

ITEM 7
INCORRECT REDUCTION CLAIM
PROPOSED DECISION

Former Education Code Section 72246 (Renumbered as § 76355)¹
Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.); Statutes 1987, Chapter 1118

Health Fee Elimination

Fiscal Years 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002

05-4206-I-06

Los Rios Community College District, Claimant

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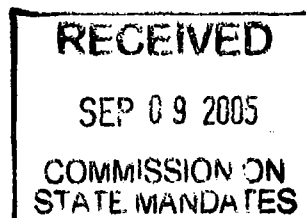
¹ Statutes 1993, chapter 8.

SixTen and Associates Mandate Reimbursement Services

KEITH B. PETERSEN, MPA, JD, President
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September 7, 2005



Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Health Fee Elimination
Fiscal Years: 1997-98 through 2001-02
Incorrect Reduction Claim

Dear Ms. Higashi:

Enclosed is the original and two copies of the above referenced incorrect reduction claim for Los Rios Community College District.

SixTen and Associates has been appointed by the District as its representative for this matter and all interested parties should direct their inquiries to me, with a copy as follows:

Jon Sharpe, Deputy Chancellor
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825-3981

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith B. Petersen".

Keith B. Petersen

State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
CSM 2 (12/88)

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STATE MANDATES

INCORRECT REDUCTION CLAIM FORM

Claim No. ~~05-4485-I-03~~
05-4206-I-04

Local Agency or School District Submitting Claim

LOS RIOS COMMUNITY COLLEGE DISTRICT

Contact Person

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Representative Organization to be Notified

Telephone Number

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This claim alleges an incorrect reduction of a reimbursement claim filed with the State Controller's Office pursuant to section 17561 of the Government Code. This incorrect reduction claim is filed pursuant to section 17561(b) of the Government Code.

CLAIM IDENTIFICATION: Specify Statute or Executive Order

HEALTH FEE ELIMINATION Chapter 1, Statutes of 1984, 2nd E.S. Education Code Section 76355
Chapter 1118, Statutes of 1987

<u>Fiscal Year</u>	<u>Amount of the Incorrect Reduction</u>
1997-1998	\$606,532
1998-1999	\$625,570
1999-2000	\$634,185
2000-2001	\$667,337
2001-2002	\$671,976
Total Amount	\$3,205,600

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING AN INCORRECT REDUCTION CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

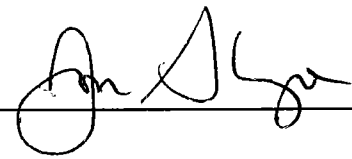
Telephone No.

Jon Sharpe, Deputy Chancellor

Voice: 916-568-3058
Fax: 916-568-3078
E-mail: SharpeJ@losrios.edu

Signature of Authorized Representative

Date

x 

August 29, 2005

1 Claim Prepared by:
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5 San Diego, California 92117
6 Voice: (858) 514-8605
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8

9 BEFORE THE
10 COMMISSION ON STATE MANDATES
11 STATE OF CALIFORNIA

12 INCORRECT REDUCTION CLAIM OF:)
13) No. CSM _____
14)
15) Chapter 1, Statutes of 1984, 2nd E.S.
16) Chapter 1118, Statutes of 1987
17 LOS RIOS)
18 Community College District,) Education Code Section 76355
19)
20) Health Fee Elimination
21 Claimant.)
22) Annual Reimbursement Claims:
23)
24) Fiscal Year 1997-1998
25) Fiscal Year 1998-1999
26) Fiscal Year 1999-2000
27) Fiscal Year 2000-2001
28) Fiscal Year 2001-2002
29)

30 _____)
INCORRECT REDUCTION CLAIM FILING

31 PART I. AUTHORITY FOR THE CLAIM

32 The Commission on State Mandates has the authority pursuant to Government
33 Code Section 17551(d) " . . . to hear and decide upon a claim by a local agency or
34 school district filed on or after January 1, 1985, that the Controller has incorrectly
35 reduced payments to the local agency or school district pursuant to paragraph (2) of

Incorrect Reduction Claim of Los Rios Community College District
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1 subdivision (d) of Section 17561.” Los Rios Community College District (hereafter
2 “District” or “Claimant”) is a school district as defined in Government Code Section
3 17519.¹ Title 2, CCR, Section 1185 (a), requires claimants to file the incorrect
4 reduction claim with the Commission.

5 This incorrect reduction claim is timely filed. Title 2, CCR, Section 1185 (b),
6 requires incorrect reduction claims to be filed no later than three years following the
7 date of the Controller’s remittance advice notifying the claimant of a reduction. A
8 Controller’s audit report dated June 24, 2004 has been issued, but no remittance
9 advices have been issued. The audit report constitutes a demand for repayment and
10 adjudication of the claim. On July 15, 2005, the Controller issued “results of review
11 letters” reporting the audit results for all five fiscal years and demanding payment of
12 amounts due to the state.

13 There is no alternative dispute resolution process available from the Controller’s
14 office. In response to an audit issued March 10, 2004, Foothill-De Anza Community
15 College attempted to utilize the informal audit review process established by the
16 Controller to resolve factual disputes. Foothill-De Anza was notified by the Controller’s
17 legal counsel by letter of July 15, 2004 (attached as Exhibit “A”), that the Controller’s

¹ Government Code Section 17519, added by Chapter 1459, Statutes of 1984,
Section 1:

“‘School district’ means any school district, community college district, or county
superintendent of schools.”

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1 informal audit review process was not available for mandate audits and that the proper
2 forum was the Commission on State Mandates.

3 PART II. SUMMARY OF THE CLAIM

4 The Controller has conducted a field audit of District's annual reimbursement
5 claims for the District's actual costs of complying with the legislatively mandated Health
6 Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session and
7 Chapter 1118, Statutes of 1987) for the period of July 1, 1997 through June 30, 2002.
8 As a result of the audit, the Controller determined that none of the claimed costs were
9 allowable and that \$2,224,368 should be returned to the State. We believe this is an
10 incorrect reduction, based on facts to follow.

11	Fiscal	Amount	Audit	SCO	Amount Due
12	<u>Year</u>	<u>Claimed</u>	<u>Adjustment</u>	<u>Payments</u>	<u><State></u>
13	1997-98	\$606,532*	\$606,532	\$606,532	<\$606,532>
14	1998-99	\$625,570	\$625,570	\$625,570	<\$625,570>
15	1999-00	\$634,185	\$634,185	\$634,185	<\$634,185>
16	2000-01	\$667,337	\$667,337	\$187,592	<\$187,592>
17	2001-02	<u>\$671,976</u>	<u>\$671,976</u>	<u>\$170,489</u>	<u><\$170,489></u>
18	Totals	\$3,205,600	\$3,205,600	\$2,224,368	<\$2,224,368>

19 * Net amount claimed after \$1,000 late filing penalty

20 PART III. PREVIOUS INCORRECT REDUCTION CLAIMS

21 The District has not filed any previous incorrect reduction claims for this

1 mandate program. The District is not aware of any other incorrect reduction claims
2 having been adjudicated on the specific issues or subject matter raised by this incorrect
3 reduction claim.

4 PART IV. BASIS FOR REIMBURSEMENT

5 1. Mandate Legislation

6 Chapter 1, Statutes of 1984, 2nd Extraordinary Session, repealed Education
7 Code Section 72246 which had authorized community college districts to charge a
8 student health services fee for the purpose of providing health supervision and
9 services, direct and indirect medical and hospitalization services, and operation of
10 student health centers. This statute also required the scope of student health services
11 for which a community college district charged a fee during the 1983-84 fiscal year be
12 maintained at that level in the 1984-85 fiscal year and every year thereafter. The
13 provisions of this statute were to automatically repeal on December 31, 1987.

14 Chapter 1118, Statutes of 1987, amended Education Code Section 72246 to
15 require any community college district that provided student health services in 1986-87
16 to maintain student health services at that level in 1987-88 and each fiscal year
17 thereafter.

18 Chapter 8, Statutes of 1993, Section 29, repealed Education Code Section
19 72246, effective April 15, 1993. Chapter 8, Statutes of 1993, Section 34, added

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1 Education Code Section 76355², containing substantially the same provisions as former

² Education Code Section 76355, added by Chapter 8, Statutes of 1993, Section 34, effective April 15, 1993, as last amended by Chapter 758, Statutes of 1995, Section 99:

“(a) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than ten dollars (\$10) for each semester, seven dollars (\$7) for summer school, seven dollars (\$7) for each intersession of at least four weeks, or seven dollars (\$7) for each quarter for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, or both.

The governing board of each community college district may increase this fee by the same percentage increase as the Implicit Price Deflator for State and Local Government Purchase of Goods and Services. Whenever that calculation produces an increase of one dollar (\$1) above the existing fee, the fee may be increased by one dollar (\$1).

(b) If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional.

(c) The governing board of a district maintaining a community college shall adopt rules and regulations that exempt the following students from any fee required pursuant to subdivision (a):

(1) Students who depend exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization.

(2) Students who are attending a community college under an approved apprenticeship training program.

(3) Low-income students, including students who demonstrate financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid and students who demonstrate eligibility according to income standards established by the board of governors and contained in Section 58620 of Title 5 of the California Code of Regulations.

(d) All fees collected pursuant to this section shall be deposited in the fund of the district designated by the California Community Colleges Budget and Accounting Manual. These fees shall be expended only to provide health services as specified in regulations adopted by the board of governors.

Authorized expenditures shall not include, among other things, athletic trainers' salaries, athletic insurance, medical supplies for athletics, physical examinations for

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1 Section 72246, effective April 15, 1993.

2 2. Test Claim

3 On December 2, 1985, Rio Hondo Community College District filed a test claim
4 alleging that Chapter 1, Statutes of 1984, 2nd Extraordinary Session, by requiring a
5 maintenance of effort, mandated increased costs by mandating a new program or the
6 higher level of service of an existing program within the meaning of California
7 Constitution Article XIII B, Section 6.

8 On November 20, 1986, the Commission on State Mandates determined that
9 Chapter 1, Statutes of 1984, 2nd Extraordinary Session, imposed a new program upon
10 community college districts by requiring any community college district, which provided
11 student health services for which it was authorized to charge a fee pursuant to former
12 Section 72246 in the 1983-1984 fiscal year, to maintain student health services at that

intercollegiate athletics, ambulance services, the salaries of health professionals for athletic events, any deductible portion of accident claims filed for athletic team members, or any other expense that is not available to all students. No student shall be denied a service supported by student health fees on account of participation in athletic programs.

(e) Any community college district that provided health services in the 1986-87 fiscal year shall maintain health services, at the level provided during the 1986-87 fiscal year, and each fiscal year thereafter. If the cost to maintain that level of service exceeds the limits specified in subdivision (a), the excess cost shall be borne by the district.

(f) A district that begins charging a health fee may use funds for startup costs from other district funds and may recover all or part of those funds from health fees collected within the first five years following the commencement of charging the fee.

(g) The board of governors shall adopt regulations that generally describe the types of health services included in the health service program."

Incorrect Reduction Claim of Los Rios Community College District
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1 level in the 1984-1985 fiscal year and each fiscal year thereafter.

2 At a hearing on April 27, 1989, the Commission on State Mandates determined
3 that Chapter 1118, Statutes of 1987, amended this maintenance of effort requirement to
4 apply to all community college districts which provided student health services in fiscal
5 year 1986-1987 and required them to maintain that level of student health services in
6 fiscal year 1987-1988 and each fiscal year thereafter.

7 3. Parameters and Guidelines

8 On August 27, 1987, the original parameters and guidelines were adopted. On
9 May 25, 1989, those parameters and guidelines were amended. A copy of the
10 parameters and guidelines, as amended on May 25, 1989, is attached hereto as Exhibit
11 "B." So far as is relevant to the issues presented below, the parameters and guidelines
12 state:

13 "V. REIMBURSABLE COSTS

14 A. Scope of Mandate

15 Eligible community college districts shall be reimbursed for
16 the costs of providing a health services program. Only
17 services provided in 1986-87 fiscal year may be claimed.

18 VI. CLAIM PREPARATION

19 B... 3. Allowable Overhead Cost

20 Indirect costs may be claimed in the manner
21 described by the State Controller in his claiming
22 instructions.

1 VII. SUPPORTING DATA

2 For auditing purposes, all costs claimed must be traceable to
3 source documents and/or worksheets that show evidence of the
4 validity of such costs...

5 VIII OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

6 Any offsetting savings the claimant experiences as a direct result
7 of this statute must be deducted from the costs claimed. In
8 addition, reimbursement for this mandate received from any
9 source, e.g., federal, state, etc., shall be identified and deducted
10 from this claim. This shall include the amount of \$7.50 per full-time
11 student per semester, \$5.00 per full-time student for summer
12 school, or \$5.00 per full-time student per quarter, as authorized by
13 Education Code section 72246(a)³. This shall also include
14 payments (fees) received from individuals other than students who
15 are not covered by Education Code Section 72246 for health
16 services. ...”

17 4. Claiming Instructions

18 The Controller has annually issued or revised claiming instructions for the
19 Health Fee Elimination mandate. A copy of the September 1997 revision of the
20 claiming instructions is attached as Exhibit “C.” The September 1997 claiming
21 instructions are believed to be, for the purposes and scope of this incorrect reduction
22 claim, substantially similar to the version extant at the time the claims which are the

³ The authorized dollar amounts of student health fees was changed by Education Code Section 76355. See: Footnote 2. Subdivision (a) of Section 76355 permits the governing board of each community college district to increase these fees by the same percentage increase as the Implicit Price Deflator for State and Local Government Purchase of Goods and Services. The Chancellor’s Office of the California Community Colleges notifies all districts that the Implicit Price Deflator allowed an increase in permissible fees.

1 subject of this incorrect reduction claim were filed. However, since the Controller's
2 claim forms and instructions have not been adopted as regulations, they have no force
3 of law, and, therefore, have no effect on the outcome of this claim.

4 **PART V. STATE CONTROLLER CLAIM ADJUDICATION**

5 The Controller conducted an audit of District's annual reimbursement claims for
6 fiscal years 1997-98, 1998-99, 1999-00, 2000-01 and 2001-02. The audit concluded
7 that none of the District's costs, as claimed, were allowable. A copy of the June 24,
8 2004-audit report is attached hereto as Exhibit "D."

9 **VI. CLAIMANT'S RESPONSE TO THE STATE CONTROLLER**

10 By letter dated May 5, 2004, the Controller transmitted a copy of its draft audit
11 report. By letter dated May 24, 2004, the District objected to the proposed adjustments
12 set forth in the draft copy of the audit report. A copy of the District's response is
13 attached hereto as Exhibit "E." The Controller then issued its final audit report without
14 change in its adjustments.

15 **PART VII. STATEMENT OF THE ISSUES**

16 **Finding 1: Unallowable salaries and fringe benefits**

17 The Controller asserts unallowable salaries totaling \$128,593 and related
18 indirect costs of \$39,529 for an increased level of student health services based on the
19 student health services inventory for American River College, one of the District's
20 (then) three (now four) colleges. The Controller states that its review of a sample of six

Incorrect Reduction Claim of Los Rios Community College District
1/84, 1118/87 Health Fee Elimination

1 months of logs of "actual" student health services provided during the period of FY
2 1998-99 through FY 2001-02 indicated that American River College "provided" student
3 health services "exceeding" those services provided by the District during the base
4 year. The Controller concluded that an "average" of only 84.26% of the audit year
5 services matched services provided in the base year of FY 1986-87.

6 Statutory and Regulatory Requirements

7 Education Code Section 76355, subdivision (e), states:

8 "Any community college district that provided health services in the 1986-87
9 fiscal year shall maintain health services, at the level provided during the 1986-
10 87 fiscal year, and each fiscal year thereafter."

11 The parameters and guidelines state at Part III Eligible Claimants:

12 "Community college districts which provided health services in 1986-87 fiscal
13 year and continue to provide the same services as a result of this mandate are
14 eligible to claim reimbursement of those costs."

15 Services Provided vs. Services Rendered

16 The Controller audit findings do not demonstrate if the enumerated services
17 allegedly "not provided" in FY 1986-87 were actually available to students. As a
18 preliminary matter, we feel the Controller misstates the law, there are no specific
19 student health services required for each college district. The parameters and
20 guidelines state that "[o]nly services provided in 1986-87 fiscal year may be claimed."
21 Thus, the requirement is to continue the level of services provided in FY 1986-87, but
22 there is no statewide standard list of types of services to be provided. In addition, note
23 that the cost of services is not compared, only the level of services.

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1 The Controller is endeavoring to compare the student health services *rendered*
2 during the fiscal years claimed (audit years) to those services *rendered* during 1986-87
3 fiscal year (the base year). The comparison is intended to determine whether the same
4 or greater level of services are *rendered* in the audit years which may result in some
5 audit year costs being disallowed for being in excess of the mandate. The Controller
6 is requiring claimants to prove that services rendered in the audit years were also
7 rendered in the base year. In order to make this determination, the Controller is
8 reviewing base year services claimed which are clearly beyond the statute of limitations
9 for an audit or record retention.

10 The statutory requirement is that at least the same level of services be *provided*.
11 There is no basis in law or fact which requires the entire variety of health care services
12 *available* each year to actually have been utilized, which is to say *rendered*, each year
13 in order to prove that the same services are *provided*. The District is certifying that the
14 same level of services continue to be available, not that each and every service was
15 rendered each year. In other words, for example, hearing tests may be available every
16 year, but there may be a year in which no hearing tests were required by students.

17 Incidences of diseases and courses of treatment change over a period of fifteen
18 years. This dynamic perhaps was not anticipated when the parameters and guidelines
19 were adopted about twenty years ago. If so, this matter cannot be charged to the
20 claimants, as it is a Commission-adopted document.

Incorrect Reduction Claim of Los Rios Community College District
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1 District Level Test of Services Provided

2 The Controller states that its review of a sample of six-months of logs of "actual"
3 student health services provided indicated that *American River College* "provided"
4 student health services "exceeding" those services provided by the *district* during the
5 base year. This is not the standard of review to be used. The comparison of the levels
6 of services provided is a *district* level test, not a *college* level test. The Controller's
7 Form HFE 2.1 is consistent with the parameters and guidelines which establish the
8 inventory of student health services as a district-level test, not a particular college
9 within the district.

10 Audit by Sampling

11 Sampling does not result in a determination of actual costs. The parameters and
12 guidelines do not allow the claimant to use sampling for reporting mandate costs. The
13 parameters and guidelines do not allow the Controller to use sampling techniques for
14 the determination of program compliance. Claimants were never on notice that the
15 Controller would be utilizing sampling techniques. This is a standard of general
16 application being enforced by the Controller without benefit of the rulemaking
17 procedures required by the Administrative Procedure Act.

18 Sampling Method

19 The Controller's calculation of the cost of services "not provided" utilizes
20 extrapolations of facts not related to the actual cost of those services. As stated
21 before, the adjustment is incorrect because it is based on services rendered.

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1 Regardless, sampling here is too limited. First, the sample "universe" was limited to
2 one college. Second, if a particular service was not included in the portion of the
3 documentation selected for the sample, but was in the universe of services rendered,
4 the sampling improperly penalizes the District for a type of service actually rendered.

5 As a separate issue, it is inappropriate to apply a percentage reduction to the
6 audit period costs. The parameters and guidelines require maintenance of effort (level
7 of service) rather than cost accounting for the services provided. There is no evidence
8 that the cost of the services disallowed by the Controller represent the percentage of
9 activities disallowed. There is no basis to presume that the services disallowed are
10 uniform in cost to the services allowed. The method of adjustment used is not based
11 on a factual foundation or a legal basis.

12 Source Documentation

13 This finding is also based, partially, upon the report's assertion that the
14 "*Parameters and Guidelines* states [sic] that all costs claimed must be traceable to
15 source documentation that shows evidence of the validity of such costs." The
16 parameters and guidelines actually state, in that regard, that "...all costs claimed must
17 be traceable to source documents and/or worksheets that show evidence of the validity
18 of such costs." The Controller's audit report states that its adjustment was based on
19 logs of services provided to students. The logs upon which the Controller relied upon
20 for its adjustments are not documentation specifically required by the parameters and
21 guidelines. The Education Code and parameters and guidelines do not require the

Incorrect Reduction Claim of Los Rios Community College District
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1 claimant to provide records of the services rendered as a condition of reimbursement,
2 only to certify to the services available. Thus, the Controller is incorrectly adjusting the
3 claim reimbursement based on the claimant not having documentation which it is not
4 required to maintain.

5 As a factual matter, if the documentation used by the Controller was sufficient for
6 the Controller to calculate the dollar amount of alleged new services, it is contrary for
7 the Controller to assert that the adjustment is based on insufficient documentation. It
8 would therefore appear that this finding is based upon the incorrect standard for review.
9 The Controller, as the audit agency imposing the adjustment, has the burden of proving
10 the factual and legal basis for its adjustments. Instead, we contend the Controller
11 incorrectly audited the services rendered rather than services available to the students;
12 incorrectly used only the services provided at one college when the test is for the entire
13 district; incorrectly utilized a sample of the services rendered at one college which
14 could exclude the very thing they were seeking, that is a complete listing of services
15 rendered; and incorrectly applied their findings as a percentage reduction in cost
16 without a factual basis to presume that the cost of services disallowed are uniform.

17 Unreasonable or Excessive

18 None of the adjustments were made because the costs claimed were excessive
19 or unreasonable. The Controller does not assert that the claimed costs were excessive
20 or unreasonable, which is the only mandated cost audit standard in statute
21 (Government Code Section 17561(d) (2)). It would therefore appear that the entire

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1 findings are based upon the wrong standard for review. If the Controller wishes to
2 enforce other audit standards for mandated cost reimbursement, the Controller should
3 comply with the Administrative Procedure Act.

4 **Finding 2: Unallowable services and supplies**

5 The Controller asserts unallowable services and supplies totaling \$28,782 and
6 related indirect costs of \$8,887 as services not reimbursable under the mandate
7 program and services not provided in the base year. The statutory and regulatory
8 requirements are the same as in Finding 1.

9 This finding includes a disallowance of \$26,100 in costs incurred for physical
10 exams for intercollegiate athletics and for salaries of health professionals present at
11 athletic events. Other than concluding that "[t]hese costs are not reimbursable under
12 the mandated program," the Controller does not cite a legal basis for this adjustment.
13 Some of the claimable services enumerated in the parameters and guidelines include
14 accident reports, a college physician, outside physician, registered nurse,
15 examinations, first aid, physicals for *athletes*, and dressing change, which would seem
16 to satisfactorily encompass the scope of services which the Controller believes are
17 unallowable.

18 The Controller asserts Hepatitis B vaccination costs of \$2,125 are unallowable.
19 The Controller concludes that since the Hepatitis B vaccinations, specifically, were not
20 identified as a service available at the college health center in FY 1986-87, and not

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1 listed in the parameters and guidelines, the costs are not reimbursable. The District's
2 Form HFE 2.1 submitted for each fiscal year accurately reflects that immunization
3 services were available in FY 1986-87. Hepatitis B vaccinations now are just a part of
4 the whole scope of services which may comprise immunization services, and the
5 parameters and guidelines allow for reimbursement of immunization services.

6 Student Health Services Fund

7 The Controller seems to be using reimbursable services as defined by the
8 parameters and guidelines as a basis for permissible use of the student health services
9 fees. Education Code Section 76355, subdivision (a), permits the collection of student
10 health fees for student health services. Subdivision (d) requires that these fees, if
11 collected, be deposited in a designated fund and be expended only as authorized.
12 Subdivision (d) prohibits expenditures *from the fund* for physical examinations for
13 intercollegiate athletics or the salaries of health professionals for athletic events. The
14 prohibition only applies to expenditure of funds from the special account designated in
15 which student health fees are deposited.

16 The March 5, 2001-letter from the Chancellor of the California Community
17 Colleges clearly states that:

18 "All fees collected pursuant to this section shall be deposited in the
19 Student Health Fee Account in the Restricted General Fund of the district.
20 These fees shall be expended only to provide health services as specified in
21 regulations adopted by the board of governors. Allowable expenditures include
22 health supervision and services, including direct or indirect medical and
23 hospitalization services, or the operation of a student health center or centers, or
24 both. Allowable expenditure exclude athletic-related salaries, services,

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1 insurance, insurance deductibles, or any other expense that is not available to
2 all students.”

3 The “regulations” referenced are found at Title 5, CCR, Sections 54700-54710. The
4 regulations clearly exclude athletic services but arguably include immunization
5 services. However, since Title 5 does not control mandate reimbursement it is not
6 relevant. The scope of services defined in Title 5 as properly chargeable to the student
7 health services fund is not determinative of the types of services for which the
8 parameters and guidelines permit reimbursement, and the Controller has already
9 properly asserted that the parameters and guidelines define the scope of
10 reimbursement. Unless the student health services fees exceed the direct and indirect
11 cost of all student health services, there is no supportable presumption that the student
12 health fees fund is funding the services to athletes. Furthermore, since this District did
13 not collect student health services fees, the presumption could not apply to this District
14 in any case.

15 The Controller, as the audit agency proposing the adjustment, has the burden of
16 proving the factual and legal basis for its adjustments. The Controller provides no legal
17 basis to disallow reimbursement of athletic and immunization services allowed by the
18 parameters and guidelines.

19 Unreasonable or Excessive

20 None of the adjustments were made because the costs claimed were excessive
21 or unreasonable. The Controller does not assert that the claimed costs were excessive

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1 or unreasonable, which is the only mandated cost audit standard in statute
2 (Government Code Section 17561(d) (2)). It would therefore appear that the entire
3 findings are based upon the wrong standard for review. If the Controller wishes to
4 enforce other audit standards for mandated cost reimbursement, the Controller should
5 comply with the Administrative Procedure Act.

6 **Finding 3 - Overstated Indirect Cost Rates Claimed**

7 The Controller asserts that the District overstated its indirect cost rates and
8 costs in the amount of \$361,689. This finding is based upon the report's statement that
9 "(t)he district claimed indirect costs based on an indirect cost rate proposals (IRCP)
10 prepared for each fiscal year. However, the District did not obtain federal approval for
11 its IRCPs. The SCO auditor calculated indirect cost rates using the methodology
12 allowed by the SCO claiming instructions." Contrary to the Controller's interpretation,
13 there is no requirement in law that the District's indirect cost rate must be "federally"
14 approved. The Controller has never specified the federal agencies which have the
15 authority to approve indirect cost rates. Further, it should be noted that the Controller
16 did not determine that the District's rate was excessive or unreasonable.

17 CCFS-311

18 In fact, both the District's method and the Controller's method utilized the same
19 source document, the CCFS-311 annual financial and budget report required by the
20 state. The difference in the claimed and audited methods is in the determination of

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1 which of those cost elements are direct costs and which are indirect costs. Indeed,
2 federally “approved” rates which the Controller will accept without further action, are
3 “negotiated” rates calculated by the district and submitted for approval, indicating that
4 the process is not an exact science, but a determination of the relevance and
5 reasonableness of the cost allocation assumptions made for the method used.

6 The finding regarding the “previous fiscal year’s costs” is a distinction without a
7 difference. The CCFS-311 is prepared each September based on prior year costs for
8 use in the budget fiscal year. The District used the rate calculated based on the actual
9 cost for the prior year. It’s a timing difference, only. However, since the District is not
10 required to use the CCFS-311, merely allowed to do so, the choice of fiscal year data is
11 similarly not required. To make the ultimate point, federal cost studies are used for as
12 many as five years, based on data from the first of the five years, and the Controller
13 accepts federally approved indirect cost studies.

14 Regulatory Requirements

15 No particular indirect cost rate calculation is required by law. The parameters
16 and guidelines state that “Indirect costs *may be claimed* in the manner described by the
17 State Controller in his claiming instructions.” The district claimed these indirect costs
18 “in the manner” described by the Controller. The correct forms were used and the
19 claimed amounts were entered at the correct locations. Further, “may” is not “shall”;
20 the parameters and guidelines do not require that indirect costs be claimed in the
21 manner described by the Controller. In the audit report, the Controller asserts that

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1 because parameters and guidelines specifically references the claiming instructions,
2 the claiming instructions thereby become authoritative criteria. The Government Code
3 makes no allowances for "authoritative criteria" for purpose of mandate reimbursement,
4 this is a meaningless fiction created by the Controller. Nor does the "specific"
5 reference to the claiming instructions in the parameters and guidelines change "may"
6 into a "shall." Since the Controller's claiming instructions were never adopted as law, or
7 regulations pursuant to the Administrative Procedure Act, the claiming instructions are
8 a statement of the Controller's interpretation and not law.

9 Unreasonable or Excessive

10 Government Code Section 17561(d)(2) requires the Controller to pay claims,
11 provided that the Controller may audit the records of any school district to verify the
12 actual amount of the mandated costs, and may reduce any claim that the Controller
13 determines is excessive or unreasonable. The Controller is authorized to reduce a
14 claim only if it determines the claim to be excessive or unreasonable. Here, the District
15 has computed its ICRPs utilizing cost accounting principles from the Office of
16 Management and Budget Circular A-21, and the Controller has disallowed it without a
17 determination of whether the product of the District's calculation would, or would not, be
18 excessive, unreasonable, or inconsistent with cost accounting principles.

19 The District reported indirect cost rates of 31.17%, 30.40%, 30.40%, 31.45%,
20 30.72% for the five fiscal years audited. Subsequent to the audit, the District
21 performed the complex cost accounting and time consuming negotiation process to

Incorrect Reduction Claim of Los Rios Community College District
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1 receive a federally approved rate of 30.0% from the Department of Health and Human
2 Services, for use in fiscal years beginning 2005-06. The five rates used on the claims
3 were less than two percentage points different from the federally negotiated rate. It can
4 be clearly seen that the OMB A-21 cost accounting methods are not the intellectual
5 property of the federal government and can be competently utilized by Districts to
6 generate a reasonable indirect cost rate without the need for federal approval.

7 Neither State law nor the parameters and guidelines made compliance with the
8 Controller's claiming instructions a condition of reimbursement. The district has
9 followed the parameters and guidelines. The burden of proof is on the Controller to
10 prove that the product of District's calculation is unreasonable, not to recalculate the
11 rate according to its unenforceable ministerial preferences. Therefore, the Controller
12 made no determination as to whether the method used by the District was reasonable,
13 but, substituted its FAM-29C method for the method reported by the District. The
14 substitution of the FAM-29C method is not a "finding" enforceable either by fact or law.
15 The Controller's insistence that OMB A-21 costs accounting is the sole province of the
16 federal government is both legally incorrect and factually refuted.

17 **Finding 4: Understated authorized health fee revenues claimed**

18 This finding is based on the Controller's conclusion that the District did not offset
19 student health services program costs by the amount of authorized health fee revenues
20 in the amount of \$6,101,947 in student health service fees.

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1 Education Code Section 76355

2 Education Code Section 76355, subdivision (a), in relevant part, provides: "The
3 governing board of a district maintaining a community college *may require* community
4 college students to pay a fee...for health supervision and services..." There is no
5 requirement that community colleges levy these fees. The permissive nature of the
6 provision is further illustrated in subdivision (b) which states "*If, pursuant to this*
7 *Section, a fee is required, the governing board of the district shall decide the amount of*
8 *the fee, if any, that a part-time student is required to pay. The governing board may*
9 *decide whether the fee shall be mandatory or optional.*"

10 Parameters and Guidelines

11 The Controller states that the "*Parameters and Guidelines* states that health fees
12 authorized by the *Education Code* must be deducted from the costs claimed." The
13 parameters and guidelines actually state:

14 "Any offsetting savings that the claimant experiences as a direct result of
15 this statute must be deducted from the costs claimed. In addition,
16 reimbursement for this mandate received from any source, e.g., federal, state,
17 etc., shall be identified and deducted from this claim. This shall include the
18 amount of [student fees] as authorized by Education Code Section 72246(a)⁴."

19 In order for a district to "experience" these "offsetting savings" the district must actually
20 have collected these fees. Student health fees actually collected must be used to
21 offset costs, but not student health fees that could have been collected and were not.

⁴ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

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1 The use of the term "any offsetting savings" further illustrates the permissive nature of
2 the fees.

3 Government Code Section 17514

4 The Controller relies upon Government Code Section 17514 for the conclusion
5 that "[t]o the extent community college districts can charge a fee, they are not required
6 to incur a cost." Government Code Section 17514, as added by Chapter 1459,
7 Statutes of 1984, actually states:

8 "Costs mandated by the state" means any increased costs which a local
9 agency or school district is required to incur after July 1, 1980, as a result of any
10 statute enacted on or after January 1, 1975, or any executive order
11 implementing any statute enacted on or after January 1, 1975, which mandates
12 a new program or higher level of service of an existing program within the
13 meaning of Section 6 of Article XIII B of the California Constitution."

14 There is nothing in the language of the statute regarding the authority to charge a fee,
15 any nexus of fee revenue to increased cost, nor any language which describes the
16 legal effect of fees collected.

17 Government Code Section 17556

18 The Controller relies upon Government Code Section 17556 for the conclusion
19 that "the COSM shall not find costs mandated by the State if the school district has the
20 authority to levy fees to pay for the mandated program or increased level of service."
21 Government Code Section 17556 as last amended by Chapter 589/89 actually states:

22 "The commission shall not find costs mandated by the state, as defined in
23 Section 17514, in any claim submitted by a local agency or school district, if after
24 a hearing, the commission finds that: . . .

25 (d) The local agency or school district has the authority to levy service

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1 charges, fees, or assessments sufficient to pay for the mandated program or
2 increased level of service. ...”

3 We believe the Controller misrepresents the law. Government Code Section 17556
4 prohibits the Commission on State Mandates from finding costs subject to
5 reimbursement, that is, approving a test claim, where there is authority to levy fees in
6 an amount sufficient to offset the entire mandated costs. Here, the Commission has
7 already approved the test claim and made a finding of a new program or increased
8 costs, and further, that the student health fees are per se insufficient to offset the entire
9 cost of the mandate.

10 Student Health Services Fee Amount

11 The Controller asserts that the District should have collected a student health
12 service fee each semester from non-exempt students in the amount of \$8, \$9, \$11, or
13 \$12, depending on the fiscal year and whether the student is enrolled full time or part
14 time. Districts receive notice of these fee amounts from the Chancellor of the
15 California Community Colleges. An example of one such notice is the letter dated
16 March 5, 2001, attached as Exhibit “F.” While Education Code Section 76355
17 provides for an increase in the student health service fee, it did not grant the
18 Chancellor the authority to establish mandatory fee amounts or mandatory fee
19 increases. No state agency was granted that authority by the Education Code, and no
20 state agency has exercised its rulemaking authority to establish mandatory fee
21 amounts. It should be noted that the Chancellor’s letter properly states that increasing

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1 the amount of the fee is at the option of the district, and that the Chancellor is not
2 asserting that authority. Therefore, the Controller cannot rely upon the Chancellor's
3 notice to college districts of the opportunity to increase student health services fees as
4 a basis to adjust the claim for collectible student health services fees.

5 Fees Collected vs. Fees Collectible

6 This issue is one of student health fees revenue actually received, rather than
7 student health fees which might be collected. The Commission determined, as stated
8 in the parameters and guidelines that the student health fees "experienced" (*collected*)
9 would reduce the amount subject to reimbursement. Student fees not collected are
10 student fees not "experienced" and as such should not reduce reimbursement. Further,
11 the amount "collectible" will never equal actual revenues collected due to changes in a
12 student's BOGG eligibility, bad debt accounts, and refunds.

13 Because districts are not required to collect a fee from students for student
14 health services, and if such a fee is collected the amount is to be determined by the
15 district and not the Controller, the Controller's adjustment is without legal basis. What
16 districts are required by the parameters and guidelines to do is to reduce the amount of
17 their claimed costs by the amount of student health services fee revenue actually
18 received. Therefore, student health fees are merely collectible, they are not
19 mandatory, and it is inappropriate for the Controller to reduce claim amounts by
20 revenues not received.

1 **Statute of Limitations for Audit**

2 This issue is not a finding of the Controller. The District asserts that the first
3 three claims of the five claims audited, fiscal years 1997-98, 1998-99 and 1999-00,
4 were beyond the statute of limitations for audit when the Controller completed its audit
5 on June 24, 2004. The District raised this issue at the beginning of the audit and in its
6 letter dated May 24, 2004 in response to the draft audit report.

7 Chronology of Claim Action Dates

8	January 15, 2000	FY 1997-98 Claim filed by District
9	January 15, 2000	FY 1998-99 Claim filed by District
10	December 30, 2000	FY 1999-00 Claim filed by District
11	December 12, 2002	SCO telephone call to District
12	December 31, 2002	FY 1997-98 Statute of Limitations for audit expires
13	December 31, 2002	FY 1998-99 Statute of Limitations for audit expires
14	December 31, 2002	FY 1999-00 Statute of Limitations for audit expires
15	January 16, 2003	Entrance Conference meeting
16	June 24, 2004	SCO Final Audit Report

17 In its final audit report, the Controller responded as follows:

18 "No statutory language defines when the SCO must issue an audit report.
19 Furthermore, no statutory language requires an entrance conference or some
20 other formal event to be held before the two-year period expires. SCO staff
21 contacted the district to initiate the audit in December 2002, within the statute of
22 limitations. This district requested that the audit start in January 2003, rather
23 than December 2002, Government Code Section 17558.5 (d), effective July 1,
24 1996, states, "Nothing in this section shall be construed to limit the adjustment of
25 payments ...when a delay in the completion of an audit is the result of willful acts
26 by the claimant or inability to reach agreement on terms of final settlement."

27 The Controller is thus asserting that when the audit was "initiated" is relevant to
28 the period of limitations, and that some "willful" act of the District prevented the

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1 Controller from “completing” the audit. However, if the date the audit was initiated is
2 the relevant event for the tolling of the statute, then the alleged delay in completion is
3 not relevant, and would be harmless. In any case, a review of the statutory history of
4 Government Code Section 17558.5 indicates that the matter of the audit “initiation” date
5 is not relevant to any fiscal year claims which are the subject of this audit.

6 Statutory History

7 Prior to January 1, 1994, no statute governed the statute of limitations for audits
8 of mandate reimbursement claims. Statutes of 1993, Chapter 906, Section 2, operative
9 January 1, 1994, added Government Code Section 17558.5 to establish for the first
10 time a specific statute of limitations for audit of mandate reimbursement claims:

11 “(a) A reimbursement claim for actual costs filed by a local agency or school
12 district pursuant to this chapter is subject to audit by the Controller no later than
13 four years after the end of the calendar year in which the reimbursement claim is
14 filed or last amended. However, if no funds are appropriated for the program for
15 the fiscal year for which the claim is made, the time for the Controller to initiate
16 an audit shall commence to run from the date of initial payment of the claim.”

17 Thus, there were two standards. A funded claim was “subject to audit” for four years
18 after the end of the calendar year in which the claim was filed. An “unfunded” claim
19 must have its audit “initiated” within four years of first payment.

20 Statutes of 1995, Chapter 945, Section 13, operative July 1, 1996, repealed and
21 replaced Section 17558.5, changing only the period of limitations:

22 “(a) A reimbursement claim for actual costs filed by a local agency or school
23 district pursuant to this chapter is subject to audit by the Controller no later than
24 two years after the end of the calendar year in which the reimbursement claim is
25 filed or last amended. However, if no funds are appropriated for the program for

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1 the fiscal year for which the claim is made, the time for the Controller to initiate
2 an audit shall commence to run from the date of initial payment of the claim.”

3 All of the annual claims which are the subject of the incorrect reduction claim are
4 subject to the two-year statute of limitations established by Chapter 945/95. The claims
5 for the first three years (FY 1997-98, FY 1998-99, and FY 1999-00) were beyond audit
6 when the audit report was issued. The last two years (FY 2000-01 and FY 2000-02)
7 were still subject to audit when the audit report was issued. Since funds were
8 appropriated for the program for all the fiscal years which are the subject of the audit,
9 the alternative measurement date is not applicable, and the potential factual issue of
10 when the audit is initiated is not relevant.

11 Statutes of 2002, Chapter 1128, Section 14.5, operative January 1, 2003
12 amended Section 17558.5 to state:

13 “(a) A reimbursement claim for actual costs filed by a local agency or school
14 district pursuant to this chapter is subject to the initiation of an audit by the
15 Controller no later than three years after the ~~end of the calendar year in which~~
16 the date that the actual reimbursement claim is filed or last amended, whichever
17 is later. However, if no funds are appropriated or no payment is made to a
18 claimant for the program for the fiscal year for which the claim is made filed, the
19 time for the Controller to initiate an audit shall commence to run from the date of
20 initial payment of the claim.”

21 None of the fiscal period claims which are the subject of the audit are subject to
22 this amended version of Section 17558.5. The amendment is pertinent in that it
23 indicates this is the first time that the factual issue of the date the audit is “initiated” for
24 mandate programs for which funds are appropriated is introduced. Therefore, at the
25 time the claim is filed, it is impossible for the claimant to know when the statute of

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1 limitations will expire, which is contrary to the purpose of a statute of limitations.

2 Statutes of 2004, Chapter 890, Section 18, operative January 1, 2005 amended
3 Section 17558.5 to state:

4 “(a) A reimbursement claim for actual costs filed by a local agency or school
5 district pursuant to this chapter is subject to the initiation of an audit by the
6 Controller no later than three years after the date that the actual reimbursement
7 claim is filed or last amended, whichever is later. However, if no funds are
8 appropriated or no payment is made to a claimant for the program for the fiscal
9 year for which the claim is filed, the time for the Controller to initiate an audit
10 shall commence to run from the date of initial payment of the claim. In any case,
11 an audit shall be completed not later than two years after the date that the audit
12 is commenced.”

13 None of the fiscal period claims which are the subject of the audit are subject to
14 this amended version of Section 17558.5. The amendment is pertinent since it
15 indicates this is the first time that the Controller audits may be completed at a time
16 other than the stated period of limitations.

17 Initiation of An Audit

18 The audit report states that the Controller’s staff telephone contact with the
19 District in December 2002 initiated the audit. First, initiation of the audit is not relevant
20 to the claims which are the subject of this incorrect reduction claim. The words “initiate
21 an audit” are used only in the second sentence of Section 17558.5, that is, in a
22 situation when no funds are appropriated for the program for the fiscal year for which
23 the claim is made. Then, and only then, is the Controller authorized to “initiate an
24 audit” within two years from the date of initial payment. The claim years at issue here
25 were not subject to the “no funds appropriated” provision, they were subject only to the

Incorrect Reduction Claim of Los Rios Community College District
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1 first sentence of the statute, i.e., they were only “subject to audit” through December
2 2002.

3 The unmistakable language of Section 17558.5 is confirmed by the later actions
4 of the Legislature. Chapter 1128, Statutes of 2002, amended subdivision (a) of
5 Government Code Section 17558.5 to change the “subject to audit” language of the first
6 sentence to “subject to the initiation of an audit.” Had the Legislature intended the
7 former Section to mean “subject to the initiation of an audit,” there would have been no
8 need to amend the statute to now say “subject to the initiation of an audit.” Even if the
9 Controller had “initiated” the audit on the date of the first phone call, it could not have
10 completed its two months of field work, exit conference, office review, draft audit report,
11 and issued a final audit report on or before December 31, 2002.

12 The Controller’s standard for “initiation” of an audit is actually the date of the
13 entrance conference, not the date of the phone contact. In this audit, and the
14 concurrent audit of the Los Rios Mandate Reimbursement Process claims, the
15 Controller asserts the telephone contact as the initiation date for the audit. In other
16 mandate audit reports issued after the Los Rios audits, the Controller states that the
17 entrance conference date initiates the audit.⁵ Further, in the matter of the Health Fee

⁵ Some of those other audit reports where the entrance date is specifically stated as the initiation date for the audit are:

- Newport-Mesa Unified School District, School District of Choice, issued August 31, 2004
- Clovis Unified School District, Graduation Requirements, issued October 22,

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1 Elimination audit of North Orange Community College District, the draft audit report
2 dated May 6, 2005, included the three fiscal years audited by the Controller: FY 2000-
3 01, FY 2001-02, and FY2002-03. In its response letter dated June 15, 2005, North
4 Orange County asserted that the statute of limitations for the audit of the FY 2000-01
5 claim expired December 31, 2003, pursuant to Government Code Section 17558.5,
6 because the audit report was issued after that date. In the final audit report dated July
7 22, 2005, the Controller agreed that FY 2000-01 was past audit, but for another reason,
8 the stated reason being that the "FY 2000-01 claim was not subject to audit due to the
9 expiration of the statute of limitations within which to initiate an audit." The North
10 Orange County audit entrance conference date was January 26, 2004, which is the
11 date, according to the Controller, that an audit is "initiated."

12 Given this contradiction in measurement dates, there does not appear to be a
13 consistent Controller position on this issue. It can therefore be concluded that the
14 Controller has no legal basis for their policy on the initiation date of audits.

-
- 2004
State Center Community College District, Health Fee Elimination, issued
September 17, 2004.
 - West Valley-Mission Community College District, Health Fee Elimination, issued
April 8, 2005.
 - Long Beach Community College District, Health Fee Elimination, issued April 27,
2005.

All of these audit reports were issued after the Los Rios audit report

1 Delay of the Audit

2 The Controller asserts that the District somehow committed a willful act intended
3 to delay the completion of the audit. However, the Controller provides no evidence that
4 there was any willful act by the District intended to delay the completion of the audit. If
5 there was any delay to the start of the audit, it was by unilateral action of the Controller.
6 Regardless, the delay in the start of an audit which could not have been timely
7 completed is not relevant.

8 The Controller's audit staff first called the District on December 12, 2002 (two
9 weeks prior to the Christmas holidays) and asked to speak to Ms. Bray "about an
10 audit." When Ms. Bray was able to return the call on December 18, 2002 (the week
11 prior to the Christmas holidays), the employee of the Controller's office stated to Ms.
12 Bray that "she assumed that [they] were too busy to meet in December, so she
13 requested a meeting during the first or second week of January." Ms. Bray called the
14 Controller's employee again on December 19, 2002 to set a date in January as
15 requested by the Controller's employee. A copy of Ms. Bray's declaration dated
16 September 30, 2004 is attached as Exhibit "G." There was no credible attempt by the
17 Controller's office "to initiate the audit" in December 2002. But as stated above, the
18 argument that an attempt was made to "initiate an audit" in December 2002 is not
19 legally relevant since the claims were only "subject to audit" through December 2002.

20 The Controller did not complete the audit within the statutory period allowed for
21 the first three fiscal year claims included in this audit. The date the audit was "initiated"

1 for these three years is irrelevant, only the date the audit was completed is relevant as
2 evidenced by the (final) Controller's audit report. The audit findings are therefore void
3 for those three claims.

4 **PART VIII. RELIEF REQUESTED**


5 The District filed its annual reimbursement claims within the time limits
6 prescribed by the Government Code. The amounts claimed by the District for
7 reimbursement of the costs of implementing the program imposed by Chapter 1,
8 Statutes of 1984, 2nd E.S., Chapter 1118, Statutes of 1987, and Education Code
9 Section 76355 represent the actual costs incurred by the District to carry out this
10 program. These costs were properly claimed pursuant to the Commission's parameters
11 and guidelines. Reimbursement of these costs is required under Article XIII B, Section
12 6 of the California Constitution. The Controller denied reimbursement without any
13 basis in law or fact. The District has met its burden of going forward on this claim by
14 complying with the requirements of Section 1185, Title 2, California Code of
15 Regulations. Because the Controller has enforced and is seeking to enforce these
16 adjustments without benefit of statute or regulation, the burden of proof is now upon the
17 Controller to establish a legal basis for its actions.

18 The District requests that the Commission make findings of fact and law on each
19 and every adjustment made by the Controller and each and every procedural and
20 jurisdictional issue raised in this claim, and order the Controller to correct its audit
21 report findings therefrom.

1 PART IX. CERTIFICATION

2 By my signature below, I hereby declare, under penalty of perjury under the laws
3 of the State of California, that the information in this incorrect reduction claim
4 submission is true and complete to the best of my own knowledge or information or
5 belief, and that the attached documents are true and correct copies of documents
6 received from or sent by the state agency which originated the document.

