation factors relating to 1) the instructional techniques and strategies used by the employee, and 2) the employee’s adherence to curricular objectives. The CSM found that Education Code section 44662, subdivision (b), as amended by Statutes of 1983, Chapter 498, imposed a new required act on school districts to:

. . . evaluate and assess the performance of certificated instructional employees that perform the requirements of educational programs mandated by state or federal law as it reasonably relates to the instructional techniques and strategies used by the employee and the employee’s adherence to curricular objectives.

Reimbursement is limited to the additional requirements imposed by the

amendments. The additional requirements include the review of the employee's instructional techniques and strategies and adherence to curricular objectives, and to include in the written evaluation of the certificated instructional employees the assessment of only these factors. Conference activities do not impose a new program or higher level of service.

### **Completed/Allowable Evaluations**

- 1. Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers who are not certificated instructional employees.*

Our finding and recommendation are unchanged. The district states that "All certificated personnel are 'instructional' personnel even if they are not classroom teachers." We disagree.

The language of the program's parameters and guidelines and the CSM statement of decision address the difference between certificated instructional employees and certificated non-instructional employees.

In its statement of decision, the CSM identifies instructional employees as teachers and non-instructional employees as principals and various administrators. The CSM further states that the test claim legislation, as it relates to evaluation and assessment of certificated non-instructional employees, do not constitute a new program or higher level of service.

In addition, the parameters and guidelines clearly identify reimbursable components and activities as they relate to certificated instructional and certificated non-instructional personnel. Our draft report identifies a finding related to the component of evaluating instructional techniques and strategies and adherence to curricular objectives for the certificated instructional employees. The intent of this component is to evaluate the elements of classroom instruction. Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers do not provide classroom instruction and are considered "non-instructional" certificated personnel.

- 2. Preschool teachers do not perform the requirements of the program that is mandated by state or federal law.*

Our finding and recommendation is unchanged. The district states the following in its response:

Federal and State law requires preschool instruction for special education pupils as part of the pupil's Individual Education Program. If the teacher is providing instruction to special education preschool pupils, the teacher is implementing the special education mandate.

Our finding indicated that the evaluations of the preschool teachers were excluded for reimbursement. The finding did not indicate that we excluded those teachers that work with special education pupils. The issue at hand is whether preschool teachers, in general, perform the requirements of educational programs mandated by state or federal law.

The district has not provided any documentation to support that preschool teachers previously excluded from reimbursement, if any, performed any activities related to special education pupils.

3. *Duplicate teacher evaluations claimed multiple times in one school year.*

The district concurs with our finding and recommendation.

4. *Permanent biannual teacher evaluations claimed every year rather than every other year.*

The district concurs with our finding and recommendation.

5. *Permanent five-year teacher evaluations claimed multiple times in a five-year period rather than once every five years.*

The district concurs with our finding and recommendation.

#### **Average Productive Hourly Rate (PHR)**

The district does not dispute our calculations at this time.

#### **Training Costs**

Our finding and recommendation are unchanged. The district disagrees with the unallowable “duplicate” training hours claimed for the same employees. The district states that:

Most of the disallowed staff time was incurred for meetings with the principals and other evaluators to commence the annual evaluation cycle. These are reasonable and necessary when the collective bargaining contract and district evaluation process changes.

The parameters and guidelines states that the district may claim reimbursement to “train staff on implementing the reimbursable activities.” The parameters and guidelines also state that training is reimbursable as a “one-time activity for each employee.”

The district believes that the meetings with the principals and other evaluators are “reasonable and necessary” activities. However, the reimbursement is limited to only those activities outlined in the parameters and guidelines (section IV.C).

**PUBLIC RECORDS  
REQUEST**

The district's response included other comments related to the mandated cost claims. The district's comments and SCO's response are presented below.

District's Response

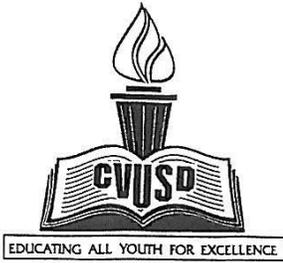
The District requests copies of all audit work papers in support of the audit findings. The District requests that the Controller provide the District any and all written instructions, memoranda, or other writings in effect and applicable during the claiming periods to the findings. . .

SCO's Comment

The SCO responded to the district's request by a separate letter dated July 10, 2013.

**Attachment—  
District's Response to  
Draft Audit Report**

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# Castro Valley Unified School District

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**BOARD OF EDUCATION**

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Jim Negri

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P.O. BOX 2146 • CASTRO VALLEY, CALIFORNIA 94546 • (510) 537-3000 • Fax (510) 886-8962

June 13, 2013

Mr. Jim L. Spano, Chief  
Mandated Costs Audits Bureau  
Division of Audits  
State Controller's Office  
P.O. Box 942850  
Sacramento, CA 94250-5874

Subject: Castro Valley Unified School District  
Stull Act Mandate Audit  
FY 1997-98 through FY 2009-10

Dear Mr. Spano:

This letter is the response of the Castro Valley Unified School District to the draft audit report dated May 31, 2013, received by e-mail on June 3, 2013, for the above-referenced program and fiscal years, transmitted by the letter from Jeffrey V. Brownfield, Chief, Division of Audits, State Controller's Office.