7 Executed on August 29, at Sacramento, California, by

8 
9 _____
10 Jon Sharpe, Deputy Chancellor
11 Los Rios Community College District
12 1919 Spanos Court
13 Sacramento, California 95825-3981
14 Voice: 916-568-3058
15 Fax: 916-568-3078
E-mail: SharpeJ@losrios.edu

16 APPOINTMENT OF REPRESENTATIVE

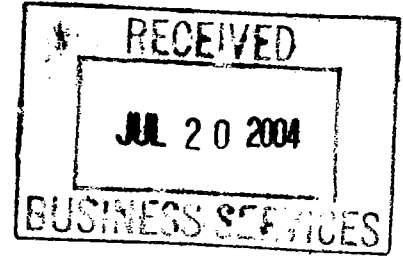
17 Los Rios Community College District appoints Keith B. Petersen, SixTen and
18 Associates, as its representative for this Incorrect reduction claim.

19 
20 _____
21 Jon Sharpe, Deputy Chancellor
Los Rios Community College District

20 8/29/05
21 _____
Date

- 22 Attachments:
- 23 Exhibit "A" SCO Legal Counsel's Letter dated July 15, 2004
 - 24 Exhibit "B" Parameters and Guidelines as amended May 25, 1989
 - 25 Exhibit "C" Controller's Claiming Instructions September 1997
 - 26 Exhibit "D" SCO Audit Report dated June 24, 2004
 - 27 Exhibit "E" District's Letter dated May 24, 2004
 - 28 Exhibit "F" Chancellor's Letter dated March 5, 2001
 - 29 Exhibit "G" Declaration of Carrie Bray dated September 30, 2004

Exhibit A



STEVE WESTLY
California State Controller

July 15, 2004

Mike Brandy, Vice Chancellor
Foothill-De Anza Community College District
12345 El Monte Road
Los Altos, CA 94022

Re: Foothill-De Anza Community College District Audit

Dear Mr. Brandy:

This is in response to your letter to me dated May 13, 2004, concerning the Controller's Audit of the Health Fee claim.

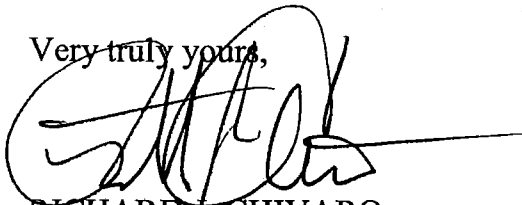
The Controller's informal audit review process was established to resolve factual disputes where no other forum for resolution, other than a judicial proceeding, is available.

The proper forum for resolving issues involving mandated cost programs is through the incorrect reduction process through the Commission on State Mandates. As such, this office will not be scheduling an informal conference for this matter.

However, in light of the concerns expressed in your letter concerning the auditors assigned and the validity of the findings, I am forwarding your letter to Vince Brown, Chief Operating Officer, for his review and response.

If you have any questions you may contact Mr. Vince Brown at (916) 445-2038.

Very truly yours,



RICHARD J. CHIVARO
Chief Counsel

RJC/st

cc: Vincent P. Brown, Chief Operating Officer, State Controller's Office
Jeff Brownfield, Chief, Division of Audits, State Controller's Office

Exhibit B

Adopted: 8/27/87
Amended: 5/25/89

PARAMETERS AND GUIDELINES
Chapter 1, Statutes of 1984, 2nd E.S.
Chapter 1118, Statutes of 1987
Health Fee Elimination

I. SUMMARY OF MANDATE

Chapter 1, Statutes of 1984, 2nd E.S. repealed Education Code Section 72246 which had authorized community college districts to charge a health fee for the purpose of providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. This statute also required that health services for which a community college district charged a fee during the 1983-84 fiscal year had to be maintained at that level in the 1984-85 fiscal year and every year thereafter. The provisions of this statute would automatically repeal on December 31, 1987, which would reinstate the community colleges districts' authority to charge a health fee as specified.

Chapter 1118, Statutes of 1987, amended Education Code section 72246 to require any community college district that provided health services in 1986-87 to maintain health services at the level provided during the 1986-87 fiscal year in 1987-88 and each fiscal year thereafter.

II. COMMISSION ON STATE MANDATES' DECISION

At its hearing on November 20, 1986, the Commission on State Mandates determined that Chapter 1, Statutes of 1984, 2nd E.S. imposed a "new program" upon community college districts by requiring any community college district which provided health services for which it was authorized to charge a fee pursuant to former Section 72246 in the 1983-84 fiscal year to maintain health services at the level provided during the 1983-84 fiscal year in the 1984-85 fiscal year and each fiscal year thereafter. This maintenance of effort requirement applies to all community college districts which levied a health services fee in the 1983-84 fiscal year, regardless of the extent to which the health services fees collected offset the actual costs of providing health services at the 1983-84 fiscal year level.

At its hearing of April 27, 1989, the Commission determined that Chapter 1118, Statutes of 1987, amended this maintenance of effort requirement to apply to all community college districts which provided health services in fiscal year 1986-87 and required them to maintain that level in fiscal year 1987-88 and each fiscal year thereafter.

III. ELIGIBLE CLAIMANTS

Community college districts which provided health services in 1986-87 fiscal year and continue to provide the same services as a result of this mandate are eligible to claim reimbursement of those costs.

IV. PERIOD OF REIMBURSEMENT

Chapter 1, Statutes of 1984, 2nd E.S., became effective July 1, 1984. Section 17557 of the Government Code states that a test claim must be submitted on or before November 30th following a given fiscal year to establish for that fiscal year. The test claim for this mandate was filed on November 27, 1985; therefore, costs incurred on or after July 1, 1984, are reimbursable. Chapter 1118, Statutes of 1987, became effective January 1, 1988. Title 2, California Code of Regulations, section 1185.3(a) states that a parameters and guidelines amendment filed before the deadline for initial claims as specified in the Claiming Instructions shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines; therefore, costs incurred on or after January 1, 1988, for Chapter 1118, Statutes of 1987, are reimbursable.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim if applicable. Pursuant to Section 17561(d)(3) of the Government Code, all claims for reimbursement of costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code Section 17564.

V. REIMBURSABLE COSTS

A. Scope of Mandate

Eligible community college districts shall be reimbursed for the costs of providing a health services program. Only services provided in 1986-87 fiscal year may be claimed.

B. Reimbursable Activities

For each eligible claimant, the following cost items are reimbursable to the extent they were provided by the community college district in fiscal year 1986-87:

ACCIDENT REPORTS

APPOINTMENTS

- College Physician - Surgeon
- Dermatology, Family Practice, Internal Medicine
- Outside Physician
- Dental Services
- Outside Labs (X-ray, etc.)
- Psychologist, full services
- Cancel/Change Appointments
- R.N.
- Check Appointments

ASSESSMENT, INTERVENTION & COUNSELING

- Birth Control
- Lab Reports
- Nutrition
- Test Results (office)
- VD
- Other Medical Problems
- CD
- URI
- ENT
- Eye/Vision
- Derm./Allergy
- Gyn/Pregnancy Services
- Neuro
- Ortho
- GU
- Dental
- GI
- Stress Counseling
- Crisis Intervention
- Child Abuse Reporting and Counseling
- Substance Abuse Identification and Counseling
- Aids
- Eating Disorders
- Weight Control
- Personal Hygiene
- Burnout

EXAMINATIONS (Minor Illnesses)

- Recheck Minor Injury

HEALTH TALKS OR FAIRS - INFORMATION

- Sexually Transmitted Disease
- Drugs
- Aids
- Child Abuse
- Birth Control/Family Planning
- Stop Smoking
- Etc.
- Library - videos and cassettes

FIRST AID (Major Emergencies)

FIRST AID (Minor Emergencies)

FIRST AID KITS (Filled)

IMMUNIZATIONS

- Diphtheria/Tetanus
- Measles/Rubella
- Influenza
- Information

INSURANCE

On Campus Accident
Voluntary
Insurance Inquiry/Claim Administration

LABORATORY TESTS DONE

Inquiry/Interpretation
Pap Smears

PHYSICALS

Employees
Students
Athletes

MEDICATIONS (dispensed OTC for misc. illnesses)

Antacids
Antidiarrhial
Antihistamines
Aspirin, Tylenol, etc.
Skin rash preparations
Misc.
Eye drops
Ear drops
Toothache - Oil cloves
Stingkill
Midol - Menstrual Cramps

PARKING CARDS/ELEVATOR KEYS

Tokens
Return card/key
Parking inquiry
Elevator passes
Temporary handicapped parking permits

REFERRALS TO OUTSIDE AGENCIES

Private Medical Doctor
Health Department
Clinic
Dental
Counseling Centers
Crisis Centers
Transitional Living Facilities (Battered/Homeless Women)
Family Planning Facilities
Other Health Agencies

TESTS

Blood Pressure
Hearing
Tuberculosis
 Reading
 Information
Vision
Glucometer
Urinalysis

Hemoglobin
E.K.G.
Strep A testing
P.G. testing
Monospot
Hemacult
Misc.

MISCELLANEOUS

Absence Excuses/PE Waiver
Allergy Injections
Band-aids
Booklets/Pamphlets
Dressing Change
Rest
Suture Removal
Temperature
Weigh
Misc.
Information
Report/Form
Wart Removal

COMMITTEES

Safety
Environmental
Disaster Planning

SAFETY DATA SHEETS

Central file

X-RAY SERVICES

COMMUNICABLE DISEASE CONTROL

BODY FAT MEASUREMENTS

MINOR SURGERIES

SELF-ESTEEM GROUPS

MENTAL HEALTH CRISIS

AA GROUP

ADULT CHILDREN OF ALCOHOLICS GROUP

WORKSHOPS

Test Anxiety
Stress Management
Communication Skills
Weight Loss
Assertiveness Skills

VI. CLAIM PREPARATION

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a list of each item for which reimbursement is claimed under this mandate.

A. Description of Activity

1. Show the total number of full-time students enrolled per semester/quarter.
2. Show the total number of full-time students enrolled in the summer program.
3. Show the total number of part-time students enrolled per semester/quarter.
4. Show the total number of part-time students enrolled in the summer program.

B. Actual Costs of Claim Year for Providing 1986-87 Fiscal Year Program Level of Service

Claimed costs should be supported by the following information:

1. Employee Salaries and Benefits

Identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

2. Services and Supplies

Only expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials which have been consumed or expended specifically for the purpose of this mandate.

3. Allowable Overhead Cost

Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions.

VII. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. This would include documentation for the fiscal year 1986-87 program to substantiate a maintenance of effort. These documents must be kept on file by the agency submitting the claim for a period of no

less than three years from the date of the final payment of the claim pursuant to this mandate, and made available on the request of the State Controller or his agent.

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim. This shall include the amount of \$7.50 per full-time student per semester, \$5.00 per full-time student for summer school, or \$5.00 per full-time student per quarter, as authorized by Education Code section 72246(a). This shall also include payments (fees) received from individuals other than students who are not covered by Education Code Section 72246 for health services.

IX. REQUIRED CERTIFICATION

The following certification must accompany the claim:

I DO HEREBY CERTIFY under penalty of perjury:

THAT the foregoing is true and correct:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with;

and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

Signature of Authorized Representative

Date

Title

Telephone No.

0350d

Exhibit C

HEALTH FEE ELIMINATION

1. Summary of Chapters 1/84, 2nd E.S., and Chapter 1118/87

Chapter 1, Statutes of 1984, 2nd E.S., repealed Education Code § 72246 which authorized community college districts to charge a fee for the purpose of providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. The statute also required community college districts that charged a fee in the 1983/84 fiscal year to maintain that level of health services in the 1984/85 fiscal year and each fiscal year thereafter. The provisions of this statute would automatically repeal on December 31, 1987, which would reinstate the community college districts' authority to charge a health fee as specified.

Chapter 1118, Statutes of 1987 amended Education Code § 72246 to require any community college district that provided health services in the 1986/87 fiscal year to maintain health services at that level in the 1986/87 fiscal year and each fiscal year thereafter. Chapter 8, Statutes of 1993, has revised the numbering of § 72246 to § 76355.

2. Eligible Claimants

Any community college district incurring increased costs as a result of this mandate is eligible to claim reimbursement of these costs.

3. Appropriations

To determine if current funding is available for this program, refer to the schedule "Appropriations for State Mandated Cost Programs" in the "Annual Claiming Instructions for State Mandated Costs" issued in mid-September of each year to community college presidents.

4. Types of Claims

A. Reimbursement and Estimated Claims

A claimant may file a reimbursement claim and/or an estimated claim. A reimbursement claim details the costs actually incurred for a prior fiscal year. An estimated claim shows the costs to be incurred for the current fiscal year.

B. Minimum Claim

Section 17564(a), Government Code, provides that no claim shall be filed pursuant to Section 17561 unless such a claim exceeds \$200 per program per fiscal year.

5. Filing Deadline

- (1) Refer to Item 3 "Appropriations" to determine if the program is funded for the current fiscal year. If funding is available, an estimated claim must be filed with the State Controller's Office and postmarked by November 30, of the fiscal year in which costs are to be incurred. Timely filed estimated claims will be paid before late claims.

After having received payment for an estimated claim, the claimant must file a reimbursement claim by November 30, of the following fiscal year regardless whether the payment was more or less than the actual costs. If the local agency fails to file a reimbursement claim, monies received must be returned to the State. If no estimated claim was filed, the local agency may file a reimbursement

claim detailing the actual costs incurred for the fiscal year, provided there was an appropriation for the program for that fiscal year. (See item 3 above).

- (2) A reimbursement claim detailing the actual costs must be filed with the State Controller's Office and postmarked by November 30 following the fiscal year in which costs were incurred. If the claim is filed after the deadline but by November 30 of the succeeding fiscal year, the approved claim must be reduced by a late penalty of 10%, not to exceed \$1,000. Claims filed more than one year after the deadline will not be accepted.

6. Reimbursable Components

Eligible claimants will be reimbursed for health service costs at the level of service provided in the 1986/87 fiscal year. The reimbursement will be reduced by the amount of student health fees authorized per the Education Code § 76355.

After January 1, 1993, pursuant to Chapter 8, Statutes of 1993, the fees students were required to pay for health supervision and services were not more than:

\$10.00 per semester

\$5.00 for summer school

\$5.00 for each quarter

Beginning with the summer of 1997, the fees are:

\$11.00 per semester

\$8.00 for summer school or

\$8.00 for each quarter

The district may increase fees by the same percentage increase as the Implicit Price Deflator (IPD) for the state and local government purchase of goods and services.

Whenever the IPD calculates an increase of one dollar (\$1) above the existing amount, the fees may be increased by one dollar (\$1).

7. Reimbursement Limitations

- A. If the level at which health services were provided during the fiscal year of reimbursement is less than the level of health services that were provided in the 1986/87 fiscal year, no reimbursement is forthcoming.
- B. Any offsetting savings or reimbursement the claimant received from any source (e.g. federal, state grants, foundations, etc.) as a result of this mandate, shall be identified and deducted so only net local costs are claimed.

8. Claiming Forms and Instructions

The diagram "Illustration of Claim Forms" provides a graphical presentation of forms required to be filed with a claim. A claimant may submit a computer generated report in substitution for forms HFE-1.0, HFE-1.1, and form HFE-2 provided the format of the report and data fields contained within the report are identical to the claim forms included in these instructions. The claim forms provided with these instructions should be duplicated and used by the claimant to file estimated and reimbursement claims. The State Controller's Office will revise the manual and claim forms as necessary. In such instances, new replacement forms will be mailed to claimants.

A. Form HFE- 2, Health Services

This form is used to list the health services the community college provided during the 1986/87 fiscal year and the fiscal year of the reimbursement claim.

B. Form HFE-1.1, Claim Summary

This form is used to compute the allowable increased costs an individual college of the community college district has incurred to comply with the state mandate. The level of health services reported on this form must be supported by official financial records of the community college district. A copy of the document must be submitted with the claim. The amount shown on line (13) of this form is carried to form HFE-1.0.

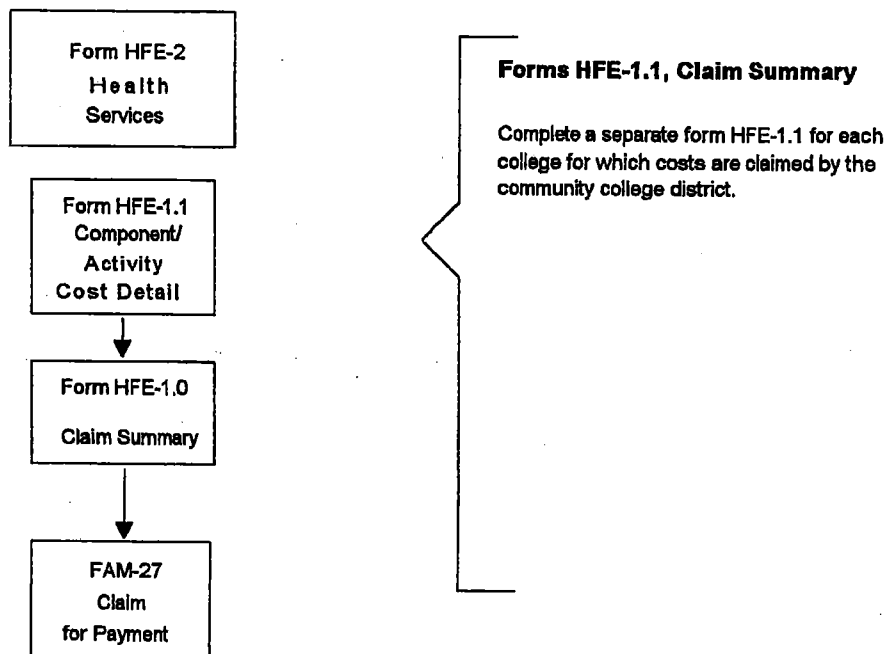
C. Form HFE-1.0, Claim Summary

This form is used to list the individual colleges that had increased costs due to the state mandate and to compute a total claimable cost for the district. The "Total Amount Claimed", line (04) on this form is carried forward to form FAM-27, line 13, for the reimbursement claim, or line (07) for the estimated claim.

D. Form FAM-27, Claim for Payment

This form contains a certification that must be signed by an authorized representative of the local agency. All applicable information from form HFE-1.0 and HFE 1.1 must be carried forward to this form for the State Controller's Office to process the claim for payment.

Illustration of Claim Forms



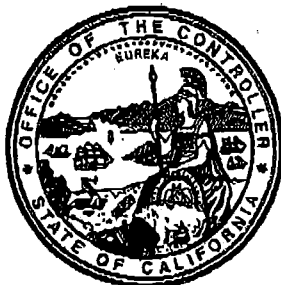
LOS RIOS COMMUNITY COLLEGE DISTRICT

Audit Report

HEALTH FEE ELIMINATION PROGRAM

Chapter 1, Statutes of 1984, 2nd E.S.,
and Chapter 1118, Statutes of 1987

July 1, 1997, through June 30, 2002



STEVE WESTLY
California State Controller

June 2004



STEVE WESTLY
California State Controller

June 24, 2004

Brice W. Harris, Chancellor
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Dear Mr. Harris:

The State Controller's Office (SCO) has completed an audit of the claims filed by Los Rios Community College District for costs of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd E.S., and Chapter 1118, Statutes of 1987) for the period of July 1, 1997, through June 30, 2002.

The district claimed \$3,205,600 (\$3,206,600 in costs less a \$1,000 penalty for filing late) for the mandated program. Our audit disclosed that none of the claimed costs is allowable. Claimed costs are unallowable primarily because the district did not reduce allowable program costs by the amount of health services fees authorized by *Education Code* Section 76355. The district was paid \$2,224,368. The total amount paid should be returned to the State.

The SCO has established an informal audit review process to resolve a dispute of facts. The auditee should submit, in writing, a request for a review and all information pertinent to the disputed issues within 60 days after receiving the final report. The request and supporting documentation should be submitted to Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250-0001. In addition, please provide a copy of the request letter to Jim L. Spano, Chief, Compliance Audits Bureau, State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, California 94250-5874.

If you have any questions, please contact Mr. Spano at (916) 323-5849.

Sincerely,

VINCENT P. BROWN
Chief Operating Officer

VPB:ams

Brice W. Harris, Chancellor

-2-

June 24, 2004

cc: Jon Sharpe, Vice Chancellor
Finance and Administration
Los Rios Community College District
Carrie Bray
Director of Accounting Services
Los Rios Community College District
Ed Monroe, Program Assistant
Fiscal Accountability Section
Chancellor's Office
California Community Colleges
Jeannie Oropeza, Program Budget Manager
Education Systems Unit
Department of Finance
Charles Pillsbury
School Apportionment Specialist
Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) has completed an audit of the claims filed by Los Rios Community College District for costs of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session (E.S.), and Chapter 1118, Statutes of 1987) for the period of July 1, 1997, through June 30, 2002. The last day of fieldwork was March 11, 2004.

The district claimed \$3,205,600 (\$3,206,600 in costs less a \$1,000 penalty for filing late) for the mandated program. The audit disclosed that none of the claimed costs is allowable. Claimed costs are unallowable primarily because the district did not reduce allowable program costs by the amount of health services fees authorized by *Education Code* Section 76355. The district was paid \$2,224,368. The total amount paid should be returned to the State.

Background

Chapter 1, Statutes of 1984, 2nd E.S., repealed *Education Code* Section 72246, which authorized community college districts to charge a health fee for providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. This statute also required that health services for which a community college district charged a fee during fiscal year (FY) 1983-84 had to be maintained at that level in FY 1984-85 and every year thereafter. The provisions of this statute would automatically sunset on December 31, 1987, reinstating community colleges districts' authority to charge a health fee as specified. Chapter 1118, Statutes of 1987, amended *Education Code* Section 72246 to require any community college district that provided health services in FY 1986-87 to maintain health services at the level provided during that year in FY 1987-88 and each fiscal year thereafter.

On November 20, 1986, the Commission on State Mandates (COSM) determined that Chapter 1, Statutes of 1984, 2nd E.S., imposed a "new program" upon community college districts by requiring any community college district that provided health services for which it was authorized to charge a fee pursuant to former *Education Code* Section 72246 in FY 1983-84 to maintain health services at the level provided during that year in FY 1984-85 and each fiscal year thereafter. This maintenance-of-effort requirement applies to all community college districts that levied a health services fee in FY 1983-84, regardless of the extent to which the health services fees collected offset the actual costs of providing health services at the FY 1983-84 level. On April 27, 1989, COSM determined that Chapter 1118, Statutes of 1987, amended this maintenance-of-effort requirement to apply to all community college districts that provided health services in FY 1986-87 and required them to maintain that level in FY 1987-88 and each fiscal year thereafter.

**Objective,
Scope, and
Methodology**

Parameters and Guidelines, adopted by COSM on August 27, 1987 (and amended on May 25, 1989), establishes the state mandate and defines criteria for reimbursement. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for each mandate requiring state reimbursement to assist school districts and local agencies in claiming reimbursable costs.

The audit objective was to determine whether costs claimed are increased costs incurred as a result of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd E.S., and Chapter 1118, Statutes of 1987) for the period of July 1, 1997, through June 30, 2002.

The auditors performed the following procedures:

- Reviewed the costs claimed to determine if they were increased costs resulting from the mandated program;
- Traced the costs claimed to the supporting documentation to determine whether the costs were properly supported;
- Confirmed that the costs claimed were not funded by another source; and
- Reviewed the costs claimed to determine that the costs were not unreasonable and/or excessive.

The SCO conducted the audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority provided by *Government Code* Section 17558.5. The SCO did not audit the district's financial statements. The scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance concerning the allowability of expenditures claimed for reimbursement. Accordingly, transactions were examined, on a test basis, to determine whether the amounts claimed for reimbursement were supported.

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

Conclusion

The audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, Los Rios Community College District claimed \$3,205,600 (\$3,206,600 in costs less a \$1,000 penalty for filing late) for costs of the legislatively mandated Health Fee Elimination Program. The district was paid \$2,224,368 by the State for the audit period: \$606,532 (\$607,532 in costs less a \$1,000 penalty for filing late) for FY 1997-98; \$625,570 for FY 1998-99; \$634,185 for FY 1999-2000; \$187,592 for FY 2000-01; and \$170,489 for FY 2001-02.

Los Rios Community College District

Health Fee Elimination Program

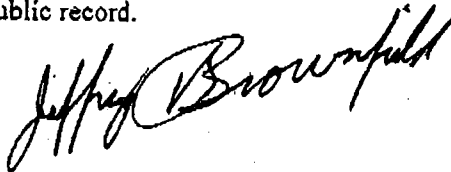
The audit disclosed that none of the costs claimed is allowable. The amount paid in excess of allowable costs claimed, totaling \$2,224,368, should be returned to the State.

**Views of
Responsible
Official**

The SCO issued a draft audit report on May 5, 2004. Jon Sharpe, Vice Chancellor, Finance and Administration, responded by letter dated May 24, 2004, disagreeing with the audit results. The district's response is included in this final audit report.

Restricted Use

This report is solely for the information and use of Los Rios Community College District, the California Department of Education, 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.



JEFFREY V. BROWNFIELD
Chief, Division of Audits

Los Rios Community College District

Health Fee Elimination Program

**Schedule 1—
Summary of Program Costs
July 1, 1999, through June 30, 2002**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 1997, through June 30, 1998</u>				
Salaries	\$ 381,878	\$ 357,643	\$ (24,235)	Finding 1
Benefits	64,953	64,953	—	
Services and supplies	<u>16,332</u>	<u>9,118</u>	<u>(7,214)</u>	Finding 2
Subtotals	463,163	431,714	(31,449)	
Indirect costs	<u>144,369</u>	<u>64,757</u>	<u>(79,612)</u>	Findings 1, 2, 3
Subtotals, health expenditures	607,532	496,471	(111,061)	
Less costs subject to fee authority	—	(953,090)	(953,090)	Finding 4
Less late penalty	<u>(1,000)</u>	<u>(1,000)</u>	—	
Subtotals	606,532	(457,619)	(1,064,151)	
Adjustment to eliminate negative balance	—	<u>457,619</u>	<u>457,619</u>	
Total costs	<u>\$ 606,532</u>	—	<u>\$ (606,532)</u>	
Less amount paid by the State		<u>(606,532)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (606,532)</u>		
<u>July 1, 1998, through June 30, 1999</u>				
Salaries	\$ 410,013	\$ 372,391	\$ (37,622)	Finding 1
Benefits	58,822	58,822	—	
Services and supplies	<u>10,897</u>	<u>7,104</u>	<u>(3,793)</u>	Finding 2
Subtotals	479,732	438,317	(41,415)	
Indirect costs	<u>145,838</u>	<u>64,520</u>	<u>(81,318)</u>	Findings 1, 2, 3
Subtotals, health expenditures	625,570	502,837	(122,733)	
Less costs subject to fee authority	—	(1,057,996)	(1,057,996)	Finding 4
Subtotals	625,570	(555,159)	(1,180,729)	
Adjustment to eliminate negative balance	—	<u>555,159</u>	<u>555,159</u>	
Total costs	<u>\$ 625,570</u>	—	<u>\$ (625,570)</u>	
Less amount paid by the State		<u>(625,570)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (625,570)</u>		
<u>July 1, 1999, through June 30, 2000</u>				
Salaries	\$ 406,642	\$ 370,787	\$ (35,855)	Finding 1
Benefits	60,153	60,153	—	
Services and supplies	<u>19,543</u>	<u>12,852</u>	<u>(6,691)</u>	Finding 2
Subtotals	486,338	443,792	(42,546)	
Indirect costs	<u>147,847</u>	<u>69,276</u>	<u>(78,571)</u>	Findings 1, 2, 3
Subtotals, health expenditures	634,185	513,068	(121,117)	
Less costs subject to fee authority	—	(1,151,391)	(1,151,391)	Finding 4
Subtotals	634,185	(638,323)	(1,272,508)	
Adjustment to eliminate negative balance	—	<u>638,323</u>	<u>638,323</u>	
Total costs	<u>\$ 634,185</u>	—	<u>\$ (634,185)</u>	
Less amount paid by the State		<u>(634,185)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (634,185)</u>		

Los Rios Community College District

Health Fee Elimination Program

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
July 1, 2000, through June 30, 2001				
Salaries	\$ 425,343	\$ 404,551	\$ (20,792)	Finding 1
Benefits	70,350	70,350	—	
Services and supplies	11,980	5,621	(6,359)	Finding 2
Subtotals	507,673	480,522	(27,151)	
Indirect costs	159,664	71,742	(87,922)	Findings 1, 2, 3
Subtotals, health expenditures	667,337	552,264	(115,073)	
Less costs subject to fee authority	—	(1,368,418)	(1,368,418)	Finding 4
Subtotals	667,337	(816,154)	(1,483,491)	
Adjustment to eliminate negative balance	—	816,154	816,154	
Total costs	\$ 667,337	—	\$ (667,337)	
Less amount paid by the State		(187,592)		
Allowable costs claimed in excess of (less than) amount paid		\$ (187,592)		
July 1, 2001, through June 30, 2002				
Salaries	\$ 433,372	\$ 423,283	\$ (10,089)	Finding 1
Benefits	70,979	70,979	—	
Services and supplies	9,706	4,981	(4,725)	Finding 2
Subtotals	514,057	499,243	(14,814)	
Indirect costs	157,919	75,237	(82,682)	Findings 1, 2, 3
Subtotals, health expenditures	671,976	574,480	(97,496)	
Less costs subject to fee authority	—	(1,571,052)	(1,571,052)	Finding 4
Subtotals	671,976	(996,572)	(1,668,548)	
Adjustment to eliminate negative balance	—	996,572	996,572	
Total costs	\$ 671,976	—	\$ (671,976)	
Less amount paid by the State		(170,489)		
Allowable costs claimed in excess of (less than) amount paid		\$ (170,489)		
Summary: July 1, 1997, through June 30, 2002				
Salaries	\$ 2,057,248	\$ 1,928,655	\$ (128,593)	Finding 1
Benefits	325,257	325,257	—	
Services and supplies	68,458	39,676	(28,782)	Finding 2
Subtotals	2,450,963	2,293,588	(157,375)	
Indirect costs	755,637	345,532	(410,105)	Findings 1, 2, 3
Subtotals, health expenditures	3,206,600	2,639,120	(567,480)	
Less costs subject to fee authority	—	(6,101,947)	(6,101,947)	Finding 4
Less late penalty	(1,000)	(1,000)	—	
Subtotals	3,205,600	(3,463,827)	(6,669,427)	
Adjustment to eliminate negative balance	—	3,463,827	3,463,827	
Total costs	\$ 3,205,600	—	\$ (3,205,600)	
Less amount paid by the State		(2,224,368)		
Allowable costs claimed in excess of (less than) amount paid		\$ (2,224,368)		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unallowable salaries and fringe benefits

The district claimed unallowable salaries totaling \$128,593 for the audit period. The related indirect cost is \$39,529, based on the indirect cost rates claimed during the audit period. The unallowable salary costs are attributable to the increased level of health services provided by American River College during each fiscal year.

The district's claims for the audit period identified those health services that were provided in the base year for this program (FY 1986-87). The SCO auditor reviewed logs maintained by each college within the district that identified actual health services provided during the audit period. Logs for American River College showed that the college provided health services exceeding those services provided by the district during the base year.

The auditor sampled six months of logs maintained by American River College for each fiscal year during the period of FY 1998-99 through FY 2001-02. The logs showed that only 78.52% of the services provided in FY 1998-99 were allowable. Similarly, the logs showed that 78.01%, 87.77%, and 92.72% of services provided in FY 1999-2000, FY 2000-01, and FY 2001-02, respectively, were allowable. The district was unable to provide logs for American River College for FY 1997-98. Therefore, the auditor calculated an average allowable percentage of 84.26% based on the percentages for the four succeeding fiscal years. The SCO applied these percentages to salary costs claimed for American River College to determine total allowable salary costs for each fiscal year. The audit adjustment is summarized as follows:

	Fiscal Year					Total
	1997-98	1998-99	1999-2000	2000-01	2001-02	
Salaries	\$ (24,235)	\$ (37,622)	\$ (35,855)	\$ (20,792)	\$ (10,089)	
Indirect cost rate	×31.17%	×30.40%	×30.40%	×31.45%	×30.72%	
Related indirect costs	\$ (7,554)	\$ (11,437)	\$ (10,900)	\$ (6,539)	\$ (3,099)	\$ (39,529)
Salaries (from above)	<u>(24,235)</u>	<u>(37,622)</u>	<u>(35,855)</u>	<u>(20,792)</u>	<u>(10,089)</u>	<u>(128,593)</u>
Audit adjustment	\$ (31,789)	\$ (49,059)	\$ (46,755)	\$ (27,331)	\$ (13,188)	\$ (168,122)

Parameters and Guidelines states that community college districts that provided health services in FY 1986-87 and continue to provide the same services as a result of this mandate are eligible to claim reimbursement of those costs. Only services provided in FY 1986-87 may be claimed.

In addition, *Parameters and Guidelines* states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs. Documentation must be kept on file for a period of no less than three years from the date of the final payment of the claim.

Recommendation

The district should maintain logs for all colleges that show health services actually provided as required by *Parameters and Guidelines*. The district should also ensure that it claims only those costs attributable to health services that were provided in the FY 1986-87 base year.

District's Response

The finding is based, partially, upon the report's assertion that the "*Parameters and Guidelines* states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs." The *Parameters and Guidelines* actually state, in that regard, that ". . . all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs."

It would therefore appear that this finding is based upon the wrong standard for review.

SCO's Comment

The finding and recommendation remain unchanged. The term "source documentation" includes worksheets and other evidence; therefore, the criterion is valid. The district did not address the audit finding's factual accuracy and did not provide any additional source documents or worksheets to refute the finding.

FINDING 2— Unallowable services and supplies

The district claimed unallowable services and supplies totaling \$28,782 for the audit period. The related indirect cost is \$8,887, based on the indirect cost rates claimed during the audit period. The unallowable services and supplies costs are attributable to services not reimbursable under the mandate program, services not provided in the FY 1986-87 base year, and costs not supported by source documentation.

The district claimed \$26,100 during the audit period for physical exams for intercollegiate athletics and for salaries of health professionals present at athletic events. These costs are not reimbursable under the mandated program. The district also claimed \$2,125 during the audit period for the cost of Hepatitis B vaccinations. The district's claims did not identify Hepatitis B vaccinations as a service provided in the FY 1986-87 base year. In addition, \$557 claimed during the audit period was not supported by the district's source documentation.

Los Rios Community College DistrictHealth Fee Elimination Program

The audit adjustment is summarized as follows:

	Fiscal Year					Total
	1997-98	1998-99	1999-2000	2000-01	2001-02	
Athletics-related costs	\$ (6,216)	\$ (3,178)	\$ (5,898)	\$ (6,083)	\$ (4,725)	\$ (26,100)
Hepatitis B vaccinations	(811)	(521)	(793)	—	—	(2,125)
Unsupported costs	(187)	(94)	—	(276)	—	(557)
Total costs	(7,214)	(3,793)	(6,691)	(6,359)	(4,725)	\$ (28,782)
Indirect cost rate	×31.17%	×30.40%	×30.40%	×31.45%	×30.72%	
Related indirect costs	(2,249)	(1,153)	(2,034)	(2,000)	(1,451)	\$ (8,887)
Total costs (from above)	(7,214)	(3,793)	(6,691)	(6,359)	(4,725)	(28,782)
Audit adjustment	\$ (9,463)	\$ (4,946)	\$ (8,725)	\$ (8,359)	\$ (6,176)	\$ (37,669)

Education Code Section 76355(d) states that authorized expenditures shall not include physical exams for intercollegiate athletics and the salaries of health professionals for athletic events.

Parameters and Guidelines states that community college districts that provided health services in FY 1986-87 and continue to provide the same services as a result of this mandate are eligible to claim reimbursement of those costs. Only services provided in FY 1986-87 may be claimed. *Parameters and Guidelines* also states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs.

Recommendation

The district should ensure that it claims costs only for the health services reimbursable under the mandate program. In addition, the district should ensure that all costs claimed are supported by source documentation.

District's Response

This finding disallows costs . . . based upon the conclusion that "[T]hese costs are not reimbursable under the mandate program.[]" This is not a correct interpretation of the law. *Education Code* Section 76355, subdivision (a), permits the collection of student fees for health services. Subdivision (d) requires that these fees, if collected, be deposited in a designated fund and be expended only as authorized. Subdivision (d) prohibits expenditures *from the fund* for physical examinations for intercollegiate athletics or the salaries of health professionals for athletic events. The prohibition only applies to expenditures of funds from the special account designated in which student fees are deposited.

SCO's Comment

The finding and recommendation remain unchanged. The district did not address unallowable costs for Hepatitis B vaccinations and unsupported costs. Regarding athletic-related costs, *Education Code* Section 76355(e) states, "Any community college district that provided health services in the 1986-87 fiscal year shall maintain health services, at the level

provided during the 1986-87 fiscal year, and each fiscal year thereafter. If the cost to maintain that level of service exceeds the limits specified in subdivision (a), the excess cost shall be borne by the district." *Education Code* Section 76355(a) defines the authorized health services fees. Thus, the mandate program "maintenance of effort" requirement applies to those health services for which the district may levy a fee. *Education Code* Section 76355(d) states that athletic-related costs are not authorized expenditures of health services fees. Because the mandate does not require a "maintenance of effort" for athletic-related services, these costs are not mandated costs as defined by *Government Code* Section 17514.

**FINDING 3—
Overstated indirect
cost rates claimed**

The district overstated its indirect cost rates, and thus overstated indirect costs by \$361,689 for the audit period.

The district claimed indirect costs based on indirect cost rate proposals (ICRP) prepared for each fiscal year. However, the district did not obtain federal approval for its ICRPs. The SCO auditor calculated indirect cost rates using the methodology allowed by the SCO claiming instructions. The calculated indirect cost rates did not support the indirect cost rates claimed. The claimed and audited indirect cost rates are summarized below.

	Fiscal Year				
	1997-98	1998-99	1999-2000	2000-01	2001-02
Allowable indirect cost rate	15.00%	14.72%	15.61%	14.93%	15.07%
Less claimed indirect cost rate	(31.17)%	(30.40)%	(30.40)%	(31.45)%	(30.72)%
Unsupported indirect cost rate	(16.17)%	(15.68)%	(14.79)%	(16.52)%	(15.65)%

Based on these unsupported indirect cost rates, the audit adjustments are summarized below:

	Fiscal Year					Total
	1997-98	1998-99	1999-2000	2000-01	2001-02	
Allowable costs claimed	\$ 431,714	\$ 438,317	\$ 443,792	\$ 480,522	\$ 499,243	
Unsupported indirect cost rate	× (16.17)%	× (15.68)%	× (14.79)%	× (16.52)%	× (15.65)%	
Audit adjustment	\$ (69,809)	\$ (68,728)	\$ (65,637)	\$ (79,383)	\$ (78,132)	\$ (361,689)

Parameters and Guidelines states that indirect costs may be claimed in the manner described in the SCO claiming instructions. The SCO claiming instructions state that community college districts using an ICRP prepared in accordance with Office of Management and Budget (OMB) Circular A-21 must obtain federal approval of the ICRP. Alternately, the SCO claiming instructions allow community college districts to compute an indirect cost rate using Form FAM-29C, which is based on total expenditures as reported in *California Community Colleges Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)*.

Recommendation

The district should claim indirect costs based on indirect cost rates computed in accordance with the SCO claiming instructions. The district should obtain federal approval for ICRPs prepared in accordance with OMB Circular A-21. Alternately, the district should use Form FAM-29C to prepare ICRPs based on the methodology allowed in the SCO claiming instructions.

District's Response

The Parameters and Guidelines for Health Fee Elimination (as last amended on 5/25/89) state that "Indirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." It does not require that indirect costs be claimed in the manner described by the State Controller.

The State Controller's Claiming Instructions, at the Instructions for Form HFE-1.1, line (05), states, in relevant part: "For claiming indirect costs, college districts have the option of using a federally approved rate from the Office of Management and Budget Circular A-21, from FAM-29C, or a 7% indirect cost rate." The burden should be on the State Controller to show that the ICRP used by the district would not be approved by the federal government, since the State Controller is required to pay claims and may only reduce a claim upon a determination that the claim is excessive or unreasonable. Government Code Section 17651(d)(2)

SCO's Comment

The finding and recommendation remain unchanged. The phrase "may be claimed" allows the district to claim indirect costs. If the district claims indirect costs, the costs must adhere to the SCO's claiming instructions.

Government Code Section 12410 states that the Controller shall audit all claims against the state for correctness, legality, and for sufficient provisions of law for payment. The Health Fee Elimination Program *Parameters and Guidelines* references the SCO's claiming instructions, which require federal approval for OMB Circular A-21 indirect cost rates. The district did not obtain federal approval; thus, the indirect cost rates are unallowable.

Los Rios Community College District

Health Fee Elimination Program

**FINDING 4—
Understated
authorized health fee
revenues claimed**

The district did not offset health services program costs by the amount of authorized health fee revenues. Authorized health fee revenues totaled \$6,101,947 for the audit period.

The district's Institutional Research Office (IRO) provided student enrollment data for each fiscal year within the audit period. The IRO also provided data on students enrolled in apprenticeship programs and students who received Board of Governors Grants (BOGG waivers). Based on the IRO data provided, understated authorized health fee revenues are calculated as follows:

	Fall	Spring	Summer	Total
<u>Fiscal Year 1997-98</u>				
Student enrollment	55,094	56,365	21,939	
Less allowable health fee exemptions	(17,748)	(17,649)	(7,388)	
Subtotals	37,346	38,716	14,551	
Authorized student health fee	× \$(11)	× \$(11)	× \$(8)	
Audit adjustment, FY 1997-98	<u>\$ (410,806)</u>	<u>\$ (425,876)</u>	<u>\$ (116,408)</u>	<u>\$ (953,090)</u>
<u>Fiscal Year 1998-99</u>				
Student enrollment	59,436	60,717	23,032	
Less allowable health fee exemptions	(17,709)	(17,680)	(7,333)	
Subtotals	41,727	43,037	15,699	
Authorized student health fee	× \$(11)	× \$(11)	× \$(8)	
Audit adjustment, FY 1998-99	<u>\$ (458,997)</u>	<u>\$ (473,407)</u>	<u>\$ (125,592)</u>	<u>\$ (1,057,996)</u>
<u>Fiscal Year 1999-2000</u>				
Student enrollment	63,752	64,388	24,934	
Less allowable health fee exemptions	(18,274)	(18,037)	(7,275)	
Subtotals	45,478	46,351	17,659	
Authorized student health fee	× \$(11)	× \$(11)	× \$(8)	
Audit adjustment, FY 1999-2000	<u>\$ (500,258)</u>	<u>\$ (509,861)</u>	<u>\$ (141,272)</u>	<u>\$ (1,151,391)</u>
<u>Fiscal Year 2000-01</u>				
Student enrollment	65,163	64,082	26,501	
Less allowable health fee exemptions	(11,293)	(11,417)	(4,664)	
Subtotals	53,870	52,665	21,837	
Authorized student health fee	× \$(11)	× \$(11)	× \$(9)	
Audit adjustment, FY 2000-01	<u>\$ (592,570)</u>	<u>\$ (579,315)</u>	<u>\$ (196,533)</u>	<u>\$ (1,368,418)</u>
<u>Fiscal Year 2001-02</u>				
Student enrollment	70,706	71,361	26,772	
Less allowable health fee exemptions	(13,587)	(14,200)	(4,584)	
Subtotals	57,119	57,161	22,188	
Authorized student health fee	× \$(12)	× \$(12)	× \$(9)	
Audit adjustment, FY 2001-02	<u>\$ (685,428)</u>	<u>\$ (685,932)</u>	<u>\$ (199,692)</u>	<u>\$ (1,571,052)</u>

Parameters and Guidelines states that health fees authorized by the *Education Code* must be deducted from costs claimed. *Education Code* Section 76355(c) states that health fees are authorized for all students except those students who: (1) depend exclusively on prayer for healing; (2) are attending a community college under an approved apprenticeship training program; or (3) demonstrate financial need. (Pursuant to *Education Code* Section 76355(a), authorized health fees increased by \$1.00 effective with the Summer 2001 session.)

Also, *Government Code* Section 17514 states that costs mandated by the State means any increased costs which a school district is required to incur. To the extent community college districts can charge a fee, they are not required to incur a cost. In addition, *Government Code* Section 17556 states that COSM shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.

Recommendation

The district should offset allowable health services program costs by the amount of health service fee revenues authorized by the *Education Code*. The district should maintain records to support the amount calculated for authorized health service fee revenues, including actual student enrollment and students who are exempted from health fees pursuant to *Education Code* Section 76355(c).

District's Response

Education Code Section 76355, subdivision (a), in relevant part, provides: "The governing board of a district maintaining a community college may require community college students to pay a fee... for health supervision and services...." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

This finding is also based upon the report's statement that the "*Parameters and Guidelines* states that health fees authorized by the *Education Code* must be deducted from the costs claimed." This is a misstatement of the *Parameters and Guidelines*. The *Parameters and Guidelines*, as last amended on 5/25/89, state, in relevant part, "Any offsetting savings... must be deducted from the costs claimed... This shall include the amount of (student fees) as authorized by *Education Code* [Section 76355]." The use of the term "any offsetting savings" further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not.

Finally, the report cites *Government Code* Section 17556 which only prohibits the Commission on State Mandates from finding costs in certain instances. Here, the Commission has already made a finding of a new program or increased costs.

SCO's Comment

The finding and recommendation remain unchanged. The SCO agrees that community college districts may choose not to levy a health services fee. However, *Education Code* Section 76355 provides the district the authority to levy a health services fee. Therefore, the related health services costs are not mandated costs as defined by *Government Code* Section 17514. Health services costs recoverable through an authorized fee are not costs the district is required to incur. *Government Code* Section 17556 states that the COSM shall not find costs mandated by the State as defined in *Government Code* Section 17514 if the district has authority to levy fees to pay for the mandated program or increased level of service.

Statute of limitations

The district's response included comments regarding the SCO's authority to audit costs claimed for FY 1997-98, FY 1998-99, and FY 1999-2000. The district's response and SCO's comment are as follows:

District's Response

The district's 1997-98 claim was filed on January 15, 2000. The district's 1998-1999 claim was filed on January 15, 2000. The district's 1999-2000 claim was filed on December 30, 2000. The draft audit report is dated May 2004. Therefore, these three claims were only subject to audit until December 31, 2002. Therefore, the proposed audit adjustments for these years are barred by the statute of limitations set forth in *Government Code* Section 17558.5.

SCO's Comment

The audit scope remains unchanged. *Government Code* Section 17558.5(a), effective July 1, 1996, states that a district's reimbursement claim is subject to audit no later than two years after the end of the calendar year in which the claim is filed or last amended. No statutory language defines when the SCO must issue an audit report. Furthermore, no statutory language requires an entrance conference or some other formal event to be held before the two-year period expires. SCO staff contacted the district to initiate the audit in December 2002, within the statute of limitations. The district requested that the audit start in January 2003, rather than December 2002. *Government Code* Section 17558.5(c), effective July 1, 1996, states, "Nothing in this section shall be construed to limit the adjustment of payments . . . when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement."

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



SACRAMENTO CITY COLLEGE

AMERICAN RIVER COLLEGE

COSUMNES RIVER COLLEGE

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 24, 2004

Mr. Jim L. Spano, Chief
 Compliance Audits Bureau
 California State Controller
 Division of Audits
 P.O. Box 942850
 Sacramento, CA 94250-5874

Re: Health Fee Elimination Audit

Dear Mr. Spano:

This letter is the response of Los Rios Community College District to the letter of Vincent P. Brown dated May 5, 2004 which enclosed a Draft Copy of your Audit Report of the district's Health Fee Elimination program, Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987, for the period of July 1, 1997 through June 30, 2002.

Statute of Limitations

The district's 1997-1998 claim was filed on January 15, 2000. The district's 1998-1999 claim was filed on January 15, 2000. The district's 1999-2000 claim was filed on December 30, 2000. The draft audit report is dated May 2004. Therefore, these three claims were only subject to audit until December 31, 2002. Therefore, the proposed audit adjustments for these years are barred by the statute of limitations set forth in Government Code Section 17558.5.

Finding 1 - Unallowable Salaries and Fringe Benefits

This finding is based, partially, upon the report's assertion that the "*Parameters and Guidelines* states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs." The *Parameters and Guidelines* actually state, in that regard, that "...all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs."

It would therefore appear that this finding is based upon the wrong standard for review.

Finding 2 - Unallowable services and Supplies

This finding disallows costs incurred for physical exams for intercollegiate athletics and for salaries of health professionals present at athletic events based upon the conclusion that "[T]hese costs are not reimbursable under the mandated program. This is not a correct interpretation of the law. Education Code Section 76355, subdivision (a), permits the collection of student fees for health services. Subdivision (d) requires that these fees, if collected, be deposited in a designated fund and be expended only as authorized. Subdivision (d) prohibits expenditures *from the fund* for physical examinations for intercollegiate athletics or the salaries of health professionals for athletic events. The prohibition only applies to expenditure of funds from the special account designated in which student fees are deposited.

Finding 3 - Overstated Indirect Cost Rates Claimed

This finding is based upon the report's statement that "[T]he district claimed indirect costs based on indirect cost rate proposals (IRCP) prepared for each fiscal year. However, the district did not obtain federal approval for its IRCPs."

The Parameters and Guidelines for Health Fee Elimination (as last amended on 5/25/89) state that "Indirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." It does not require that indirect costs be claimed in the manner described by the State Controller.

The State Controller's Claiming Instructions, at the Instructions for Form HFE-1.1, line (05), states, in relevant part: "For claiming indirect costs, college districts have the option of using a federally approved rate from the Office of Management and Budget Circular A-21, from FAM-29C, or a 7% indirect cost rate." The burden should be on the State Controller to show that the IRCP used by the district would not be approved by the federal government, since the State Controller is required to pay claims and may only reduce a claim upon a determination that the claim is excessive or unreasonable. Government Code Section 17651(d)(2)

Finding 4 - Understated Authorized Health Fee Revenues Claimed

This finding is based upon the report's statement that the district did not offset health services program costs by the amount of authorized health fee revenues.

Education Code Section 76355; subdivision (a), in relevant part, provides: "The governing board of a district maintaining a community college *may require* community college students to pay a fee...for health supervision and services..." There is no

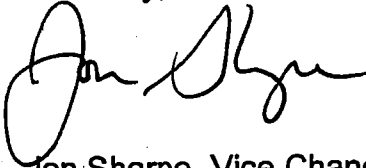
requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "if, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

This finding is also based upon the report's statement that the "*Parameters and Guidelines* states that health fees authorized by the *Education Code* must be deducted from the costs claimed." This is a misstatement of the Parameters and Guidelines. The Parameters and Guidelines, as last amended on 5/25/89, state, in relevant part, "Any offsetting savings...must be deducted from the costs claimed...This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)¹." The use of the term "any offsetting savings" further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not.

Finally, the report cites Government Code Section 17556 which only prohibits the Commission on State Mandates from finding costs in certain instances. Here, the Commission has already made a finding of a new program or increased costs.

Therefore, for the reasons stated above, Los Rios Community College District requests that the audit report be changed to comply with the law and to defer any request for payment until the audit report is corrected.

Sincerely,



Jon Sharpe, Vice Chancellor
Finance and Administration
Los Rios Community College District

C: Brice Harris, Chancellor
Carrie Bray, Director of Accounting Services

¹ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

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

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

S03-MCC-016



Exhibit E



SACRAMENTO CITY COLLEGE

AMERICAN RIVER COLLEGE

COSUMNES RIVER COLLEGE

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 24, 2004

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Statute of Limitations

The district's 1997-1998 claim was filed on January 15, 2000. The district's 1998-1999 claim was filed on January 15, 2000. The districts 1999-2000 claim was filed on December 30, 2000. The draft audit report is dated May 2004. Therefore, these three claims were only subject to audit until December 31, 2002. Therefore, the proposed audit adjustments for these years are barred by the statute of limitations set forth in Government Code Section 17558.5.

Finding 1 - Unallowable Salaries and Fringe Benefits

This finding is based, partially, upon the report's assertion that the "*Parameters and Guidelines* states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs." The Parameters and Guidelines actually state, in that regard, that "...all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs."

It would therefore appear that this finding is based upon the wrong standard for review.

Finding 2 - Unallowable services and Supplies

This finding disallows costs incurred for physical exams for intercollegiate athletics and for salaries of health professionals present at athletic events based upon the conclusion that "[T]hese costs are not reimbursable under the mandated program. This is not a correct interpretation of the law. Education Code Section 76355, subdivision (a), permits the collection of student fees for health services. Subdivision (d) requires that these fees, if collected, be deposited in a designated fund and be expended only as authorized. Subdivision (d) prohibits expenditures *from the fund* for physical examinations for intercollegiate athletics or the salaries of health professionals for athletic events. The prohibition only applies to expenditure of funds from the special account designated in which student fees are deposited.

Finding 3 - Overstated Indirect Cost Rates Claimed

This finding is based upon the report's statement that "[T]he district claimed indirect costs based on indirect cost rate proposals (IRCP) prepared for each fiscal year. However, the district did not obtain federal approval for its IRCPs."

The Parameters and Guidelines for Health Fee Elimination (as last amended on 5/25/89) state that "Indirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." It does not require that indirect costs be claimed in the manner described by the State Controller.

The State Controller's Claiming Instructions, at the Instructions for Form HFE-1.1, line (05), states, in relevant part: "For claiming indirect costs, college districts have the option of using a federally approved rate from the Office of Management and Budget Circular A-21, from FAM-29C, or a 7% indirect cost rate." The burden should be on the State Controller to show that the IRCP used by the district would not be approved by the federal government, since the State Controller is required to pay claims and may only reduce a claim upon a determination that the claim is excessive or unreasonable. Government Code Section 17651(d)(2)

Finding 4 - Understated Authorized Health Fee Revenues Claimed

This finding is based upon the report's statement that the district did not offset health services program costs by the amount of authorized health fee revenues.

Education Code Section 76355, subdivision (a), in relevant part, provides: "The governing board of a district maintaining a community college may require community college students to pay a fee...for health supervision and services..." There is no

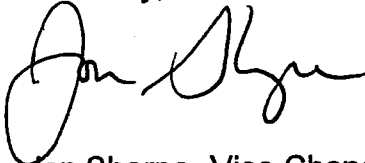
requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "if, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

This finding is also based upon the report's statement that the "*Parameters and Guidelines* states that health fees authorized by the *Education Code* must be deducted from the costs claimed." This is a misstatement of the Parameters and Guidelines. The Parameters and Guidelines, as last amended on 5/25/89, state, in relevant part, "Any offsetting savings...must be deducted from the costs claimed...This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)¹." The use of the term "any offsetting savings" further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not.

Finally, the report cites Government Code Section 17556 which only prohibits the Commission on State Mandates from finding costs in certain instances. Here, the Commission has already made a finding of a new program or increased costs.

Therefore, for the reasons stated above, Los Rios Community College District requests that the audit report be changed to comply with the law and to defer any request for payment until the audit report is corrected.

Sincerely,



Jon Sharpe, Vice Chancellor
Finance and Administration
Los Rios Community College District

C: Brice Harris, Chancellor
Carrie Bray, Director of Accounting Services

¹ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

Exhibit F

**CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE**

1102 Q STREET
SACRAMENTO, CA 95814-6511
(916) 445-8752
HTTP://WWW.CCCCO.EDU



March 5, 2001

To: Superintendents/Presidents
Chief Business Officers
Chief Student Services Officers
Health Services Program Directors
Financial Aid Officers
Admissions and Records Officers
Extended Opportunity Program Directors

From: Thomas J. Nussbaum
Chancellor

Subject: Student Health Fee Increase

Education Code Section 76355 provides the governing board of a community college district the option of increasing the student health services fee by the same percentage as the increase in the Implicit Price Deflator for State and Local Government Purchase of Goods and Services. Whenever that calculation produces an increase of one dollar above the existing fee, the fee may be increased by \$1.00.

Based on calculations by the Financial, Economic, and Demographic Unit in the Department of Finance, the Implicit Price Deflator Index has now increased enough since the last fee increase of March 1997 to support a one dollar increase in the student health fees. Effective with the Summer Session of 2001, districts may begin charging a maximum fee of \$12.00 per semester, \$9.00 for summer session, \$9.00 for each intersession of at least four weeks, or \$9.00 for each quarter.

For part-time students, the governing board shall decide the amount of the fee, if any, that the student is required to pay. The governing board may decide whether the fee shall be mandatory or optional.

The governing board operating a health services program must have rules that exempt the following students from any health services fee:

- Students who depend exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization.

- Students who are attending a community college under an approved apprenticeship training program.
- Students who receive Board of Governors' Enrollment Fee Waivers, including students who demonstrate financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid and students who demonstrate eligibility according to income standards established by the board of governors and contained in Section 58620 of Title 5 of the California Code of Regulations.

All fees collected pursuant to this section shall be deposited in the Student Health Fee Account in the Restricted General Fund of the district. These fees shall be expended only to provide health services as specified in regulations adopted by the board of governors. Allowable expenditures include health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, or both. Allowable expenditures exclude athletic-related salaries, services, insurance, insurance deductibles, or any other expense that is not available to all students. No student shall be denied a service supported by student health fee on account of participation in athletic programs.

If you have any questions about this memo or about student health services, please contact Mary Gill, Dean, Enrollment Management Unit at 916.323.5951. If you have any questions about the fee increase or the underlying calculations, please contact Patrick Ryan in Fiscal Services Unit at 916.327.6223.

CC: Patrick J. Lenz
Ralph Black
Judith R. James
Frederick E. Harris

I:\Fisc\FiscUnit\01StudentHealthFees\01StuHealthFees.doc

Exhibit G

DECLARATION OF CARRIE BRAY

I, Carrie Bray, the undersigned, declare:

1. I am over the age of 18 and otherwise competent to testify in any court or administrative proceeding.
2. I have been employed by the Los Rios Community College District since April 1991.
3. At the present time, I am the Director of Accounting Services for the district.
4. On Thursday, December 12, 2002, I received a Telephone Message slip which indicated that a Mary Khoshmashrag of the State Controller's Office wanted to talk to me about an audit of our Health Fee Elimination and Mandated Reimbursement Process annual claims. A true and exact copy of the message slip is attached hereto as Exhibit "A" and is incorporated herein by reference.
5. I subsequently learned that the correct spelling of the caller's last name was Khoshmashrab.
6. Due to the press of business prior to the Christmas holiday and the ensuing weekend, I was not able to immediately return the call of Ms. Khoshmashrab.
7. On Tuesday, December 17, 2002, I received another Telephone Message slip which indicated that Mary Khoshmashrab wanted to schedule in December a meeting in January. The message also indicated that she was very anxious to hear from me. A true and exact copy of the Telephone Message slip is attached hereto as Exhibit "B" and is incorporated herein by reference.
8. I returned the telephone call of Ms. Khoshmashrab on Wednesday, December 18, 2002. Ms. Khoshmashrab stated that she assumed that we were too busy to

meet in December, so she requested a meeting during the first or second week of January.

9. Since we were talking about the first or second week of January, I made a note on my calendar at the time that Mary requested a meeting in the first or second week of January. A true and exact copy of my calendar page for the week of January 13 through January 19 is attached hereto as Exhibit "C" and is incorporated herein by reference.
10. After checking the availability of key district personnel, I called Ms. Khoshmashrab on Thursday, December 19, 2002, at 12:08 P.M., to set a date in January, as requested, for the meeting. Ms. Khoshmashrab was not in at the time, so I left a message for her to call me. A notation to this effect was made on Exhibit "C."
11. On Thursday, December 19, 2002, at 2:45 P.M., I received a message to call Ms. Khoshmashrab. I returned her call at 2:50 P.M. and a meeting was scheduled for January 16, 2003 at 9:30 A.M. Notations of these calls and conversation were made on Exhibit "C."
12. On Friday, December 20, 2002, at 10:23 A.M., I received a message that Ms. Khoshmashrab needed my FAX number. I returned her call at 1:30 P.M. and left my FAX number on her answering machine.
13. The notations on Exhibit "C" were made by me in the regular course of the business of Los Rios Community College District.
14. The notations on Exhibit "C" were made by me immediately on or about the time

of the calls and conversations noted thereon.

15. On January 2, 2003, I received a letter dated December 23, 2002, from Chris Prasad, Audit Manager, State Controller's Office. A true and exact copy of that letter with an in-coming mail stamp and my handwritten notations is attached hereto as Exhibit "D" and is incorporated herein by reference.
16. The Exhibit "D" letter clearly indicates that Ms. Khoshmashrab "will commence the audit" on Thursday, January 16, 2003.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except where stated upon information or belief and where so stated I declare that I believe them to be true.

EXECUTED this 30th day of September, 2004, at Sacramento, California.



Carrie Bray

TELEPHONE MESSAGE

For Carrie
Date 12-12 Time 11:06 AM
PM

WHILE YOU WERE OUT

M Mary Khoshmashrag
Of State Controller's Office
Phone 327-0490

AREA CODE NUMBER EXTENSION

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input checked="" type="checkbox"/>
Called to See You	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>
Wants to See You	<input type="checkbox"/>	Urgent	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Came to See You	<input type="checkbox"/>

on
Mon.

Message Re: audit on mandates:

2.5M - health fee elimination

- mandated reimbursement
claim

Signed Ym

TELEPHONE MESSAGE

For Carrie

Date 12-17 Time 10 ^{AM} _{PM}

WHILE YOU WERE OUT

M Mary Khashmashrab

Of State Controller's Office

Phone 327-0490

AREA CODE NUMBER EXTENSION

Telephoned	<input checked="" type="checkbox"/>	<u>Please Call</u>	<input checked="" type="checkbox"/>
Called to See You	<input type="checkbox"/>	<u>Will Call Again</u>	<input type="checkbox"/>
Wants to See You	<input type="checkbox"/>	Urgent	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Came to See You	<input type="checkbox"/>

Message Would like to schedule
in Dec. to meet in Jan.

(She was very anxious to hear
from you)

Signed Jm

January 13 -
January 19

12/18 Talked to Mary
She requested mtg
1st or 2nd wk. of Jan

12/19 12:00pm left msg w/ Mary to schedule appt

January 2003

S	M	T	W	T	F	S
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February 2003

S	M	T	W	T	F	S
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

Monday, January 13
10:00am 11:30am DO Management (Chancellor's Conf Room)
3:00pm 4:00pm Chancellor's Cabinet
4:00pm 5:00pm LRCCD Management Meeting re: State Budget

12/19 2:45 rec'd msg from Mary to return call.
Rec'd voice mail. Left another msg.
12/19 2:50 - scheduled mtg

Jan 16 9:30

12/20/02
10:23

8:30am 12:00pm
1:00pm 5:00pm

Mary
State Controller's Office
Needs fax #
327 0490

Tuesday, January 14

9:00am 9:30am Ginny's Performance Eval (Jon's Office)

12/20 rec'd call from Mary for fax #
Called & left on recorder 1:30

Wednesday, January 15

9:30am 10:00am Board Agenda Review
10:30am 12:00pm Finance & Admin Mgmt (Business Services Conf)
3:00pm 4:30pm Budget Committee (Main Conf Room)
5:30pm 6:00pm Board Meeting

Saturday, January 16



JAN 02 2003
BY:

KATHLEEN CONNELL
Controller of the State of California

December 23, 2002

cc: Ray
Let's discuss
after you've had
chance to take
document
requirements
CB, 1/16/03

Ms. Carrie Bray
Director of Accounting Services
District College Services
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Dear Ms. Bray:

This letter is to confirm that the State Controller's Office (SCO) has scheduled an audit of Los Rios Community College's legislatively mandated Health Fee Elimination program claims for fiscal year (FY) 1997-98 through FY 2000-2001, and legislatively mandated Mandate Reimbursement Process program claims for FY 1998-99 through FY 2000-2001.

As discussed during a telephone conversation on December 19, 2002, SCO auditor Mary Khoshmashrab will commence the audit of the subject programs on Thursday, January 16, 2003, beginning with an entrance conference at 9:30 a.m.

We would appreciate your furnishing working accommodations for and providing the necessary records (see attachment) available to Ms. Khoshmashrab.

If you have any questions, please contact me at (916) 445-8519.

Sincerely,

CHRIS PRASAD, Audit Manager
Compliance Audits Bureau
Division of Audits

CP:jj

Attachment

cc: (See Page 2)

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250
SACRAMENTO 300 Capitol Mall, Suite 518, Sacramento, CA 95814 (916) 324-8907
LOS ANGELES 600 Corporate Pointe, Suite 1000, Culver City, CA 90230 (310) 342-5656

EXHIBIT "D"
Page 1

cc: Jon Sharpe
Vice Chancellor of Finance and Administration
Los Rios Community College
Kim Sayles
Supervisor of Grants and Contracts
Los Rios Community College
Jim L. Spano, Chief
Compliance Audits Bureau
Division of Audits
Ginny Brummels, Section Manager
Division of Accounting and Reporting
Mary Khoshmashrab, Auditor
Compliance Audits Bureau
Division of Audits

3552

LOS RIOS COMMUNITY COLLEGE
RECORDS REQUEST FOR HEALTH FEE ELIMINATION AND MANDATED
REIMBURSEMENT PROCESS COST PROGRAM
FYs 1997-98 THROUGH 2000-2001

1. Copy of claims for mandated cost programs and related documentation;
2. Organization charts for the division or units handling the mandated cost program, effective during the audit period and currently, showing employee names and position titles;
3. Chart of accounts;
4. Audit period annual budgets for each college claimed, and a list of revenues and expenditures, including all state and federal grants received;
5. List of services provided for FY 1986-87
6. List of all employees, showing the classifications, function performed, and actual number of hours devoted to each function;
7. Worksheets supporting the productive hourly rate used, including support for benefits rate used;
8. List of Services and Supplies that identifies the consumption purpose under the mandate;
9. List of student enrollment for each college claimed, for each fiscal year and each semester;
10. Support for costs claimed to derive the indirect costs rate proposal (ICRP) plan;
11. Employee time sheets or time logs claimed on the mandates;
12. Access to payroll records showing employee salaries and benefits paid during the audit period;
13. Access to general ledger accounts supporting disbursements;
14. Supporting documentation for amounts received from other funding sources;
15. Summary report explaining services function codes and provider I.D. codes;
16. Supporting documentation for units of services claimed;
17. List of consultant contracts;
18. Access to clients files;
19. Vendor invoices; and
20. Training agendas and sign-in logs.

Other documentation may be requested.

Annual Reimbursement Claims

CLAIM FOR PAYMENT
Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

(19) Pr... Number 00029
(20) Date file _____/_____/_____
(21) LRS Input _____/_____/_____

L
A
B
E
L

H
E
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E

(01) Claimant Identification Number S - 34050
(02) Mailing Address
Claimant Name Los Rios Community College Dist.
County of Location Sacramento
Street Address or P. O.. Box 1919 Spanos Court
City Sacramento State Ca. Zip Code 95825

Reimbursement Claim Data
(22) HFE-1.0, (04)(b) 607,532
(23)
(24)
(25)
(26)

Claim File Copy

Type of Claim	Estimated Claim	Reimbursement Claim	
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(27)
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28)
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29)
Fiscal Year of Cost	(06) 19__/19__	(12) 1997/1998	(30)
Total Claimed Amount	(07)	(13) 607,532	(31)
Less: 10% Late Penalty, not to exceed \$1000		(14) 1,000	(32)
Less: Estimated Claim Payment Received		(15) 606,532	(33)
Net Claimed Amount		(16)	(34)
Due from State	(08)	(17) 606,532	(35)
Due to State		(18)	(36)

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987; and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987, set forth on the attached statements.

Claim File Copy

Signature of Authorized Representative

Louise Davatz

Type or Print Name

Date _____
[Signature]

Exec. Vice-Chancellor

Title Finance & Administration

(39) Name of Contact Person for Claim SixTen and Associates Telephone Number (858) 514-8605 Ext. _____

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY		FORM HFE-1.0
(01) Claimant	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> <input type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 19 ⁹⁷ /19 ⁹⁸
(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)		
#	(a) Name of College	(b) Claimed Amount
1.	American River College	248,662
2.	Cosumnes College	125,913
3.	Sacramento City College	232,957
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
(04) Total Amount Claimed		607,532
		[Line (3.1b) + line (3.2b) + line (3.3b) + ...line (3.21b)]

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 19 <u>97</u> / 19 <u>98</u>
--	---	--

(03) Name of College American River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP; do not complete the form. No reimbursement is allowed.

LESS <input type="checkbox"/>	SAME <input checked="" type="checkbox"/>	MORE <input type="checkbox"/>	31.17%
----------------------------------	---	----------------------------------	--------

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim .	189,572	59,090	248,662
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level (Line (05) - line (06))	189,572	59,090	248,662

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	15,675		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	15,687		\$ 0.00	\$ 0.00			\$ 0.00
3. Per summer session	6,203		\$ 0.00	\$ 0.00			\$ 0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected	[Line (8 1g) + (8.2g) +(8.6g)]	\$ 0.00
(10) Sub-total	[Line (07) - line (09)]	248,662

Cost Reduction

(11) Less: Offsetting Savings, if applicable	
(12) Less: Other Reimbursements, if applicable	
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] 248,662

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 97 98 19__/19__
--	--	-----------------------------------

(03) Name of College **Cosumnes College**

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE **31.17%**

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim	95,992	29,921	125,913
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	95,992	29,921	125,913

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	10,166		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	10,595		\$ 0.00	\$ 0.00			\$ 0.00
3. Per summer session	3,571		\$ 0.00	\$ 0.00			\$ 0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected	(Line (8.1g) + (8.2g) +(8.6g))	\$ 0.00
(10) Sub-total	(Line (07) - line (09))	125,913

Cost Reduction

(11) Less: Offsetting Savings, if applicable	
(12) Less: Other Reimbursements, if applicable	
(13) Total Amount Claimed	125,913 (Line (10) - (line (11) + line (12)))

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 97 98 19__/19__
--	--	-----------------------------------

(03) Name of College **Sacramento City College**

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS <input type="checkbox"/>	SAME <input checked="" type="checkbox"/>	MORE <input type="checkbox"/>	31.17%
----------------------------------	---	----------------------------------	--------

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim	177,599	55,358	232,957
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	177,599	55,358	232,957

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	12,769		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	13,851		\$ 0.00	\$ 0.00			\$ 0.00
3. Per summer session	5,125		\$ 0.00	\$ 0.00			\$ 0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]	\$ 0.00
(10) Sub-total	[Line (07) - line (09)]	232,957

Cost Reduction

(11) Less: Offsetting Savings, if applicable	
(12) Less: Other Reimbursements, if applicable	
(13) Total Amount Claimed	232,957

**LOS RIOS COMMUNITY COLLEGE
CALCULATION OF INDIRECT COST RATE,
FISCAL YEAR 1997- 1998**

	DESCRIPTION	1997-98
INSTRUCTIONAL ACTIVITY		
	Instructional Costs	
	Instructional Salaries and Benefits	62,427,826
	Instructional Operating Expenses	1,957,752
	Instructional Support	192,124
	Auxiliary Classes Inst. Salaries and Benefits	33,633
	TOTAL INSTRUCTIONAL COSTS 1	64,611,335
	Non-Instructional Costs	
	Non-Instructional Salaries and Benefits	2,345,567
	Instructional Admin. Salaries and Benefits	7,365,842
	Instructional Admin. Operating Expenses	867,313
	Auxiliary Classes Non-Inst. Salaries and Benefits	351,278
	Auxiliary Classes Operating Expenses	520,502
	TOTAL NON-INSTRUCTIONAL COSTS 2	11,450,502
	TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	76,061,837
DIRECT SUPPORT ACTIVITY		
	Direct Support Costs	
	Instructional Support Service	2,879,248
	Admissions and Records	1,952,626
	Counselling and Guidance	8,007,442
	Other Student Services	12,423,658
	TOTAL DIRECT SUPPORT COSTS 4	25,262,974
	TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)	101,324,811
	Indirect Support Costs	
	Operation and Maintenance of Plant	11,893,193
	Planning and Policy Making	3,219,430
	General Instructional Support Services	16,465,360
	TOTAL INDIRECT SUPPORT COSTS 6	31,577,983
	TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS, AND TOTAL INDIRECT SUPPORT COSTS (5 + 6) = TOTAL COSTS	132,902,794
SUPPORT COSTS ALLOCATION RATES		
Indirect Support Costs Allocation Rate =		
	Total Indirect Supports Costs (6)	31.17%
	Total Instructional Activity Costs and Direct Support Costs (5)	
Direct Support Costs Allocation Rate =		
	Total Direct Support Costs (4)	33.21%
	Total Instructional Activity Costs (3)	
Total Support Cost Allocation		64.38%

HPB

LOS RIOS COMMUNITY COLLEGE DISTRICT
 HEALTH FEE ELIMINATION MANDATED COST CLAIM
 Fiscal Year Ending June 30, 1998

FY	FUND	BUDGET NO.	OBJ.CODE	LOC	TITLE	GDLINE	FTE	TOP CODE	OCB NO	OCB TITLE	Total
98	1	11110.11	1204	ARC CERT. SAL. - NURSES	15E	2	6440.00	G501	HEALTH OFFICE	136,675.00	
98	1	11110.22	1404	ARC SUBS-NURSE	101S	0	6440.00	G501	HEALTH OFFICE	1,456.00	
98	1	11110.44	1404	ARC HEALTH SERVICES SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE	6,557.00	
98	1	17121.16	2102	ARC CL SAL-ATHLETIC TRAINER	21C	1	6440.00	F265	PE & ATHLETICS	52,447.00 *	
98	1	17123.10	2102	ARC CL SAL HEALTH SERVICES	21C	1	6440.00	G501	HEALTH OFFICE	34,929.00	
98	1	14460.01	4500	ARC HEALTH - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE	4,278.00	
98	1	14460.03	5200	ARC HEALTH-CONFERENCE	41A	0	6440.00	G501	HEALTH OFFICE	771.00	
98	1	14460.06	5600	ARC HEALTH CTR-MAINT/REPAIR	41A	0	6440.00	G501	HEALTH OFFICE	277.00	
98	1	14460.08	5601	ARC HEALTH CTR	41A	0	6440.00	G501	HEALTH OFFICE	140.00	
98	1	14460.07	5890	ARC HEALTH-OTHER OPER/PHYSICIANS	41A	0	6440.00	G501	HEALTH OFFICE	2,912	
98	1	14460.09	6490	ARC HEALTH CTR-INOC INC-EQUIP	41X	0	6499.00	G501	HEALTH OFFICE	1,576.00	
ARC Subtotal											
<u>241,689.00</u>											
98	1	31110.08	1204	CRC CERT. SAL. - SCHOOL NURSE	15E	1.3	6440.00	G501	HEALTH OFFICE	79,080.00	
98	1	31110.37	1404	CRC HEALTH SVC SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE	15,904.00	
98	1	37121.11	2102	CRC CL SAL-ATHLETIC TRAINER	21C	0.83	6440.00	F111	PE/HEALTH/ARTS/FPC	43,444.00	
98	1	34460.01	4500	CRC HEALTH CENTER - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE	738.00	
98	1	32210.02	5200	CRC MILEAGE-NURSE	41A	0	6440.00	G501	HEALTH OFFICE	151.00	
98	1	34460.04	5300	CRC HEALTH CENTER - MEMBERSHIPS	41A	0	6440.00	G501	HEALTH OFFICE	49.00	
98	1	34460.05	5601	CRC HEALTH CTR-PAGER RENTAL	41A	0	6440.00	G501	HEALTH OFFICE	70.00	
CRC Subtotal											
<u>95,992</u>											
<u>139,406.00</u>											
98	1	21110.08	1204	SCC CERT. SAL. - SCHOOL NURSE	15E	2	6440.00	G501	HEALTH OFFICE	164,487.00	
98	1	21110.36	1404	SCC HEALTH SERVICES SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE	7,740	
98	1	27121.15	2102	SCC CL SAL-ATHLETIC TRAINER 12MO.	21C	1	6440.00	F111	PE/HEALTH/ARTS/FPC	51,906.00	
98	1	24460.01	4500	SCC HEALTH CENTER - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE	1,934.00	
98	1	22210.02	5200	SCC MILEAGE - NURSE (HEALTH OFFICE	41A	0	6440.00	G501	HEALTH OFFICE	102.00	
98	1	24460.03	5600	SCC HLTH CTR-OUTSIDE VENDOR	41A	0	6440.00	G501	HEALTH OFFICE	30.00	
98	1	24460.02	5890	SCC HLTH CTR-PERSONAL SVCS	41A	0	6440.00	G501	HEALTH OFFICE	3,303.00	
SCC Subtotal											
<u>177,599</u>											
<u>229,504.00</u>											
<u>610,599.00</u>											

MANDATED COSTS HEALTH FEE ELIMINATION HEALTH SERVICES		FORM HFE-2	
(01) Claimant <i>LRCCD - SCC</i>	(02) Fiscal Year Costs Were Incurred <i>FY 98-99 + 97-98</i>		
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year. <i>None provided by student health fees</i>	(a) FY 1986/87	(b) FY of Claim	
Accident Reports	X	X	
Appointments			
College Physician, surgeon			
Dermatology, Family practice			
Internal Medicine			
Outside Physician			
Dental Services			
Outside Labs, (X-ray, etc.)			
Psychologist, full services			
Cancel/Change Appointments	X	X	
✓ Registered Nurse			
Check Appointments			
<u>Assessment, Intervention and Counseling</u> <i>only</i>	<i>Couns.</i>	<i>Couns.</i>	
Birth Control	X	X	
Lab Reports			
Nutrition			
Test Results, office			
Venereal Disease	<i>Couns.</i>	<i>Couns.</i>	
Communicable Disease	X	X	
Upper Respiratory Infection	<i>Couns.</i>	<i>Couns.</i>	
Eyes, Nose and Throat	X	X	
Eye/Vision	<i>Couns.</i>	<i>Couns.</i>	
Dermatology/Allergy			
Gynecology/Pregnancy Service			
Neuralgic			
Orthopedic			
Genito/Urinary			
Dental			
Gastro-Intestinal	<i>Couns.</i>	<i>Couns.</i>	
Stress Counseling	<i>Couns.</i>	<i>Couns.</i>	
Crisis Intervention			
Child Abuse Reporting and Counseling			
Substance Abuse Identification and Counseling			
Acquired Immune Deficiency Syndrome			
Eating Disorders	<i>Couns.</i>	<i>Couns.</i>	
Weight Control	<i>Couns.</i>	<i>Couns.</i>	
Personal Hygiene			
Burnout			
Other Medical Problems, list			
Examinations, minor illnesses			
Recheck Minor Injury			
Health Talks or Fairs, Information	X	X	
Sexually Transmitted Disease	X	X	
Drugs	X	X	
Acquired Immune Deficiency Syndrome			
Child Abuse			

MANDATED COSTS
HEALTH FEE ELIMINATION
HEALTH SERVICES

FORM
HFE-2

(01) Claimant LRCCD-500 (02) Fiscal Year Costs Were Incurred FY 98-99

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Birth Control/Family Planning	X	X
Stop Smoking		
Library, Videos and Cassettes		
First Aid, Major Emergencies	XXX	XX
First Aid, Minor Emergencies	XX	X
First Aid Kits, Filled		
Immunizations		
Diphtheria/Tetanus		
Measles/Rubella		
Influenza		
Information		
Insurance		
On Campus Accident		
Voluntary		
Insurance Inquiry/Claim Administration		
Laboratory Tests Done		
Inquiry/Interpretation		
Pap Smears		
Physical Examinations		
Employees		
Students		
Athletes		
Medications		
Antacids	X	X
Antidiarrheal		
Aspirin, Tylenol, etc.	XX	XX
Skin Rash Preparations	XX	XX
Eye Drops	X	X
Ear Drops		
Toothache, oil cloves	XX	X
Stingkill		
Midol, Menstrual Cramps		
Other, list		
Parking Cards/Elevator Keys		
Tokens		
Return Card/Key		
Parking Inquiry		
Elevator Passes		
Temporary Handicapped Parking Permits	X	X

State Controller's Office

MANDATED COSTS
HEALTH FEE ELIMINATION
HEALTH SERVICES

FORM
HFE-2

(01) Claimant LRCCD - Soc (02) Fiscal Year Costs Were Incurred FY 98-99

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Referrals to Outside Agencies	X	X
Private Medical Doctor	X	X
Health Department	X	X
Clinic	X	X
Dental	X	X
Counseling Centers	X	X
Crisis Centers	X	X
Transitional Living Facilities, battered/homeless women	X	X
Family Planning Facilities	X	X
Other Health Agencies		
Tests		
Blood Pressure	X	X
Hearing	X	X
Tuberculosis	X	X
Reading Information	X	X
Vision	X	X
Glucometer	X	X
Urinalysis		
Hemoglobin		
EKG		
Strep A Testing		
PG Testing		
Monospot		
Hemacult		
Others, list		
Miscellaneous		
Absence Excuses/PE Waiver		
Allergy Injections		
Band-aids	X	X
Booklets/Pamphlets	X	X
Dressing Change		
Rest	X	X
Suture Removal		
Temperature		
Weigh	X	X
Information	X	X
Report/Form	X	X
Wart Removal	X	X
Others, list		
Committees		
Safety	X	X
Environmental		
Disaster Planning		
Skin Rash Preparations		
Eye Drops		

NA

NA

NA

NA

NA

NA

NA

CLAIM R PAYMENT
Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

For State Controller Use Only
(19) Prc Number 00029
(20) Date file _____/_____/_____
(21) LRS Input _____/_____/_____

L
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(01) Claimant Identification Number S - 34050
(02) Mailing Address
Claimant Name Los Rios Community College Dist.
County of Location Sacramento
Street Address or P. O. Box 1919 Spanos Court
City Sacramento, State Ca. Zip Code 95825

Claim File Copy

Reimbursement Claim Data
(22) HFE-1.0, (04)(b) 625,570
(23)
(24)
(25)
(26)

Type of Claim	Estimated Claim	Reimbursement Claim	
(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(27)	
(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28)	
(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29)	
Fiscal Year of Cost (06) 19 ⁹⁹ / 19 X2000	(12) 19 ⁹⁹ /19 ⁹⁹	(30)	
Total Claimed Amount (07) 600,000	(13) 625,570	(31)	
Less: 10% Late Penalty, not to exceed \$1000	(14) 0	(32)	
Less: Estimated Claim Payment Received	(15) 0	(33)	
Net Claimed Amount	(16) 625,570	(34)	
Due from State (08) 600,000	(17) 625,570	(35)	
Due to State	(18) 0	(36)	

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987; and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987, set forth on the attached statements.

Signature of Authorized Representative
Louise Davatz
Type or Print Name

Claim File Copy

Date _____
[Signature]
Exec. Vice Chancellor
Title Finance & Administration

(39) Name of Contact Person for Claim Telephone Number Ext.
SixTen and Associates (858) 514-8605

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY		FORM HFE-1.0
(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> XXX Estimated <input type="checkbox"/>	Fiscal Year 19 <u>98</u> /19 <u>99</u>
(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)		
(a) Name of College	(b) Claimed Amount	
1. American River College	271,682	
2. Cosumnes College	120,750	
3. Sacramento City College	233,138	
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
(04) Total Amount Claimed	[Line (3.1b) + line (3.2b) + line (3.3b) + ...line (3.21b)]	625,570

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 19 <u>98</u> / 19 <u>99</u>
--	--	--

(03) Name of College American River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

30.40%

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim	208,345	63,337	271,682
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level (Line (05) - line (06))	208,345	63,337	271,682

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	20,038		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	20,805		\$ 0.00	\$ 0.00			\$ 0.00
3. Per summer session	6,767		\$ 0.00	\$ 0.00			\$ 0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected (Line (8.1g) + (8.2g) +(8.6g)) \$ 0.00

(10) Sub-total (Line (07) - line (09)) 271,682

Cost Reduction

(11) Less: Offsetting Savings, if applicable

(12) Less: Other Reimbursements, if applicable

(13) Total Amount Claimed (Line (10) - (line (11) + line (12))) 271,682

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1997/1998
--	--	--------------------------

(03) Name of College **Cosumnes College**

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE **30.40%**

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim	92,600	28,150	120,750
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level (Line (05) - line (06))	92,600	28,150	120,750

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	10,963		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	10,520		0.00	0.00			0.00
3. Per summer session	3,750		0.00	0.00			0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]	0.00
(10) Sub-total	[Line (07) - line (09)]	120,750

Cost Reduction

(11) Less: Offsetting Savings, if applicable		
(12) Less: Other Reimbursements, if applicable		
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))]	120,750

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 19 <u>98</u> /19 <u>99</u>
--	--	---

(03) Name of College **Sacramento City College**

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS <input type="checkbox"/>	SAME <input checked="" type="checkbox"/>	MORE <input type="checkbox"/>	30.40%
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	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim	178,787	54,351	233,138
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	178,787	54,351	233,138

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	12,119		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	12,277		\$ 0.00	\$ 0.00			\$ 0.00
3. Per summer session	5,545		\$ 0.00	\$ 0.00			\$ 0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected	[Line (8 1g) + (8.2g) +(8.6g)]	\$ 0.00
(10) Sub-total	[Line (07) - line (09)]	233,138

Cost Reduction

(11) Less: Offsetting Savings, if applicable		
(12) Less: Other Reimbursements, if applicable		
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))]	233,138

**LOS RIOS COMMUNITY COLLEGE
CALCULATION OF INDIRECT COST RATE,
FISCAL YEAR 1998-1999**

	DESCRIPTION	1998-1999
INSTRUCTIONAL ACTIVITY		
	Instructional Costs	
	Instructional Salaries and Benefits	66,363,220
	Instructional Operating Expenses	2,641,529
	Instructional Support	211,179
	Auxiliary Classes Inst. Salaries and Benefits	32,654
	TOTAL INSTRUCTIONAL COSTS 1	69,248,582
	Non-Instructional Costs	
	Non-Instructional Salaries and Benefits	2,308,758
	Instructional Admin. Salaries and Benefits	7,969,569
	Instructional Admin. Operating Expenses	1,772,227
	Auxiliary Classes Non-Inst. Salaries and Benefits	361,077
	Auxiliary Classes Operating Expenses	391,864
	TOTAL NON-INSTRUCTIONAL COSTS 2	12,803,495
	TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	82,052,077
DIRECT SUPPORT ACTIVITY		
	Direct Support Costs	
	Instructional Support Service	3,535,803
	Admissions and Records	2,040,311
	Counselling and Guidance	8,685,890
	Other Student Services	13,709,070
	TOTAL DIRECT SUPPORT COSTS 4	27,971,074
	TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)	110,023,151
	Indirect Support Costs	
	Operation and Maintenance of Plant	12,292,216
	Planning and Policy Making	3,367,447
	General Instructional Support Services	17,786,018
	TOTAL INDIRECT SUPPORT COSTS 6	33,445,681
	TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS, AND TOTAL INDIRECT SUPPORT COSTS, (5 + 6) = TOTAL COSTS	143,468,832
SUPPORT COSTS ALLOCATION RATES		
	Indirect Support Costs Allocation Rate =	
	Total Indirect Supports Costs (6)	30.40%
	Total Instructional Activity Costs and Direct Support Costs (5)	
	Direct Support Costs Allocation Rate =	
	Total Direct Support Costs (4)	34.09%
	Total Instructional Activity Costs (3)	
	Total Support Cost Allocation	64.49%

LOS RIOS COMMUNITY COLLEGE DISTRICT
HEALTH FEE ELIMINATION MANDATED COST CLAIM
Fiscal Year Ending June 30, 1999

HPE

FY	FUND	BUDGET NO.	OBJ.CODE	LOC TITLE	GDLINE	FTE	TOP CODE	OCB NO	OCB TITLE	
1999	1	11110.11	1204	ARC CERT. SAL. - NURSES	15E	2	6440.00	G501	HEALTH OFFICE	131,992.00
		11110.11	1204	ARC Benefits						18,952.00
1999	1	11110.22	1404	ARC SUBS-NURSE	101S	0	6440.00	G501	HEALTH OFFICE	518.00
		11110.22	1404	ARC Benefits						74.00
1999	1	11110.44	1404	ARC HEALTH SERVICES SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE	6,626.00
		11110.44	1404	ARC Benefits						951.00
1999	1	17121.16	2102	ARC CL SAL-ATHLETIC TRAINER	21C	1	6440.00	F265	P E & ATHLETICS	48,937.00
		17121.16	2102	ARC Benefits						7,927.00
1999	1	17123.10	2102	ARC CL SAL HEALTH SERVICES	21C	1.5	6440.00	G501	HEALTH OFFICE	35,625.00
		17123.10	2102	ARC Benefits						5,115.00
1999	1	14460.05	2303	ARC HEALTH CTR-STUDENT HELP	41A	0	6440.00	G501	HEALTH OFFICE	388.00
		14460.05	2303	ARC Benefits						8.00
1999	1	14460.01	4500	ARC HEALTH - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE	3,718.00
1999	1	14460.03	5200	ARC HEALTH-CONFERENCE	41A	0	6440.00	G501	HEALTH OFFICE	1,017.00
1999	1	14460.08	5601	ARC HEALTH CTR	41A	0	6440.00	G501	HEALTH OFFICE	156.00
1999	1	14460.07	5890	ARC HEALTH-OTHER OPER/PHYSICIANS	41A	0	6440.00	G501	HEALTH OFFICE	2,769.00
1999	1	14460.09	6490	ARC HEALTH CTR-INOC INC-EQUIP	41X	0	6499.00	G501	HEALTH OFFICE	436.00
										208,315
										<u>264,309.00</u>
										ARC Subtotal
1999	1	31110.08	1204	CRC CERT. SAL. - SCHOOL NURSE	15E	1.3	6440.00	G501	HEALTH OFFICE	64,302.00
		31110.08	1204	CRC Benefits						9,233.00
1999	1	31110.37	1404	CRC HEALTH SVC SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE	15,618.00
		31110.37	1404	CRC Benefits						2,242.00
1999	1	37121.11	2102	CRC CL SAL-ATHLETIC TRAINER	21C	0.83	6440.00	F111	PE/HEALTH/ARTS/FPC	40,764.00
		37121.11	2102	CRC Benefits						5,853.00
1999	1	34460.01	4500	CRC HEALTH CENTER - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE	920.00
1999	1	32210.02	5200	CRC MILEAGE-NURSE	41A	0	6440.00	G501	HEALTH OFFICE	140.00
1999	1	34460.04	5300	CRC HEALTH CENTER - MEMBERSHIPS	41A	0	6440.00	G501	HEALTH OFFICE	46.00
1999	1	34460.05	5601	CRC HEALTH CTR-PAGER RENTAL	41A	0	6440.00	G501	HEALTH OFFICE	99.00
										92,600
										<u>139,217.00</u>
										CRC Subtotal
1999	1	21110.08	1204	SCC CERT. SAL. - SCHOOL NURSE	15E	2	6440.00	G501	HEALTH OFFICE	148,611.00
		21110.08	1204	SCC Benefits						21,338.00
1999	1	21110.36	1404	SCC HEALTH SERVICES SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE	6,333.00
		21110.36	1404	SCC Benefits						909.00
1999	1	27121.15	2102	SCC CL SAL-ATHLETIC TRAINER- 12MO.	21C	1	6440.00	F111	PE/HEALTH/ARTS/FPC	48,745.00
		27121.15	2102	SCC Benefits						6,999.00
1999	1	24460.01	4500	SCC HEALTH CENTER - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE	1,187.00
1999	1	24460.02	5890	SCC HLTH CTR-PERSONAL SVCS	41A	0	6440.00	G501	HEALTH OFFICE	409.00
										178,787
										<u>234,531.00</u>
										SCC Subtotal
										<u>638,057.00</u>

MANDATED COSTS
HEALTH FEE ELIMINATION
HEALTH SERVICES

FORM
HFE-2

(01) Claimant LRCCD - SCC (02) Fiscal Year Costs Were Incurred FY 98-99 + 97-98

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
<i>None provided by Student Health Fees</i>		
Accident Reports	X	X
Appointments		
College Physician, surgeon		
Dermatology, Family practice		
Internal Medicine		
Outside Physician		
Dental Services		
Outside Labs, (X-ray, etc.)		
Psychologist, full services		
Cancel/Change Appointments	X	X
Registered Nurse		
Check Appointments		
<u>Assessment</u> , Intervention and <u>Counseling</u> <i>only</i>	Couns.	Couns.
Birth Control	X	X
Lab Reports	X	X
Nutrition		
Test Results, office	Couns.	Couns.
Venereal Disease	X	X
Communicable Disease	Couns.	Couns.
Upper Respiratory Infection	X	X
Eyes, Nose and Throat	Couns.	Couns.
Eye/Vision	X	X
Dermatology/Allergy	Couns.	Couns.
Gynecology/Pregnancy Service		
Neuralgic		
Orthopedic		
Genito/Urinary		
Dental		
Gastro-Intestinal	Couns.	Couns.
Stress Counseling	Couns.	Couns.
Crisis Intervention		
Child Abuse Reporting and Counseling		
Sunstance Abuse Identification and Counseling		
Acquired Immune Deficiency Syndrome		
Eating Disorders	Couns.	Couns.
Weight Control	Couns.	Couns.
Personal Hygiene		
Burnout		
Other Medical Problems, list		
Examinations, minor illnesses		
Recheck Minor Injury		
Health Talks or Fairs, Information	X	X
Sexually Transmitted Disease	X	X
Drugs	X	X
Acquired Immune Deficiency Syndrome	X	X
Child Abuse		

MANDATED COSTS HEALTH FEE ELIMINATION HEALTH SERVICES	FORM HFE-2
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(01) Claimant <u>LRCCD-500</u>	(02) Fiscal Year Costs Were Incurred <u>FY 98-99</u>
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(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Birth Control/Family Planning	X	X
Stop Smoking		
Library, Videos and Cassettes		
First Aid, Major Emergencies	XXX	XXX
First Aid, Minor Emergencies	XX	X
First Aid Kits, Filled		
Immunizations		
Diphtheria/Tetanus		
Measles/Rubella		
Influenza		
Information		
Insurance		
On Campus Accident		
Voluntary		
Insurance Inquiry/Claim Administration		
Laboratory Tests Done		
Inquiry/Interpretation		
Pap Smears		
Physical Examinations		
Employees		
Students		
Athletes	Y	X
Medications		
Antacids	X	X
Antidiarrheal	XX	XX
Aspirin, Tylenol, etc.	XX	XX
Skin Rash Preparations	XX	XX
Eye Drops	XX	XX
Ear Drops	XX	XX
Toothache, oil cloves	XX	XX
Stingkill		
Midol, Menstrual Cramps		
Other, list		
Parking Cards/Elevator Keys		
Tokens		
Return Card/Key		
Parking Inquiry		
Elevator Passes		
Temporary Handicapped Parking Permits	X	X

MANDATED COSTS HEALTH FEE ELIMINATION HEALTH SERVICES	FORM HFE-2
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(01) Claimant <u>LRCCD - See</u>	(02) Fiscal Year Costs Were Incurred <u>FY 98-99</u>
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(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Referrals to Outside Agencies		
Private Medical Doctor	X	X
Health Department	X	X
Clinic	X	X
Dental	X	X
Counseling Centers	X	X
Crisis Centers	X	X
Transitional Living Facilities, battered/homeless women	X	X
Family Planning Facilities	X	X
Other Health Agencies	X	X
Tests		
Blood Pressure	X	X
Hearing	X	X
Tuberculosis	X	X
Reading	X	X
Information	X	X
Vision	X	X
Glucometer	X	X
Urinalysis		
Hemoglobin		
EKG		
Strep A Testing		
PG Testing		
Monospot		
Hemacult		
Others, list		
Miscellaneous		
Absence Excuses/PE Waiver		
Allergy Injections		
Band-aids	X	X
Booklets/Pamphlets	X	X
Dressing Change		
Rest	X	X
Suture Removal	X	X
Temperature		
Weigh	X	X
Information		
Report/Form	X	X
Wart Removal	X	X
Others, list		
Committees		
Safety	X	X
Environmental		
Disaster Planning		
Skin Rash Preparations		
Eye Drops		

} NA

} NA

CLAIM FOR PAYMENT
Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

For State Controller Use only

(19) Program Number 00029
(20) Date File ____/____/____
(21) LRS Input ____/____/____

(01) Claimant Identification Number: S-34050			Reimbursement Claim Data		
L A B E L H E R E	(02) Mailing Address:			(22) HFE - 1.0, (04)(b)	\$ 634,185
	Claimant Name Los Rios Community College			(23)	
	County of Location Sacramento			(24)	
	Street Address 1919 Spanos Court			(25)	
	City	State	Zip Code	(26)	
	Sacramento	CA	95825		
	Type of Claim	Estimated Claim	Reimbursement Claim	(27)	
	(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(28)		
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(29)		
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(30)		
Fiscal Year of Cost	(06) 2000-2001	(12) 1999-2000	(31)		
Total Claimed Amount	(07) \$ 650,000	(13) \$ 634,185	(32)		
Less: 10% Late Penalty, but not to exceed \$1000		(14) \$ -	(33)		
Less: Estimate Claim Payment Received		(15) \$ 185,001	(34)		
Net Claimed Amount		(16) \$ 449,184	(35)		
Due from State	(08) \$ 650,000	(17) \$ 449,184	(36)		
Due to State		(18) \$ -	(37)		

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code Section 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 309, Statutes of 1995, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 309, Statutes of 1995.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 309, Statutes of 1995, set forth on the attached statements.