The District appreciated the opportunity to utilize a time study of the mandate program activities to replace the original documentation for the historic claim years. The time study is a reasonable method to fulfill the Controller's expectations for cost accounting and documentation. However, the District will file an incorrect reduction claim due to the limited scope of activities approved for reimbursement. The District disagrees with the Controller's interpretation of the Stull Act legislation and the test claim findings. From the discussion at the audit entrance and exit conferences, it is clear that this disagreement cannot be resolved at this point. A Commission on State Mandates decision will be needed since this is an issue of statewide significance relevant to all Stull Act audits.

## **Finding 1 Overstated salaries and benefits and related indirect costs**

The draft audit report concludes that of the \$3,612,274 in salaries and benefits and \$164,684 in related indirect costs claimed for the audit period, that \$2,908,342 in salaries and benefits and \$131,043 in related indirect costs are unallowable, for several reasons:

TIME STUDY ACTIVITIES \$2,839,221



The annual cost of evaluations is calculated based on the average time to implement eight different components of the annual employee evaluation process, multiplied by the number of evaluations performed each year, and then multiplied by the average productive hourly rates (salary and benefits) for the evaluators. For the eight components, the total average time to complete the evaluation process based on the district documentation and the audited allowable times are as follows:

Evaluation Type	District Ave. Hours <u>Time Study</u>	Audited Ave. Hours <u>Allowed</u>
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Unsatisfactory	None	7.88

The average time for the evaluation process was calculated by the auditor based on the District's staff time reports. At this time, the District has no objection to the auditor's calculations.

The draft audit report states five of the eight activities identified in the time study are not reimbursable:

- 1 Conducting a conference with the certificated staff member to review their goals and objectives;
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- 5 Discussing STAR results and how to improve instructional abilities with the certificated staff member.

The draft audit report states that conferences between the evaluators and teachers are not reimbursable because they were required before the enactment of the test claim legislation and thus are not imposing a new program or higher level of service.

The District disagrees with this disallowance. The mandate reimburses the new program requirement to "evaluate and assess" which necessarily involves a comprehensive process. The conferences are one part of a continuum of evaluation and assessment steps, none of which individually completes the mandate. The conferences and related tasks are effective and efficient methods to evaluate and assess employees and necessary to communicate the findings of the evaluation to the employee. Whether the conferences in general were required as a matter of law before the Stull Act is a decision for the Commission pursuant to a future incorrect reduction claim.



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- 7 Writing a report regarding observations; and
- 8 Writing the final evaluation report.

The District agrees that these activities are reimbursable.

#### COMPLETED/ALLOWABLE EVALUATIONS

The draft audit report states that the program's parameters and guidelines allow reimbursement for those evaluations conducted for certificated instructional personnel who perform the requirements of education programs mandated by state or federal law during specific evaluation periods. The draft audit report disallows 186 of about 3,000 evaluations (about 6%) claimed for the thirteen years for five reasons:

1. *Coordinators, management, program specialists, counselors, librarians, nurses, psychologists, and social workers who are not certificated instructional employees.*

The District disagrees with this disallowance. The parameters and guidelines state that the mandate is to evaluate the performance of "certificated instructional employees." All certificated personnel are "instructional" personnel even if they are not classroom teachers. The audit report does not indicate how these other certificated personnel are not implementing state curricular objectives. The District does concur that the portion of the mandate relating to the evaluation of compliance with the testing assessment standards (the STAR component) is limited to classroom teachers because the parameters and guidelines specifically state "employees that teach" specified curriculum.

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The District disagrees with this disallowance. Federal and State law requires preschool instruction for special education pupils as part of the pupil's Individual Education Program. If the teacher is providing instruction to special education preschool pupils, the teacher is implementing the special education mandate.

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The District concurs that only one complete evaluation should be counted for each employee every fifth year after the employee attains permanent five-year status.

AVERAGE PRODUCTIVE HOURLY RATE (PHR)      \$48,992

Of the \$3.6 million in salary and benefits claimed for the thirteen years, the draft audit report reduces this amount by \$48,992 (about 1.5%) based on the auditor's calculation of the average productive hourly rates. District staff has reviewed the auditor's calculations and we have no disputed amounts at this time.

TRAINING COSTS      \$20,129

The draft audit reports states that the mandate parameters and guidelines only allow training costs as a one-time activity per employee. The disallowances are based on "duplicate" training hours for the "same" employees. The District disagrees with this disallowance. Most of the disallowed staff time was incurred for meetings with the principals and other evaluators to commence the annual evaluation cycle. These  $A = \pi r^2$  reasonable and necessary when the collective bargaining contract and district evaluation process changes.

#### **Public Records Request**

The District requests copies of all audit work papers in support of the audit findings. The District requests that the Controller provide the District any and all written audit instructions, memoranda, or other writings in effect and applicable during the claiming periods to the findings.

Government Code Section 6253, subdivision (c), requires the state agency that is the subject of the request, within ten days from receipt of a request for a copy of records, to determine whether the request, in whole or in part, seeks copies of disclosable public records in possession of the agency and promptly notify the requesting party of that determination and the reasons therefore. Also, as required, when so notifying the District, the agency must state the estimated date and time when the records will be made available.

Sincerely,

Dr. Candi Clark  
Assistant Superintendent of Business Services  
Castro Valley Unified School District

**State Controller's Office  
Division of Audits  
Post Office Box 942850  
Sacramento, CA 94250-5874**

**<http://www.sco.ca.gov>**