Signature of Authorized Representative

Date

Louise Davatz *Claim File Copy*

Louise Davatz

Vice Chancellor - Finance & Administration

Type or Print Name

Title

(39) Name of Contact Person or Claim

Telephone Number

SixTen & Associates

(858) 514-8605

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.0
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(01) Claimant: Claimant Name Los Rios Community College	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1999-2000
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(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)

(a) Name of College	(b) Claimed Amount
1. American River College	\$ 258,456.71
2. Consumnes River College	\$ 125,478.70
3. Sacramento City College	\$ 250,249.34
4.	\$ -
5.	\$ -
6.	\$ -
7.	\$ -
8.	\$ -
9.	\$ -
10.	\$ -
11.	\$ -
12.	\$ -
13.	\$ -
14.	\$ -
15.	\$ -
16.	\$ -
17.	\$ -
18.	\$ -
19.	\$ -
20.	\$ -
21.	\$ -
(04) Total Amount Claimed	\$ 634,185

[Line (3.1b) + line (3.2b) + line (3.3b) + ...line (3.21b)]

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
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(01) Claimant: Los Rios Community College	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1999-2000
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(03) Name of College American River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.40%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 198,203	\$ 60,254	\$ 258,457
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 198,203	\$ 60,254	\$ 258,457

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	22,774		no fees			\$ -	\$ -
2. Per spring semester	23,368		no fees			\$ -	\$ -
3. Per summer session	8,271		no fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						\$ -
(10) Sub-total	[Line (07) - line (09)]						\$ 258,457

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	\$ 258,457

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.1**

(01) Claimant: Los Rios Community College	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1999-2000
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(03) Name of College Consumnes River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.40%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 96,226	\$ 29,253	\$ 125,479
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 96,226	\$ 29,253	\$ 125,479

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	12,229		no fees			\$ -	\$ -
2. Per spring semester	12,660		no fees			\$ -	\$ -
3. Per summer session	4,004		no fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -

(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]	\$ -
(10) Sub-total	[Line (07) - line (09)]	\$ 125,479

Cost Reduction		
(11) Less: Offsetting Savings, if applicable		\$ -
(12) Less: Other Reimbursements, if applicable		\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))]	\$ 125,479

MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY

FORM
HFE-1.1

(01) Claimant: Los Rios Community College	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1999-2000
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(03) Name of College Sacramento City College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.40%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 191,909	\$ 58,340	\$ 250,249
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 191,909	\$ 58,340	\$ 250,249

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	13,074		no fees			\$ -	\$ -
2. Per spring semester	13,104		no fees			\$ -	\$ -
3. Per summer session	5,997		no fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						\$ -
(10) Sub-total	[Line (07) - line (09)]						\$ 250,249

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] \$ 250,249

**LOS RIOS COMMUNITY COLLEGE
CALCULATION OF INDIRECT COST RATE,
FISCAL YEAR 1998-1999**

**FOR FY 1999-2000
COSTS**

DESCRIPTION	1998-1999
INSTRUCTIONAL ACTIVITY	
Instructional Costs	
Instructional Salaries and Benefits	66,363,220
Instructional Operating Expenses	2,641,529
Instructional Support	211,179
Auxiliary Classes Inst. Salaries and Benefits	32,654
TOTAL INSTRUCTIONAL COSTS 1	69,248,582
Non-Instructional Costs	
Non-Instructional Salaries and Benefits	2,308,758
Instructional Admin. Salaries and Benefits	7,969,569
Instructional Admin. Operating Expenses	1,772,227
Auxiliary Classes Non-Inst. Salaries and Benefits	361,077
Auxiliary Classes Operating Expenses	391,864
TOTAL NON-INSTRUCTIONAL COSTS 2	12,803,495
TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	82,052,077
DIRECT SUPPORT ACTIVITY	
Direct Support Costs	
Instructional Support Service	3,535,803
Admissions and Records	2,040,311
Counselling and Guidance	8,685,890
Other Student Services	13,709,070
TOTAL DIRECT SUPPORT COSTS 4	27,971,074
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)	110,023,151
Indirect Support Costs	
Operation and Maintenance of Plant	12,292,216
Planning and Policy Making	3,367,447
General Instructional Support Services	17,786,018
TOTAL INDIRECT SUPPORT COSTS 6	33,445,681
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS AND TOTAL INDIRECT SUPPORT COSTS (5 + 6) = TOTAL COSTS	143,468,832
SUPPORT COSTS ALLOCATION RATES	
Indirect Support Costs Allocation Rate =	
Total Indirect Supports Costs (6)	30.40%
Total Instructional Activity Costs and Direct Support Costs (5)	
Direct Support Costs Allocation Rate =	
Total Direct Support Costs (4)	34.09%
Total Instructional Activity Costs (3)	
Total Support Cost Allocation	64.49%

**LOS RIOS COMMUNITY COLLEGE DISTRICT
HEALTH FEE ELIMINATION CLAIM 1999-2000
STUDENT ENROLLMENT**

CAMPUS		FALL 1999	SPRING 2000	SUMMER 2000	TOTALS
AMERICAN RIVER	TOTAL	29472	29995	10558	70025
	BOGG	<u>-6698</u>	<u>-6627</u>	<u>-2287</u>	<u>-15612</u>
		22774	23368	8271	54413
COSUMNES	TOTAL	15882	16432	5350	37664
	BOGG	<u>-3653</u>	<u>-3772</u>	<u>-1346</u>	<u>-8771</u>
		12229	12660	4004	28893
SACRAMENTO CIT	TOTAL	19952	19754	9419	49125
	BOGG	<u>-6878</u>	<u>-6650</u>	<u>-3422</u>	<u>-16950</u>
		13074	13104	5997	32175
DISTRICT	TOTAL	65306	66181	25327	156814
	BOGG	<u>-17229</u>	<u>-17049</u>	<u>-7055</u>	<u>-41333</u>
	NET ENR	48077	49132	18272	115481

LOS RIOS COMMUNITY COLLEGE DISTRICT
Health Fee Elimination Mandated Cost Claim
FYE June 30, 2000

Account	Account Title	GL Totals by Campus				Adjustments to tie to 311			311 Totals Allocated by Campus							
		ARC	CRC	SCC	PE	GL Total	Allocations	Retro	Benefits	Total	ARC	CRC	SCC	Subtotal	PE	Total
1204	Reg Health Svcs Salaries	111,652.40	62,455.70	144,342.00		318,450.10		19,886.44		338,336.54	118,624.82	66,355.91	153,355.81	338,336.54	0.00	338,336.54
	Benefits		0.00			0.00			50,192.55	50,192.55	17,598.11	9,843.96	22,750.48	50,192.55	0.00	50,192.55
1404	Non-Reg Health Svcs Salaries	7,233.05	15,380.79	7,228.78		29,842.62		1,092.34		30,934.96	7,497.80	15,943.78	7,493.38	30,934.96	0.00	30,934.96
	Benefits					0.00			4,589.23	4,589.23	1,112.31	2,365.27	1,111.65	4,589.23	0.00	4,589.23
2102	Reg Classified Salaries	32,699.91			44,421.87	77,121.78	1,420.62	6,415.33		84,957.73	36,022.38	0.00	0.00	36,022.38	48,935.35	84,957.73
	Benefits					0.00			12,603.56	12,603.56	5,343.95	0.00	0.00	5,343.95	7,259.61	12,603.56
2303	Student Help Wages	1,131.60				1,131.60	216.51			1,348.11	1,348.11	0.00	0.00	1,348.11	0.00	1,348.11
	Benefits					0.00			26.96	26.96	26.96	0.00	0.00	26.96	0.00	26.96
4500	Non-Instr-Supplies & Materials	3,777.83	1,538.37	2,320.01		7,636.21	(87.63)			7,548.58	3,734.47	1,520.72	2,293.39	7,548.58	0.00	7,548.58
5200	Travel & Conference	743.40	62.43	167.78		973.61	(1.27)			972.34	742.43	62.35	167.56	972.34	0.00	972.34
5201	Mileage - In District		28.00			28.00	(0.58)			27.42	0.00	27.42	0.00	27.42	0.00	27.42
5300	Dues and Membership		50.00			50.00	(1.03)			48.97	0.00	48.97	0.00	48.97	0.00	48.97
5600	Repairs	140.00				140.00	(2.55)			137.45	137.45	0.00	0.00	137.45	0.00	137.45
5601	Rents and Leases	118.00	59.00			177.00	(3.66)			173.34	115.56	57.78	0.00	173.34	0.00	173.34
5890	Other Operational Expense	2,957.50		2,940.00		5,897.50	3,603.13			9,500.63	4,764.41	0.00	4,736.22	9,500.63	0.00	9,500.63
6490	Equipment Capitalized	1,125.73				1,125.73	8.65			1,134.38	1,134.38	0.00	0.00	1,134.38	0.00	1,134.38
		161,579.42	79,574.29	156,998.57	44,421.87	442,574.15	5,152.19	27,394.11	67,412.30	542,532.75	198,203.14	96,226.16	191,908.49	486,337.79	56,194.96	542,532.75

<p align="center">MANDATED COSTS HEALTH FEE ELIMINATION COMPONENT/ACTIVITY COST DETAIL</p>	<p align="center">FORM HFE-2.1</p>	
<p>(01) Claimant Los Rios Community College District</p>	<p align="center">Fiscal Year 1999-2000</p>	
<p>(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.</p>	<p align="center">(a) FY 1986/87</p>	<p align="center">(b) FY of Claim</p>
<p>Accident Reports</p>	X	X
<p>Appointments</p>		
<p> College Physician, surgeon</p>		
<p> Dermatology, Family practice</p>		
<p> Internal Medicine</p>		
<p> Outside Physician</p>		
<p> Dental Services</p>		
<p> Outside Labs, (X-ray, etc.,)</p>		
<p> Psychologist, full services</p>		
<p> Cancel/Change Appointments</p>		
<p> Registered Nurse</p>	X	X
<p> Check Appointments</p>		
<p>Assessment, and Counseling (only)</p>		
<p> Birth Control</p>		
<p> Lab Reports</p>		
<p> Nutrition</p>	X	X
<p> Test Results, office</p>		
<p> Venereal Disease</p>	X	X
<p> Communicable Disease</p>	X	X
<p> Upper Respiratory Infection</p>	X	X
<p> Eyes, Nose and Throat</p>		
<p> Eye/Vision</p>	X	X
<p> Dermatology/Allergy</p>		
<p> Gynecology/Pregnancy Service</p>	X	X
<p> Neuralgic</p>		
<p> Orthopedic</p>		
<p> Genito/Urinary</p>		
<p> Dental</p>		
<p> Gastro-Intestinal</p>		
<p> Stress Counseling</p>	X	X
<p> Crisis Intervention</p>	X	X
<p> Child Abuse Reporting and Counseling</p>		
<p> Sunstance Abuse Identification and Counseling</p>		
<p> Eating Disorders</p>		
<p> Weight Control</p>	X	X
<p> Personal Hygiene</p>		
<p> Burnout</p>		
<p> Other Medical Problems, list</p>		
<p>Examinations, minor illnesses</p>		
<p> Recheck Minor Injury</p>		
<p>Health Talks or Fairs, Information</p>		
<p> Sexually Transmitted Disease</p>	X	X
<p> Drugs</p>	X	X
<p> Acquired Immune Deficiency Syndrome</p>	X	X
<p> Child Abuse</p>		

<p align="center">MANDATED COSTS HEALTH FEE ELIMINATION COMPONENT/ACTIVITY COST DETAIL</p>	<p align="center">FORM HFE-2.1</p>	
<p>(01) Claimant Los Rios Community College District</p>	<p align="center">Fiscal Year 1999-2000</p>	
<p>(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.</p>	<p align="center">(a) FY 1986/87</p>	<p align="center">(b) FY of Claim</p>
<p>Birth Control/Family Planning Stop Smoking Library, Videos and Cassettes</p>	<p align="center">X</p>	<p align="center">X</p>
<p>First Aid, Major Emergencies First Aid, Minor Emergencies First Aid Kits, Filled</p>	<p align="center">X X X</p>	<p align="center">X X X</p>
<p>Immunizations Diphtheria/Tetanus Measles/Rubella Influenza Information</p>	<p align="center">X</p>	<p align="center">X</p>
<p>Insurance On Campus Accident Voluntary Insurance Inquiry/Claim Administration</p>	<p align="center">X X</p>	<p align="center">X X</p>
<p>Laboratory Tests Done Inquiry/Interpretation Pap Smears</p>		
<p>Physical Examinations Employees Students Athletes</p>	<p align="center">X</p>	<p align="center">X</p>
<p>Medications Antacids Antidiarrheal Aspirin, Tylenol, etc., Skin Rash Preparations Eye Drops Ear Drops Toothache, oil cloves Stingkill Midol, Menstrual Cramps Other, list--> Ibuprofen</p>	<p align="center">X X X X X X X</p>	<p align="center">X X X X X X X</p>
<p>Parking Cards/Elevator Keys Tokens Return Card/Key Parking Inquiry Elevator Passes Temporary Handicapped Parking Permits</p>	<p align="center">X X</p>	<p align="center">X X</p>

MANDATED COSTS HEALTH FEE ELIMINATION COMPONENT/ACTIVITY COST DETAIL		FORM HFE-2.1	
(01) Claimant Los Rios Community College District		Fiscal Year 1999-2000	
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.		(a) FY 1986/87	(b) FY of Claim
Referrals to Outside Agencies			
Private Medical Doctor		X	X
Health Department		X	X
Clinic		X	X
Dental		X	X
Counseling Centers		X	X
Crisis Centers		X	X
Transitional Living Facilities, battered/homeless women		X	X
Family Planning Facilities		X	X
Other Health Agencies		X	X
Tests			
Blood Pressure		X	X
Hearing		X	X
Tuberculosis			
Reading		X	X
Information			
Vision		X	X
Glucometer		X	X
Urinalysis			
Hemoglobin			
EKG			
Strep A Testing			
PG Testing			
Monospot			
Hemacult			
Others, list			
Miscellaneous			
Absence Excuses/PE Waiver		X	X
Allergy Injections			
Band-aids		X	X
Booklets/Pamphlets		X	X
Dressing Change			
Rest		X	X
Suture Removal			
Temperature		X	X
Weigh		X	X
Information		X	X
Report/Form			
Wart Removal			
Others, list		X	X
Committees			
Safety		X	X
Environmental			
Disaster Planning			
Skin Rash Preparations			
Eye Drops			

CLAIM FOR PAYMENT
 Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

For State Controller Use only
 (19) Program Number 00029
 (20) Date File ___/___/___
 (21) LRS Input ___/___/___

(01) Claimant Identification Number:
 S-34050

(02) Mailing Address:

Claimant Name: **Claim File Copy**
 Los Rios Community College District

County of Location:
 Sacramento

Street Address:
 1919 Spanos Court

City: Sacramento **State:** CA **Zip Code:** 95825

Reimbursement Claim Data	
(22) HFE - 1.0, (04)(b)	\$ 667,337
(23)	
(24)	
(25)	
(26)	
(27)	
(28)	
(29)	
(30)	
(31)	
(32)	
(33)	
(34)	
(35)	
(36)	
(37)	


Type of Claim	Estimated Claim	Reimbursement Claim
(03) Estimated	<input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>
(04) Combined	<input type="checkbox"/>	(10) Combined <input type="checkbox"/>
(05) Amended	<input type="checkbox"/>	(11) Amended <input type="checkbox"/>
Fiscal Year of Cost	(06) 2001-2002	(12) 2000-2001
Total Claimed Amount	(07) \$ 730,000	(13) \$ 667,337
Less: 10% Late Penalty, but not to exceed \$1000		(14) \$ -
Less: Estimate Claim Payment Received		(15) \$ 187,592
Net Claimed Amount		(16) \$ 479,745
Due from State	(08) \$ 730,000	(17) \$ 479,745
Due to State		(18) \$ -

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code § 17561, I certify that I am the officer authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987, set forth on the attached statements.

Signature of Authorized Officer

 Theresa Matista
 Type or Print Name

Date
 1/9/2002
 Interim Vice Chancellor, Finance and Admin.
 Title

(39) Name of Contact Person or Claim
 SixTen and Associates
 Telephone Number (858) 514-8605
 E-Mail Address kbpsixten@aol.com

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.0**

(01) Claimant: Claimant Name Los Rios Community College District	(02) Type of Claim: Reimbursement	<input checked="" type="checkbox"/>	Fiscal Year
	Estimated	<input type="checkbox"/>	2000-2001

(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)

	(b) Claimed Amount
(a) Name of College	
1. American River College	\$ 267,203.67
2. Cosumnes River College	\$ 131,951.72
3. Sacramento City College	\$ 268,181.66
4.	\$ -
5.	\$ -
6.	\$ -
7.	\$ -
8.	\$ -
9.	\$ -
10.	\$ -
11.	\$ -
12.	\$ -
13.	\$ -
14.	\$ -
15.	\$ -
16.	\$ -
17.	\$ -
18.	\$ -
19.	\$ -
20.	\$ -
21.	\$ -
(04) Total Amount Claimed	\$ 667,337

[Line (3.1b) + line (3.2b) + line (3.3b) + ...line (3.21b)]

<p>MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY</p>	<p>FORM HFE-1.1</p>
---	--

<p>(01) Claimant: Los Rios Community College District</p>	<p>(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/></p>	<p>Fiscal Year 2000-2001</p>
--	---	---------------------------------------

(03) Name of College American River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, **STOP**, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 31.45%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 203,274	\$ 63,930	\$ 267,204
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 203,274	\$ 63,930	\$ 267,204

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	25,192		No fees			\$ -	\$ -
2. Per spring semester	24,205		No fees			\$ -	\$ -
3. Per summer session	9,825		No fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						\$ -
(10) Sub-total	[Line (07) - line (09)]						\$ 267,204

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] \$ 267,204

	MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.2
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(01) Claimant: Los Rios Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2000-2001
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(03) Name of College Cosumnes River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 31.45%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 100,382	\$ 31,570	\$ 131,952
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 100,382	\$ 31,570	\$ 131,952

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	14,245		No fees			\$ -	\$ -
2. Per spring semester	14,733		No fees			\$ -	\$ -
3. Per summer session	5,158		No fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -

(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]	\$ -
(10) Sub-total	[Line (07) - line (09)]	\$ 131,952

Cost Reduction		
(11) Less: Offsetting Savings, if applicable		\$ -
(12) Less: Other Reimbursements, if applicable		\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))]	\$ 131,952

MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY

FORM
HFE-1.3

(01) Claimant: Los Rios Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2000-2001
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(03) Name of College Sacramento City College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 31.45%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 204,018	\$ 64,164	\$ 268,182
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 204,018	\$ 64,164	\$ 268,182

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	16,904		No fees			\$ -	\$ -
2. Per spring semester	16,564		No fees			\$ -	\$ -
3. Per summer session	7,850		No fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						\$ -
(10) Sub-total	[Line (07) - line (09)]						\$ 268,182
Cost Reduction							
(11) Less: Offsetting Savings, if applicable							\$ -
(12) Less: Other Reimbursements, if applicable							\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))]						\$ 268,182

**3 RIOS COMMUNITY COLLEGE
 CALCULATION OF INDIRECT COST RATE,
 FISCAL YEAR 1999-2000 CCFS 311 FOR 2000-2001 RATE**

REFERENCE (CCFS 311)	DESCRIPTION	1999-2000
INSTRUCTIONAL ACTIVITY		
	Instructional Costs	
	Instructional Salaries and Benefits	70,983,417
	Instructional Operating Expenses	3,674,093
	Instructional Support	241,888
	Auxiliary Classes Inst. Salaries and Benefits	27,282
	TOTAL INSTRUCTIONAL COSTS 1	74,926,680
	Non-Instructional Costs	
	Non-Instructional Salaries and Benefits	3,793,275
	Instructional Admin. Salaries and Benefits	8,364,740
	Instructional Admin. Operating Expenses	1,803,836
	Auxiliary Classes Non-Inst. Salaries and Benefits	725,149
	Auxiliary Classes Operating Expenses	560,834
	TOTAL NON-INSTRUCTIONAL COSTS 2	15,247,834
	TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	90,174,514
DIRECT SUPPORT ACTIVITY		
	Direct Support Costs	
	Instructional Support Service	4,803,997
	Admissions and Records	2,117,273
	Counselling and Guidance	9,941,803
	Other Student Services	13,082,464
	TOTAL DIRECT SUPPORT COSTS 4	29,945,537
	TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)	120,120,051
	Indirect Support Costs	
	Operation and Maintenance of Plant	13,331,397
	Planning and Policy Making	4,090,923
	General Instructional Support Services	20,355,449
	TOTAL INDIRECT SUPPORT COSTS 6	37,777,769
	TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS AND TOTAL INDIRECT SUPPORT COSTS (5 + 6) = TOTAL COSTS	157,897,820
	SUPPORT COSTS ALLOCATION RATES	
Indirect Support Costs Allocation Rate =	Total Indirect Supports Costs (6) Total Instructional Activity Costs and Direct Support Costs (5)	31.45%
Direct Support Costs Allocation Rate =	Total Direct Support Costs (4) Total Instructional Activity Costs (3)	33.21%
Total Support Cost Allocation		64.66%

LOS RIOS COMMUNITY COLLEGE DISTRICT
Health Fee Elimination Mandated Cost Claim
for FYE June 30, 2001

Account	Account Title	GL Totals by Category				Adjustments to file to 311				311 Totals Allocated by Category					
		ARC	CRC	SCC	PE	GL Total	Allocations	Repts	Benefits	ARC	CRC	SCC	Subtotal	PE	Total
1204	Reg Health Svcs Salaries	118,854.10	59,449.70	151,670.15		329,944.95	(167,879)	24,471.38	89,937.26		63,814.87	162,840.21	354,290.53	0.00	354,290.53
	Benefits					0.00					10,616.79	27,092.27	58,937.26	0.00	58,937.26
1404	Non-Reg Health Svcs Salaries	1,591.67	19,456.95	7,529.05		28,569.68		2,228.25	6,126.16		1,716.76	6,116.05	30,806.93	0.00	30,806.93
	Benefits					0.00					285.42	1,350.19	5,125.16	0.00	5,125.16
2102	Reg Classified Salaries	34,686.06		48,651.46		83,217.49	2,319.11	7,377.54	15,066.98		4,261.97	0.00	38,616.08	54,299.06	92,914.14
	Benefits					0.00					1,627.97	0.00	4,261.99	8,804.99	16,066.98
2303	Student Help Wages	1,266.32				1,266.32	338.05	3.59	25.89		25.89	0.00	1,627.97	0.00	1,627.97
	Benefits					0.00					25.89	0.00	25.89	0.00	25.89
4800	Non-Inst Supplies & Materials	1,441.44	1,361.17	1,525.78		4,328.39	144.05				1,489.40	1,596.66	4,472.43	0.00	4,472.43
6200	Travel & Conference	1,348.76		204.00		1,632.76	(156.75)				1,219.29	256.74	1,476.03	0.00	1,476.03
6201	Mileage - In District					6.00					0.00	0.00	0.00	0.00	0.00
6202	Dues and Membership	378.90	50.00			50.00	(4.89)				0.00	0.00	45.20	0.00	45.20
6203	Reprints	104.21	398.90			398.90	(38.37)				360.60	0.00	360.60	0.00	360.60
6401	Rents and Leases	3,022.50	36.08	3,060.00		140.29	(13.49)				94.21	0.00	126.03	0.00	126.03
6490	Equipment Depreciated					6,092.50	(583.94)				2,732.33	0.00	2,732.33	5,498.56	6,498.56
						0.00					0.00	0.00	0.00	0.00	0.00
		162,633.97	80,340.90	164,097.97	48,651.46	456,684.30	1,856.17	34,080.76	79,155.29		269,278.89	182,381.48	607,673.46	63,108.05	670,781.51



**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

(01) Claimant Los Rios Community College District	Fiscal Year 2000-2001	
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Accident Reports	X	X
Appointments		
College Physician, surgeon		
Dermatology, Family practice		
Internal Medicine		
Outside Physician		
Dental Services		
Outside Labs, (X-ray, etc.)		
Psychologist, full services		X
Cancel/Change Appointments	X	X
Registered Nurse		X
Check Appointments		
Assessment, Intervention and Counseling		
Birth Control		X
Lab Reports	X	X
Nutrition		X
Test Results, office	X	X
Venereal Disease	X	X
Communicable Disease	X	X
Upper Respiratory Infection		X
Eyes, Nose and Throat	X	X
Eye/Vision		X
Dermatology/Allergy	X	X
Gynecology/Pregnancy Service		X
Neuralgic		X
Orthopedic		X
Genito/Urinary		X
Dental		X
Gastro-Intestinal		X
Stress Counseling	X	X
Crisis Intervention	X	X
Child Abuse Reporting and Counseling		X
Substance Abuse Identification and Counseling		X
Eating Disorders		X
Weight Control	X	X
Personal Hygiene		X
Burnout		X
Other Medical Problems, list		
Examinations, minor illnesses		
Recheck Minor Injury		X
Health Talks or Fairs, Information		
Sexually Transmitted Disease	X	X
Drugs	X	X
Acquired Immune Deficiency Syndrome	X	X
Child Abuse		X

**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

(01) Claimant

Los Rios Community College District

Fiscal Year

2000-2001

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.

(a) FY 1986/87	(b) FY of Claim
----------------------	-----------------------

Birth Control/Family Planning	X	X
Stop Smoking		X
Library, Videos and Cassettes		X
First Aid, Major Emergencies	X	X
First Aid, Minor Emergencies	X	X
First Aid Kits, Filled	X	X
Immunizations		
Diphtheria/Tetanus		X
Measles/Rubella		X
Influenza		X
Information	X	X
Hepatitis B		X
Insurance		
On Campus Accident	X	
Voluntary	X	X
Insurance Inquiry/Claim Administration		X
Laboratory Tests Done		
Inquiry/Interpretation		X
Pap Smears		
Physical Examinations		
Employees		
Students		
Athletes	X	X
Medications		
Antacids	X	X
Antidiarrheal		X
Aspirin, Tylenol, etc.,	X	X
Skin Rash Preparations	X	X
Eye Drops	X	X
Ear Drops		
Toothache, oil cloves		
Stingkill	X	X
Midol, Menstrual Cramps	X	X
Others, list: Acetaminophen, Albutrol, Aliminum Hydroxide, Antibiotic Ointment, Benedryl Pepto Bismol, Caladryl, Cough Crops, Dextromethorphan, Epinephrine, Glucose, Imodium, Ibuprofen, Hydrocortisone, Pseudoephedrine, Saline Solution, Ipecac, Syrup, & Zanatac	X	X
Parking Cards/Elevator Keys		
Tokens		
Return Card/Key		
Parking Inquiry	X	X
Elevator Passes		
Temporary Handicapped Parking Permits	X	X

**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

(01) Claimant

Los Rios Community College District

Fiscal Year

2000-2001

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.

(a) FY 1986/87	(b) FY of Claim
----------------------	-----------------------

Referrals to Outside Agencies

- Private Medical Doctor
- Health Department
- Clinic
- Dental
- Counseling Centers
- Crisis Centers
- Transitional Living Facilities, battered/homeless women
- Family Planning Facilities
- Other Health Agencies

X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X

Tests

- Blood Pressure
- Hearing
- Tuberculosis
 - Reading
 - Information
- Vision
- Glucometer
- Urinalysis
- Hemoglobin
- EKG
- Strep A Testing
- PG Testing
- Monospot
- Hemacult
- Others, list

X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
	X

Miscellaneous

- Absence Excuses/PE Waiver
- Allergy Injections
- Band-aids
- Booklets/Pamphlets
- Dressing Change
- Rest
- Suture Removal
- Temperature
- Weigh
- Information
- Report/Form
- Wart Removal
- Others, list See medications - page #2

X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X

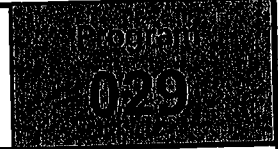
Committees

- Safety
- Environmental
- Disaster Planning
- Skin Rash Preparations
- Eye Drops

X	X
	X
	X

CLAIM FOR PAYMENT
 Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

For State Controller Use only
 (19) Program Number 00029
 (20) Date File ___/___/___
 (21) LRS Input ___/___/___



(01) Claimant Identification Number:
 S-34050

(02) Mailing Address:
Claim File Copy

Claimant Name
 Los Rios Community College District

County of Location
 Sacramento

Street Address
 1919 Spanos Court

City State Zip Code
 Sacramento CA 95825

Reimbursement Claim Data	
(22) HFE - 1.0, (04)(b)	\$ 671,976
(23)	
(24)	
(25)	
(26)	
(27)	
(28)	
(29)	
(30)	
(31)	
(32)	
(33)	
(34)	
(35)	
(36)	
(37)	

Type of Claim	Estimated Claim	Reimbursement Claim
(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	
(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	
(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	
Fiscal Year of Cost	(06) 2002-2003	(12) 2001-2002
Total Claimed Amount	(07) \$ 738,000	(13) \$ 671,976
Less: 10% Late Penalty, but not to exceed \$1000		(14) \$ -
Less: Estimate Claim Payment Received		(15) \$ 170,489
Net Claimed Amount		(16) \$ 501,487
Due from State	(08) \$ 738,000	(17) \$ 501,487
Due to State		(18) \$ -

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code § 17561, I certify that I am the officer authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987, set forth on the attached statements.

Signature of Authorized Officer

 Jon Sharpe
 Type or Print Name

Date
 DEC 27, 2002
 Vice Chancellor Finance & Administration
 Title

(39) Name of Contact Person or Claim

SixTen and Associates

Telephone Number (858) 514-8605

E-Mail Address kbpsixten@aol.com

FROM 2011 029	MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.0
-------------------------	--	--

(01) Claimant:	(02) Type of Claim:	Fiscal Year
Claimant Name	Reimbursement <input checked="" type="checkbox"/>	
Los Rio Community College District	Estimated <input type="checkbox"/>	2001-2002

(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)

(a) Name of College	(b) Claimed Amount
1. American River College	\$ 215,372.00
2. Consumes River College	\$ 176,841.00
3. Sacramento City College	\$ 279,763.00
4.	\$ -
5.	\$ -
6.	\$ -
7.	\$ -
8.	\$ -
9.	\$ -
10.	\$ -
11.	\$ -
12.	\$ -
13.	\$ -
14.	\$ -
15.	\$ -
16.	\$ -
17.	\$ -
18.	\$ -
19.	\$ -
20.	\$ -
21.	\$ -
(04) Total Amount Claimed	\$ 671,976

[Line (3.1b) + line (3.2b) + line (3.3b) + ...line (3.21b)]

**LOS RIOS COMMUNITY COLLEGE DISTRICT
CALCULATION OF INDIRECT COST RATE,
FISCAL YEAR
2000-2001**

*FOR 01-02
CLAIMS*

REFERENCE (CCFS 311)	DESCRIPTION	2000-2001
INSTRUCTIONAL ACTIVITY		
	Instructional Costs	
	Instructional Salaries and Benefits	76,815,687
	Instructional Operating Expenses	4,978,978
	Instructional Support Instructional Salaries and Benefits	406,970
	Auxiliary Operations Instructional Salaries and Benefits	42,480
	TOTAL INSTRUCTIONAL COSTS 1	82,244,115
	Non-Instructional Costs	
	Non-Instructional Salaries and Benefits	4,323,694
	Instructional Admin. Salaries and Benefits	9,476,652
	Instructional Admin. Operating Expenses	1,017,503
	Auxiliary Classes Non-Inst. Salaries and Benefits	843,263
	Auxiliary Classes Operating Expenses	826,762
	TOTAL NON-INSTRUCTIONAL COSTS 2	16,487,874
	TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	98,731,989
DIRECT SUPPORT ACTIVITY		
	Direct Support Costs	
	Instructional Support Services Non Inst. Salaries and Benefits	5,159,428
	Instructional Support Services Operating Expenses	1,130,609
	Admissions and Records	2,272,556
	Counselling and Guidance	11,203,436
	Other Student Services	13,029,445
	TOTAL DIRECT SUPPORT COSTS 4	32,795,474
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)		131,527,463
	Indirect Support Costs	
	Operation and Maintenance of Plant	15,229,939
	Planning and Policy Making	4,295,280
	General Instructional Support Services	20,884,012
	TOTAL INDIRECT SUPPORT COSTS 6	40,409,231
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS AND TOTAL INDIRECT SUPPORT COSTS (5 + 6) = TOTAL COSTS		171,936,694
SUPPORT COSTS ALLOCATION RATES		
Indirect Support Costs Allocation Rate =	Total Indirect Support Costs (6) Total Instructional Activity Costs and Direct Support Costs (5)	30.72%
Direct Support Costs Allocation Rate =	Total Direct Support Costs (4) Total Instructional Activity Costs (3)	33.22%
Total Support Cost Allocation		63.94%

MANDATED COSTS	HEALTH FEE ELIMINATION	CLAIM SUMMARY	FORM HFE-1.1
-----------------------	-------------------------------	----------------------	---------------------

(01) Claimant: Los Rio Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2001-2002
---	---	--------------------------

(03) Name of College American River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.


LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.72%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 164,758	\$ 50,614	\$ 215,372
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 164,758	\$ 50,614	\$ 215,372

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester				\$ -		\$ -	\$ -
2. Per spring semester				\$ -		\$ -	\$ -
3. Per summer session				\$ -		\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						0
(10) Sub-total	[Line (07) - line (09)]						\$ 215,372

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] \$ 215,372

	MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.2
---	--	-------------------------------

(01) Claimant: Los Rio Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2001-2002
---	---	------------------------------

(03) Name of College Cosumnes River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.72%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 135,282	\$ 41,559	\$ 176,841
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 135,282	\$ 41,559	\$ 176,841

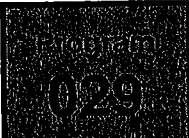
(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester				\$ -		\$ -	\$ -
2. Per spring semester				\$ -		\$ -	\$ -
3. Per summer session				\$ -		\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -

(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]	0
(10) Sub-total	[Line (07) - line (09)]	\$ 176,841

Cost Reduction

(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] \$ 176,841

	MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.3
---	--	-------------------------------

(01) Claimant: Los Rio Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2001-2002
---	---	------------------------------

(03) Name of College Sacramento City College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.72%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 214,017	\$ 65,746	\$ 279,763
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 214,017	\$ 65,746	\$ 279,763

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester				\$ -		\$ -	\$ -
2. Per spring semester				\$ -		\$ -	\$ -
3. Per summer session				\$ -		\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected				[Line (8.1g) + (8.2g) +(8.6g)]			0
(10) Sub-total				[Line (07) - line (09)]			\$ 279,763

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	\$ 279,763

LOS RIOS COMMUNITY COLLEGE DISTRICT
Health Fee Elimination Mandated Cost Claim
For FYE June 30, 2002

Account	Account Title	GL Totals by Campus					Adjustments to tie to 311					311 Totals Allocated by Campus															
		ARC	CRC	SCC	PE	GL Total	Allocation Prog 99000s	Allocation Retro	Allocation Lottery	Benefits & Adj	Allocation Lottery Bene	82,308.89	13,480.80	17,270.97	2,828.69	39,006.08	6,388.53	1,314.21	523.83	0.00	110.46	0.00	66.71	70.92	406.25	1,158.85	164,758.02
1204	Reg Health Svcs Salaries	76,280.40	94,358.42	158,663.20		329,302.02	15,336.18	18,056.85	(7,368.07)	59,496.76	(1,300.24)	82,308.89	13,480.80	17,270.97	2,828.69	39,006.08	6,388.53	1,314.21	523.83	0.00	110.46	0.00	66.71	70.92	406.25	1,158.85	164,758.02
	Benefits					0.00																					
1404	Non-Reg Health Svcs Salaries	16,939.59	13,185.98	8,164.13		38,289.70	1,558.54	(809.50)	(809.50)	6,536.73	(142.86)	17,270.97	2,828.69	39,006.08	6,388.53	1,314.21	523.83	0.00	110.46	0.00	66.71	70.92	406.25	1,158.85	164,758.02		
	Benefits					0.00																					
2102	Reg Classified Salaries	36,057.49			50,863.56	86,921.05	4,439.26	4,618.47	(1,949.79)	15,744.43	(344.08)	39,006.08	6,388.53	1,314.21	523.83	0.00	110.46	0.00	66.71	70.92	406.25	1,158.85	164,758.02				
	Benefits					0.00																					
4500	Non-Inst-Supplies & Materials	1,312.57	966.05	1,908.22		4,186.84	5.25	(81.64)	(81.64)			1,312.57	966.05	1,908.22	4,186.84	5.25	(81.64)	(81.64)									
5200	Travel & Conference	588.90	124.18	150.00		738.90	(13.72)	(13.72)	(13.72)			588.90	124.18	150.00	738.90	(13.72)	(13.72)										
5201	Mileage - In District		75.00			75.00	(8.81)	(8.81)	(8.81)				75.00		75.00	(8.81)	(8.81)										
5300	Dues and Membership	79.73				79.73	(50.47)	(50.47)	(50.47)			79.73			79.73	(50.47)	(50.47)										
5500	Utilities	456.72				456.72						456.72			456.72												
5600	Repairs	1,302.80				1,302.80						1,302.80			1,302.80												
5890	Other Operational Expense				3,420.00	3,420.00									3,420.00												
		123,018.20	108,709.63	172,305.55	50,863.56	454,896.94	19,775.44	23,554.33	(10,127.86)	81,777.92	(1,787.18)	164,758.02	135,281.54	214,015.79	514,055.35	64,034.73	578,090.09										

MANDATED COSTS HEALTH FEE ELIMINATION COMPONENT/ACTIVITY COST DETAIL		FORM HFE-2.1	
(01) Claimant Los Rio Community College District.		Fiscal Year 2001-2002	
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.		(a) FY 1986/87	(b) FY of Claim
Accident Reports		X	X
Appointments College Physician, surgeon Dermatology, Family practice Internal Medicine Outside Physician Dental Services Outside Labs, (X-ray, etc.) Psychologist, full services Cancel/Change Appointments Registered Nurse Check Appointments		X	X
Assessment, Intervention and Counseling Birth Control		X	X
Lab Reports Nutrition Test Results, office Venereal Disease Communicable Disease Upper Respiratory Infection Eyes, Nose and Throat Eye/Vision Dermatology/Allergy Gynecology/Pregnancy Service Neuralgic Orthopedic Genito/Urinary Dental Gastro-Intestinal Stress Counseling Crisis Intervention Child Abuse Reporting and Counseling Substance Abuse Identification and Counseling Eating Disorders Weight Control Personal Hygiene Burnout Other Medical Problems, list		X	X
Examinations, minor illnesses Recheck Minor Injury		X	X
Health Talks or Fairs, Information Sexually Transmitted Disease Drugs Acquired Immune Deficiency Syndrome Child Abuse		X	X

PROGRAM 029		MANDATED COSTS HEALTH FEE ELIMINATION COMPONENT/ACTIVITY COST DETAIL		FORM HFE-2.1	
(01) Claimant Los Rio Community College District			Fiscal Year 2001-2002		
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.			(a) FY 1986/87	(b) FY of Claim	
Birth Control/Family Planning Stop Smoking Library, Videos and Cassettes			X	X	
First Aid, Major Emergencies First Aid, Minor Emergencies First Aid Kits, Filled			X X X	X X X	
Immunizations Diphtheria/Tetanus Measles/Rubella Influenza Information			X	X	
Insurance On Campus Accident Voluntary Insurance Inquiry/Claim Administration			X	X	
Laboratory Tests Done Inquiry/Interpretation Pap Smears					
Physical Examinations Employees Students Athletes			X	X	
Medications Antacids Antidiarrheal Aspirin, Tylenol, etc., Skin Rash Preparations Eye Drops Ear Drops Toothache, oil cloves Stingkill Midol, Menstrual Cramps Other, list--> Ibuprofen			X X X X X X X X	X X X X X X X	
Parking Cards/Elevator Keys Tokens Return Card/Key Parking Inquiry Elevator Passes Temporary Handicapped Parking Permits			X	X	

**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

(01) Claimant

Los Rio Community College District

Fiscal Year

2001-2002

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.

(a) FY 1986/87	(b) FY of Claim
----------------------	-----------------------

Referrals to Outside Agencies

Private Medical Doctor

Health Department

Clinic

Dental

Counseling Centers

Crisis Centers

Transitional Living Facilities, battered/homeless women

Family Planning Facilities

Other Health Agencies

X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X

Tests

Blood Pressure

Hearing

Tuberculosis

Reading

Information

Vision

Glucometer

Urinalysis

Hemoglobin

EKG

Strep A Testing

PG Testing

Monospot

Hemacult

Others, list

X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X

Miscellaneous

Absence Excuses/PE Waiver

Allergy Injections

Band-aids

Booklets/Pamphlets

Dressing Change

Rest

Suture Removal

Temperature

Weigh

Information

Report/Form

Wart Removal

Others, list

X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X

Committees

Safety

Environmental

Disaster Planning

Skin Rash Preparations

Eye Drops

X	X
---	---



JOHN CHIANG
California State Controller

RECEIVED

MAR 12 2008

COMMISSION ON
STATE MANDATES

March 10, 2008

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Keith B. Petersen
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Re: **Incorrect Reduction Claim**
Health Fee Elimination, 05-4206-I-06
Los Rios Community College District, Claimant
Education Code Section 76355
Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118
Fiscal Years 1997-98, 1998-99, 1999-00, 2000-01, and 2001-02

Dear Ms. Higashi and Mr. Petersen:

This letter is in response to the above-entitled Incorrect Reduction Claim. The subject claims were reduced primarily because the Claimant claimed costs for services provided in excess of those provided in the base year, failed to accurately claim authorized fees, and utilized an invalid ICRP. The reductions were appropriate and in accordance with law.

The Controller's Office is empowered to audit claims for mandated costs and to reduce those that are "excessive or unreasonable."¹ This power has been affirmed in recent cases, such as the Incorrect Reductions Claims (IRCs) for the *Graduation Requirements* mandate.² If the claimant disputes the adjustments made by the Controller pursuant to that power, the burden is upon them to demonstrate that they are entitled to the full amount of the claim. This principle likewise has been upheld in the *Graduation Requirements* line of IRCs.³ See also Evidence Code section 500.⁴ In this case, the audit

¹ See Government Code section 17561, subdivisions (d)(1)(C) and (d)(2), and section 17564.

² See for example, the Statement of Decision in the Incorrect Reduction Claim of San Diego Unified School District [No. CSM 4435-I-01 and 4435-I-37], adopted September 28, 2000, at page 9.

³ See for example, the Statement of Decision in the Incorrect Reduction Claim of San Diego Unified School District [No. CSM 4435-I-01 and 4435-I-37], adopted September 28, 2000, at page 16.

determined that the claimant was claiming costs for services that were not provided during the base year, as required by the Parameters and Guidelines. The Controller's Office gave the claimant an opportunity to demonstrate that the services in question had been provided during the base year, but the claimant failed to provide documentation of that fact. Therefore, these claimed costs are unsupported and thus, disallowed.

In its claim, the Claimant utilizes an unapproved indirect cost rate proposal. The Parameters and Guidelines provide for the use of an ICRP determined using the OMB Circular A-21 method, or the SCO's FAM-29C. Since the Claimant did not have a current approved ICRP (via the OMB Circular A-21 method), the auditors utilized the FAM-29C and determined that the allowable rate was much less than claimed. The claim was thus reduced to reflect the allowable rate.

The Claimant understated authorized health services fees, confusing collected with authorized. The Parameters and Guidelines provide that offsetting savings shall include the amount authorized for student fees. The relevant amount is not the amount charged nor the amount collected, rather, it is the amount authorized. This is consistent with mandates law in general, and specific case law on point.⁵

The Claimant also asserts that the audit of the 1997-98, 1998-99, and 1999-00 FYs is precluded by the statute of limitations, specifically, Government Code section 17558.5. As the claimant points out in the IRC, all three claims were subject to audit until December 31, 2002. Assuming arguendo, that the declaration of Carrie Bray (Director of Accounting Services for the district, at Exhibit G of Claimant's IRC) is completely accurate, the facts demonstrate that the audit was initiated before the statute of limitations had run. Ms. Bray received a telephone message slip on December 12, 2002, indicating the intent to audit the mandated programs of health fee elimination and mandates process. An auditor for the Controller's Office spoke to Ms. Bray on December 19, 2002, and the entrance conference was scheduled. On December 23, 2002, a letter was generated by the Controller's Office reiterating the intent to audit the identified mandated programs for the fiscal years indicated. That letter was sent in December and received by the district on January 2, 2003.

It is the position of the Controller's Office that the field audit is initiated no later than the date of the audit letter. This is consistent with other statutes of limitations provisions, which are satisfied by the lodgment of a document with the reviewing authority, indicating a concrete intent to proceed against the identified party. Examples of

⁴ "Except as otherwise provided by law, a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting."

⁵ See *Connell v. Santa Margarita Water District* (1997) 59 Cal.App.4th 382, 400-03.

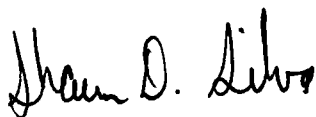
March 10, 2008

Page 3

comparable procedures would be the filing of a complaint in a criminal or civil case, or the filing of a notice of rejection or adverse action in a state board of personnel action. In addition, the Controller's Office believes that the initiation date is the relevant date for determining compliance with Section 17558.5 during 2002. There is nothing in the statute that requires that the audit be complete within the statute of limitations. As noted above, this would be inconsistent with the analogous procedures, and if the Legislature intended such a radical departure with established practice, they would have specifically indicated as such in the statute. No such departure was indicated. Since the audit of the indicated fiscal years was initiated before the end of December 2002, it is both valid and enforceable.

Enclosed please find a complete detailed analysis from our Division of Audits, exhibits, and supporting documentation with declaration.

Sincerely,



SHAWN D. SILVA
Staff Counsel

SDS/ac

Enclosure

cc: Jon Sharpe, Los Rios Community College District
Ginny Brummels, Div. of Acctg. & Rptg., State Controller's Office (w/o encl.)
Jim Spano, Division of Audits, State Controller's Office (w/o encl.)

1 **PROOF OF SERVICE**

2 I am employed in the County of Sacramento, State of California. At the time of service, I was at least 18
3 years of age, a United States citizen employed in the county where the mailing occurred, and not a party to the
4 within action. My business address is 300 Capitol Mall, Suite 1850, Sacramento, CA 95814.

4 On March 11, 2008, I served the foregoing document entitled:

5 **SCO'S RESPONSE TO THE INCORRECT REDUCTION CLAIM FOR**
6 **LOS RIOS COMMUNITY COLLEGE DISTRICT, CSM 05-4206-I-06**

7 on all interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope,
8 addressed as follows:

8 Paula Higashi (*original*)
9 Executive Director
10 Commission on State Mandates
11 980 Ninth Street, Suite 300
12 Sacramento, CA 95814

Jon Sharpe, Deputy Chancellor
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825-3981

11 Keith B. Petersen, President
12 SixTen and Associates
13 5252 Balboa Avenue, Suite 807
14 San Diego, CA 92117

13 **BY MAIL**

14 I placed the envelope for collection and processing for mailing following this business's ordinary practice with
15 which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited
16 in the ordinary course of business with the United States Postal Service.

16 **BY PERSONAL SERVICE**

17 I caused to be delivered by hand to the above-listed addressees.

17 **BY OVERNIGHT MAIL/COURIER**


18 To expedite the delivery of the above-named document, said document was sent via overnight courier for next day
19 delivery to the above-listed party.

19 **BY FACSIMILE TRANSMISSION**

20 In addition to the manner of service indicated above, a copy was sent by facsimile transmission to the above-listed
21 party.

21 I declare that I am employed in the office of a member of the bar of this court at whose direction the
22 service was made. I declare under penalty of perjury under the laws of California that the foregoing is true and
23 correct.

23 Executed on March 11, 2008, at Sacramento, California.

24 
25 Amber A. Camarena

**RESPONSE BY THE STATE CONTROLLER'S OFFICE
TO THE INCORRECT REDUCTION CLAIM (IRC) BY
LOS RIOS COMMUNITY COLLEGE DISTRICT
Health Fee Elimination Program**

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Attachment—District's Comments	
Incorrect Reduction Claim (August 29, 2005)	
Letter from Richard J. Chivaro to Mike Brandy (July 15, 2004).....	Exhibit A
<i>Parameters and Guidelines</i> (amended May 25, 1989).....	Exhibit B
Claiming Instructions (updated September 1997).....	Exhibit C
State Controller's Office Final Audit Report (June 24, 2004) (Fiscal Year (FY) 1997-98, FY 1998-99, FY 1999-2000, FY 2000-01, and FY 2001-02)	Exhibit D
Letter from Jon Sharpe to Jim L. Spano (May 24, 2004).....	Exhibit E
Memorandum from Thomas J. Nussbaum to all Community College Districts (March 5, 2001) ...	Exhibit F
Declaration of Carrie Bray	Exhibit G
Reimbursement Claim—FY 1997-98	Exhibit H
Reimbursement Claim—FY 1998-99	Exhibit I
Reimbursement Claim—FY 1999-2000	Exhibit J
Reimbursement Claim—FY 2000-01	Exhibit K
Reimbursement Claim—FY 2001-02	Exhibit L

Tab 1

1 **OFFICE OF THE STATE CONTROLLER**

2 300 Capitol Mall, Suite 1850

3 Sacramento, CA 94250

4 Telephone No.: (916) 445-6854

5 BEFORE THE

6 COMMISSION ON STATE MANDATES

7 STATE OF CALIFORNIA

8
9
10 INCORRECT REDUCTION CLAIM ON:

11 *Health Fee Elimination Program*

12 Chapter 1, Statutes of 1984, 2nd Extraordinary
13 Session, and Chapter 1118, Statutes of 1987

14 LOS RIOS COMMUNITY
15 COLLEGE DISTRICT, Claimant

No.: CSM 05-4206-I-06

AFFIDAVIT OF BUREAU CHIEF

16 I, Jim L. Spano, make the following declarations:

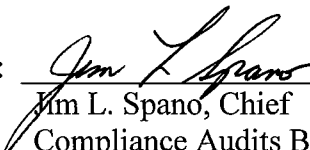
- 17 1) I am an employee of the State Controller's Office and am over the age of 18 years.
- 18 2) I am currently employed as a bureau chief, and have been so since April 21, 2000.
19 Before that, I was employed as an audit manager for two years and three months.
- 20 3) I am a California Certified Public Accountant (CPA).
- 21 4) I reviewed the work performed by the State Controller's Office (SCO) auditor.
- 22 5) Any attached copies of records are true copies of records, as provided by the Los Rios
23 Community College District or retained at our place of business.
- 24 6) The records include claims for reimbursement, along with any attached supporting
25 documentation, explanatory letters, or other documents relating to the above-entitled
Incorrect Reduction Claim.

1 7) A field audit of the claims for fiscal year (FY) 1997-98, FY 1998-99, FY 1999-2000,
2 FY 2000-01, and FY 2001-02 commenced on January 16, 2003, and ended on
3 March 11, 2004.

4 I do declare that the above declarations are made under penalty of perjury and are true and
5 correct to the best of my knowledge, and that such knowledge is based on personal
6 observation, information, or belief.

7 Date: April 14, 2006

8 OFFICE OF THE STATE CONTROLLER

9
10 By: 
11 Jim L. Spano, Chief
12 Compliance Audits Bureau
13 Division of Audits
14 State Controller's Office
15
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24
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Tab 2

**STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE
TO THE INCORRECT REDUCTION CLAIM BY
LOS RIOS COMMUNITY COLLEGE DISTRICT**

For Fiscal Year (FY) 1997-98, FY 1998-99, FY 1999-2000, FY 2000-01, and FY 2001-02

Health Fee Elimination Program

Chapter 1, Statutes of 1984, 2nd Extraordinary Session, and Chapter 1118, Statutes of 1987

SUMMARY

The following is the State Controller's Office's (SCO) response to the Incorrect Reduction Claim that the Los Rios Community College District submitted on August 29, 2005. The SCO audited the district's claims for costs of the legislatively mandated Health Fee Elimination Program for the period of July 1, 1997, through June 30, 2002. The SCO issued its final report on June 24, 2004 (**Exhibit D**).

The district submitted reimbursement claims totaling \$3,205,600—\$606,532 for fiscal year (FY) 1997-98 (\$607,532 less a \$1,000 penalty for filing a late claim) (**Exhibit H**); \$625,570 for FY 1998-99 (**Exhibit I**); \$634,185 for FY 1999-2000 (**Exhibit J**); \$667,337 for FY 2000-01 (**Exhibit K**); and \$671,976 for FY 2001-02 (**Exhibit L**). Subsequently, the SCO performed an audit for the period of July 1, 1997, through June 30, 2002, and determined that the entire amount claimed is unallowable. The unallowable costs occurred primarily because the district claimed unallowable salary costs, overstated its indirect cost rates, and understated authorized health service fees. The State paid the district \$2,224,368, which should be returned to the State. The following table summarizes the audit results.

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment
<u>July 1, 1997, through June 30, 1998</u>			
Salaries	\$ 381,878	\$ 357,643	\$ (24,235)
Benefits	64,953	64,953	—
Services and supplies	16,332	9,118	(7,214)
Total direct costs	463,163	431,714	(31,449)
Indirect costs	144,369	64,757	(79,612)
Total direct and indirect costs	607,532	496,471	(111,061)
Less authorized health service fees	—	(953,090)	(953,090)
Less late penalty	(1,000)	(1,000)	—
Subtotals	606,532	(457,619)	(1,064,151)
Adjustment to eliminate negative balance	—	457,619	457,619
Total program costs	<u>\$ 606,532</u>	—	<u>\$ (606,532)</u>
Less amount paid by the State		(606,532)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (606,532)</u>	
<u>July 1, 1998, through June 30, 1999</u>			
Salaries	\$ 410,013	\$ 372,391	\$ (37,622)
Benefits	58,822	58,822	—
Services and supplies	10,897	7,104	(3,793)
Total direct costs	479,732	438,317	(41,415)
Indirect costs	145,838	64,520	(81,318)
Total direct and indirect costs	625,570	502,837	(122,733)
Less authorized health service fees	—	(1,057,996)	(1,057,996)
Subtotals	625,570	(555,159)	(1,180,729)
Adjustment to eliminate negative balance	—	555,159	555,159
Total program costs	<u>\$ 625,570</u>	—	<u>\$ (625,570)</u>
Less amount paid by the State		(625,570)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (625,570)</u>	

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>July 1, 1999, through June 30, 2000</u>			
Salaries	\$ 406,642	\$ 370,787	\$ (35,855)
Benefits	60,153	60,153	—
Services and supplies	19,543	12,852	(6,691)
Total direct costs	486,338	443,792	(42,546)
Indirect costs	147,847	69,276	(78,571)
Total direct and indirect costs	634,185	513,068	(121,117)
Less authorized health service fees	—	(1,151,391)	(1,151,391)
Subtotals	634,185	(638,323)	(1,272,508)
Adjustment to eliminate negative balance	—	638,323	638,323
Total program costs	<u>\$ 634,185</u>	—	<u>\$ (634,185)</u>
Less amount paid by the State		(634,185)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (634,185)</u>	
<u>July 1, 2000, through June 30, 2001</u>			
Salaries	\$ 425,343	\$ 404,551	\$ (20,792)
Benefits	70,350	70,350	—
Services and supplies	11,980	5,621	(6,359)
Total direct costs	507,673	480,522	(27,151)
Indirect costs	159,664	71,742	(87,922)
Total direct and indirect costs	667,337	552,264	(115,073)
Less authorized health service fees	—	(1,368,418)	(1,368,418)
Subtotals	667,337	(816,154)	(1,483,491)
Adjustment to eliminate negative balance	—	816,154	816,154
Total program costs	<u>\$ 667,337</u>	—	<u>\$ (667,337)</u>
Less amount paid by the State		(187,592)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (187,592)</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Salaries	\$ 433,372	\$ 423,283	\$ (10,089)
Benefits	70,979	70,979	—
Services and supplies	9,706	4,981	(4,725)
Total direct costs	514,057	499,243	(14,814)
Indirect costs	157,919	75,237	(82,682)
Total direct and indirect costs	671,976	574,480	(97,496)
Less authorized health service fees	—	(1,571,052)	(1,571,052)
Subtotals	671,976	(996,572)	(1,668,548)
Adjustment to eliminate negative balance	—	996,572	996,572
Total program costs	<u>\$ 671,976</u>	—	<u>\$ (671,976)</u>
Less amount paid by the State		(170,489)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (170,489)</u>	

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>Summary: July 1, 1997, through June 30, 2002</u>			
Salaries	\$ 2,057,248	\$ 1,928,655	\$ (128,593)
Benefits	325,257	325,257	—
Services and supplies	68,458	39,676	(28,782)
Total direct costs	2,450,963	2,293,588	(157,375)
Indirect costs	755,637	345,532	(410,105)
Total direct and indirect costs	3,206,600	2,639,120	(567,480)
Less authorized health service fees	—	(6,101,947)	(6,101,947)
Less late penalty	(1,000)	(1,000)	—
Subtotals	3,205,600	(3,463,827)	(6,669,427)
Adjustment to eliminate negative balance	—	3,463,827	3,463,827
Total costs	<u>\$ 3,205,600</u>	—	<u>\$(3,205,600)</u>
Less amount paid by the State		<u>(2,224,368)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$(2,224,368)</u>	

The district believes that all salary, services and supplies, and indirect costs claimed are reimbursable under the mandated program. The district also believes that it was not required to report authorized health service fees. In addition, the district believes that the SCO was not authorized to audit FY 1997-98, FY 1998-99, and FY 1999-2000.

**I. SCO REBUTTAL TO STATEMENT OF DISPUTE—
CLARIFICATION OF REIMBURSABLE ACTIVITIES, CLAIM CRITERIA,
AND DOCUMENTATION REQUIREMENTS**

Parameters and Guidelines

On August 27, 1987, the Commission on State Mandates (Commission) adopted *Parameters and Guidelines* for Chapter 1, Statutes of 1984, 2nd Extraordinary Session. The Commission amended *Parameters and Guidelines* on May 25, 1989 (**Exhibit B**), because of Chapter 1118, Statutes of 1987.

Parameters and Guidelines (amended May 25, 1989) identifies the scope of the mandate and the reimbursable activities as follows.

V. REIMBURSABLE COSTS

A. Scope of Mandate

Eligible community college districts shall be reimbursed for the costs of providing a health services program. Only services provided in 1986-87 fiscal year may be claimed.

B. Reimbursable Activities

For each eligible claimant, the following cost items are reimbursable to the extent they were provided by the community college district in fiscal year 1986-87. . . . [see **Exhibit B** for a list of reimbursable items.]

Parameters and Guidelines (amended May 25, 1989), Section VI.B, provides the following claim preparation criteria.

VI. CLAIM PREPARATION

B. Actual Costs of Claim Year for Providing 1986-87 Fiscal Year Program Level of Service

Claimed costs should be supported by the following information:

1. Employee Salaries and Benefits

Identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

2. Services and Supplies

Only expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials which have been consumed or expended specifically for the purpose of this mandate.

3. Allowable Overhead Cost

Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions.

Parameters and Guidelines (amended May 25, 1989) defines supporting data as follows.

VII. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. This would include documentation for the fiscal year 1986-87 program to substantiate a maintenance of effort. These documents must be kept on file by the agency submitting the claim for a period of no less than three years from the date of the final payment of the claim pursuant to this mandate, and made available on the request of the State Controller or his agent.

Parameters and Guidelines (amended May 25, 1989) defines offsetting savings and other reimbursements as follows.

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim. This shall include the amount . . . authorized by Education Code Section 72246 for health services [now *Education Code* Section 76355].

SCO Claiming Instructions

The SCO annually issues mandated costs claiming instructions, which contain filing instructions for mandated cost programs. The September 2002 claiming instructions provide instructions for indirect costs (**Tab 3**). The September 2002 indirect cost claiming instructions are believed to be, for the purposes and scope of the audit period, substantially similar to the version extant at the time the district filed its FY 1997-98, FY 1998-99, FY 1999-2000, FY 2000-01, and FY 2001-02 mandated cost claims.

II. DISTRICT CLAIMED UNALLOWABLE SALARY AND RELATED INDIRECT COSTS

Issue

The district claimed unallowable salary costs totaling \$128,593. The related indirect costs total \$39,529. The unallowable salary costs are attributable to an increased level of health services provided by the district. The district believes these costs are allowable.

SCO Analysis:

For the audit period, the district's claims identified those health services that the district provided in the program base year (FY 1986-87). For each district college, the SCO reviewed a sample of health service logs that identified the actual health services provided during the audit period. For FY 1998-99 through FY 2001-02, American River College's (ARC) health service logs showed that the district provided health services that exceeded those services provided in the base year. The district did not provide ARC's health services logs for FY 1997-98. For Sacramento City College and Cosumnes River College, the health service logs did not show any health services provided that exceeded those services provided in the base year.

For the audit period, health services provided that exceed base year health services provided are unallowable. For each fiscal year from FY 1998-99 through FY 2001-02, the SCO calculated the percentage of unallowable services that ARC provided based on its health service logs. Because the district did not provide ARC's FY 1997-98 health service logs, the SCO averaged the percentage of unallowable services from the four subsequent fiscal years to calculate FY 1997-98 unallowable costs. The SCO applied these percentages to ARC's salary costs claimed to determine unallowable salary costs. The attached schedule, "Health Services Analysis for ARC" (**Tab 4**) details the total and allowable health services that ARC provided during the months sampled. The attached schedule "Summary of Unallowable Salary and Related Indirect Costs" (**Tab 5**) summarizes the audit adjustment.

District's Response

The Controller . . . states that its review of a sample of six months of logs of "actual" student health services provided during the period of FY 1998-99 through FY 2001-02 indicated that American River College "provided" student health services "exceeding" those services provided by the District during the base year. The Controller concluded that an "average" of only 84.26% of the audit year services matched services provided in the base year of FY 1986-87.

SCO's Comment

The district's statement is erroneous. Based on our review of health service logs provided, the audit finding identifies the percentage of mandate-related services for each fiscal year from FY 1998-99 through FY 2001-02. The mandate-related percentages ranged from 78.01% to 92.72%. The district did not provide any health service log documentation for FY 1997-98. Rather than disallowing all costs claimed because of insufficient documentation, we averaged the mandate-related percentages from the four subsequent fiscal years to calculate mandate-related services for FY 1997-98.

District's Comment

Statutory and Regulatory Requirements

Education Code Section 76355, subdivision (e) states:

“Any community college district that provided health services in the 1986-87 fiscal year shall maintain health services, at the level provided during the 1986-87 fiscal year, and each fiscal year thereafter.”

The parameters and guidelines state at Part III Eligible Claimants:

“Community college districts which provided health services in 1986-87 fiscal year and continue to provide the same services as a result of this mandate are eligible to claim reimbursement of those costs.”

Services Provided vs. Services Rendered

The Controller audit findings do not demonstrate if the enumerated services allegedly “not provided” in FY 1986-87 were actually available to students. As a preliminary matter, we feel the Controller misstates the law, there are no specific student health services required for each college district. The parameters and guidelines state that “[o]nly services provided in 1986-87 fiscal year may be claimed.” Thus, the requirement is to continue the level of services provided in FY 1986-87, but there is no statewide standard list of types of services to be provided. In addition, note that the cost of services is not compared, only the level of services.

The Controller is endeavoring to compare the student health services *rendered* during the fiscal years claimed (audit years) to those services *rendered* during 1986-87 fiscal year (the base year). . . . The Controller is requiring claimants to prove that services rendered in the audit years were also rendered in the base-year. In order to make this determination, the Controller is reviewing base year services claimed which are clearly beyond the statute of limitations for an audit or record retention.

The statutory requirement is that at least the same level of services be *provided*. There is no basis in law or fact which requires the entire variety of health care services *available* each year to actually have been utilized, which is to say *rendered*, each year in order to prove that the same services are *provided*. . . .

SCO's Comment

There is no misstatement of law. The audit finding makes no reference to “specific student health services required” in the context alleged in the district’s response. In addition, the district’s statement that there “is no statewide standard list of types of services to be provided” is misleading. While districts are not required to provide all the services listed, *Parameters and Guidelines* does identify specific health services that are eligible for mandate reimbursement, if the district provided the service in the FY 1986-87 base year.

The SCO did not compare services rendered during the audit period to services rendered during the FY 1986-87 base year. Instead, the SCO compared services rendered during the audit period to services provided (i.e., available) during the base year. The district reported the base year services that it provided on its mandate reimbursement claims. We did not require the district to prove that services rendered during the audit period were also rendered in the base year. Our audit tests disclosed services rendered during the audit period that the district did not report as available during the base year. In those instances, we did provide the district an opportunity to show that those services were actually rendered in the base year (and thus “provided” during the base year). In essence, we provided the district a “second chance” opportunity to show that it actually provided more base year services than those it originally reported on the mandate reimbursement claim. However, the district did not provide any documentation to support health services provided or rendered in the base year.

We disagree with the district's comments regarding the statute of limitations as it applies to the FY 1986-87 base year. *Parameters and Guidelines* states the following.

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. This would include documentation for the fiscal year 1986-87 program to substantiate a maintenance of effort. [Emphasis added.] These documents must be kept on file by the agency submitting the claim for a period of no less than three years from the date of the final payment of the claim pursuant to this mandate, and made available on the request of the State Controller or his agent.

Thus, for each claim that the district submits, documentation that supports FY 1986-87 services provided is subject to the same statute of limitations requirement as the current year claim.

District's Response

District Level Test of Services Provided

The Controller states that its review of a sample of six-months of logs of "actual" student health services provided indicated that *American River College* "provided" student health services "exceeding" those services provided by the *district* during the base year. This is not the standard of review to be used. The comparison of the levels of services provided is a *district* level test, not a *college* level test. . . .

SCO's Comment

The district misrepresents the audit finding. The SCO compared health services that the district provided during the audit period (through its three colleges collectively) to health services that the district provided during the FY 1986-87 base year (as reported by the district on its mandate reimbursement claims). During the audit period, the district provided and rendered health services that exceeded services provided during the base year. ARC provided these excess services.

District's Response

Audit by Sampling

Sampling does not result in a determination of actual costs. The parameters and guidelines do not allow the claimant to use sampling for reporting mandate costs. The parameters and guidelines do not allow the Controller to use sampling techniques for the determination of program compliance. Claimants were never on notice that the Controller would be utilizing sampling techniques. . . .

SCO's Comment

The district states, "The parameter and guidelines do not allow the claimant to use sampling for reporting mandate costs." This statement is irrelevant to the audit finding. The district also states, "The parameters and guidelines do not allow the Controller to use sampling techniques. . . ." This statement is misleading; regarding audits, *Parameters and Guidelines* states only that "For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. . . ." *Parameters and Guidelines* does not specify the methodology the SCO may use to validate program compliance.

The SCO conducted the audit in accordance with *Government Auditing Standards*. The audit standards specify that auditors may use professional judgment in "selecting the methodology, determining the type and amount of evidence to be gathered, and choosing the tests and procedures for their work."¹ Neither the *Government Code* nor *Parameters and Guidelines* require the SCO to provide claimants "notice" that the SCO will use sampling techniques.

¹ *Government Auditing Standards, 2003 Revision*, United States General Accounting Office.

District's Response

Sampling Method

The Controller's calculation of the cost of services "not provided" utilizes extrapolations of facts not related to the actual cost of those services. As stated before, the adjustment is incorrect because it is based on services rendered. Regardless, sampling here is too limited. First, the sample "universe" was limited to one college. Second, if a particular service was not included in the portion of the documentation selected for the sample, but was in the universe of services rendered, the sampling improperly penalizes the District for a type of service actually rendered.

As a separate issue, it is inappropriate to apply a percentage reduction to the audit period costs. The parameters and guidelines require maintenance of effort (level of service) rather than cost accounting for the services provided. There is no evidence that the cost of the services disallowed by the Controller represent the percentage of activities disallowed. There is no basis to presume that the services disallowed are uniform in cost to the services allowed. The method of adjustment used is not based on a factual foundation or a legal basis.

SCO's Comment

The district states that, "the adjustment is incorrect because it is based on services rendered." It appears the district has confused the separate issues of (1) verifying whether the district has maintained the same level of health services provided; versus (2) identifying costs applicable to audit period health services provided and rendered that exceed base year health services provided. *Parameters and Guidelines* states, "Only services provided in 1986-87 fiscal year may be claimed." Because only excess services actually rendered are unallowable, it is appropriate to calculate unallowable costs based on audit period services rendered. If the district had only "made available" (i.e., provided) the excess services, but not rendered the excess services, there would be no unallowable costs.

Regarding sample size, the district states, "sampling here is too limited." As previously stated, *Government Auditing Standards* specifies that auditors may use professional judgment in determining the type and amount of evidence gathered. In addition, the district incorrectly states that the SCO limited the audit universe to one college. The audit finding states, "The SCO auditor reviewed logs maintained by each college within the district . . ." [Emphasis added.] However, only ARC rendered health services that exceeded health services that the district provided in the FY 1986-87 base year. As a result, in calculating unallowable costs, the SCO calculated the percentage of unallowable services that ARC rendered, and applied that unallowable percentage to ARC's salary costs claimed.

The district also infers that the sampling may improperly "penalize" the district for a type of service rendered but not included in the sample selection. The district ignores the opposite possibility that the sample selection may have excluded additional unallowable services and thus, the unallowable costs are actually understated. Nevertheless, the SCO has concluded that the sample size is sufficient to support the audit finding in accordance with *Government Auditing Standards*. Title 2, California Code of Regulations (CCR), Section 1185(e)(3) states, "If the narrative describing the alleged incorrect reduction(s) involves more than discussion of statutes or regulations or legal argument and utilizes assertions or representations of fact, such assertions or representations shall be supported by testimonial or documentary evidence and shall be submitted with the claim." The district did not submit any documentation to support its assertion that the audit sample was too limited or improperly penalized the district.

The district also believes that it is inappropriate to apply a percentage reduction to the audit period costs. The district asserts that the SCO calculated unallowable costs using "extrapolations of facts not related to the actual cost of those services." The district also asserts "There is no evidence that the cost of the services disallowed by the Controller represent the percentage of activities disallowed."

The district further asserts that there is no basis to presume that the services disallowed are uniform in cost to the services allowed. However, during audit fieldwork, the district did not provide any documentation to support the actual cost of unallowable services. The district also did not provide any documentation with this Incorrect Reduction Claim. *Government Code* Section 17561(d)(2) states that the Controller may reduce any claim that he determines is excessive or unreasonable. In this case, the SCO concluded that the district's claims are excessive and unreasonable because they include costs applicable to unallowable services. Our only other alternative is to disallow all costs claimed because the district is unable to identify mandate-related costs. Instead, absent any other documentation provided by the district, we believe it is appropriate to calculate unallowable costs based on the percentage of unallowable services rendered.

District's Response

Source Documentation

This finding is also based, partially, upon the report's assertion that the "*Parameters and Guidelines* states [sic] that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs. . . ." The Controller's audit report states that its adjustment was based on logs of services provided to students. The logs upon which the Controller relied upon for its adjustments are not documentation specifically required by the parameters and guidelines. The Education Code and parameters and guidelines do not require the claimant to provide records of the services rendered as a condition of reimbursement, only to certify to the services available. . . .

As a factual matter, if the documentation used by the Controller was sufficient for the Controller to calculate the dollar amount of alleged new services, it is contrary for the Controller to assert that the adjustment is based on insufficient documentation. . . .

SCO's Comment

For salary and benefit costs claimed, *Parameters and Guidelines* states that districts must provide documentation that describes the mandated functions performed (i.e., rendered). The health service logs are appropriate documentation to verify that health services rendered are mandate-related. *Parameters and Guidelines* further states that only services provided in the FY 1986-87 base year may be claimed, and costs claimed must be traceable to source documents that show evidence of the validity of such costs. Again, the health service logs are appropriate documentation to show that costs claimed are valid (i.e., applicable to allowable activities.)

The audit finding does not state that the audit adjustment is based on insufficient documentation; it states that the audit adjustment occurred because the district provided unallowable health services. However, the district did not provide documentation that shows the actual costs of the unallowable services. Thus, the SCO calculated unallowable costs based on the percentage of unallowable services provided. Therefore, there is no contradiction in the audit finding.

District's Response

Unreasonable or Excessive

None of the adjustments were made because the costs claimed were excessive or unreasonable. The Controller does not assert that the claimed costs were excessive or unreasonable, which is the only mandated cost audit standard in statute (*Government Code* Section 17561(d)(2)). It would therefore appear that the entire findings are based upon the wrong standard for review. . . .

SCO's Comment

Government Code Section 17558.5 requires the district to file a reimbursement claim for actual mandate-related costs. *Government Code* Section 17561(d)(2) allows the SCO to audit the district's records to verify actual mandate-related costs and reduce any claim that the SCO determines is excessive or unreasonable. In addition, *Government Code* Section 12410 states, "The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment."

The SCO did conclude that the district's costs claimed were excessive. "Excessive" is defined as "exceeding what is usual, proper, necessary, or normal. . . . Excessive implies an amount or degree too great to be reasonable or acceptable. . . . [Emphasis added.]"² The district claimed costs that exceeded those costs that were "proper," because the district claimed costs for health services rendered during the audit period that exceeded health services provided during the FY 1986-87 base year.

² Merriam-Webster's Collegiate Dictionary, Tenth Edition, © 2001.

III. DISTRICT CLAIMED UNALLOWABLE SERVICES AND SUPPLIES AND RELATED INDIRECT COSTS

Issue

The district claimed costs for services not reimbursable under the mandated program, services not provided in the FY 1986-87 base year, and costs not supported by source documentation. The district believes these costs are allowable; however, the district did not specifically address those costs not supported by source documentation.

SCO Analysis:

The district claimed costs for physical exams for intercollegiate athletics and salaries of health professionals present at athletic events. These costs are not reimbursable under the mandated program. The district also claimed costs for Hepatitis B vaccinations; however, the district did not provide this service during the FY 1986-87 base year and *Parameters and Guidelines* does not identify the service as a reimbursable activity. Furthermore, the district claimed \$557 that was not supported by source documentation,

District's Response

. . . This finding includes a disallowance of \$26,100 in costs incurred for physical exams for intercollegiate athletics and for salaries of health professionals present at athletic events. . . . Some of the claimable services enumerated in the parameters and guidelines include accident reports, a college physician, outside physician, registered nurse, examinations, first aid, physicals for *athletes*, and dressing change, which would seem to satisfactorily encompass the scope of services which the Controller believes are unallowable.

The Controller asserts Hepatitis B vaccination costs of \$2,125 are unallowable. The Controller concludes that since the Hepatitis B vaccinations, specifically, were not identified as a service available at the college health center in FY 1986-87, and not listed in the parameters and guidelines, the costs are not reimbursable. The [district reported] that immunization *services* were available in FY 1986-87. Hepatitis B vaccinations now are just a part of the whole scope of *services* which may comprise immunization services, and the parameters and guidelines allow for reimbursement of immunization services.

Student Health Services Fund

The Controller seems to be using reimbursable services as defined by the parameters and guidelines as a basis for permissible use of the student health services fees. Education Code Section 76355, subdivision (a), permits the collection of student health fees for student health services. Subdivision (d) requires that these fees, if collected, be deposited in a designated fund and be expended only as authorized. Subdivision (d) prohibits expenditures *from the fund* for physical examinations for intercollegiate athletics or the salaries of health professionals for athletic events. The prohibition only applies to expenditure of funds from the special account designated in which student health fees are deposited. . . .

Unless the student health services fees exceed the direct and indirect cost of all student health services, there is no supportable presumption that the student health fees fund is funding the services to athletes. Furthermore, since this District did not collect student health services fees, the presumption could not apply to this District in any case. . . .

Unreasonable or Excessive

None of the adjustments were made because the costs claimed were excessive or unreasonable. The Controller does not assert that the claimed costs were excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17561 (d)(2)). It would therefore appear that the entire findings are based upon the wrong standard for review. . . .

SCO's Comment

Regarding athletic-related costs, *Education Code* Section 76355(e) states, "Any community college district that provided health services in the 1986-87 fiscal year shall maintain health services, at the level provided during the 1986-87 fiscal year, and each fiscal year thereafter. If the cost to maintain that level of service exceeds the limits specified in subdivision (a), the excess cost shall be borne by the district." *Education Code* Section 76355(a) defines the authorized health services fees. Thus, the mandated program "maintenance of effort" requirement applies to those health services for which the district may levy a fee. *Education Code* Section 76355(d) states that athletic-related costs are not authorized expenditures of health services fees. Because the mandated program does not require a "maintenance of effort" for athletic-related services, the district is not required to provide these services. Therefore, these costs are not mandated costs as defined by *Government Code* Section 17514.

Regarding Hepatitis B vaccinations, the district may provide whatever immunizations it chooses; however, these immunizations do not automatically become mandate-reimbursable. *Parameters and Guidelines*, Section V.B, states, "For each eligible claimant, the following cost items are reimbursable to the extent they were provided by the community college district in fiscal year 1986-87. . . ." *Parameters and Guidelines* does not list immunization services as a reimbursable activity; instead, *Parameters and Guidelines* identifies specific immunizations -- Diphtheria/Tetanus, Measles/Rubella, and Influenza. Hepatitis B vaccination is not within the scope of the mandate; therefore, these costs are not mandate-reimbursable.

Government Code Section 17558.5 requires the district to file a reimbursement claim for actual mandate-related costs. *Government Code* Section 17561(d)(2) allows the SCO to audit the district's records to verify actual mandate-related costs and reduce any claim that the SCO determines is excessive or unreasonable. In addition, *Government Code* Section 12410 states, "The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment." Therefore, the district's contention that the "entire findings are based upon the wrong standard for review" is without merit.

IV. DISTRICT OVERSTATED ITS INDIRECT COST RATES CLAIMED

Issue

The district overstated its indirect cost rates, thus overstating indirect costs by \$361,689 for the audit period. The district claimed indirect costs based on indirect cost rate proposals (ICRPs) that the district prepared using Office of Management and Budget (OMB) Circular A-21 methodology. However, the district did not obtain federal approval of its ICRPs. The SCO's claiming instructions provide an alternate indirect cost rate methodology. The SCO calculated indirect cost rates using the alternate methodology. The alternate methodology indirect cost rates did not support the rates that the district claimed.

SCO Analysis:

Parameters and Guidelines allows community college districts to claim indirect costs according to the SCO's claiming instructions (Tab 3). The claiming instructions require that districts obtain federal approval of ICRPs prepared using OMB Circular A-21 methodology. Alternatively, districts may use the SCO's Form FAM-29C to compute indirect cost rates. Form FAM-29C calculates indirect cost rates using total expenditures reported on the *California Community Colleges Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)*. Form FAM-29C eliminates unallowable expenses and segregates the adjusted expenses between those incurred for direct and indirect activities relative to the mandated cost program.

District's Response

... Contrary to the Controller's interpretation, there is no requirement in law that the District's indirect cost rate must be "federally" approved. The Controller has never specified the federal agencies which have the authority to approve indirect cost rates. Further, it should be noted that the Controller did not determine that the District's rate was excessive or unreasonable. ...

CCFS-311

In fact, both the District's method and the Controller's method utilized the same source document, the CCFS-311 annual financial and budget report required by the state. The difference in the claimed and audited methods is in the determination of which of those cost elements are direct costs and which are indirect costs. ...

Regulatory Requirements

No particular indirect cost rate calculation is required by law. The parameters and guidelines state that "Indirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." The district claimed these indirect costs "in the manner" described by the Controller. The correct forms were used and the claimed amounts were entered at the correct locations. Further, "may" is not "shall"; the parameters and guidelines do not require that indirect costs be claimed in the manner described by the Controller. In the audit report, the Controller asserts that because parameters and guidelines specifically references the claiming instructions, the claiming instructions thereby become authoritative criteria. The Government Code makes no allowances for "authoritative criteria" for purpose of mandate reimbursement, this is a meaningless fiction created by the Controller. Nor does the "specific" reference to the claiming instructions in the parameters and guidelines change "may" into a "shall." Since the Controller's claiming instructions were never adopted as law, or regulations pursuant to the Administrative Procedure Act, the claiming instructions are a statement of the Controller's interpretation and not law.

Unreasonable or Excessive

Government Code Section 17561(d)(2) requires the Controller to pay claims, provided that the Controller may audit the records of any school district to verify the actual amount of the mandated costs, and may reduce any claim that the Controller determines is excessive or unreasonable. The Controller is authorized to reduce a claim only if it determines the claim to be excessive or unreasonable. Here, the District has computed its ICRPs utilizing cost accounting principles from the Office of Management and Budget Circular A-21, and the Controller has disallowed it without a determination of whether the product of the District's calculation would, or would not, be excessive, unreasonable, or inconsistent with cost accounting principles.

The District reported indirect cost rates of 31.17%, 30.40%, 30.40%, 31.45%, 30.72% for the five fiscal years audited. Subsequent to the audit, the District . . . receive[d] a federally approved rate of 30.0% from the Department of Health and Human Services, for use in fiscal years beginning 2005-06. The five rates used on the claims were less than two percentage points different from the federally negotiated rate. It can be clearly seen that the OMB A-21 cost accounting methods are not the intellectual property of the federal government and can be competently utilized by Districts to generate a reasonable indirect cost rate without the need for federal approval.

Neither State law nor the parameters and guidelines made compliance with the Controller's claiming instructions a condition of reimbursement. The district has followed the parameters and guidelines. The burden of proof is on the Controller to prove that the product of District's calculation is unreasonable, not to recalculate the rate according to its unenforceable ministerial preferences. Therefore, the Controller made no determination as to whether the method used by the District was reasonable, but, substituted its FAM-29C method for the method reported by the District. The substitution of the FAM-29C method is not a "finding" enforceable either by fact or law. . . .

SCO's Comment

Parameters and Guidelines, Section VI, states, "Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions." The district misinterprets "may be claimed" by concluding that compliance with the claiming instructions is voluntary. Instead, "may be claimed" simply permits the district to claim indirect costs. However, if the district chooses to claim indirect costs, then the district must comply with the SCO's claiming instructions. The district's implication that it claimed costs in the manner described by the SCO by correctly completing what it interprets to be the correct forms is without merit.

The SCO's claiming instructions state: "A college has the option of using a federally approved rate, utilizing the cost accounting principles from Office of Management and Budget Circular A-21 "Cost Principles for Educational Institutions," or the Controller's methodology outlined in the following paragraphs [FAM-29C]. . . ." This is consistent with *Parameters and Guidelines* for other community college district mandated programs, including the following.

- Absentee Ballots
- Collective Bargaining
- Health Benefits for Survivors of Peace Officers and Firefighters
- Law Enforcement College Jurisdiction Agreements
- Mandate Reimbursement Process
- Open Meetings Act
- Photographic Record of Evidence
- Sex Offenders Disclosure by Law Enforcement Officers
- Sexual Assault Response Procedure

(Note: *Parameters and Guidelines* provide a third option, a 7% flat rate.) Therefore, contrary to the district's statement, the SCO did not act arbitrarily by using the FAM-29C methodology to calculate allowable indirect cost rates.

We agree with the district's statement that the difference between the claimed and audited rates is identifying costs as direct or indirect. The FAM-29C methodology classifies costs as direct or indirect as they relate to the mandated cost program.

In addition, neither this district nor any other district requested that the Commission review the SCO's claiming instructions pursuant to Title 2 CCR Section 1186. Furthermore, the district may not now request a review of the claiming instructions applicable to the audit period. Title 2 CCR Section 1186(j)(2) states, "A request for review filed after the initial claiming deadline must be submitted on or before January 15 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year."

The SCO is not responsible for identifying the district's responsible federal agency. OMB Circular A-21 states:

[Cognizant agency responsibility] is assigned to the Department of Health and Human Services (HHS) or the Department of Defense's Office of Naval Research (DOD), normally depending on which of the two agencies (HHS or DOD) provides more funds to the educational institution for the most recent three years. . . . In cases where neither HHS nor DOD provides Federal funding to an educational institution, the cognizant agency assignment shall default to HHS.

Clearly, the district is aware of its cognizant agency, since the district states that it received a federally approved rate for FY 2005-06. However, this rate is irrelevant to the audit period.

Government Code Section 17558.5 requires the district to file a reimbursement claim for actual mandate-related costs. *Government Code* Section 17561(d)(2) allows the SCO to audit the school district's records to verify actual mandate-related costs and reduce any claim that the SCO determines is excessive or unreasonable. In addition, *Government Code* Section 12410 states, "The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment." Therefore, the district's contention that the SCO "is authorized to reduce a claim only if it determines the claim to be excessive or unreasonable" is without merit.

Nevertheless, the SCO did conclude that the district's indirect cost rates were excessive. "Excessive" is defined as "exceeding what is usual, proper, necessary, or normal. . . . Excessive implies an amount or degree too great to be reasonable or acceptable. . . ." ³ The district did not obtain federal approval of its ICRPs. The SCO calculated indirect cost rates using the alternate methodology identified in the SCO's claiming instructions. The alternate methodology indirect cost rates did not support the rates that the district claimed; thus, the rates claimed were excessive.

³ Ibid.

V. DISTRICT UNDERSTATED AUTHORIZED HEALTH SERVICE FEES

Issue

For the audit period, the district understated authorized health service fees by \$6,101,947. The district believes that because it did not levy a health service fee, it is not required to report authorized health service fees.

SCO Analysis:

Parameters and Guidelines requires districts to deduct authorized health fees from costs claimed. *Education Code* Section 76355(c) authorizes health fees for all students except those who: (1) depend exclusively on prayer for healing; (2) attend a community college under an approved apprenticeship training program; or (3) demonstrate financial need. (Effective with the Summer 2001 session, *Education Code* Section 76355(a) authorized a \$1.00 increase to health service fees.)

Government Code Section 17514 defines “costs mandated by the state” as any increased costs that a school district is required to incur. To the extent community college districts can charge a fee, they are not required to incur a cost. In addition, *Government Code* Section 17556 states that COSM shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.

District’s Response

Education Code Section 76355

Education Code Section 76355, subdivision (a), in relevant part, provides: “The governing board of a district maintaining a community college *may require* community college students to pay a fee . . . for health supervision and services. . . . “There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states “*If, pursuant to this Section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional.*” [Emphasis added by district.]

Parameters and Guidelines

This Controller states that the “*Parameters and Guidelines* states that health fees authorized by the *Education Code* must be deducted from the costs claimed.” The parameters and guidelines actually state:

“Any offsetting savings that the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim. This shall include the amount of [student fees] as authorized by *Education Code* Section 72246(a)⁴.”

In order for a district to “experience” these “offsetting savings” the district must actually have collected these fees. Student health fees actually collected must be used to offset costs, but not student health fees that could have been collected and were not. The use of the term “any offsetting savings” further illustrates the permissive nature of the fees.

Government Code Section 17514

The Controller relies upon *Government Code* Section 17514 for the conclusion that “[t]o the extent community college districts can charge a fee, they are not required to incur a cost.” . . . There is nothing in the language of the statute regarding the authority to charge a fee, any nexus of fee revenue to increased cost, nor any language which describes the legal effect of fees collected.

Government Code Section 17556

The Controller relies upon Government Code Section 17556 for the conclusion that “the COSM shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.” . . . We believe the Controller misrepresents the law. Government Code Section 17556 prohibits the Commission on State Mandates from finding costs subject to reimbursement, that is, approving a test claim, where there is authority to levy fees in an amount sufficient to offset the entire mandated costs. Here, the Commission has already approved the test claim and made a finding of a new program or increased costs, and further, that the student health fees are per se insufficient to offset the entire cost of the mandate.

Student Health Services Fee Amount

The Controller asserts that the district should have collected a student health service fee each semester from non-exempt students in the amount of \$8, \$9, \$11, or \$12, depending on the fiscal year and whether the student is enrolled full time or part time. Districts receive notice of these fee amounts from the Chancellor of the California Community Colleges. An example of one such notice is the letter dated March 5, 2001, attached as Exhibit “F.” While Education Code Section 76355 provides for an increase in the student health service fee, it did not grant the Chancellor the authority to establish mandatory fee amounts or mandatory fee increases. . . . Therefore, the Controller cannot rely upon the Chancellor’s notice to college districts of the opportunity to increase student health services fees as a basis to adjust the claim for collectible student health services fees.

Fees Collected vs. Fees Collectible

This issue is one of student health fees revenue actually received, rather than student health fees which might be collected. The Commission determined, as stated in the parameters and guidelines that the student health fees “experienced” (*collected*) would reduce the amount subject to reimbursement. Student fees not collected are student fees not “experienced” an [*sic*] as such should not reduce reimbursement. Further, the amount “collectible” will never equal actual revenues collected due to changes in a student’s BOGG eligibility, bad debt accounts, and refunds.

Because districts are not required to collect a fee from students for student health services, and if such a fee is collected the amount is to be determined by the district and not the Controller, the Controller’s adjustment is without legal basis. What districts are required by the parameters and guidelines to do is to reduce the amount of their claimed costs by the amount of student health services fee revenue actually received. Therefore, student health fees are merely collectible, they are not mandatory, and it is inappropriate for the Controller to reduce claim amounts by revenues not received.

⁴ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

SCO’s Comment

We agree that community college districts may choose not to levy a health service fee. However, *Education Code* Section 76355(a) provides districts the authority to levy a health service fee. *Education Code* Section 76355(c) specifies the authorized fees. We also agree that the California Community Colleges Chancellor’s Office (CCCCO) does not have the authority to establish mandatory fee amounts or mandatory fee increases. The CCCCCO merely notifies districts of changes to the authorized fee amount, pursuant to *Education Code* Section 76355(a).

Regardless of the district’s decision to levy or not levy a health service fee, the district does have the authority to levy the fees. In addition, contrary to the district’s response, the SCO made no distinction between full-time or part-time students regarding the authorized health service fee. Districts are authorized to levy the full fee amount to both part-time and full time students. *Government Code* Section 17514 states that “costs mandated by the state” means any increased costs that a school district is required to incur. Furthermore, *Government Code* Section 17556(d) states that the Commission shall not find costs mandated by the State if the school district has the authority to levy

fees to pay for the mandated program or increased level of service. For the Health Fee Elimination mandated program, the Commission clearly recognized the availability of another funding source by including the fees as offsetting savings in *Parameters and Guidelines*, Section VIII (amended May 25, 1989). To the extent districts have authority to charge a fee, they are not required to incur a cost.

The district misrepresents the Commission's determination regarding authorized health service fees. The Commission's staff analysis of May 25, 1989, regarding the proposed *Parameters and Guidelines* amendments (**Tab 7**), states:

Staff amended Item "VIII. Offsetting Savings and Other Reimbursements" to reflect the reinstatement of [the] fee authority.

In response to that amendment, the [Department of Finance (DOF)] has proposed the addition of the following language to Item VIII. to clarify the impact of the fee authority on claimants' reimbursable costs:

"If a claimant does not levy the fee authorized by Education Code Section 72246(a), it shall deduct an amount equal to what it would have received had the fee been levied."

Staff concurs with the DOF proposed language which does not substantively change the scope of Item VIII.

Thus, it is clear that the Commission's intent was that claimants deduct authorized health service fees from mandate-reimbursable costs claimed. Furthermore, the staff analysis included an attached letter from the CCCCCO, dated April 3, 1989. In that letter, the CCCCCO concurred with the DOF and the Commission regarding authorized health service fees.

Since the Commission's staff concluded that DOF's proposed language did not substantively change the scope of staff's proposed language, Commission staff did not further revise the proposed *Parameters and Guidelines*. The Commission's meeting minutes of May 25, 1989 (**Tab 8**) show that the Commission adopted the proposed *Parameters and Guidelines* on consent, with no additional discussion. Therefore, there was no change to the Commission's interpretation regarding authorized health service fees.

Two court cases addressed the issue of fee authority.⁵ Both cases concluded that "costs" as used in the constitutional provision, exclude "expenses that are recoverable from sources other than taxes." In both cases, the source other than taxes was fee authority.

The district also states, "the amount 'collectible' will never equal actual revenues collected due to changes in a student's BOGG eligibility, bad debt accounts, and refunds." The SCO calculated authorized health service fees based on the district's records of enrollment and BOGG grants. The district is responsible for providing accurate enrollment and BOGG grant data, including any changes that result from BOGG grant eligibility or students who disenroll. Consistent with OMB Circular A-21, Section J, the district is responsible for any bad debt accounts.

⁵ *County of Fresno v. California* (1991) 53 Cal. 3d 482; *Connell v. Santa Margarita* (1997) 59 Cal. App. 4th 382.

VI. STATUTE OF LIMITATIONS FOR AUDIT

Issue

Based on the statute of limitations for audit, the district believes the SCO had no authority to assess audit adjustments for FY 1997-98, FY 1998-99, and FY 1999-2000.

SCO Analysis:

Government Code Section 17558.5(a), effective July 1, 1996, states that a district's reimbursement claim is subject to audit no later than two years after the end of the calendar year in which the claim is filed or last amended. The district filed its FY 1997-98 and FY 1998-99 claims on January 18, 2000, and filed its FY 1999-2000 claim on December 29, 2000. The SCO made several attempts to contact the district and conduct an entrance conference during December 2002. Ultimately, at the district's request, the SCO delayed the entrance conference until January 16, 2003 (**Tab 6**). Therefore, the SCO notified the district that it would conduct an audit within the period that all claims were subject to audit.

District's Response

... The District asserts that the first three claims of the five claims audited, fiscal years 1997-98, 1998-99, and 1999-00, were beyond the statute of limitations for audit when the Controller completed its audit on June 24, 2004. The District raised this issue at the beginning of the audit and in its letter dated May 24, 2004 in response to the draft audit report. ...

In its final audit report, the Controller responded as follows:

"No statutory language defines when the SCO must issue an audit report. Furthermore, no statutory language requires an entrance conference or some other formal event to be held before the two-year period expires. SCO staff contacted the district to initiate the audit in December 2002, within the statute of limitations. This district requested that the audit start in January 2003, rather than December 2002. *Government Code* Section 17558.5(d) [*sic*], effective July 1, 1996, states "Nothing in this section shall be construed to limit the adjustment of payments . . . when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement."

The Controller is thus asserting that when the audit was "initiated" is relevant to the period of limitations, and that some "willful" act of the District prevented the Controller from "completing" the audit. However, if the date the audit was initiated is the relevant event for the tolling of the statute, then the alleged delay in completion is not relevant, and would be harmless. In any case, a review of the statutory history of *Government Code* Section 17558.5 indicates that the matter of the audit "initiation" date is not relevant to any fiscal year claims which are the subject of this audit.

Statutory History

Prior to January 1, 1994, no statute governed the statute of limitations for audits of mandate reimbursement claims. Statutes of 1993, Chapter 906, Section 2, operative January 1, 1994, added *Government Code* Section 17558.5 to establish for the first time a specific statute of limitations for audit of mandate reimbursement claims. ...

Statutes of 1995, Chapter 945, Section 13, operative July 1, 1996, repealed and replaced Section 17558.5, changing only the period of limitations. ...

All of the annual claims which are the subject of the incorrect reduction claim are subject to the two-year statute of limitations established by Chapter 945/95. The claims for the first three years (FY 1997-98, FY 1998-99, and FY 1999-00) were beyond audit when the audit report was issued. . . . [T]he potential factual issue of when the audit is initiated is not relevant.

Statutes of 2002, Chapter 1128, Section 14.5, operative January 1, 2003 amended Section 17558.5. . . . The amendment is pertinent in that it indicates this is the first time that the factual issue of the date the audit is "initiated" for mandate programs for which funds are appropriated is introduced. . . .

Statutes of 2004, Chapter 890, Section 18, operative January 1, 2005 amended Section 17558.5. . . . The amendment is pertinent since it indicates this is the first time that the Controller audits may be completed at a time other than the stated period of limitations.

Initiation of An Audit

The audit report states that the Controller's staff telephone contact with the District in December 2002 initiated the audit. First, initiation of the audit is not relevant to the claims which are the subject of this incorrect reduction claim. The words "initiate an audit" are used only in the second sentence of Section 17558.5, that is, in a situation when no funds are appropriated for the program for the fiscal year for which the claim is made. Then, and only then, is the Controller authorized to "initiate an audit" within two years from the date of initial payment. . . .

Chapter 1128, Statutes of 2002, amended subdivision (a) of Government Code Section 17558.5 to change the "subject to audit" language of the first sentence to "subject to the initiation of an audit." Had the Legislature intended the former Section to mean "subject to the initiation of an audit," there would have been no need to amend the statute to now say "subject to the initiation of an audit. . . ."

The Controller's standard for "initiation" of an audit is actually the date of the entrance conference, not the date of the phone contact. In this audit . . . the Controller asserts the telephone contact as the initiation date for the audit. In other mandate audit reports issued after the Los Rios audits, the Controller states that the entrance conference date initiates the audit.^[6] Further, in the matter of the Health Fee Elimination audit of North Orange [County] Community College District . . . [the district] asserted that the statute of limitations for the audit of the FY 2000-01 claim expired December 31, 2003. . . . In the final audit report dated July 22, 2005, the Controller agreed that FY 2000-01 was past audit . . . [because] the "FY 2000-01 claim was not subject to audit due to the expiration of the statute of limitations within which to initiate an audit." The North Orange County audit entrance conference date was January 26, 2004, which is the date, according to the Controller, that an audit is "initiated."

Given this contradiction in measurement dates, there does not appear to be a consistent Controller position on this issue. It can therefore be concluded that the Controller has no legal basis for their policy on the initiation date of audits.

Delay of the Audit

The Controller asserts that the District somehow committed a willful act intended to delay the completion of the audit. However, the Controller provides no evidence that there was any willful act by the District intended to delay the completion of the audit. If there was any delay to the start of the audit, it was by unilateral action of the Controller. . . .

The Controller's audit staff first called the District on December 12, 2002 . . . When Ms. Bray was able to return the call on December 18, 2002 . . . the employee of the Controller's office stated to Ms. Bray that "she assumed that [they] were too busy to meet in December, so she requested a meeting during the first or second week of January." Ms. Bray called the Controller's employee again on December 19, 2002 to set a date in January as requested by the Controller's employee. A copy of Ms. Bray's declaration dated September 30, 2004 is attached as Exhibit "G." There was no credible attempt by the Controller's office "to initiate the audit" in December 2002. But as stated above, the argument that an attempt was made to "initiate an audit" in December 2002 is not legally relevant since the claims were only "subject to audit" through December 2002.

The Controller did not complete the audit within the statutory period allowed for the first three fiscal year claims included in this audit. The date the audit was "initiated" for these three years is irrelevant, only the date the audit was completed is relevant as evidenced by the (final) Controller's audit report. . . .

⁶ Some of those other audit reports where the entrance date is specifically stated as the initiation date for the audit are:

- Newport-Mesa Unified School District, School District of Choice, issued August 31, 2004.
- Clovis Unified School District, Graduation Requirements, issued October 22, 2004.
- State Center Community College District, Health Fee Elimination, issued September 17, 2004.
- West Valley-Mission Community College District, Health Fee Elimination, issued April 8, 2005.
- Long Beach Community College District, Health Fee Elimination, issued April 27, 2005.

All of these audit reports were issued after the Los Rios audit report.

SCO's Comment

The district incorrectly states that the SCO first contacted the district on December 12, 2002. The SCO first contacted the district on December 10, 2002. The auditor left a telephone message for Ms. Bray. The auditor requested to schedule a meeting for the week of December 16, 2002, and identified the mandated programs and fiscal years to be audited. The auditor made additional attempts to contact the district on December 12, 2002, and December 16, 2002. The auditor was able to contact Ms. Bray on December 19, 2002, and requested to hold a meeting with her. Ms. Bray stated that December "would not work" for the district, because another district employee, Ms. Kim Sayles, would need to be present. Based on the district's refusal to schedule a meeting during December 2002, the SCO scheduled an audit entrance conference for January 16, 2003. Attached (**Tab 6**) are a declaration of the Auditor-In-Charge, Mary Khoshmashrab, and a copy of the auditor's contact log information from the audit work papers.

In addition, the district incorrectly concludes that the SCO does not have a consistent position on audit initiation by misrepresenting the circumstances for this audit versus other audits referenced. The SCO initiates an audit by conducting the audit entrance conference. However, for this audit, the district denied the SCO's request to conduct an entrance conference in December 2002. *Government Code* Section 17558.5(c), effective July 1, 1996, states "Nothing in this section shall be construed to limit the adjustment of payments. . . . when a delay in the completion of an audit is the result of willful acts by the claimant. . . ." The district delayed the audit completion by willfully denying the SCO's request to conduct an audit entrance conference in December 2002. Because the district delayed the audit start date, the district equally delayed the audit completion. Therefore, based on *Government Code* Section 17558.5(c), this audit was effectively initiated in December 2002, based on the SCO's initial contact with the district.

The district believes that the audit initiation date is not relevant because the term "initiate an audit" is not specifically stated in the *Government Code* language applicable to these claims. Instead, the district believes the audit report date is relevant. In particular, the district believes that Chapter 890, Statutes of 2004 is pertinent because "it indicates this is the first time that the Controller audits may be completed at a time other than the stated period of limitations." This is an erroneous conclusion; before Chapter 890, Statutes of 2004, there was no statutory language defining when the SCO must complete an audit. In addition, the district states, "Had the Legislature intended the former Section to mean 'subject to the initiation of an audit,' there would have been no need to amend the statute to now say 'subject to the initiation of an audit.'" Clearly the opposite is true; the Legislature modified the previous language to clarify its intent.

As of July 1, 1996, *Government Code* Section 17558.5(a) stated, "A reimbursement claim. . . 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. . . ." In construing statutory language, we are to

“ascertain the intent of the Legislature so as to effectuate the purpose of the law.” (*Dyna-Med, Inc. v. Fair Employment and Housing Com.* (1987) 43 Cal.3d 1379, 1386.) In doing so, we look first to the statute’s words, giving them their usual and ordinary meaning. (*Committee of Seven Thousand v. Superior Court* (1988) 45 Cal. 3d 491, 501.)

In *Government Code* Section 17558.5(a), the words “subject to” mean that the district is “in a position or circumstance that places it under the power or authority of another.”⁷ The SCO exercised its authority to audit the district’s claims by conducting the audit entrance conference within the statute of limitations. There is no statutory language that requires the SCO to issue a final audit report before the two-year period expires.

As of January 1, 2003, *Government Code* Section 17558.5(a) was amended to state “A reimbursement claim. . . is subject to the initiation of an audit by the Controller no later than three years after the reimbursement claim is filed or last amended, whichever is later. . . .” [Emphasis added.] While the amendment does not define the start of an audit, the phrase “initiation of an audit” implies the first step taken by the Controller. Construing the statutory language to permit the Controller’s initial contact as the audit’s initiation is consistent with the statutory language as well as subsequent amendments. To read the statute as requiring that the SCO issue a final report within a certain timeframe would be to read into the statute provisions that do not exist. Therefore, although the SCO has used the audit entrance conference as the audit initiation date, the statute supports the argument that the initial contact suffices as audit initiation.

The fundamental purpose underlying statute of limitations is “to protect the defendants from having to defend stale claims by providing notice in time to prepare a fair defense on the merits.” (*Downs v. Department of Water & Power* (1977) 58 Cal. App. 4th 1093.) Here, the district had notice of the SCO’s intent to audit before the statute of limitations expired. The SCO first contacted the district on December 10, 2002, and advised the district of the mandated programs and fiscal years that the SCO would audit. Thus, the SCO provided the district with adequate notice before the statute of limitations expired that the SCO intended to exercise its authority to audit.

⁷ Source: American Heritage Dictionary of the English Language, Fourth Edition © 2000.

VII. CONCLUSION

The State Controller’s Office audited Los Rios Community College District’s claims for costs of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 1997, through June 30, 2002. The district claimed unallowable costs totaling \$3,205,600. The unallowable costs occurred primarily because the district claimed unallowable salary costs, overstated its indirect cost rates, and understated authorized health services fees.

The district claimed unallowable salary and related indirect costs applicable to an increased level of health services versus health services provided in the FY 1986-87 base year.

The district claimed unallowable services and supplies costs, including costs related to intercollegiate athletics and Hepatitis B vaccinations. The district also claimed unsupported costs.

The district overstated its indirect cost rates. The district did not obtain federal approval of its indirect cost rate proposals prepared using OMB Circular A-21 methodology. The SCO calculated indirect cost rates using its alternate methodology; these rates did not support the rates claimed.

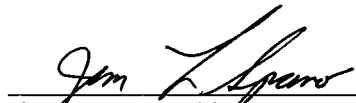
The district understated authorized health service fees. The district did not levy health service fees and mistakenly believed that it was not required to deduct authorized health service fees from costs claimed.

In conclusion, the Commission on State Mandates should find that: (1) the SCO had authority to audit FY 1997-98, FY 1998-99, and FY 1999-2000; (2) the SCO correctly reduced the district's FY 1997-98 claim by \$606,532; (3) the SCO correctly reduced the district's FY 1998-99 claim by \$625,570; (4) the SCO correctly reduced the district's FY 1999-2000 claim by \$634,185; (5) the SCO correctly reduced the district's FY 2000-01 claim by \$667,337; and (6) the SCO correctly reduced the district's FY 2001-02 claim by \$671,976.

VIII. CERTIFICATION

I hereby certify by my signature below that the statements made in this document are true and correct of my own knowledge, or, as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on April 14, 2006, at Sacramento, California, by:



Jim L. Spano, Chief
Compliance Audits Bureau
Division of Audits
State Controller's Office

Tab 3

B. Indirect Cost

Indirect costs are: (a) Incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. Indirect costs can originate in the department performing the mandate or in departments that supply the department performing the mandate with goods, services and facilities. As noted previously, in order for a cost to be allowable, it must be allocable to a particular cost objective. With respect to indirect costs, this requires that the cost be distributed to benefiting cost objectives on bases, which produce an equitable result in relation to the benefits derived by the mandate.

(1) Indirect Costs for Schools

School districts and county superintendents of schools may claim indirect costs incurred for mandated costs. For fiscal years prior to 1986-87, school districts and county superintendents of schools may use the Department of Education Form Nos. J41A or J-73A, respectively, applicable to the fiscal year of the claim. The rate, however, must not be applied to items of direct costs claimed in complying with the mandate if those same costs are included in cost centers identified as General Support (i.e., EDP Codes 400, 405, 410 in Column 3). For the 1986-87 and subsequent fiscal years, school districts and county superintendents of schools may use the Annual Program Cost Data Report, Department of Education Form Nos. J-380 or J-580, respectively, applicable to the fiscal year of the claim.

The amount of indirect costs the claimant is eligible to claim is computed by multiplying the rate by direct costs. When applying the rate, multiply the rate by direct costs not included in total support services EDP No. 422 of the J-380 or J-580. If there are any exceptions to this general rule for applying the indirect cost rate, they will be found in the individual mandate instructions.

(2) Indirect Cost Rate for Community Colleges

A college has the option of using a federally approved rate, utilizing the cost accounting principles from Office of Management and Budget Circular A-21 "Cost Principles for Educational Institutions," or the Controller's methodology outlined in the following paragraphs. If the federal rate is used, it must be from the same fiscal year in which the costs were incurred.

The Controller allows the following methodology for use by community colleges in computing an indirect cost rate for state mandates. The objective of this computation is to determine an equitable rate for use in allocating administrative support to personnel that performed the mandated cost activities claimed by the community college. This methodology assumes that administrative services are provided to all activities of the institution in relation to the direct costs incurred in the performance of those activities. Form FAM-29C has been developed to assist the community college in computing an indirect cost rate for state mandates. Completion of this form consists of three main steps:

- The elimination of unallowable costs from the expenses reported on the financial statements.
- The segregation of the adjusted expenses between those incurred for direct and indirect activities.
- The development of a ratio between the total indirect expenses and total direct expenses incurred by the community college.

The computation is based on total expenditures as reported in "California Community Colleges Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)." Expenditures classified by activity are segregated by the function they serve. Each function may include expenses for salaries, fringe benefits, supplies, and capital outlay. OMB Circular A-21 requires expenditures for capital outlays to be excluded from the indirect cost rate computation.

Generally, a direct cost is one incurred specifically for one activity, while indirect costs are of a more general nature and are incurred for the benefit of several activities. As previously noted, the objective of this computation is to equitably allocate administrative support costs to personnel that perform mandated cost activities claimed by the college. For the purpose of this computation we have defined indirect costs to be those costs which provide administrative support to personnel who perform mandated cost activities. We have defined direct costs to be those indirect costs that do not provide administrative support to personnel who perform mandated cost activities and those costs that are directly related to instructional activities of the college. Accounts that should be classified as indirect costs are: Planning and Policy Making, Fiscal Operations, General Administrative Services, and Logistical Services. If any costs included in these accounts are claimed as a mandated cost, i.e., salaries of employee performing mandated cost activities, the cost should be reclassified as a direct cost. Accounts in the following groups of accounts should be classified as direct costs: Instruction, Instructional Administration, Instructional Support Services, Admissions and Records, Counseling and Guidance, Other Student Services, Operation and Maintenance of Plant, Community Relations, Staff Services, Non-instructional Staff-Retirees' Benefits and Retirement Incentives, Community Services, Ancillary Services and Auxiliary Operations. A college may classify a portion of the expenses reported in the account Operation and Maintenance of Plant as indirect. The claimant has the option of using a 7% or a higher expense percentage is allowable if the college can support its allocation basis.

The rate, derived by determining the ratio of total indirect expenses and total direct expenses when applied to the direct costs claimed, will result in an equitable distribution of the college's mandate related indirect costs. An example of the methodology used to compute an indirect cost rate is presented in Table 4.

Table 4 Indirect Cost Rate for Community Colleges

MANDATED COST INDIRECT COST RATE FOR COMMUNITY COLLEGES				FORM FAM-29C		
(01) Claimant				(02) Period of Claim		
(03) Expenditures by Activity				(04) Allowable Costs		
Activity	EDP	Total	Adjustments	Total	Indirect	Direct
Subtotal Instruction	599	\$19,590,357	\$1,339,059	\$18,251,298	\$0	\$18,251,298
Instructional Administration	6000					
Academic Administration	301	2,941,386	105,348	2,836,038	0	2,836,038
Course Curriculum & Develop.	302	21,595	0	21,595	0	21,595
Instructional Support Service	6100					
Learning Center	311	22,737	863	21,874	0	21,874
Library	312	518,220	2,591	515,629	0	515,629
Media	313	522,530	115,710	406,820	0	406,820
Museums and Galleries	314	0	0	0	0	0
Admissions and Records	6200	584,939	12,952	571,987	0	571,987
Counseling and Guidance	6300	1,679,596	54,401	1,625,195	0	1,625,195
Other Student Services	6400					
Financial Aid Administration	321	391,459	20,724	370,735	0	370,735
Health Services	322	0	0	0	0	0
Job Placement Services	323	83,663	0	83,663	0	83,663
Student Personnel Admin.	324	289,926	12,953	276,973	0	276,973
Veterans Services	325	25,427	0	25,427	0	25,427
Other Student Services	329	0	0	0	0	0
Operation & Maintenance	6500					
Building Maintenance	331	1,079,260	44,039	1,035,221	0	1,035,221
Custodial Services	332	1,227,668	33,677	1,193,991	0	1,193,991
Grounds Maintenance	333	596,257	70,807	525,450	0	525,450
Utilities	334	1,236,305	0	1,236,305	0	1,236,305
Other	339	3,454	3,454	0	0	0
Planning and Policy Making	6600	587,817	22,451	565,366	565,366	0
General Inst. Support Services	6700					
Community Relations	341	0	0	0	0	0
Fiscal Operations	342	634,605	17,270	617,335	553,184	(a) 64,151
Subtotal		\$32,037,201	\$1,856,299	\$30,180,902	\$1,118,550	\$29,062,352

Table 4 Indirect Cost Rate for Community Colleges (continued)

MANDATED COST INDIRECT COST RATE FOR COMMUNITY COLLEGES						FORM FAM-29C
(01) Claimant				(02) Period of Claim		
(03) Expenditures by Activity				(04) Allowable Costs		
Activity	EDP	Total	Adjustments	Total	Indirect	Direct
General Inst. Sup. Serv. (cont.)	6700					
Administrative Services	343	\$1,244,248	\$219,331	\$1,024,917	\$933,494	(a) \$91,423
Logistical Services	344	1,650,889	126,935	1,523,954	1,523,954	0
Staff Services	345	0	0	0	0	0
Noninstr. Staff Benefit & Incent.	346	10,937	0	10,937	0	10,937
Community Services	6800					
Community Recreation	351	703,858	20,509	683,349	0	683,349
Community Service Classes	352	423,188	24,826	398,362	0	398,362
Community Use of Facilities	353	89,877	10,096	79,781	0	79,781
Ancillary Services	6900					
Bookstores	361	0	0	0	0	0
Child Development Center	362	89,051	1,206	87,845	0	87,845
Farm Operations	363	0	0	0	0	0
Food Services	364	0	0	0	0	0
Parking	365	420,274	6,857	413,417	0	413,417
Student Activities	3663	0	0	0	0	0
Student Housing	67	0	0	0	0	0
Other	379	0	0	0	0	0
Auxiliary Operations	7000					
Auxiliary Classes	381	1,124,557	12,401	1,112,156	0	1,112,156
Other Auxiliary Operations	382	0	0	0	0	0
Physical Property Acquisitions	7100	814,318	814,318	0	0	0
(05) Total		\$38,608,398	\$3,092,778	\$35,515,620	\$3,575,998	\$31,939,622
(06) Indirect Cost Rate: (Total Indirect Cost/Total Direct Cost)				11.1961%		
(07) Notes						
(a) Mandated Cost activities designated as direct costs per claim instructions.						

Tab 4

**Health Services Analysis for ARC
FY 1997-98 through FY 2001-02**

<u>Fiscal Year</u>	<u>Month</u>	<u>Total Services Provided</u>	<u>Allowable Services Provided</u>	<u>Percentage of Unallowable Services</u>
<u>1997-98</u>	no records provided.			
<u>1998-99</u>	January	815	704	
	February	777	630	
	March	622	466	
	April	498	372	
	May	503	346	
	June	282	228	
	Total	<u>3,497</u>	<u>2,746</u>	<u>(21.48%)</u>
<u>1999-2000</u>	August	924	769	
	October	534	419	
	December	280	218	
	February	572	386	
	April	338	247	
	June	308	267	
	Total	<u>2,956</u>	<u>2,306</u>	<u>(21.99%)</u>
<u>2000-01</u>	July	261	238	
	September	650	558	
	November	398	335	
	January	833	787	
	March	571	476	
	May	385	325	
	Total	<u>3,098</u>	<u>2,719</u>	<u>(12.23%)</u>
<u>2001-02</u>	August	725	702	
	October	650	593	
	December	345	321	
	February	687	628	
	April	531	485	
	June	262	238	
	Total	<u>3,200</u>	<u>2,967</u>	<u>(7.28%)</u>
Average, FY 1998-99 through FY 2001-02				<u>(15.74%)</u>

Tab 5

**Summary of Unallowable Salary and Related Indirect Costs
FY 1997-98 through FY 2001-02**

	Fiscal Year					Total
	1997-98	1998-99	1999-2000	2000-01	2001-02	
ARC salary costs claimed	\$ 153,969	\$ 175,149	\$ 163,054	\$ 170,007	\$ 138,586	
Percentage of unallowable services	x (15.74%)	x (21.48%)	x (21.99%)	x (12.23%)	x (7.28%)	
Unallowable salary costs	(24,235)	(37,622)	(35,855)	(20,792)	(10,089)	\$ (128,593)
Related indirect costs	(7,554)	(11,437)	(10,900)	(6,539)	(3,099)	(39,529)
Audit adjustment	\$ (31,789)	\$ (49,059)	\$ (46,755)	\$ (27,331)	\$ (13,188)	\$ (168,122)

Tab 6

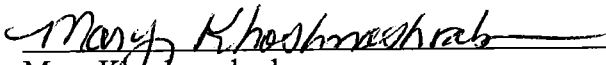
Declaration of Mary Khoshmashrab

I, Mary Khoshmashrab, the undersigned, declare:

1. I am over the age of 18 and otherwise competent to testify in any court or administrative proceeding.
2. I have been employed by the State Controller's Office (SCO) since August 1999.
3. At the present time, I am a Staff Management Auditor – Specialist in the SCO's Division of Audits.
4. The attached "Exhibit A" is a true and exact copy of the General Information – Contact Log maintained in the SCO's audit work papers for the audit of Los Rios Community College District, Health Fee Elimination Program, fiscal year 1997-98 through fiscal year 2001-02.
5. The General Information – Contact Log documents my efforts to schedule an audit entrance conference with Los Rios Community College District, to be held in December 2002. However, the district requested that the entrance conference be delayed until January 2003 based on the availability of district staff.

The foregoing facts are known to me personally, and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except where stated upon information or belief and where so stated I declare that I believe them to be true.

Executed this 13th day of December, 2005, at Sacramento, California.



Mary Khoshmashrab

2A1/2
9/11/03 @

**LOS RIOS COMMUNITY COLLEGE DISTRICT
GENERAL INFORMATION-CONTACT LOG
AUDIT ID NO. SO3-MCC-00016,17
FISCAL YEAR 1998/99 THROUGH 2000-01**

12/10/02- called district to set up entrance meeting for week of December 16, 2002. Left message for Carrie to call me about meeting and gave the mandate and fiscal years we were going to audit.

12/12/02- called district to follow up on entrance conference. Left message for Carrie to call regarding meeting. Asked for Vice Chancellor's name. Jon Sharpe name was provided.

12/16/02- called district to set up an entrance conference for this week. Still no call back from Carrie requested her to call as soon as possible. Noted to secretary that I have left several messages.

12/19/02- called district Carrie answered phone. Requested meeting with her she stated that December would not work because Kim Sayles needed to attend and she would not be in. Carrie would call me back.

12/19/02- Carrie Called back set entrance for January 16, 2003 at 9:30am.

12/19/02- Called left message with Carrie for fax number to fax copy of Contract Letter.

Tab 7

Hearing: 5/25/89
File Number: CSM-4206
Staff: Deborah Fraga-Decker
WP 0366d

PROPOSED PARAMETERS AND GUIDELINES AMENDMENTS
Chapter 1, Statutes of 1984, 2nd E.S.
Chapter 1118, Statutes of 1987
Health Fee Elimination ✓

Executive Summary

At its hearing of November 20, 1986, the Commission on State Mandates found that Chapter 1, Statutes of 1984, 2nd E.S., imposed state mandated costs upon local community college districts by (1) requiring those community college districts which provided health services for which it was authorized to and did charge a fee to maintain such health services at the level provided during the 1983-84 fiscal year in the 1984-85 fiscal year and each fiscal year thereafter and (2) repealing the district's authority to charge a health fee. The requirements of this statute would repeal on December 31, 1987, unless subsequent legislation was enacted.

Chapter 1118, Statutes of 1987, was enacted September 24, 1987, and became effective January 1, 1988. Chapter 1118/87 modified the requirements contained in Chapter 1/84, 2nd E.S., to require those community college districts which provided health services in fiscal year 1986-87 to maintain such health services in the 1987-88 fiscal year and each fiscal year thereafter. Additionally, the language contained in Chapter 1/84, 2nd E.S., which repealed the districts' authority to charge a health fee to cover the costs of the health services program was allowed to sunset, thereby reinstating the districts' authority to charge a fee as specified. Parameters and guidelines amendments are appropriate to address the changes contained in Chapter 1118/87 because this statute amended the same Education Code sections previously enacted by Chapter 1/84, 2nd E.S., and found to contain a mandate.

Commission staff included the Department of Finance suggested non-substantive amendment to the staff's proposed parameters and guidelines amendments. The Chancellor's Office, the State Controller's Office, and the claimant are in agreement with these amendments. Therefore, staff recommends that the Commission adopt the parameters and guidelines amendments as requested by the Chancellor's Office and as developed by staff.

Claimant

Rio Hondo Community College District

Requesting Party

California Community Colleges Chancellor's Office

Chronology

12/2/85 Test Claim filed with Commission on State Mandates.
7/24/86 Test Claim continued at claimant's request.
11/20/86 Commission approved mandate.
1/22/87 Commission adopted Statement of Decision.
4/9/87 Claimant submitted proposed parameters and guidelines.
8/27/87 Commission adopted parameters and guidelines
10/22/87 Commission adopted cost estimate
9/28/88 Mandate funded in Commission's Claims Bill, Chapter 1425/88

Summary of Mandate

Chapter 1/84, 2nd E.S., effective July 1, 1984, repealed Education Code (EC) Section 72246 which had authorized community college districts to charge a health fee for the purpose of providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. The statute also required that any community college district which provided health services for which it was authorized to charge a fee shall maintain health services at the level provided during the 1983-84 fiscal year in the 1984-85 fiscal year and each fiscal year thereafter.

Prior to the passage of Chapter 1/84, 2nd E.S., the implementation of a health services program was at the local community college district's option. If implemented, the respective community college district had the authority to charge a health fee up to \$7.50 per semester for day and evening students, and \$5 per summer session.

Proposed Amendments

The Community Colleges Chancellor's Office (Chancellor's Office) has requested parameters and guidelines amendments be made to address the changes in mandated activities effectuated by Chapter 1118/87. (Attachment G) In order to expedite the process, staff has developed language to accomplish the following: (1) change the eligible claimants to those community college districts which provided a health services program in fiscal year 1986-87; and (2) change the offsetting savings and other reimbursements to include the reinstated authority to charge a health fee. (Attachment B)

Recommendations

The Department of Finance (DOF) proposed one non-substantive amendment to clarify the effect of the fee authority language on the scope of the reimbursable costs. With this amendment, the DOF believes the amendments to the parameters and guidelines are appropriate for this mandate and recommends the Commission adopt them. (Attachment C)

The Chancellor's Office recommends that the Commission approve the amended parameters and guidelines developed by staff with the additional language suggested by the DOF. (Attachment D)

The State Controller's Office (SCO), upon review of the proposed amendments, finds the proposals proper and acceptable. (Attachment E)

The claimant, in its recommendation, states its belief that the revisions are appropriate and concurs with the proposed changes. (Attachment F)

Staff Analysis

Issue 1: Eligible Claimants

The mandate found in Chapter 1/84, 2nd E.S., was for a new program with a required maintenance of effort at the fiscal year 1983-84 level. Chapter 1118/87 superseded that level of service by requiring that community college districts which provided a health services program in fiscal year 1986-87 maintain that level of effort in fiscal year 1987-88 and each subsequent year thereafter. Additionally, this expanded the group of eligible claimants because the requirement is no longer imposed on only those community college districts which had charged a health fee for the program. At the time of enactment of Chapter 1118/87, there were 11 community college districts which provided the health services program but had never charged a health fee for the service.

Therefore, staff has amended the language in Item III. "Eligible Claimants" to reflect this change in the scope of the mandate.

Issue 2: Reimbursement Alternatives

In response to Chapter 1/84, 2nd E.S., Item VI.B. contained two alternatives for claiming reimbursement costs. This gave claimants a choice between claiming actual costs for providing the health services program, or funding the program as was done prior to the mandate when a health fee could be charged.

The first alternative was in Item VI.B.1. and provided for the use of the formula which the eligible claimants were authorized to utilize prior to the implementation of Chapter 1/84, 2nd E.S.--total eligible enrollment multiplied by the health fee charged per student in fiscal year 1983-84. With the sunset of the repeal of the health fee authority as contained in Chapter 1/84, 2nd E.S., claimants can now charge the health fee as was allowed prior to fiscal year 1983-84, thereby funding the program as was done prior to the mandate. Therefore, this alternative is no longer applicable to this mandate and has been deleted by staff.

The second alternative was in Item VI.B.2. and provided for the claiming of actual costs involved in maintaining a health services program at the fiscal year 1983-84 level. This alternative is now the sole method of reimbursement for this mandate. However, it has been amended to reflect that Chapter 1118/87 requires a maintenance of effort at the fiscal year 1986-87 level.

Issue 3: Offsetting Savings and Other Reimbursements

With the sunset of the repeal of the fee authority contained in Chapter 1/84, 2nd E.S., Education Code (EC) section 72246(a) again provides community college districts with the authority to charge a health fee as follows:

"72246.(a) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than seven dollars and fifty cents (\$7.50) for each semester, and five dollars (\$5) for summer school, or five dollars (\$5) for each quarter for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both."

Staff amended Item "VIII. Offsetting Savings and Other Reimbursements" to reflect the reinstatement of this fee authority.

In response to that amendment, the DOF has proposed the addition of the following language to Item VIII. to clarify the impact of the fee authority on claimants' reimbursable costs:

"If a claimant does not levy the fee authorized by Education Code Section 72246(a), it shall deduct an amount equal to what it would have received had the fee been levied."

Staff concurs with the DOF proposed language which does not substantively change the scope of Item VIII.

Issue 4: Editorial Changes

In preparing the proposed parameters and guidelines amendments, it was not necessary for staff to make any of the normal editorial changes as the original parameters and guidelines contained the language usually adopted by the commission.

Staff, the DOF, the Chancellor's Office, the SCO, and the claimant are in agreement with the recommended amendments which are shown in Attachment A with additions indicated by underlining and deletions by strikeout.

Staff Recommendation

Staff recommends the adoption of the staff's proposed parameters and guidelines amendments, which are based on the original parameters and guidelines adopted in response to Chapter 1/84, 2nd E.S., and amended in response to Chapter 1118/87, as well as incorporating the amendment recommended by the DOF. All parties concur with these amendments.

Adopted: 8/27/87

PARAMETERS AND GUIDELINES
Chapter 1118, Statutes of 1984, 2nd E.S.
Health Fee Elimination

I. SUMMARY OF MANDATE

Chapter 1, Statutes of 1984, 2nd E.S. repealed Education Code Section 72246 which had authorized community college districts to charge a health fee for the purpose of providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. This statute also required that health services for which a community college district charged a fee during the 1983-84 fiscal year had to be maintained at that level in the 1984-85 fiscal year and every year thereafter. The provisions of this statute would automatically repeal on December 31, 1987, which would reinstate the community colleges districts' authority to charge a health fee as specified.

Chapter 1118, Statutes of 1987, amended Education Code section 72246 to require any community college district that provided health services in 1986-87 to maintain health services at the level provided during the 1986-87 fiscal year in 1987-88 and each fiscal year thereafter.

II. COMMISSION ON STATE MANDATES' DECISION

At its hearing on November 20, 1986, the Commission on State Mandates determined that Chapter 1, Statutes of 1984, 2nd E.S. imposed a "new program" upon community college districts by requiring any community college district which provided health services for which it was authorized to charge a fee pursuant to former Section 72246 in the 1983-84 fiscal year to maintain health services at the level provided during the 1983-84 fiscal year in the 1984-85 fiscal year and each fiscal year thereafter. This maintenance of effort requirement applies to all community college districts which levied a health services fee in the 1983-84 fiscal year, regardless of the extent to which the health services fees collected offset the actual costs of providing health services at the 1983-84 fiscal year level.

At its hearing of April 27, 1989, the Commission determined that Chapter 1118, Statutes of 1987, amended this maintenance of effort requirement to apply to all community college districts which provided health services in fiscal year 1986-87 and required them to maintain that level in fiscal year 1987-88 and each fiscal year thereafter.

III. ELIGIBLE CLAIMANTS

Community college districts which provided health services ~~for~~ in 1983-84 fiscal year and continue to provide the same services as a result of this mandate are eligible to claim reimbursement of those costs.

IV. PERIOD OF REIMBURSEMENT

Chapter 1, Statutes of 1984, 2nd E.S., became effective July 1, 1984. Section 17557 of the Government Code states that a test claim must be submitted on or before November 30th following a given fiscal year to establish for that fiscal year. The test claim for this mandate was filed on November 27, 1985; therefore, costs incurred on or after July 1, 1984, are reimbursable. Chapter 1118, Statutes of 1987, became effective January 1, 1988. Title 2, California Code of Regulations, section 1185.3(a) states that a parameters and guidelines amendment filed before the deadline for initial claims as specified in the Claiming Instructions shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines; therefore, costs incurred on or after January 1, 1988, for Chapter 1118, Statutes of 1987, are reimbursable.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim if applicable. Pursuant to Section 17561(d)(3) of the Government Code, all claims for reimbursement of costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code Section 17564.

V. REIMBURSEMENTABLE COSTS

A. Scope of Mandate

Eligible community college districts shall be reimbursed for the costs of providing a health services program ~~with the cost of the district~~ ~~to the district~~. Only services provided ~~for the~~ in 1986-87 fiscal year may be claimed.

B. Reimbursable Activities

For each eligible claimant, the following cost items are reimbursable to the extent they were provided by the community college district in fiscal year ~~1986-87~~ 1986-87:

ACCIDENT REPORTS

APPOINTMENTS

- College Physician - Surgeon
- Dermatology, Family Practice, Internal Medicine
- Outside Physician
- Dental Services
- Outside Labs (X-ray, etc.)
- Psychologist, full services
- Cancel/Change Appointments
- R.N.
- Check Appointments

ASSESSMENT, INTERVENTION & COUNSELING

Birth Control
Lab Reports
Nutrition
Test Results (office)
VD
Other Medical Problems
CD
URI
ENT
Eye/Vision
Derm./Allergy
Gyn/Pregnancy Services
Neuro
Ortho
GU
Dental
GI
Stress Counseling
Crisis Intervention
Child Abuse Reporting and Counseling
Substance Abuse Identification and Counseling
Aids
Eating Disorders
Weight Control
Personal Hygiene
Burnout

EXAMINATIONS (Minor Illnesses)

Recheck Minor Injury

HEALTH TALKS OR FAIRS - INFORMATION

Sexually Transmitted Disease
Drugs
Aids
Child Abuse
Birth Control/Family Planning
Stop Smoking
Etc.
Library - videos and cassettes

FIRST AID (Major Emergencies)

FIRST AID (Minor Emergencies)

FIRST AID KITS (Filled)

IMMUNIZATIONS

Diphtheria/Tetanus
Measles/Rubella
Influenza
Information

INSURANCE

On Campus Accident
Voluntary
Insurance Inquiry/Claim Administration

LABORATORY TESTS DONE

Inquiry/Interpretation
Pap Smears

PHYSICALS

Employees
Students
Athletes

MEDICATIONS (dispensed OTC for misc. illnesses)

Antacids
Antidiarrhial
Antihistamines
Aspirin, Tylenol, etc.
Skin rash preparations
Misc.
Eye drops
Ear drops
Toothache - Oil cloves
Stingkill
Midol - Menstrual Cramps

PARKING CARDS/ELEVATOR KEYS

Tokens
Return card/key
Parking inquiry
Elevator passes
Temporary handicapped parking permits

REFERRALS TO OUTSIDE AGENCIES

Private Medical Doctor
Health Department
Clinic
Dental
Counseling Centers
Crisis Centers
Transitional Living Facilities (Battered/Homeless Women)
Family Planning Facilities
Other Health Agencies

TESTS

Blood Pressure
Hearing
Tuberculosis
 Reading
 Information
Vision
Glucometer
Urinalysis
Hemoglobin
E.K.G.
Strep A testing
P.G. testing
Monospot
Hemacult
Misc.

MISCELLANEOUS

Absence Excuses/PE Waiver
Allergy Injections
Band-aids
Booklets/Pamphlets
Dressing Change
Rest
Suture Removal
Temperature
Weigh
Misc.
Information
Report/Form
Wart Removal

COMMITTEES

Safety
Environmental
Disaster Planning

SAFETY DATA SHEETS

Central file

X-RAY SERVICES

COMMUNICABLE DISEASE CONTROL

BODY FAT MEASUREMENTS

MINOR SURGERIES

SELF-ESTEEM GROUPS

MENTAL HEALTH CRISIS

AA GROUP

ADULT CHILDREN OF ALCOHOLICS GROUP

WORKSHOPS

Test Anxiety
Stress Management
Communication Skills
Weight Loss
Assertiveness Skills

VI. CLAIM PREPARATION

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a list of each item for which reimbursement is claimed under this mandate. // *Every type of claimants may claim costs under one of two alternatives: // 1. Fee amount previously collected per student and enrollment count, or 2. actual costs of program.*

A. Description of Activity

1. Show the total number of full-time students enrolled per semester/quarter.
2. Show the total number of full-time students enrolled in the summer program.
3. Show the total number of part-time students enrolled per semester/quarter.
4. Show the total number of part-time students enrolled in the summer program.

B. Claiming/Alternatives

Claimed costs should be supported by the following information:

Alternative/1//Fees/Previously/Collected/in/1983-84/Fiscal/Year/

1/ Fees/collected/in/the/1983-84/fiscal/year/to/support the/headline/service/program/

2/ Total/number/of/students/under/item/VI/A/Y//through/4/ above///listing/charges/alternatives//the/total/amount claimed/would/be/item/VI/B/Y//multiplied/by/item VI/B/2//with/the/total/amount/reimbursed/increased/by the/applicable/improvement/provide/defrayal/

Alternative/2//Actual Costs of Claim Year for Providing 1986-87 Fiscal Year Program Level of Service.

1. Employee Salaries and Benefits

Identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

2. Services and Supplies

Only expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials which have been consumed or expended specifically for the purpose of this mandate.

3. Allowable Overhead Cost

Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions.

VII. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. This would include documentation for the fiscal year 19836-847 program to substantiate a maintenance of effort. These documents must be kept on file by the agency submitting the claim for a period of no less than three years from the date of the final payment of the claim pursuant to this mandate, and made available on the request of the State Controller or his agent.

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim. This shall include the amount of \$7.50 per full-time student per semester, \$5.00 per full-time student for summer school, or \$5.00 per full-time student per quarter, as authorized by Education Code section 72246(a). This shall also include payments (fees) now received from individuals other than students who were not covered by former Education Code Section 72246 for health services.

IX. REQUIRED CERTIFICATION

The following certification must accompany the claim:

I DO HEREBY CERTIFY under penalty of perjury:

THAT the foregoing is true and correct:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with;

and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

Signature of Authorized Representative

Date

Title

Telephone No.

0350d

CALIFORNIA COMMUNITY COLLEGES

1107 NINTH STREET
 SACRAMENTO, CALIFORNIA 95814
 (916) 445-8752 445-1163



February 22, 1989



Mr. Robert W. Eich
 Executive Director
 Commission on State Mandates
 1130 "K" Street, Suite LL50
 Sacramento, CA 95814-3927

Dear Mr. Eich:

As you know, the Commission on August 27, 1987 adopted Parameters and Guidelines for claiming reimbursements of mandated costs related to community college health services. Fees formerly collected by community colleges had been eliminated by Chapter 1, Statutes of 1984, Second Extraordinary Session. Last year's mandate claims bill (AB 2763) included funding to pay all these claims through 1988-89.

The Governor's partial approval of AB 2763 last September included a stipulation that claims for the current year would be paid this fiscal year, but prior-year claims will be paid in equal installments from the next three budget acts. The Governor did not address the fact that the ongoing costs of providing the mandated level of service will continue to exceed the maximum permissible fee of \$7.50 per student per semester.

On behalf of all eligible community college districts, the Chancellor's Office proposes the following changes in the Parameters and Guidelines:

- o Payment of 1988-89 mandated costs in excess of maximum permissible fees. (This amount is payable from AB 2763.)
- o Payment of all prior-year claims in installments over the next three years. (Funds for these payments will be included in the next 3 budget acts.)
- o Payment of future-years mandated costs in excess of the maximum permissible fees. (No funding has yet been provided for these costs.)

Mr. Eich

2

February 22, 1989

If you have any questions regarding this proposal, please contact Patrick Ryan at (916) 445-1163.

Sincerely,

David Mertes

DAVID MERTES
Chancellor

DM:PR:mh

cc: / Deborah Fraga-Decker, CSM
Douglas Burris
Joseph Newmyer
Gary Cook

State of California

Memorandum

Date: March 22, 1989

To: Deborah Fraga-Decker
 Program Analyst
 Commission on State Mandates

From: Department of Finance

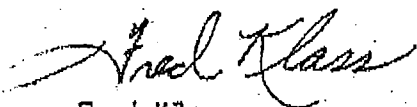
Proposed Amendments to Parameters and Guidelines for Claim No. CSM-4206 -- Chapter 1, Statutes of 1984, 2nd E.S. and Chapter 1118, Statutes of 1987 -- Health Fee Elimination

Pursuant to your request, the Department of Finance has reviewed the proposed amendments to the parameters and guidelines related to community college health services. These amendments, which are requested by the Chancellor's Office, reflect the impact that Chapter 1118/87 has on the original parameters adopted by the Commission for Chapter 1/84 on August 27, 1987. Specifically, Chapter 1118/87:

- (1) requires districts which were providing health services in 1986-87, rather than 1983-84, to continue to provide such services, irrespective of whether or not a fee was charged for the services; and
- (2) allows all districts to again charge a fee of up to \$7.50 per student for the services. In this regard, we would point out that the proposed amendment to "VIII. Offsetting Savings, and Other Reimbursements" could be interpreted to require that, if a district elected not to charge fees it would not have to deduct anything from its claim. We believe that, pursuant to Section 17556 (d) of the Government Code, an amount equal to \$7.50 per student must be deducted whether or not it is actually charged since the district has the authority to levy the fee. We suggest that the following language be added as a second paragraph under "VIII": "If a claimant does not levy the fee authorized by Education Code Section 72246 (a), it shall deduct an amount equal to what it would have received had the fee been levied."

With the amendment described above, we believe the amendments to the parameters and guidelines are appropriate for this mandate and recommend the Commission adopt them at its April 27, 1989, meeting.

Any questions regarding this recommendation should be directed to James M. Apps or Kim Clement of my staff at 324-0043.


 Fred Klass
 Assistant Program Budget Manager

cc: see second page

cc: Glen Beatie, State Controller's Office
Pat Ryan, Chancellor's Office, Community College
Juliet Musso, Legislative Analyst's Office
Richard Frank, Attorney General

LR:1988-2

CHIEF OF STAFF'S OFFICE

GEORGE DEUKMEJIAN, Governor

CALIFORNIA COMMUNITY COLLEGES

1501 NINTH STREET
 SACRAMENTO, CALIFORNIA 95814
 (916) 445-8752 445-1163



April 3, 1989

Mr. Robert W. Eich
 Executive Director
 Commission on State Mandates
 170 K Street, Suite LL50
 Sacramento, CA 95814

Attention: Ms. Deborah Fraga-Decker

Subject: CSM 4206
 Amendments to Parameters and Guidelines
 Chapter 1, Statutes of 1984, 2nd E.S.
 Chapter 118, Statutes of 1987
Health Fee Elimination

Dear Mr. Eich:

In response to your request of March 8, we have reviewed the proposed language changes necessary to amend the existing parameters and guidelines to meet the requirements of Chapter 1118, Statutes of 1987.

The Department of Finance has also provided us a copy of their suggestion to add the following language in part VIII: "If a claimant does not levy the fee authorized by Education Code Section 72246(a), it shall deduct an amount equal to what it would have received had the fee been levied." This office concurs with their suggestion which is consistent with the law and with our request of February 22.

With the additional language suggested by the Department of Finance, the Chancellor's Office recommends approval of the amended parameters and guidelines as drafted for presentation to the Commission on April 27, 1989.

Sincerely,

DAVID MERTES
 Chancellor

DM:PR:mh

cc: Jim Apps, Department of Finance
 Glen Beatie, State Controller's Office
 Richard Frank, Attorney General's Office
 Juliet Muso, Legislative Analyst's Office
 Douglas Burris
 Joseph Newmyer
 Gary Cook



GRAY DAVIS
Controller of the State of California
 P.O. BOX 942850
 SACRAMENTO, CA 94250-0001

April 3, 1989



Ms. Deborah Fraga-Decker
 Program Analyst
 Commission on State Mandates
 1130 K Street, Suite LL50
 Sacramento, CA 95814

Dear Ms. Fraga-Decker:

RE: Proposed Amendments to Parameters and Guidelines: Chapter 1/84, 2nd E.S., and Chapter 1118/87 - Health Fee Elimination

We have reviewed the amendments proposed on the above subject and find the proposals proper and acceptable.

However, the Commission may wish to clarify section "VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS" that the required offset is the amount received or would have received per student in the claim year.

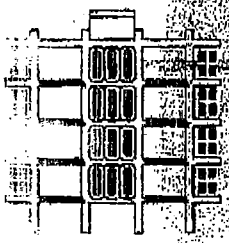
If you have any questions, please call Glen Beatie at 3-8137.

Sincerely,

Glenn Haas, Assistant Chief
 Division of Accounting

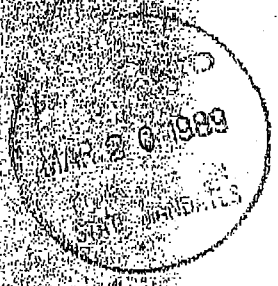
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SC81822



RIO HONDO COMMUNITY COLLEGE DISTRICT
3600 Workman Mill Road • Whittier, CA 90808 • Phone (213) 692-0921

HR/60



March 16, 1989

Ms. Deborah Fraga-Decker
Program Analyst
Commission on State Mandates
1130 K Street, Suite LL50
Sacramento, CA 95814

REFERENCE: CSM-4206
AMENDMENTS TO PARAMETERS AND GUIDELINES
CHAPTER 1, STATUTES OF 1984, 2ND E.S.
CHAPTER 1118, STATUTES OF 1987
HEALTH FEE ELIMINATION

Dear Deborah:

We have reviewed your letter of March 7 to Chancellor David Mertes and the attached amendments to the health fee parameters and guidelines. We believe these revisions to be most appropriate and concur totally with the changes you have proposed.

I would like to thank you again for your expertise and helpfulness throughout this entire process.

Yours very truly,

Timothy M. Wood
Vice President
Administrative Affairs

TMW:hh

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



September 19, 2005

Mr. Keith B. Petersen
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Ms. Ginny Brummels
Division of Accounting and Reporting
State Controller's Office
3301 C Street, Suite 501
Sacramento, CA 95816

Re: **Incorrect Reduction Claim**
Health Fee Elimination, 05-4206-I-06
Los Rios Community College District, Claimant
Education Code Section 76355
Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118
Fiscal Years 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002

Dear Mr. Petersen and Ms. Brummels:

On September 9, 2005, the Los Rios Community College District filed an incorrect reduction claim (IRC) with the Commission on State Mandates (Commission) based on the *Health Fee Elimination* program for fiscal years 1997-1998, 1998-1999, 1999-2000, 2000-2001, and 2001-2002. Commission staff determined that the IRC filing is complete.

Government Code section 17551, subdivision (b), requires the Commission to hear and decide upon claims filed by local agencies and school districts that the State Controller's Office (SCO) has incorrectly reduced payments to the local agencies or school districts.

SCO Review and Response. Please file the SCO response and supporting documentation regarding this claim within 90 days of the date of this letter. Please include an explanation of the reason(s) for the reductions and the computation of reimbursements. All documentary evidence must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and be based on the declarant's personal knowledge, information or belief. The Commission's regulations also require that the responses (opposition or recommendation) filed with the Commission be simultaneously served on the claimants and their designated representatives, and accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1185.01.)

The failure of the SCO to respond within this 90-day timeline shall not cause the Commission to delay consideration of this IRC.

Claimant's Rebuttal. Upon receipt of the SCO response, the claimant and interested parties may file rebuttals. The rebuttals are due 30 days from the service date of the response.

Prehearing Conference. A prehearing conference will be scheduled if requested.

Public Hearing and Staff Analysis. The public hearing on this claim will be scheduled after the record closes. A staff analysis will be issued on the IRC at least eight weeks prior to the public hearing.

Dismissal of Incorrect Reduction Claims. Under section 1188.31 of the Commission's regulations, IRCs may be dismissed if postponed or placed on inactive status by the claimant for more than one year. Prior to dismissing a claim, the Commission will provide 60 days notice and opportunity for the claimant to be heard on the proposed dismissal.

Please contact Tina Poole at (916) 323-8220 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Patton", written in a cursive style.

NANCY PATTON
Assistant Executive Director

Enclosure: Incorrect Reduction Claim Filing - (SCO only)

J:mandates/IRC/2005/4206-I-06/completeltr

02

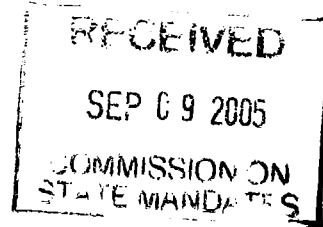
SixTen and Associates Mandate Reimbursement Services

KEITH B. PETERSEN, MPA, JD, President
252 Balboa Avenue, Suite 807
San Diego, CA 92117

Telephone: (858) 514-8605
Fax: (858) 514-8645
E-Mail: Kbpsixten@aol.com

September 7, 2005

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814



RE: Health Fee Elimination
Fiscal Years: 1997-98 through 2001-02
Incorrect Reduction Claim

Dear Ms. Higashi:

Enclosed is the original and two copies of the above referenced incorrect reduction claim for Los Rios Community College District.

SixTen and Associates has been appointed by the District as its representative for this matter and all interested parties should direct their inquiries to me, with a copy as follows:

Jon Sharpe, Deputy Chancellor
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825-3981

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Keith B. Petersen".

Keith B. Petersen

NCORRECT REDUCTION CLAIM FORM

Claim No. 05-4206-I-06

Local Agency or School District Submitting Claim

LOS RIOS COMMUNITY COLLEGE DISTRICT

Contact Person

Telephone Number

Keith B. Petersen, President
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Voice: 858-514-8605
Fax: 858-514-8645
E-mail: Kbpsixten@aol.com

Address

Jon Sharpe, Deputy Chancellor
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825-3981

Representative Organization to be Notified

Telephone Number

Robert Miyashiro, Consultant, Education Mandated Cost Network
c/o School Services of California
1121 L Street, Suite 1060
Sacramento, CA 95814

Voice: 916-446-7517
Fax: 916-446-2011
E-mail: robertm@SSCal.com

This claim alleges an incorrect reduction of a reimbursement claim filed with the State Controller's Office pursuant to section 17561 of the Government Code. This incorrect reduction claim is filed pursuant to section 17561(b) of the Government Code.

CLAIM IDENTIFICATION: Specify Statute or Executive Order

HEALTH FEE ELIMINATION Chapter 1, Statutes of 1984, 2nd E.S. Education Code Section 76355
Chapter 1118, Statutes of 1987

<u>Fiscal Year</u>	<u>Amount of the Incorrect Reduction</u>
1997-1998	\$606,532
1998-1999	\$625,570
1999-2000	\$634,185
2000-2001	\$667,337
2001-2002	\$671,976
Total Amount	\$3,205,600

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING AN INCORRECT REDUCTION CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

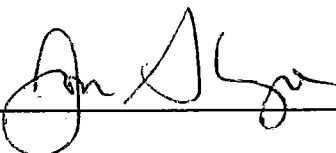
Telephone No.

Jon Sharpe, Deputy Chancellor

Voice: 916-568-3058
Fax: 916-568-3078
E-mail: SharpeJ@losrios.edu

Signature of Authorized Representative

Date

x 

August 29, 2005

1 Claim Prepared by:
2 Keith B. Petersen
3 SixTen and Associates
4 5252 Balboa Avenue, Suite 807
5 San Diego, California 92117
6 Voice: (858) 514-8605
7 Fax: (858) 514-8645
8

9 BEFORE THE
10 COMMISSION ON STATE MANDATES
11 STATE OF CALIFORNIA

12 INCORRECT REDUCTION CLAIM OF:)

No. CSM _____

13)
14)
15) Chapter 1, Statutes of 1984, 2nd E.S.
16) Chapter 1118, Statutes of 1987

17 LOS RIOS)
18 Community College District,)

Education Code Section 76355

19)
20) Health Fee Elimination

21 Claimant.)

22) Annual Reimbursement Claims:

23)
24) Fiscal Year 1997-1998

25) Fiscal Year 1998-1999

26) Fiscal Year 1999-2000

27) Fiscal Year 2000-2001

28) Fiscal Year 2001-2002
29)

30 _____) INCORRECT REDUCTION CLAIM FILING

31 PART I. AUTHORITY FOR THE CLAIM

32 The Commission on State Mandates has the authority pursuant to Government
33 Code Section 17551(d) " . . . to hear and decide upon a claim by a local agency or
34 school district filed on or after January 1, 1985, that the Controller has incorrectly
35 reduced payments to the local agency or school district pursuant to paragraph (2) of

Incorrect Reduction Claim of Los Rios Community College District
1/84,1118/87 Health Fee Elimination

1 subdivision (d) of Section 17561.” Los Rios Community College District (hereafter
2 “District” or “Claimant”) is a school district as defined in Government Code Section
3 17519.¹ Title 2, CCR, Section 1185 (a), requires claimants to file the incorrect
4 reduction claim with the Commission.

5 This incorrect reduction claim is timely filed. Title 2, CCR, Section 1185 (b),
6 requires incorrect reduction claims to be filed no later than three years following the
7 date of the Controller’s remittance advice notifying the claimant of a reduction. A
8 Controller’s audit report dated June 24, 2004 has been issued, but no remittance
9 advices have been issued. The audit report constitutes a demand for repayment and
10 adjudication of the claim. On July 15, 2005, the Controller issued “results of review
11 letters” reporting the audit results for all five fiscal years and demanding payment of
12 amounts due to the state.

13 There is no alternative dispute resolution process available from the Controller’s
14 office. In response to an audit issued March 10, 2004, Foothill-De Anza Community
15 College attempted to utilize the informal audit review process established by the
16 Controller to resolve factual disputes. Foothill-De Anza was notified by the Controller’s
17 legal counsel by letter of July 15, 2004 (attached as Exhibit “A”), that the Controller’s

¹ Government Code Section 17519, added by Chapter 1459, Statutes of 1984,
Section 1:

“‘School district’ means any school district, community college district, or county
superintendent of schools.”

Incorrect Reduction Claim of Los Rios Community College District
1/84,1118/87 Health Fee Elimination

1 informal audit review process was not available for mandate audits and that the proper
2 forum was the Commission on State Mandates.

3 PART II. SUMMARY OF THE CLAIM

4 The Controller has conducted a field audit of District's annual reimbursement
5 claims for the District's actual costs of complying with the legislatively mandated Health
6 Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session and
7 Chapter 1118, Statutes of 1987) for the period of July 1, 1997 through June 30, 2002.
8 As a result of the audit, the Controller determined that none of the claimed costs were
9 allowable and that \$2,224,368 should be returned to the State. We believe this is an
10 incorrect reduction, based on facts to follow.

Fiscal	Amount	Audit	SCO	Amount Due
<u>Year</u>	<u>Claimed</u>	<u>Adjustment</u>	<u>Payments</u>	<u><State></u>
1997-98	\$606,532*	\$606,532	\$606,532	<\$606,532>
1998-99	\$625,570	\$625,570	\$625,570	<\$625,570>
1999-00	\$634,185	\$634,185	\$634,185	<\$634,185>
2000-01	\$667,337	\$667,337	\$187,592	<\$187,592>
2001-02	\$671,976	\$671,976	\$170,489	<\$170,489>
Totals	\$3,205,600	\$3,205,600	\$2,224,368	<\$2,224,368>

19 * Net amount claimed after \$1,000 late filing penalty

20 PART III. PREVIOUS INCORRECT REDUCTION CLAIMS

21 The District has not filed any previous incorrect reduction claims for this

1 mandate program. The District is not aware of any other incorrect reduction claims
2 having been adjudicated on the specific issues or subject matter raised by this incorrect
3 reduction claim.

4 **PART IV. BASIS FOR REIMBURSEMENT**

5 1. Mandate Legislation

6 Chapter 1, Statutes of 1984, 2nd Extraordinary Session, repealed Education
7 Code Section 72246 which had authorized community college districts to charge a
8 student health services fee for the purpose of providing health supervision and
9 services, direct and indirect medical and hospitalization services, and operation of
10 student health centers. This statute also required the scope of student health services
for which a community college district charged a fee during the 1983-84 fiscal year be
12 maintained at that level in the 1984-85 fiscal year and every year thereafter. The
13 provisions of this statute were to automatically repeal on December 31, 1987.

14 Chapter 1118, Statutes of 1987, amended Education Code Section 72246 to
15 require any community college district that provided student health services in 1986-87
16 to maintain student health services at that level in 1987-88 and each fiscal year
17 thereafter.

18 Chapter 8, Statutes of 1993, Section 29, repealed Education Code Section
19 72246, effective April 15, 1993. Chapter 8, Statutes of 1993, Section 34, added

Incorrect Reduction Claim of Los Rios Community College District
1/84,1118/87 Health Fee Elimination

1 Education Code Section 76355², containing substantially the same provisions as former

² Education Code Section 76355, added by Chapter 8, Statutes of 1993, Section 34, effective April 15, 1993, as last amended by Chapter 758, Statutes of 1995, Section 99:

“(a) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than ten dollars (\$10) for each semester, seven dollars (\$7) for summer school, seven dollars (\$7) for each intersession of at least four weeks, or seven dollars (\$7) for each quarter for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, or both.

The governing board of each community college district may increase this fee by the same percentage increase as the Implicit Price Deflator for State and Local Government Purchase of Goods and Services. Whenever that calculation produces an increase of one dollar (\$1) above the existing fee, the fee may be increased by one dollar (\$1).

(b) If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional.

(c) The governing board of a district maintaining a community college shall adopt rules and regulations that exempt the following students from any fee required pursuant to subdivision (a):

(1) Students who depend exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization.

(2) Students who are attending a community college under an approved apprenticeship training program.

(3) Low-income students, including students who demonstrate financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid and students who demonstrate eligibility according to income standards established by the board of governors and contained in Section 58620 of Title 5 of the California Code of Regulations.

(d) All fees collected pursuant to this section shall be deposited in the fund of the district designated by the California Community Colleges Budget and Accounting Manual. These fees shall be expended only to provide health services as specified in regulations adopted by the board of governors.

Authorized expenditures shall not include, among other things, athletic trainers' salaries, athletic insurance, medical supplies for athletics, physical examinations for

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1 Section 72246, effective April 15, 1993.

2 2. Test Claim

3 On December 2, 1985, Rio Hondo Community College District filed a test claim
4 alleging that Chapter 1, Statutes of 1984, 2nd Extraordinary Session, by requiring a
5 maintenance of effort, mandated increased costs by mandating a new program or the
6 higher level of service of an existing program within the meaning of California
7 Constitution Article XIII B, Section 6.

8 On November 20, 1986, the Commission on State Mandates determined that
9 Chapter 1, Statutes of 1984, 2nd Extraordinary Session, imposed a new program upon
10 community college districts by requiring any community college district, which provided
11 student health services for which it was authorized to charge a fee pursuant to former
12 Section 72246 in the 1983-1984 fiscal year, to maintain student health services at that

intercollegiate athletics, ambulance services, the salaries of health professionals for athletic events, any deductible portion of accident claims filed for athletic team members, or any other expense that is not available to all students. No student shall be denied a service supported by student health fees on account of participation in athletic programs.

(e) Any community college district that provided health services in the 1986-87 fiscal year shall maintain health services, at the level provided during the 1986-87 fiscal year, and each fiscal year thereafter. If the cost to maintain that level of service exceeds the limits specified in subdivision (a), the excess cost shall be borne by the district.

(f) A district that begins charging a health fee may use funds for startup costs from other district funds and may recover all or part of those funds from health fees collected within the first five years following the commencement of charging the fee.

(g) The board of governors shall adopt regulations that generally describe the types of health services included in the health service program."

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1 level in the 1984-1985 fiscal year and each fiscal year thereafter.

2 At a hearing on April 27, 1989, the Commission on State Mandates determined
3 that Chapter 1118, Statutes of 1987, amended this maintenance of effort requirement to
4 apply to all community college districts which provided student health services in fiscal
5 year 1986-1987 and required them to maintain that level of student health services in
6 fiscal year 1987-1988 and each fiscal year thereafter.

7 3. Parameters and Guidelines

8 On August 27, 1987, the original parameters and guidelines were adopted. On
9 May 25, 1989, those parameters and guidelines were amended. A copy of the
10 parameters and guidelines, as amended on May 25, 1989, is attached hereto as Exhibit
"B." So far as is relevant to the issues presented below, the parameters and guidelines
12 state:

13 "V. REIMBURSABLE COSTS

14 A. Scope of Mandate

15 Eligible community college districts shall be reimbursed for
16 the costs of providing a health services program. Only
17 services provided in 1986-87 fiscal year may be claimed.

18 VI. CLAIM PREPARATION

19 B... 3. Allowable Overhead Cost

20 Indirect costs may be claimed in the manner
21 described by the State Controller in his claiming
22 instructions.

1 VII. SUPPORTING DATA

2 For auditing purposes, all costs claimed must be traceable to
3 source documents and/or worksheets that show evidence of the
4 validity of such costs...

5 VIII OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

6 Any offsetting savings the claimant experiences as a direct result
7 of this statute must be deducted from the costs claimed. In
8 addition, reimbursement for this mandate received from any
9 source, e.g., federal, state, etc., shall be identified and deducted
10 from this claim. This shall include the amount of \$7.50 per full-time
11 student per semester, \$5.00 per full-time student for summer
12 school, or \$5.00 per full-time student per quarter, as authorized by
13 Education Code section 72246(a)³. This shall also include
14 payments (fees) received from individuals other than students who
15 are not covered by Education Code Section 72246 for health
16 services. ...”

4. Claiming Instructions

18 The Controller has annually issued or revised claiming instructions for the
19 Health Fee Elimination mandate. A copy of the September 1997 revision of the
20 claiming instructions is attached as Exhibit “C.” The September 1997 claiming
21 instructions are believed to be, for the purposes and scope of this incorrect reduction
22 claim, substantially similar to the version extant at the time the claims which are the

³ The authorized dollar amounts of student health fees was changed by Education Code Section 76355. See: Footnote 2. Subdivision (a) of Section 76355 permits the governing board of each community college district to increase these fees by the same percentage increase as the Implicit Price Deflator for State and Local Government Purchase of Goods and Services. The Chancellor’s Office of the California Community Colleges notifies all districts that the Implicit Price Deflator allowed an increase in permissible fees.

1 subject of this incorrect reduction claim were filed. However, since the Controller's
2 claim forms and instructions have not been adopted as regulations, they have no force
3 of law, and, therefore, have no effect on the outcome of this claim.

4 PART V. STATE CONTROLLER CLAIM ADJUDICATION

5 The Controller conducted an audit of District's annual reimbursement claims for
6 fiscal years 1997-98, 1998-99, 1999-00, 2000-01 and 2001-02. The audit concluded
7 that none of the District's costs, as claimed, were allowable. A copy of the June 24,
8 2004-audit report is attached hereto as Exhibit "D."

9 VI. CLAIMANT'S RESPONSE TO THE STATE CONTROLLER

10 By letter dated May 5, 2004, the Controller transmitted a copy of its draft audit
report. By letter dated May 24, 2004, the District objected to the proposed adjustments
12 set forth in the draft copy of the audit report. A copy of the District's response is
13 attached hereto as Exhibit "E." The Controller then issued its final audit report without
14 change in its adjustments.

15 PART VII. STATEMENT OF THE ISSUES

16 **Finding 1: Unallowable salaries and fringe benefits**

17 The Controller asserts unallowable salaries totaling \$128,593 and related
18 indirect costs of \$39,529 for an increased level of student health services based on the
19 student health services inventory for American River College, one of the District's
20 (then) three (now four) colleges. The Controller states that its review of a sample of six

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1 months of logs of "actual" student health services provided during the period of FY
2 1998-99 through FY 2001-02 indicated that American River College "provided" student
3 health services "exceeding" those services provided by the District during the base
4 year. The Controller concluded that an "average" of only 84.26% of the audit year
5 services matched services provided in the base year of FY 1986-87.

6 Statutory and Regulatory Requirements

7 Education Code Section 76355, subdivision (e), states:

8 "Any community college district that provided health services in the 1986-87
9 fiscal year shall maintain health services, at the level provided during the 1986-
10 87 fiscal year, and each fiscal year thereafter."

11 The parameters and guidelines state at Part III Eligible Claimants:

12 "Community college districts which provided health services in 1986-87 fiscal
13 year and continue to provide the same services as a result of this mandate are
14 eligible to claim reimbursement of those costs."

15 Services Provided vs. Services Rendered

16 The Controller audit findings do not demonstrate if the enumerated services
17 allegedly "not provided" in FY 1986-87 were actually available to students. As a
18 preliminary matter, we feel the Controller misstates the law, there are no specific
19 student health services required for each college district. The parameters and
20 guidelines state that "[o]nly services provided in 1986-87 fiscal year may be claimed."
21 Thus, the requirement is to continue the level of services provided in FY 1986-87, but
22 there is no statewide standard list of types of services to be provided. In addition, note
23 that the cost of services is not compared, only the level of services.

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1 The Controller is endeavoring to compare the student health services *rendered*
2 during the fiscal years claimed (audit years) to those services *rendered* during 1986-87
3 fiscal year (the base year). The comparison is intended to determine whether the same
4 or greater level of services are *rendered* in the audit years which may result in some
5 audit year costs being disallowed for being in excess of the mandate. The Controller
6 is requiring claimants to prove that services rendered in the audit years were also
7 rendered in the base year. In order to make this determination, the Controller is
8 reviewing base year services claimed which are clearly beyond the statute of limitations
9 for an audit or record retention.

10 The statutory requirement is that at least the same level of services be *provided*.
There is no basis in law or fact which requires the entire variety of health care services
12 *available* each year to actually have been utilized, which is to say *rendered*, each year
13 in order to prove that the same services are *provided*. The District is certifying that the
14 same level of services continue to be available, not that each and every service was
15 rendered each year. In other words, for example, hearing tests may be available every
16 year, but there may be a year in which no hearing tests were required by students.

17 Incidences of diseases and courses of treatment change over a period of fifteen
18 years. This dynamic perhaps was not anticipated when the parameters and guidelines
19 were adopted about twenty years ago. If so, this matter cannot be charged to the
20 claimants, as it is a Commission-adopted document.

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1 District Level Test of Services Provided

2 The Controller states that its review of a sample of six-months of logs of "actual"
3 student health services provided indicated that *American River College* "provided"
4 student health services "exceeding" those services provided by the *district* during the
5 base year. This is not the standard of review to be used. The comparison of the levels
6 of services provided is a *district* level test, not a *college* level test. The Controller's
7 Form HFE 2.1 is consistent with the parameters and guidelines which establish the
8 inventory of student health services as a district-level test, not a particular college
9 within the district.

10 Audit by Sampling

 Sampling does not result in a determination of actual costs. The parameters and
12 guidelines do not allow the claimant to use sampling for reporting mandate costs. The
13 parameters and guidelines do not allow the Controller to use sampling techniques for
14 the determination of program compliance. Claimants were never on notice that the
15 Controller would be utilizing sampling techniques. This is a standard of general
16 application being enforced by the Controller without benefit of the rulemaking
17 procedures required by the Administrative Procedure Act.

18 Sampling Method

19 The Controller's calculation of the cost of services "not provided" utilizes
20 extrapolations of facts not related to the actual cost of those services. As stated
21 before, the adjustment is incorrect because it is based on services rendered.

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1 Regardless, sampling here is too limited. First, the sample "universe" was limited to
2 one college. Second, if a particular service was not included in the portion of the
3 documentation selected for the sample, but was in the universe of services rendered,
4 the sampling improperly penalizes the District for a type of service actually rendered.

5 As a separate issue, it is inappropriate to apply a percentage reduction to the
6 audit period costs. The parameters and guidelines require maintenance of effort (level
7 of service) rather than cost accounting for the services provided. There is no evidence
8 that the cost of the services disallowed by the Controller represent the percentage of
9 activities disallowed. There is no basis to presume that the services disallowed are
10 uniform in cost to the services allowed. The method of adjustment used is not based
on a factual foundation or a legal basis.

12 Source Documentation

13 This finding is also based, partially, upon the report's assertion that the
14 "*Parameters and Guidelines* states [sic] that all costs claimed must be traceable to
15 source documentation that shows evidence of the validity of such costs." The
16 parameters and guidelines actually state, in that regard, that "...all costs claimed must
17 be traceable to source documents and/or worksheets that show evidence of the validity
18 of such costs." The Controller's audit report states that its adjustment was based on
19 logs of services provided to students. The logs upon which the Controller relied upon
20 for its adjustments are not documentation specifically required by the parameters and
21 guidelines. The Education Code and parameters and guidelines do not require the

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1 claimant to provide records of the services rendered as a condition of reimbursement,
2 only to certify to the services available. Thus, the Controller is incorrectly adjusting the
3 claim reimbursement based on the claimant not having documentation which it is not
4 required to maintain.

5 As a factual matter, if the documentation used by the Controller was sufficient for
6 the Controller to calculate the dollar amount of alleged new services, it is contrary for
7 the Controller to assert that the adjustment is based on insufficient documentation. It
8 would therefore appear that this finding is based upon the incorrect standard for review.
9 The Controller, as the audit agency imposing the adjustment, has the burden of proving
10 the factual and legal basis for its adjustments. Instead, we contend the Controller
11 incorrectly audited the services rendered rather than services available to the students;
12 incorrectly used only the services provided at one college when the test is for the entire
13 district; incorrectly utilized a sample of the services rendered at one college which
14 could exclude the very thing they were seeking, that is a complete listing of services
15 rendered; and incorrectly applied their findings as a percentage reduction in cost
16 without a factual basis to presume that the cost of services disallowed are uniform.

17 Unreasonable or Excessive

18 None of the adjustments were made because the costs claimed were excessive
19 or unreasonable. The Controller does not assert that the claimed costs were excessive
20 or unreasonable, which is the only mandated cost audit standard in statute
21 (Government Code Section 17561(d) (2)). It would therefore appear that the entire

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1 findings are based upon the wrong standard for review. If the Controller wishes to
2 enforce other audit standards for mandated cost reimbursement, the Controller should
3 comply with the Administrative Procedure Act.

4 **Finding 2: Unallowable services and supplies**

5 The Controller asserts unallowable services and supplies totaling \$28,782 and
6 related indirect costs of \$8,887 as services not reimbursable under the mandate
7 program and services not provided in the base year. The statutory and regulatory
8 requirements are the same as in Finding 1.

9 This finding includes a disallowance of \$26,100 in costs incurred for physical
10 exams for intercollegiate athletics and for salaries of health professionals present at
11 athletic events. Other than concluding that "[t]hese costs are not reimbursable under
12 the mandated program," the Controller does not cite a legal basis for this adjustment.
13 Some of the claimable services enumerated in the parameters and guidelines include
14 accident reports, a college physician, outside physician, registered nurse,
15 examinations, first aid, physicals for *athletes*, and dressing change, which would seem
16 to satisfactorily encompass the scope of services which the Controller believes are
17 unallowable.

18 The Controller asserts Hepatitis B vaccination costs of \$2,125 are unallowable.
19 The Controller concludes that since the Hepatitis B vaccinations, specifically, were not
20 identified as a service available at the college health center in FY 1986-87, and not

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1 listed in the parameters and guidelines, the costs are not reimbursable. The District's
2 Form HFE 2.1 submitted for each fiscal year accurately reflects that immunization
3 services were available in FY 1986-87. Hepatitis B vaccinations now are just a part of
4 the whole scope of services which may comprise immunization services, and the
5 parameters and guidelines allow for reimbursement of immunization services.

6 Student Health Services Fund

7 The Controller seems to be using reimbursable services as defined by the
8 parameters and guidelines as a basis for permissible use of the student health services
9 fees. Education Code Section 76355, subdivision (a), permits the collection of student
10 health fees for student health services. Subdivision (d) requires that these fees, if
collected, be deposited in a designated fund and be expended only as authorized.
12 Subdivision (d) prohibits expenditures *from the fund* for physical examinations for
13 intercollegiate athletics or the salaries of health professionals for athletic events. The
14 prohibition only applies to expenditure of funds from the special account designated in
15 which student health fees are deposited.

16 The March 5, 2001-letter from the Chancellor of the California Community
17 Colleges clearly states that:

18 "All fees collected pursuant to this section shall be deposited in the
19 Student Health Fee Account in the Restricted General Fund of the district.
20 These fees shall be expended only to provide health services as specified in
21 regulations adopted by the board of governors. Allowable expenditures include
22 health supervision and services, including direct or indirect medical and
23 hospitalization services, or the operation of a student health center or centers, or
24 both. Allowable expenditure exclude athletic-related salaries, services,

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1 insurance, insurance deductibles, or any other expense that is not available to
2 all students.”

3 The “regulations” referenced are found at Title 5, CCR, Sections 54700-54710. The
4 regulations clearly exclude athletic services but arguably include immunization
5 services. However, since Title 5 does not control mandate reimbursement it is not
6 relevant. The scope of services defined in Title 5 as properly chargeable to the student
7 health services fund is not determinative of the types of services for which the
8 parameters and guidelines permit reimbursement, and the Controller has already
9 properly asserted that the parameters and guidelines define the scope of
10 reimbursement. Unless the student health services fees exceed the direct and indirect
11 cost of all student health services, there is no supportable presumption that the student
12 health fees fund is funding the services to athletes. Furthermore, since this District did
13 not collect student health services fees, the presumption could not apply to this District
14 in any case.

15 The Controller, as the audit agency proposing the adjustment, has the burden of
16 proving the factual and legal basis for its adjustments. The Controller provides no legal
17 basis to disallow reimbursement of athletic and immunization services allowed by the
18 parameters and guidelines.

19 Unreasonable or Excessive

20 None of the adjustments were made because the costs claimed were excessive
21 or unreasonable. The Controller does not assert that the claimed costs were excessive

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1 or unreasonable, which is the only mandated cost audit standard in statute
2 (Government Code Section 17561(d) (2)). It would therefore appear that the entire
3 findings are based upon the wrong standard for review. If the Controller wishes to
4 enforce other audit standards for mandated cost reimbursement, the Controller should
5 comply with the Administrative Procedure Act.

6 **Finding 3 - Overstated Indirect Cost Rates Claimed**

7 The Controller asserts that the District overstated its indirect cost rates and
8 costs in the amount of \$361,689. This finding is based upon the report's statement that
9 "(t)he district claimed indirect costs based on an indirect cost rate proposals (IRCP)
10 prepared for each fiscal year. However, the District did not obtain federal approval for
11 its IRCPs. The SCO auditor calculated indirect cost rates using the methodology
12 allowed by the SCO claiming instructions." Contrary to the Controller's interpretation,
13 there is no requirement in law that the District's indirect cost rate must be "federally"
14 approved. The Controller has never specified the federal agencies which have the
15 authority to approve indirect cost rates. Further, it should be noted that the Controller
16 did not determine that the District's rate was excessive or unreasonable.

17 CCFS-311

18 In fact, both the District's method and the Controller's method utilized the same
19 source document, the CCFS-311 annual financial and budget report required by the
20 state. The difference in the claimed and audited methods is in the determination of

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1 which of those cost elements are direct costs and which are indirect costs. Indeed,
2 federally "approved" rates which the Controller will accept without further action, are
3 "negotiated" rates calculated by the district and submitted for approval, indicating that
4 the process is not an exact science, but a determination of the relevance and
5 reasonableness of the cost allocation assumptions made for the method used.

6 The finding regarding the "previous fiscal year's costs" is a distinction without a
7 difference. The CCFS-311 is prepared each September based on prior year costs for
8 use in the budget fiscal year. The District used the rate calculated based on the actual
9 cost for the prior year. It's a timing difference, only. However, since the District is not
10 required to use the CCFS-311, merely allowed to do so, the choice of fiscal year data is
11 similarly not required. To make the ultimate point, federal cost studies are used for as
12 many as five years, based on data from the first of the five years, and the Controller
13 accepts federally approved indirect cost studies.

14 Regulatory Requirements

15 No particular indirect cost rate calculation is required by law. The parameters
16 and guidelines state that "Indirect costs *may be claimed* in the manner described by the
17 State Controller in his claiming instructions." The district claimed these indirect costs
18 "in the manner" described by the Controller. The correct forms were used and the
19 claimed amounts were entered at the correct locations. Further, "may" is not "shall";
20 the parameters and guidelines do not require that indirect costs be claimed in the
21 manner described by the Controller. In the audit report, the Controller asserts that

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1 because parameters and guidelines specifically references the claiming instructions,
2 the claiming instructions thereby become authoritative criteria. The Government Code
3 makes no allowances for "authoritative criteria" for purpose of mandate reimbursement,
4 this is a meaningless fiction created by the Controller. Nor does the "specific"
5 reference to the claiming instructions in the parameters and guidelines change "may"
6 into a "shall." Since the Controller's claiming instructions were never adopted as law, or
7 regulations pursuant to the Administrative Procedure Act, the claiming instructions are
8 a statement of the Controller's interpretation and not law.

9 Unreasonable or Excessive

10 Government Code Section 17561(d)(2) requires the Controller to pay claims,
11 provided that the Controller may audit the records of any school district to verify the
12 actual amount of the mandated costs, and may reduce any claim that the Controller
13 determines is excessive or unreasonable. The Controller is authorized to reduce a
14 claim only if it determines the claim to be excessive or unreasonable. Here, the District
15 has computed its ICRPs utilizing cost accounting principles from the Office of
16 Management and Budget Circular A-21, and the Controller has disallowed it without a
17 determination of whether the product of the District's calculation would, or would not, be
18 excessive, unreasonable, or inconsistent with cost accounting principles.

19 The District reported indirect cost rates of 31.17%, 30.40%, 30.40%, 31.45%,
20 30.72% for the five fiscal years audited. Subsequent to the audit, the District
21 performed the complex cost accounting and time consuming negotiation process to

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1 receive a federally approved rate of 30.0% from the Department of Health and Human
2 Services, for use in fiscal years beginning 2005-06. The five rates used on the claims
3 were less than two percentage points different from the federally negotiated rate. It can
4 be clearly seen that the OMB A-21 cost accounting methods are not the intellectual
5 property of the federal government and can be competently utilized by Districts to
6 generate a reasonable indirect cost rate without the need for federal approval.

7 Neither State law nor the parameters and guidelines made compliance with the
8 Controller's claiming instructions a condition of reimbursement. The district has
9 followed the parameters and guidelines. The burden of proof is on the Controller to
10 prove that the product of District's calculation is unreasonable, not to recalculate the
rate according to its unenforceable ministerial preferences. Therefore, the Controller
12 made no determination as to whether the method used by the District was reasonable,
13 but, substituted its FAM-29C method for the method reported by the District. The
14 substitution of the FAM-29C method is not a "finding" enforceable either by fact or law.
15 The Controller's insistence that OMB A-21 costs accounting is the sole province of the
16 federal government is both legally incorrect and factually refuted.

17 **Finding 4: Understated authorized health fee revenues claimed**

18 This finding is based on the Controller's conclusion that the District did not offset
19 student health services program costs by the amount of authorized health fee revenues
20 in the amount of \$6,101,947 in student health service fees.

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1 Education Code Section 76355

2 Education Code Section 76355, subdivision (a), in relevant part, provides: "The
3 governing board of a district maintaining a community college *may require* community
4 college students to pay a fee...for health supervision and services..." There is no
5 requirement that community colleges levy these fees. The permissive nature of the
6 provision is further illustrated in subdivision (b) which states "*If, pursuant to this*
7 *Section, a fee is required, the governing board of the district shall decide the amount of*
8 *the fee, if any, that a part-time student is required to pay. The governing board may*
9 *decide whether the fee shall be mandatory or optional.*"

10 Parameters and Guidelines

The Controller states that the "*Parameters and Guidelines* states that health fees
12 authorized by the *Education Code* must be deducted from the costs claimed." The
13 parameters and guidelines actually state:

14 "Any offsetting savings that the claimant experiences as a direct result of
15 this statute must be deducted from the costs claimed. In addition,
16 reimbursement for this mandate received from any source, e.g., federal, state,
17 etc., shall be identified and deducted from this claim. This shall include the
18 amount of [student fees] as authorized by Education Code Section 72246(a)⁴."

19 In order for a district to "experience" these "offsetting savings" the district must actually
20 have collected these fees. Student health fees actually collected must be used to
21 offset costs, but not student health fees that could have been collected and were not.

⁴ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

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1 The use of the term "any offsetting savings" further illustrates the permissive nature of
2 the fees.

3 Government Code Section 17514

4 The Controller relies upon Government Code Section 17514 for the conclusion
5 that "[t]o the extent community college districts can charge a fee, they are not required
6 to incur a cost." Government Code Section 17514, as added by Chapter 1459,
7 Statutes of 1984, actually states:

8 " Costs mandated by the state" means any increased costs which a local
9 agency or school district is required to incur after July 1, 1980, as a result of any
10 statute enacted on or after January 1, 1975, or any executive order
11 implementing any statute enacted on or after January 1, 1975, which mandates
12 a new program or higher level of service of an existing program within the
13 meaning of Section 6 of Article XIII B of the California Constitution."

14 There is nothing in the language of the statute regarding the authority to charge a fee,
15 any nexus of fee revenue to increased cost, nor any language which describes the
16 legal effect of fees collected.

17 Government Code Section 17556

18 The Controller relies upon Government Code Section 17556 for the conclusion
19 that "the COSM shall not find costs mandated by the State if the school district has the
20 authority to levy fees to pay for the mandated program or increased level of service."
21 Government Code Section 17556 as last amended by Chapter 589/89 actually states:

22 "The commission shall not find costs mandated by the state, as defined in
23 Section 17514, in any claim submitted by a local agency or school district, if after
24 a hearing, the commission finds that: . . .

25 (d) The local agency or school district has the authority to levy service

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1 charges, fees, or assessments sufficient to pay for the mandated program or
2 increased level of service. ...”

3 We believe the Controller misrepresents the law. Government Code Section 17556
4 prohibits the Commission on State Mandates from finding costs subject to
5 reimbursement, that is, approving a test claim, where there is authority to levy fees in
6 an amount sufficient to offset the entire mandated costs. Here, the Commission has
7 already approved the test claim and made a finding of a new program or increased
8 costs, and further, that the student health fees are per se insufficient to offset the entire
9 cost of the mandate.

10 Student Health Services Fee Amount

11 The Controller asserts that the District should have collected a student health
12 service fee each semester from non-exempt students in the amount of \$8, \$9, \$11, or
13 \$12, depending on the fiscal year and whether the student is enrolled full time or part
14 time. Districts receive notice of these fee amounts from the Chancellor of the
15 California Community Colleges. An example of one such notice is the letter dated
16 March 5, 2001, attached as Exhibit “F.” While Education Code Section 76355
17 provides for an increase in the student health service fee, it did not grant the
18 Chancellor the authority to establish mandatory fee amounts or mandatory fee
19 increases. No state agency was granted that authority by the Education Code, and no
20 state agency has exercised its rulemaking authority to establish mandatory fee
21 amounts. It should be noted that the Chancellor’s letter properly states that increasing

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1 the amount of the fee is at the option of the district, and that the Chancellor is not
2 asserting that authority. Therefore, the Controller cannot rely upon the Chancellor's
3 notice to college districts of the opportunity to increase student health services fees as
4 a basis to adjust the claim for collectible student health services fees.

5 Fees Collected vs. Fees Collectible

6 This issue is one of student health fees revenue actually received, rather than
7 student health fees which might be collected. The Commission determined, as stated
8 in the parameters and guidelines that the student health fees "experienced" (*collected*)
9 would reduce the amount subject to reimbursement. Student fees not collected are
10 student fees not "experienced" and as such should not reduce reimbursement. Further,
11 the amount "collectible" will never equal actual revenues collected due to changes in a
12 student's BOGG eligibility, bad debt accounts, and refunds.

13 Because districts are not required to collect a fee from students for student
14 health services, and if such a fee is collected the amount is to be determined by the
15 district and not the Controller, the Controller's adjustment is without legal basis. What
16 districts are required by the parameters and guidelines to do is to reduce the amount of
17 their claimed costs by the amount of student health services fee revenue actually
18 received. Therefore, student health fees are merely collectible, they are not
19 mandatory, and it is inappropriate for the Controller to reduce claim amounts by
20 revenues not received.

Incorrect Reduction Claim of Los Rios Community College District
1/84,1118/87 Health Fee Elimination

1 **Statute of Limitations for Audit**

2 This issue is not a finding of the Controller. The District asserts that the first
3 three claims of the five claims audited, fiscal years 1997-98, 1998-99 and 1999-00,
4 were beyond the statute of limitations for audit when the Controller completed its audit
5 on June 24, 2004. The District raised this issue at the beginning of the audit and in its
6 letter dated May 24, 2004 in response to the draft audit report.

7 Chronology of Claim Action Dates

8	January 15, 2000	FY 1997-98 Claim filed by District
9	January 15, 2000	FY 1998-99 Claim filed by District
10	December 30, 2000	FY 1999-00 Claim filed by District
11	December 12, 2002	SCO telephone call to District
12	December 31, 2002	FY 1997-98 Statute of Limitations for audit expires
	December 31, 2002	FY 1998-99 Statute of Limitations for audit expires
14	December 31, 2002	FY 1999-00 Statute of Limitations for audit expires
15	January 16, 2003	Entrance Conference meeting
16	June 24, 2004	SCO Final Audit Report

17 In its final audit report, the Controller responded as follows:

18 "No statutory language defines when the SCO must issue an audit report.
19 Furthermore, no statutory language requires an entrance conference or some
20 other formal event to be held before the two-year period expires. SCO staff
21 contacted the district to initiate the audit in December 2002, within the statute of
22 limitations. This district requested that the audit start in January 2003, rather
23 than December 2002, Government Code Section 17558.5 (d), effective July 1,
24 1996, states, "Nothing in this section shall be construed to limit the adjustment of
25 payments ...when a delay in the completion of an audit is the result of willful acts
26 by the claimant or inability to reach agreement on terms of final settlement."

27 The Controller is thus asserting that when the audit was "initiated" is relevant to
28 the period of limitations, and that some "willful" act of the District prevented the

Incorrect Reduction Claim of Los Rios Community College District
1/84,1118/87 Health Fee Elimination

1 Controller from "completing" the audit. However, if the date the audit was initiated is
2 the relevant event for the tolling of the statute, then the alleged delay in completion is
3 not relevant, and would be harmless. In any case, a review of the statutory history of
4 Government Code Section 17558.5 indicates that the matter of the audit "initiation" date
5 is not relevant to any fiscal year claims which are the subject of this audit.

6 Statutory History

7 Prior to January 1, 1994, no statute governed the statute of limitations for audits
8 of mandate reimbursement claims. Statutes of 1993, Chapter 906, Section 2, operative
9 January 1, 1994, added Government Code Section 17558.5 to establish for the first
10 time a specific statute of limitations for audit of mandate reimbursement claims:

12 "(a) A reimbursement claim for actual costs filed by a local agency or school
13 district pursuant to this chapter is subject to audit by the Controller no later than
14 four years after the end of the calendar year in which the reimbursement claim is
15 filed or last amended. However, if no funds are appropriated for the program for
16 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."

17 Thus, there were two standards. A funded claim was "subject to audit" for four years
18 after the end of the calendar year in which the claim was filed. An "unfunded" claim
19 must have its audit "initiated" within four years of first payment.

20 Statutes of 1995, Chapter 945, Section 13, operative July 1, 1996, repealed and
21 replaced Section 17558.5, changing only the period of limitations:

22 "(a) A reimbursement claim for actual costs filed by a local agency or school
23 district pursuant to this chapter is subject to audit by the Controller no later than
24 two years after the end of the calendar year in which the reimbursement claim is
25 filed or last amended. However, if no funds are appropriated for the program for

Incorrect Reduction Claim of Los Rios Community College District
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1 the fiscal year for which the claim is made, the time for the Controller to initiate
2 an audit shall commence to run from the date of initial payment of the claim.”

3 All of the annual claims which are the subject of the incorrect reduction claim are
4 subject to the two-year statute of limitations established by Chapter 945/95. The claims
5 for the first three years (FY 1997-98, FY 1998-99, and FY 1999-00) were beyond audit
6 when the audit report was issued. The last two years (FY 2000-01 and FY 2000-02)
7 were still subject to audit when the audit report was issued. Since funds were
8 appropriated for the program for all the fiscal years which are the subject of the audit,
9 the alternative measurement date is not applicable, and the potential factual issue of
10 when the audit is initiated is not relevant.

11 Statutes of 2002, Chapter 1128, Section 14.5, operative January 1, 2003
12 amended Section 17558.5 to state:

13 “(a) A reimbursement claim for actual costs filed by a local agency or school
14 district pursuant to this chapter is subject to the initiation of an audit by the
15 Controller no later than three years after the ~~end of the calendar year in which~~
16 the date that the actual reimbursement claim is filed or last amended, whichever
17 is later. However, if no funds are appropriated or no payment is made to a
18 claimant for the program for the fiscal year for which the claim is made filed, the
19 time for the Controller to initiate an audit shall commence to run from the date of
20 initial payment of the claim.”

21 None of the fiscal period claims which are the subject of the audit are subject to
22 this amended version of Section 17558.5. The amendment is pertinent in that it
23 indicates this is the first time that the factual issue of the date the audit is “initiated” for
24 mandate programs for which funds are appropriated is introduced. Therefore, at the
25 time the claim is filed, it is impossible for the claimant to know when the statute of

Incorrect Reduction Claim of Los Rios Community College District
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1 limitations will expire, which is contrary to the purpose of a statute of limitations.

2 Statutes of 2004, Chapter 890, Section 18, operative January 1, 2005 amended
3 Section 17558.5 to state:

4 "(a) A reimbursement claim for actual costs filed by a local agency or school
5 district pursuant to this chapter is subject to the initiation of an audit by the
6 Controller no later than three years after the date that the actual reimbursement
7 claim is filed or last amended, whichever is later. However, if no funds are
8 appropriated or no payment is made to a claimant for the program for the fiscal
9 year for which the claim is filed, the time for the Controller to initiate an audit
10 shall commence to run from the date of initial payment of the claim. In any case,
11 an audit shall be completed not later than two years after the date that the audit
12 is commenced."

13 None of the fiscal period claims which are the subject of the audit are subject to
14 this amended version of Section 17558.5. The amendment is pertinent since it
15 indicates this is the first time that the Controller audits may be completed at a time
16 other than the stated period of limitations.

17 Initiation of An Audit

18 The audit report states that the Controller's staff telephone contact with the
19 District in December 2002 initiated the audit. First, initiation of the audit is not relevant
20 to the claims which are the subject of this incorrect reduction claim. The words "initiate
21 an audit" are used only in the second sentence of Section 17558.5, that is, in a
22 situation when no funds are appropriated for the program for the fiscal year for which
23 the claim is made. Then, and only then, is the Controller authorized to "initiate an
24 audit" within two years from the date of initial payment. The claim years at issue here
25 were not subject to the "no funds appropriated" provision, they were subject only to the

Incorrect Reduction Claim of Los Rios Community College District
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1 first sentence of the statute, i.e., they were only “subject to audit” through December
2 2002.

3 The unmistakable language of Section 17558.5 is confirmed by the later actions
4 of the Legislature. Chapter 1128, Statutes of 2002, amended subdivision (a) of
5 Government Code Section 17558.5 to change the “subject to audit” language of the first
6 sentence to “subject to the initiation of an audit.” Had the Legislature intended the
7 former Section to mean “subject to the initiation of an audit,” there would have been no
8 need to amend the statute to now say “subject to the initiation of an audit.” Even if the
9 Controller had “initiated” the audit on the date of the first phone call, it could not have
10 completed its two months of field work, exit conference, office review, draft audit report,
and issued a final audit report on or before December 31, 2002.

12 The Controller’s standard for “initiation” of an audit is actually the date of the
13 entrance conference, not the date of the phone contact. In this audit, and the
14 concurrent audit of the Los Rios Mandate Reimbursement Process claims, the
15 Controller asserts the telephone contact as the initiation date for the audit. In other
16 mandate audit reports issued after the Los Rios audits, the Controller states that the
17 entrance conference date initiates the audit.⁵ Further, in the matter of the Health Fee

⁵ Some of those other audit reports where the entrance date is specifically stated as the initiation date for the audit are:

- Newport-Mesa Unified School District, School District of Choice, issued August 31, 2004
- Clovis Unified School District, Graduation Requirements, issued October 22,

Incorrect Reduction Claim of Los Rios Community College District
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1 Elimination audit of North Orange Community College District, the draft audit report
2 dated May 6, 2005, included the three fiscal years audited by the Controller: FY 2000-
3 01, FY 2001-02, and FY2002-03. In its response letter dated June 15, 2005, North
4 Orange County asserted that the statute of limitations for the audit of the FY 2000-01
5 claim expired December 31, 2003, pursuant to Government Code Section 17558.5,
6 because the audit report was issued after that date. In the final audit report dated July
7 22, 2005, the Controller agreed that FY 2000-01 was past audit, but for another reason,
8 the stated reason being that the "FY 2000-01 claim was not subject to audit due to the
9 expiration of the statute of limitations within which to initiate an audit." The North
10 Orange County audit entrance conference date was January 26, 2004, which is the
date, according to the Controller, that an audit is "initiated."

12 Given this contradiction in measurement dates, there does not appear to be a
13 consistent Controller position on this issue. It can therefore be concluded that the
14 Controller has no legal basis for their policy on the initiation date of audits.

2004

- State Center Community College District, Health Fee Elimination, issued September 17, 2004.
- West Valley-Mission Community College District, Health Fee Elimination, issued April 8, 2005.
- Long Beach Community College District, Health Fee Elimination, issued April 27, 2005.

All of these audit reports were issued after the Los Rios audit report

Incorrect Reduction Claim of Los Rios Community College District
1/84,1118/87 Health Fee Elimination

1 Delay of the Audit

2 The Controller asserts that the District somehow committed a willful act intended
3 to delay the completion of the audit. However, the Controller provides no evidence that
4 there was any willful act by the District intended to delay the completion of the audit. If
5 there was any delay to the start of the audit, it was by unilateral action of the Controller.

6 Regardless, the delay in the start of an audit which could not have been timely
7 completed is not relevant.

8 The Controller's audit staff first called the District on December 12, 2002 (two
9 weeks prior to the Christmas holidays) and asked to speak to Ms. Bray "about an
10 audit." When Ms. Bray was able to return the call on December 18, 2002 (the week
11 prior to the Christmas holidays), the employee of the Controller's office stated to Ms.
12 Bray that "she assumed that [they] were too busy to meet in December, so she
13 requested a meeting during the first or second week of January." Ms. Bray called the
14 Controller's employee again on December 19, 2002 to set a date in January as
15 requested by the Controller's employee. A copy of Ms. Bray's declaration dated
16 September 30, 2004 is attached as Exhibit "G." There was no credible attempt by the
17 Controller's office "to initiate the audit" in December 2002. But as stated above, the
18 argument that an attempt was made to "initiate an audit" in December 2002 is not
19 legally relevant since the claims were only "subject to audit" through December 2002.

20 The Controller did not complete the audit within the statutory period allowed for
21 the first three fiscal year claims included in this audit. The date the audit was "initiated"

1 for these three years is irrelevant, only the date the audit was completed is relevant as
2 evidenced by the (final) Controller's audit report. The audit findings are therefore void
3 for those three claims.

4 **PART VIII. RELIEF REQUESTED**


5 The District filed its annual reimbursement claims within the time limits
6 prescribed by the Government Code. The amounts claimed by the District for
7 reimbursement of the costs of implementing the program imposed by Chapter 1,
8 Statutes of 1984, 2nd E.S., Chapter 1118, Statutes of 1987, and Education Code
9 Section 76355 represent the actual costs incurred by the District to carry out this
10 program. These costs were properly claimed pursuant to the Commission's parameters
and guidelines. Reimbursement of these costs is required under Article XIII B, Section
12 6 of the California Constitution. The Controller denied reimbursement without any
13 basis in law or fact. The District has met its burden of going forward on this claim by
14 complying with the requirements of Section 1185, Title 2, California Code of
15 Regulations. Because the Controller has enforced and is seeking to enforce these
16 adjustments without benefit of statute or regulation, the burden of proof is now upon the
17 Controller to establish a legal basis for its actions.

18 The District requests that the Commission make findings of fact and law on each
19 and every adjustment made by the Controller and each and every procedural and
20 jurisdictional issue raised in this claim, and order the Controller to correct its audit
21 report findings therefrom.

PART IX. 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 incorrect reduction claim submission is true and complete to the best of my own knowledge or information or belief, and that the attached documents are true and correct copies of documents received from or sent by the state agency which originated the document.

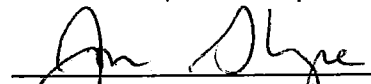
Executed on August 29, at Sacramento, California, by



Jon Sharpe, Deputy Chancellor
Los Rios Community College District
1919 Spanos Court
Sacramento, California 95825-3981
Voice: 916-568-3058
Fax: 916-568-3078
E-mail: SharpeJ@losrios.edu

APPOINTMENT OF REPRESENTATIVE

Los Rios Community College District appoints Keith B. Petersen, SixTen and Associates, as its representative for this Incorrect reduction claim.



Jon Sharpe, Deputy Chancellor
Los Rios Community College District

8/29/05

Date

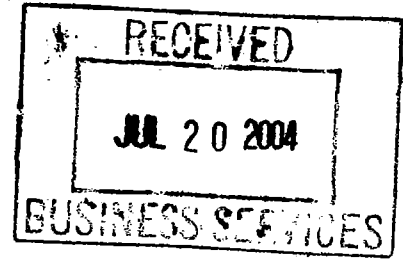
Attachments:

- Exhibit "A" SCO Legal Counsel's Letter dated July 15, 2004
- Exhibit "B" Parameters and Guidelines as amended May 25, 1989
- Exhibit "C" Controller's Claiming Instructions September 1997
- Exhibit "D" SCO Audit Report dated June 24, 2004
- Exhibit "E" District's Letter dated May 24, 2004
- Exhibit "F" Chancellor's Letter dated March 5, 2001
- Exhibit "G" Declaration of Carrie Bray dated September 30, 2004

Exhibit A



STEVE WESTLY
California State Controller



July 15, 2004

Mike Brandy, Vice Chancellor
Foothill-De Anza Community College District
12345 El Monte Road
Los Altos, CA 94022

Re: Foothill-De Anza Community College District Audit

Dear Mr. Brandy:

This is in response to your letter to me dated May 13, 2004, concerning the Controller's Audit of the Health Fee claim.

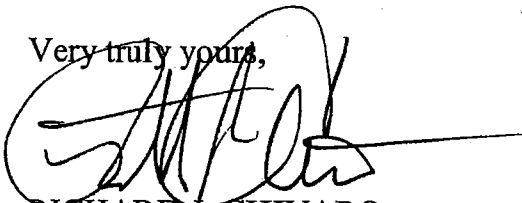
The Controller's informal audit review process was established to resolve factual disputes where no other forum for resolution, other than a judicial proceeding, is available.

The proper forum for resolving issues involving mandated cost programs is through the incorrect reduction process through the Commission on State Mandates. As such, this office will not be scheduling an informal conference for this matter.

However, in light of the concerns expressed in your letter concerning the auditors assigned and the validity of the findings, I am forwarding your letter to Vince Brown, Chief Operating Officer, for his review and response.

If you have any questions you may contact Mr. Vince Brown at (916) 445-2038.

Very truly yours,



RICHARD J. CHIVARO
Chief Counsel

RJC/st

cc: Vincent P. Brown, Chief Operating Officer, State Controller's Office
Jeff Brownfield, Chief, Division of Audits, State Controller's Office

Exhibit B

Adopted: 8/27/87
Amended: 5/25/89

PARAMETERS AND GUIDELINES
Chapter 1, Statutes of 1984, 2nd E.S. .
Chapter 1118, Statutes of 1987
Health Fee Elimination

I. SUMMARY OF MANDATE

Chapter 1, Statutes of 1984, 2nd E.S. repealed Education Code Section 72246 which had authorized community college districts to charge a health fee for the purpose of providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. This statute also required that health services for which a community college district charged a fee during the 1983-84 fiscal year had to be maintained at that level in the 1984-85 fiscal year and every year thereafter. The provisions of this statute would automatically repeal on December 31, 1987, which would reinstate the community colleges districts' authority to charge a health fee as specified.

Chapter 1118, Statutes of 1987, amended Education Code section 72246 to require any community college district that provided health services in 1986-87 to maintain health services at the level provided during the 1986-87 fiscal year in 1987-88 and each fiscal year thereafter.

II. COMMISSION ON STATE MANDATES' DECISION

At its hearing on November 20, 1986, the Commission on State Mandates determined that Chapter 1, Statutes of 1984, 2nd E.S. imposed a "new program" upon community college districts by requiring any community college district which provided health services for which it was authorized to charge a fee pursuant to former Section 72246 in the 1983-84 fiscal year to maintain health services at the level provided during the 1983-84 fiscal year in the 1984-85 fiscal year and each fiscal year thereafter. This maintenance of effort requirement applies to all community college districts which levied a health services fee in the 1983-84 fiscal year, regardless of the extent to which the health services fees collected offset the actual costs of providing health services at the 1983-84 fiscal year level.

At its hearing of April 27, 1989, the Commission determined that Chapter 1118, Statutes of 1987, amended this maintenance of effort requirement to apply to all community college districts which provided health services in fiscal year 1986-87 and required them to maintain that level in fiscal year 1987-88 and each fiscal year thereafter.

III. ELIGIBLE CLAIMANTS

Community college districts which provided health services in 1986-87 fiscal year and continue to provide the same services as a result of this mandate are eligible to claim reimbursement of those costs.

IV. PERIOD OF REIMBURSEMENT

Chapter 1, Statutes of 1984, 2nd E.S., became effective July 1, 1984. Section 17557 of the Government Code states that a test claim must be submitted on or before November 30th following a given fiscal year to establish for that fiscal year. The test claim for this mandate was filed on November 27, 1985; therefore, costs incurred on or after July 1, 1984, are reimbursable. Chapter 1118, Statutes of 1987, became effective January 1, 1988. Title 2, California Code of Regulations, section 1185.3(a) states that a parameters and guidelines amendment filed before the deadline for initial claims as specified in the Claiming Instructions shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines; therefore, costs incurred on or after January 1, 1988, for Chapter 1118, Statutes of 1987, are reimbursable.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim if applicable. Pursuant to Section 17561(d)(3) of the Government Code, all claims for reimbursement of costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code Section 17564.

V. REIMBURSABLE COSTS

A. Scope of Mandate

Eligible community college districts shall be reimbursed for the costs of providing a health services program. Only services provided in 1986-87 fiscal year may be claimed.

B. Reimbursable Activities

For each eligible claimant, the following cost items are reimbursable to the extent they were provided by the community college district in fiscal year 1986-87:

ACCIDENT REPORTS

APPOINTMENTS

College Physician - Surgeon
Dermatology, Family Practice, Internal Medicine
Outside Physician
Dental Services
Outside Labs (X-ray, etc.)
Psychologist, full services
Cancel/Change Appointments
R.N.
Check Appointments

ASSESSMENT, INTERVENTION & COUNSELING

- Birth Control
- Lab Reports
- Nutrition
- Test Results (office)
- VD
- Other Medical Problems
- CD
- URI
- ENT
- Eye/Vision
- Derm./Allergy
- Gyn/Pregnancy Services
- Neuro
- Ortho
- GU
- Dental
- GI
- Stress Counseling
- Crisis Intervention
- Child Abuse Reporting and Counseling
- Substance Abuse Identification and Counseling
- Aids
- Eating Disorders
- Weight Control
- Personal Hygiene
- Burnout

EXAMINATIONS (Minor Illnesses)

- Recheck Minor Injury

HEALTH TALKS OR FAIRS - INFORMATION

- Sexually Transmitted Disease
- Drugs
- Aids
- Child Abuse
- Birth Control/Family Planning
- Stop Smoking
- Etc.
- Library - videos and cassettes

FIRST AID (Major Emergencies)

FIRST AID (Minor Emergencies)

FIRST AID KITS (Filled)

IMMUNIZATIONS

- Diphtheria/Tetanus
- Measles/Rubella
- Influenza
- Information

INSURANCE

On Campus Accident
Voluntary
Insurance Inquiry/Claim Administration

LABORATORY TESTS DONE

Inquiry/Interpretation
Pap Smears

PHYSICALS

Employees
Students
Athletes

MEDICATIONS (dispensed OTC for misc. illnesses)

Antacids
Antidiarrhial
Antihistamines
Aspirin, Tylenol, etc.
Skin rash preparations
Misc.
Eye drops
Ear drops
Toothache - Oil cloves
Stingkill
Midol - Menstrual Cramps

PARKING CARDS/ELEVATOR KEYS

Tokens
Return card/key
Parking inquiry
Elevator passes
Temporary handicapped parking permits

REFERRALS TO OUTSIDE AGENCIES

Private Medical Doctor
Health Department
Clinic
Dental
Counseling Centers
Crisis Centers
Transitional Living Facilities (Battered/Homeless Women)
Family Planning Facilities
Other Health Agencies

TESTS

Blood Pressure
Hearing
Tuberculosis
 Reading
 Information
Vision
Glucometer
Urinalysis

Hemoglobin
E.K.G.
Strep A testing
P.G. testing
Monospot
Hemacult
Misc.

MISCELLANEOUS

Absence Excuses/PE Waiver
Allergy Injections
Band-aids
Booklets/Pamphlets
Dressing Change
Rest
Suture Removal
Temperature
Weigh
Misc.
Information
Report/Form
Wart Removal

COMMITTEES

Safety
Environmental
Disaster Planning

SAFETY DATA SHEETS

Central file

X-RAY SERVICES

COMMUNICABLE DISEASE CONTROL

BODY FAT MEASUREMENTS

MINOR SURGERIES

SELF-ESTEEM GROUPS

MENTAL HEALTH CRISIS

AA GROUP

ADULT CHILDREN OF ALCOHOLICS GROUP

WORKSHOPS

Test Anxiety
Stress Management
Communication Skills
Weight Loss
Assertiveness Skills

VI. CLAIM PREPARATION

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a list of each item for which reimbursement is claimed under this mandate.

A. Description of Activity

1. Show the total number of full-time students enrolled per semester/quarter.
2. Show the total number of full-time students enrolled in the summer program.
3. Show the total number of part-time students enrolled per semester/quarter.
4. Show the total number of part-time students enrolled in the summer program.

B. Actual Costs of Claim Year for Providing 1986-87 Fiscal Year Program Level of Service

Claimed costs should be supported by the following information:

1. Employee Salaries and Benefits

Identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

2. Services and Supplies

Only expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials which have been consumed or expended specifically for the purpose of this mandate.

3. Allowable Overhead Cost

Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions.

VII. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. This would include documentation for the fiscal year 1986-87 program to substantiate a maintenance of effort. These documents must be kept on file by the agency submitting the claim for a period of no

less than three years from the date of the final payment of the claim pursuant to this mandate, and made available on the request of the State Controller or his agent.

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim. This shall include the amount of \$7.50 per full-time student per semester, \$5.00 per full-time student for summer school, or \$5.00 per full-time student per quarter, as authorized by Education Code section 72246(a). This shall also include payments (fees) received from individuals other than students who are not covered by Education Code Section 72246 for health services.

IX. REQUIRED CERTIFICATION

The following certification must accompany the claim:

I DO HEREBY CERTIFY under penalty of perjury:

THAT the foregoing is true and correct:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with;

and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

Signature of Authorized Representative

Date

Title

Telephone No.

0350d

Exhibit C

HEALTH FEE ELIMINATION

1. Summary of Chapters 1/84, 2nd E.S., and Chapter 1118/87

Chapter 1, Statutes of 1984, 2nd E.S., repealed Education Code § 72246 which authorized community college districts to charge a fee for the purpose of providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. The statute also required community college districts that charged a fee in the 1983/84 fiscal year to maintain that level of health services in the 1984/85 fiscal year and each fiscal year thereafter. The provisions of this statute would automatically repeal on December 31, 1987, which would reinstate the community college districts' authority to charge a health fee as specified.

Chapter 1118, Statutes of 1987 amended Education Code § 72246 to require any community college district that provided health services in the 1986/87 fiscal year to maintain health services at that level in the 1986/87 fiscal year and each fiscal year thereafter. Chapter 8, Statutes of 1993, has revised the numbering of § 72246 to § 76355.

2. Eligible Claimants

Any community college district incurring increased costs as a result of this mandate is eligible to claim reimbursement of these costs.

3. Appropriations

To determine if current funding is available for this program, refer to the schedule "Appropriations for State Mandated Cost Programs" in the "Annual Claiming Instructions for State Mandated Costs" issued in mid-September of each year to community college presidents.

4. Types of Claims

A. Reimbursement and Estimated Claims

A claimant may file a reimbursement claim and/or an estimated claim. A reimbursement claim details the costs actually incurred for a prior fiscal year. An estimated claim shows the costs to be incurred for the current fiscal year.

B. Minimum Claim

Section 17564(a), Government Code, provides that no claim shall be filed pursuant to Section 17561 unless such a claim exceeds \$200 per program per fiscal year.

5. Filing Deadline

- (1) Refer to Item 3 "Appropriations" to determine if the program is funded for the current fiscal year. If funding is available, an estimated claim must be filed with the State Controller's Office and postmarked by November 30, of the fiscal year in which costs are to be incurred. Timely filed estimated claims will be paid before late claims.

After having received payment for an estimated claim, the claimant must file a reimbursement claim by November 30, of the following fiscal year regardless whether the payment was more or less than the actual costs. If the local agency fails to file a reimbursement claim, monies received must be returned to the State. If no estimated claim was filed, the local agency may file a reimbursement

claim detailing the actual costs incurred for the fiscal year, provided there was an appropriation for the program for that fiscal year. (See item 3 above).

- (2) A reimbursement claim detailing the actual costs must be filed with the State Controller's Office and postmarked by November 30 following the fiscal year in which costs were incurred. If the claim is filed after the deadline but by November 30 of the succeeding fiscal year, the approved claim must be reduced by a late penalty of 10%, not to exceed \$1,000. Claims filed more than one year after the deadline will not be accepted.

6. Reimbursable Components

Eligible claimants will be reimbursed for health service costs at the level of service provided in the 1986/87 fiscal year. The reimbursement will be reduced by the amount of student health fees authorized per the Education Code § 76355.

After January 1, 1993, pursuant to Chapter 8, Statutes of 1993, the fees students were required to pay for health supervision and services were not more than:

\$10.00 per semester

\$5.00 for summer school

\$5.00 for each quarter

Beginning with the summer of 1997, the fees are:

\$11.00 per semester

\$8.00 for summer school or

\$8.00 for each quarter

The district may increase fees by the same percentage increase as the Implicit Price Deflator (IPD) for the state and local government purchase of goods and services.

Whenever the IPD calculates an increase of one dollar (\$1) above the existing amount, the fees may be increased by one dollar (\$1).

7. Reimbursement Limitations

- A. If the level at which health services were provided during the fiscal year of reimbursement is less than the level of health services that were provided in the 1986/87 fiscal year, no reimbursement is forthcoming.
- B. Any offsetting savings or reimbursement the claimant received from any source (e.g. federal, state grants, foundations, etc.) as a result of this mandate, shall be identified and deducted so only net local costs are claimed.

8. Claiming Forms and Instructions

The diagram "Illustration of Claim Forms" provides a graphical presentation of forms required to be filed with a claim. A claimant may submit a computer generated report in substitution for forms HFE-1.0, HFE-1.1, and form HFE-2 provided the format of the report and data fields contained within the report are identical to the claim forms included in these instructions. The claim forms provided with these instructions should be duplicated and used by the claimant to file estimated and reimbursement claims. The State Controller's Office will revise the manual and claim forms as necessary. In such instances, new replacement forms will be mailed to claimants.

A. Form HFE-2, Health Services

This form is used to list the health services the community college provided during the 1986/87 fiscal year and the fiscal year of the reimbursement claim.

B. Form HFE-1.1, Claim Summary

This form is used to compute the allowable increased costs an individual college of the community college district has incurred to comply with the state mandate. The level of health services reported on this form must be supported by official financial records of the community college district. A copy of the document must be submitted with the claim. The amount shown on line (13) of this form is carried to form HFE-1.0.

C. Form HFE-1.0, Claim Summary

This form is used to list the individual colleges that had increased costs due to the state mandate and to compute a total claimable cost for the district. The "Total Amount Claimed", line (04) on this form is carried forward to form FAM-27, line 13, for the reimbursement claim, or line (07) for the estimated claim.

D. Form FAM-27, Claim for Payment

This form contains a certification that must be signed by an authorized representative of the local agency. All applicable information from form HFE-1.0 and HFE 1.1 must be carried forward to this form for the State Controller's Office to process the claim for payment.

Illustration of Claim Forms

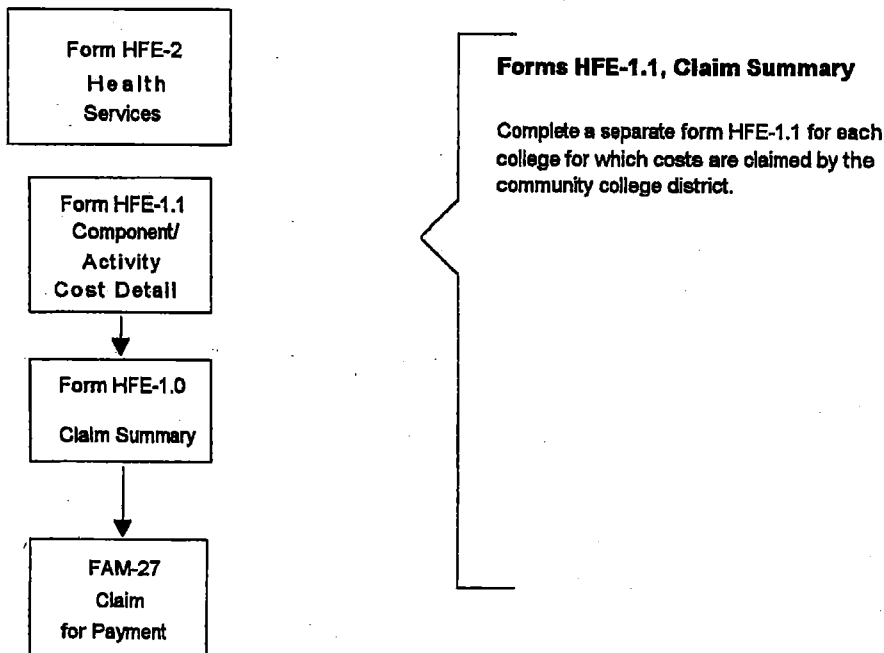


Exhibit D

LOS RIOS COMMUNITY COLLEGE DISTRICT

Audit Report

HEALTH FEE ELIMINATION PROGRAM

Chapter 1, Statutes of 1984, 2nd E.S.,
and Chapter 1118, Statutes of 1987

July 1, 1997, through June 30, 2002



STEVE WESTLY
California State Controller

June 2004



STEVE WESTLY
California State Controller

June 24, 2004

Brice W. Harris, Chancellor
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Dear Mr. Harris:

The State Controller's Office (SCO) has completed an audit of the claims filed by Los Rios Community College District for costs of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd E.S., and Chapter 1118, Statutes of 1987) for the period of July 1, 1997, through June 30, 2002.

The district claimed \$3,205,600 (\$3,206,600 in costs less a \$1,000 penalty for filing late) for the mandated program. Our audit disclosed that none of the claimed costs is allowable. Claimed costs are unallowable primarily because the district did not reduce allowable program costs by the amount of health services fees authorized by *Education Code* Section 76355. The district was paid \$2,224,368. The total amount paid should be returned to the State.

The SCO has established an informal audit review process to resolve a dispute of facts. The auditee should submit, in writing, a request for a review and all information pertinent to the disputed issues within 60 days after receiving the final report. The request and supporting documentation should be submitted to Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250-0001. In addition, please provide a copy of the request letter to Jim L. Spano, Chief, Compliance Audits Bureau, State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, California 94250-5874.

If you have any questions, please contact Mr. Spano at (916) 323-5849.

Sincerely,

A handwritten signature in cursive script that reads "Vincent P. Brown".

VINCENT P. BROWN
Chief Operating Officer

VPB:ams

cc: Jon Sharpe, Vice Chancellor
Finance and Administration
Los Rios Community College District
Carrie Bray
Director of Accounting Services
Los Rios Community College District
Ed Monroe, Program Assistant
Fiscal Accountability Section
Chancellor's Office
California Community Colleges
Jeannie Oropeza, Program Budget Manager
Education Systems Unit
Department of Finance
Charles Pillsbury
School Apportionment Specialist
Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) has completed an audit of the claims filed by Los Rios Community College District for costs of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session (E.S.), and Chapter 1118, Statutes of 1987) for the period of July 1, 1997, through June 30, 2002. The last day of fieldwork was March 11, 2004.

The district claimed \$3,205,600 (\$3,206,600 in costs less a \$1,000 penalty for filing late) for the mandated program. The audit disclosed that none of the claimed costs is allowable. Claimed costs are unallowable primarily because the district did not reduce allowable program costs by the amount of health services fees authorized by *Education Code* Session 76355. The district was paid \$2,224,368. The total amount paid should be returned to the State.

Background

Chapter 1, Statutes of 1984, 2nd E.S., repealed *Education Code* Section 72246, which authorized community college districts to charge a health fee for providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. This statute also required that health services for which a community college district charged a fee during fiscal year (FY) 1983-84 had to be maintained at that level in FY 1984-85 and every year thereafter. The provisions of this statute would automatically sunset on December 31, 1987, reinstating community colleges districts' authority to charge a health fee as specified. Chapter 1118, Statutes of 1987, amended *Education Code* Section 72246 to require any community college district that provided health services in FY 1986-87 to maintain health services at the level provided during that year in FY 1987-88 and each fiscal year thereafter.

On November 20, 1986, the Commission on State Mandates (COSM) determined that Chapter 1, Statutes of 1984, 2nd E.S., imposed a "new program" upon community college districts by requiring any community college district that provided health services for which it was authorized to charge a fee pursuant to former *Education Code* Section 72246 in FY 1983-84 to maintain health services at the level provided during that year in FY 1984-85 and each fiscal year thereafter. This maintenance-of-effort requirement applies to all community college districts that levied a health services fee in FY 1983-84, regardless of the extent to which the health services fees collected offset the actual costs of providing health services at the FY 1983-84 level. On April 27, 1989, COSM determined that Chapter 1118, Statutes of 1987, amended this maintenance-of-effort requirement to apply to all community college districts that provided health services in FY 1986-87 and required them to maintain that level in FY 1987-88 and each fiscal year thereafter.

Parameters and Guidelines, adopted by COSM on August 27, 1987 (and amended on May 25, 1989), establishes the state mandate and defines criteria for reimbursement. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for each mandate requiring state reimbursement to assist school districts and local agencies in claiming reimbursable costs.

Objective, Scope, and Methodology

The audit objective was to determine whether costs claimed are increased costs incurred as a result of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd E.S., and Chapter 1118, Statutes of 1987) for the period of July 1, 1997, through June 30, 2002.

The auditors performed the following procedures:

- Reviewed the costs claimed to determine if they were increased costs resulting from the mandated program;
- Traced the costs claimed to the supporting documentation to determine whether the costs were properly supported;
- Confirmed that the costs claimed were not funded by another source; and
- Reviewed the costs claimed to determine that the costs were not unreasonable and/or excessive.

The SCO conducted the audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority provided by *Government Code* Section 17558.5. The SCO did not audit the district's financial statements. The scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance concerning the allowability of expenditures claimed for reimbursement. Accordingly, transactions were examined, on a test basis, to determine whether the amounts claimed for reimbursement were supported.

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

Conclusion

The audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, Los Rios Community College District claimed \$3,205,600 (\$3,206,600 in costs less a \$1,000 penalty for filing late) for costs of the legislatively mandated Health Fee Elimination Program. The district was paid \$2,224,368 by the State for the audit period: \$606,532 (\$607,532 in costs less a \$1,000 penalty for filing late) for FY 1997-98; \$625,570 for FY 1998-99; \$634,185 for FY 1999-2000; \$187,592 for FY 2000-01; and \$170,489 for FY 2001-02.

The audit disclosed that none of the costs claimed is allowable. The amount paid in excess of allowable costs claimed, totaling \$2,224,368, should be returned to the State.

**Views of
Responsible
Official**

The SCO issued a draft audit report on May 5, 2004. Jon Sharpe, Vice Chancellor, Finance and Administration, responded by letter dated May 24, 2004, disagreeing with the audit results. The district's response is included in this final audit report.

Restricted Use

This report is solely for the information and use of Los Rios Community College District, the California Department of Education, 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.



JEFFREY V. BROWNFIELD
Chief, Division of Audits

**Schedule 1—
Summary of Program Costs
July 1, 1999, through June 30, 2002**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
July 1, 1997, through June 30, 1998				
Salaries	\$ 381,878	\$ 357,643	\$ (24,235)	Finding 1
Benefits	64,953	64,953	—	
Services and supplies	16,332	9,118	(7,214)	Finding 2
Subtotals	463,163	431,714	(31,449)	
Indirect costs	144,369	64,757	(79,612)	Findings 1, 2, 3
Subtotals, health expenditures	607,532	496,471	(111,061)	
Less costs subject to fee authority	—	(953,090)	(953,090)	Finding 4
Less late penalty	(1,000)	(1,000)	—	
Subtotals	606,532	(457,619)	(1,064,151)	
Adjustment to eliminate negative balance	—	457,619	457,619	
Total costs	<u>\$ 606,532</u>	—	<u>\$ (606,532)</u>	
Less amount paid by the State		(606,532)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (606,532)</u>		
July 1, 1998, through June 30, 1999				
Salaries	\$ 410,013	\$ 372,391	\$ (37,622)	Finding 1
Benefits	58,822	58,822	—	
Services and supplies	10,897	7,104	(3,793)	Finding 2
Subtotals	479,732	438,317	(41,415)	
Indirect costs	145,838	64,520	(81,318)	Findings 1, 2, 3
Subtotals, health expenditures	625,570	502,837	(122,733)	
Less costs subject to fee authority	—	(1,057,996)	(1,057,996)	Finding 4
Subtotals	625,570	(555,159)	(1,180,729)	
Adjustment to eliminate negative balance	—	555,159	555,159	
Total costs	<u>\$ 625,570</u>	—	<u>\$ (625,570)</u>	
Less amount paid by the State		(625,570)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (625,570)</u>		
July 1, 1999, through June 30, 2000				
Salaries	\$ 406,642	\$ 370,787	\$ (35,855)	Finding 1
Benefits	60,153	60,153	—	
Services and supplies	19,543	12,852	(6,691)	Finding 2
Subtotals	486,338	443,792	(42,546)	
Indirect costs	147,847	69,276	(78,571)	Findings 1, 2, 3
Subtotals, health expenditures	634,185	513,068	(121,117)	
Less costs subject to fee authority	—	(1,151,391)	(1,151,391)	Finding 4
Subtotals	634,185	(638,323)	(1,272,508)	
Adjustment to eliminate negative balance	—	638,323	638,323	
Total costs	<u>\$ 634,185</u>	—	<u>\$ (634,185)</u>	
Less amount paid by the State		(634,185)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (634,185)</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
July 1, 2000, through June 30, 2001				
Salaries	\$ 425,343	\$ 404,551	\$ (20,792)	Finding 1
Benefits	70,350	70,350	—	
Services and supplies	11,980	5,621	(6,359)	Finding 2
Subtotals	507,673	480,522	(27,151)	
Indirect costs	159,664	71,742	(87,922)	Findings 1, 2, 3
Subtotals, health expenditures	667,337	552,264	(115,073)	
Less costs subject to fee authority	—	(1,368,418)	(1,368,418)	Finding 4
Subtotals	667,337	(816,154)	(1,483,491)	
Adjustment to eliminate negative balance	—	816,154	816,154	
Total costs	<u>\$ 667,337</u>	—	<u>\$ (667,337)</u>	
Less amount paid by the State		(187,592)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (187,592)</u>		
July 1, 2001, through June 30, 2002				
Salaries	\$ 433,372	\$ 423,283	\$ (10,089)	Finding 1
Benefits	70,979	70,979	—	
Services and supplies	9,706	4,981	(4,725)	Finding 2
Subtotals	514,057	499,243	(14,814)	
Indirect costs	157,919	75,237	(82,682)	Findings 1, 2, 3
Subtotals, health expenditures	671,976	574,480	(97,496)	
Less costs subject to fee authority	—	(1,571,052)	(1,571,052)	Finding 4
Subtotals	671,976	(996,572)	(1,668,548)	
Adjustment to eliminate negative balance	—	996,572	996,572	
Total costs	<u>\$ 671,976</u>	—	<u>\$ (671,976)</u>	
Less amount paid by the State		(170,489)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (170,489)</u>		
Summary: July 1, 1997, through June 30, 2002				
Salaries	\$ 2,057,248	\$ 1,928,655	\$ (128,593)	Finding 1
Benefits	325,257	325,257	—	
Services and supplies	68,458	39,676	(28,782)	Finding 2
Subtotals	2,450,963	2,293,588	(157,375)	
Indirect costs	755,637	345,532	(410,105)	Findings 1, 2, 3
Subtotals, health expenditures	3,206,600	2,639,120	(567,480)	
Less costs subject to fee authority	—	(6,101,947)	(6,101,947)	Finding 4
Less late penalty	(1,000)	(1,000)	—	
Subtotals	3,205,600	(3,463,827)	(6,669,427)	
Adjustment to eliminate negative balance	—	3,463,827	3,463,827	
Total costs	<u>\$ 3,205,600</u>	—	<u>\$ (3,205,600)</u>	
Less amount paid by the State		(2,224,368)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (2,224,368)</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Unallowable salaries
and fringe benefits**

The district claimed unallowable salaries totaling \$128,593 for the audit period. The related indirect cost is \$39,529, based on the indirect cost rates claimed during the audit period. The unallowable salary costs are attributable to the increased level of health services provided by American River College during each fiscal year.

The district's claims for the audit period identified those health services that were provided in the base year for this program (FY 1986-87). The SCO auditor reviewed logs maintained by each college within the district that identified actual health services provided during the audit period. Logs for American River College showed that the college provided health services exceeding those services provided by the district during the base year.

The auditor sampled six months of logs maintained by American River College for each fiscal year during the period of FY 1998-99 through FY 2001-02. The logs showed that only 78.52% of the services provided in FY 1998-99 were allowable. Similarly, the logs showed that 78.01%, 87.77%, and 92.72% of services provided in FY 1999-2000, FY 2000-01, and FY 2001-02, respectively, were allowable. The district was unable to provide logs for American River College for FY 1997-98. Therefore, the auditor calculated an average allowable percentage of 84.26% based on the percentages for the four succeeding fiscal years. The SCO applied these percentages to salary costs claimed for American River College to determine total allowable salary costs for each fiscal year. The audit adjustment is summarized as follows:

	Fiscal Year					Total
	1997-98	1998-99	1999-2000	2000-01	2001-02	
Salaries	\$ (24,235)	\$ (37,622)	\$ (35,855)	\$ (20,792)	\$ (10,089)	
Indirect cost rate	×31.17%	×30.40%	×30.40%	×31.45%	×30.72%	
Related indirect costs	\$ (7,554)	\$ (11,437)	\$ (10,900)	\$ (6,539)	\$ (3,099)	\$ (39,529)
Salaries (from above)	(24,235)	(37,622)	(35,855)	(20,792)	(10,089)	(128,593)
Audit adjustment	\$ (31,789)	\$ (49,059)	\$ (46,755)	\$ (27,331)	\$ (13,188)	\$ (168,122)

Parameters and Guidelines states that community college districts that provided health services in FY 1986-87 and continue to provide the same services as a result of this mandate are eligible to claim reimbursement of those costs. Only services provided in FY 1986-87 may be claimed.

In addition, *Parameters and Guidelines* states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs. Documentation must be kept on file for a period of no less than three years from the date of the final payment of the claim.

Recommendation

The district should maintain logs for all colleges that show health services actually provided as required by *Parameters and Guidelines*. The district should also ensure that it claims only those costs attributable to health services that were provided in the FY 1986-87 base year.

District's Response

The finding is based, partially, upon the report's assertion that the "*Parameters and Guidelines* states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs." The *Parameters and Guidelines* actually state, in that regard, that ". . . all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs."

It would therefore appear that this finding is based upon the wrong standard for review.

SCO's Comment

The finding and recommendation remain unchanged. The term "source documentation" includes worksheets and other evidence; therefore, the criterion is valid. The district did not address the audit finding's factual accuracy and did not provide any additional source documents or worksheets to refute the finding.

**FINDING 2—
Unallowable services
and supplies**

The district claimed unallowable services and supplies totaling \$28,782 for the audit period. The related indirect cost is \$8,887, based on the indirect cost rates claimed during the audit period. The unallowable services and supplies costs are attributable to services not reimbursable under the mandate program, services not provided in the FY 1986-87 base year, and costs not supported by source documentation.

The district claimed \$26,100 during the audit period for physical exams for intercollegiate athletics and for salaries of health professionals present at athletic events. These costs are not reimbursable under the mandated program. The district also claimed \$2,125 during the audit period for the cost of Hepatitis B vaccinations. The district's claims did not identify Hepatitis B vaccinations as a service provided in the FY 1986-87 base year. In addition, \$557 claimed during the audit period was not supported by the district's source documentation.

The audit adjustment is summarized as follows:

	Fiscal Year					Total
	1997-98	1998-99	1999-2000	2000-01	2001-02	
Athletics-related costs	\$ (6,216)	\$ (3,178)	\$ (5,898)	\$ (6,083)	\$ (4,725)	\$ (26,100)
Hepatitis B vaccinations	(811)	(521)	(793)	—	—	(2,125)
Unsupported costs	(187)	(94)	—	(276)	—	(557)
Total costs	(7,214)	(3,793)	(6,691)	(6,359)	(4,725)	\$ (28,782)
Indirect cost rate	×31.17%	×30.40%	×30.40%	×31.45%	×30.72%	
Related indirect costs	(2,249)	(1,153)	(2,034)	(2,000)	(1,451)	\$ (8,887)
Total costs (from above)	(7,214)	(3,793)	(6,691)	(6,359)	(4,725)	(28,782)
Audit adjustment	\$ (9,463)	\$ (4,946)	\$ (8,725)	\$ (8,359)	\$ (6,176)	\$ (37,669)

Education Code Section 76355(d) states that authorized expenditures shall not include physical exams for intercollegiate athletics and the salaries of health professionals for athletic events.

Parameters and Guidelines states that community college districts that provided health services in FY 1986-87 and continue to provide the same services as a result of this mandate are eligible to claim reimbursement of those costs. Only services provided in FY 1986-87 may be claimed. *Parameters and Guidelines* also states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs.

Recommendation

The district should ensure that it claims costs only for the health services reimbursable under the mandate program. In addition, the district should ensure that all costs claimed are supported by source documentation.

District's Response

This finding disallows costs . . . based upon the conclusion that "[T]hese costs are not reimbursable under the mandate program.[]" This is not a correct interpretation of the law. *Education Code* Section 76355, subdivision (a), permits the collection of student fees for health services. Subdivision (d) requires that these fees, if collected, be deposited in a designated fund and be expended only as authorized. Subdivision (d) prohibits expenditures *from the fund* for physical examinations for intercollegiate athletics or the salaries of health professionals for athletic events. The prohibition only applies to expenditures of funds from the special account designated in which student fees are deposited.

SCO's Comment

The finding and recommendation remain unchanged. The district did not address unallowable costs for Hepatitis B vaccinations and unsupported costs. Regarding athletic-related costs, *Education Code* Section 76355(e) states, "Any community college district that provided health services in the 1986-87 fiscal year shall maintain health services, at the level

provided during the 1986-87 fiscal year, and each fiscal year thereafter. If the cost to maintain that level of service exceeds the limits specified in subdivision (a), the excess cost shall be borne by the district.” *Education Code* Section 76355(a) defines the authorized health services fees. Thus, the mandate program “maintenance of effort” requirement applies to those health services for which the district may levy a fee. *Education Code* Section 76355(d) states that athletic-related costs are not authorized expenditures of health services fees. Because the mandate does not require a “maintenance of effort” for athletic-related services, these costs are not mandated costs as defined by *Government Code* Section 17514.

**FINDING 3—
Overstated indirect
cost rates claimed**

The district overstated its indirect cost rates, and thus overstated indirect costs by \$361,689 for the audit period.

The district claimed indirect costs based on indirect cost rate proposals (ICRP) prepared for each fiscal year. However, the district did not obtain federal approval for its ICRPs. The SCO auditor calculated indirect cost rates using the methodology allowed by the SCO claiming instructions. The calculated indirect cost rates did not support the indirect cost rates claimed. The claimed and audited indirect cost rates are summarized below.

	Fiscal Year				
	1997-98	1998-99	1999-2000	2000-01	2001-02
Allowable indirect cost rate	15.00%	14.72%	15.61%	14.93%	15.07%
Less claimed indirect cost rate	<u>(31.17)%</u>	<u>(30.40)%</u>	<u>(30.40)%</u>	<u>(31.45)%</u>	<u>(30.72)%</u>
Unsupported indirect cost rate	<u>(16.17)%</u>	<u>(15.68)%</u>	<u>(14.79)%</u>	<u>(16.52)%</u>	<u>(15.65)%</u>

Based on these unsupported indirect cost rates, the audit adjustments are summarized below:

	Fiscal Year					Total
	1997-98	1998-99	1999-2000	2000-01	2001-02	
Allowable costs claimed	\$ 431,714	\$ 438,317	\$ 443,792	\$ 480,522	\$ 499,243	
Unsupported indirect cost rate	× (16.17)%	× (15.68)%	× (14.79)%	× (16.52)%	× (15.65)%	
Audit adjustment	<u>\$ (69,809)</u>	<u>\$ (68,728)</u>	<u>\$ (65,637)</u>	<u>\$ (79,383)</u>	<u>\$ (78,132)</u>	<u>\$(361,689)</u>

Parameters and Guidelines states that indirect costs may be claimed in the manner described in the SCO claiming instructions. The SCO claiming instructions state that community college districts using an ICRP prepared in accordance with Office of Management and Budget (OMB) Circular A-21 must obtain federal approval of the ICRP. Alternately, the SCO claiming instructions allow community college districts to compute an indirect cost rate using Form FAM-29C, which is based on total expenditures as reported in *California Community Colleges Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)*.

Recommendation

The district should claim indirect costs based on indirect cost rates computed in accordance with the SCO claiming instructions. The district should obtain federal approval for ICRPs prepared in accordance with OMB Circular A-21. Alternately, the district should use Form FAM-29C to prepare ICRPs based on the methodology allowed in the SCO claiming instructions.

District's Response

The Parameters and Guidelines for Health Fee Elimination (as last amended on 5/25/89) state that "Indirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." It does not require that indirect costs be claimed in the manner described by the State Controller.

The State Controller's Claiming Instructions, at the Instructions for Form HFE-1.1, line (05), states, in relevant part: "For claiming indirect costs, college districts have the option of using a federally approved rate from the Office of Management and Budget Circular A-21, from FAM-29C, or a 7% indirect cost rate." The burden should be on the State Controller to show that the ICRP used by the district would not be approved by the federal government, since the State Controller is required to pay claims and may only reduce a claim upon a determination that the claim is excessive or unreasonable. Government Code Section 17651(d)(2)

SCO's Comment

The finding and recommendation remain unchanged. The phrase "may be claimed" allows the district to claim indirect costs. If the district claims indirect costs, the costs must adhere to the SCO's claiming instructions.

Government Code Section 12410 states that the Controller shall audit all claims against the state for correctness, legality, and for sufficient provisions of law for payment. The Health Fee Elimination Program *Parameters and Guidelines* references the SCO's claiming instructions, which require federal approval for OMB Circular A-21 indirect cost rates. The district did not obtain federal approval; thus, the indirect cost rates are unallowable.

**FINDING 4—
Understated
authorized health fee
revenues claimed**

The district did not offset health services program costs by the amount of authorized health fee revenues. Authorized health fee revenues totaled \$6,101,947 for the audit period.

The district's Institutional Research Office (IRO) provided student enrollment data for each fiscal year within the audit period. The IRO also provided data on students enrolled in apprenticeship programs and students who received Board of Governors Grants (BOGG waivers). Based on the IRO data provided, understated authorized health fee revenues are calculated as follows:

	Fall	Spring	Summer	Total
<u>Fiscal Year 1997-98</u>				
Student enrollment	55,094	56,365	21,939	
Less allowable health fee exemptions	<u>(17,748)</u>	<u>(17,649)</u>	<u>(7,388)</u>	
Subtotals	37,346	38,716	14,551	
Authorized student health fee	× \$ (11)	× \$ (11)	× \$ (8)	
Audit adjustment, FY 1997-98	<u>\$ (410,806)</u>	<u>\$ (425,876)</u>	<u>\$ (116,408)</u>	<u>\$ (953,090)</u>
<u>Fiscal Year 1998-99</u>				
Student enrollment	59,436	60,717	23,032	
Less allowable health fee exemptions	<u>(17,709)</u>	<u>(17,680)</u>	<u>(7,333)</u>	
Subtotals	41,727	43,037	15,699	
Authorized student health fee	× \$ (11)	× \$ (11)	× \$ (8)	
Audit adjustment, FY 1998-99	<u>\$ (458,997)</u>	<u>\$ (473,407)</u>	<u>\$ (125,592)</u>	<u>\$ (1,057,996)</u>
<u>Fiscal Year 1999-2000</u>				
Student enrollment	63,752	64,388	24,934	
Less allowable health fee exemptions	<u>(18,274)</u>	<u>(18,037)</u>	<u>(7,275)</u>	
Subtotals	45,478	46,351	17,659	
Authorized student health fee	× \$ (11)	× \$ (11)	× \$ (8)	
Audit adjustment, FY 1999-2000	<u>\$ (500,258)</u>	<u>\$ (509,861)</u>	<u>\$ (141,272)</u>	<u>\$ (1,151,391)</u>
<u>Fiscal Year 2000-01</u>				
Student enrollment	65,163	64,082	26,501	
Less allowable health fee exemptions	<u>(11,293)</u>	<u>(11,417)</u>	<u>(4,664)</u>	
Subtotals	53,870	52,665	21,837	
Authorized student health fee	× \$ (11)	× \$ (11)	× \$ (9)	
Audit adjustment, FY 2000-01	<u>\$ (592,570)</u>	<u>\$ (579,315)</u>	<u>\$ (196,533)</u>	<u>\$ (1,368,418)</u>
<u>Fiscal Year 2001-02</u>				
Student enrollment	70,706	71,361	26,772	
Less allowable health fee exemptions	<u>(13,587)</u>	<u>(14,200)</u>	<u>(4,584)</u>	
Subtotals	57,119	57,161	22,188	
Authorized student health fee	× \$ (12)	× \$ (12)	× \$ (9)	
Audit adjustment, FY 2001-02	<u>\$ (685,428)</u>	<u>\$ (685,932)</u>	<u>\$ (199,692)</u>	<u>\$ (1,571,052)</u>

Parameters and Guidelines states that health fees authorized by the *Education Code* must be deducted from costs claimed. *Education Code* Section 76355(c) states that health fees are authorized for all students except those students who: (1) depend exclusively on prayer for healing; (2) are attending a community college under an approved apprenticeship training program; or (3) demonstrate financial need. (Pursuant to *Education Code* Section 76355(a), authorized health fees increased by \$1.00 effective with the Summer 2001 session.)

Also, *Government Code* Section 17514 states that costs mandated by the State means any increased costs which a school district is required to incur. To the extent community college districts can charge a fee, they are not required to incur a cost. In addition, *Government Code* Section 17556 states that COSM shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.

Recommendation

The district should offset allowable health services program costs by the amount of health service fee revenues authorized by the *Education Code*. The district should maintain records to support the amount calculated for authorized health service fee revenues, including actual student enrollment and students who are exempted from health fees pursuant to *Education Code* Section 76355(c).

District's Response

Education Code Section 76355, subdivision (a), in relevant part, provides: "The governing board of a district maintaining a community college *may require* community college students to pay a fee...for health supervision and services..." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

This finding is also based upon the report's statement that the "*Parameters and Guidelines* states that health fees authorized by the *Education Code* must be deducted from the costs claimed." This is a misstatement of the Parameters and Guidelines. The Parameters and Guidelines, as last amended on 5/25/89, state, in relevant part, "Any offsetting savings...must be deducted from the costs claimed... This shall include the amount of (student fees) as authorized by Education Code [Section 76355]." The use of the term "any offsetting savings" further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not.

Finally, the report cites Government Code Section 17556 which only prohibits the Commission on State Mandates from finding costs in certain instances. Here, the Commission has already made a finding of a

new program or increased costs.

SCO's Comment

The finding and recommendation remain unchanged. The SCO agrees that community college districts may choose not to levy a health services fee. However, *Education Code* Section 76355 provides the district the authority to levy a health services fee. Therefore, the related health services costs are not mandated costs as defined by *Government Code* Section 17514. Health services costs recoverable through an authorized fee are not costs the district is required to incur. *Government Code* Section 17556 states that the COSM shall not find costs mandated by the State as defined in *Government Code* Section 17514 if the district has authority to levy fees to pay for the mandated program or increased level of service.

Statute of limitations

The district's response included comments regarding the SCO's authority to audit costs claimed for FY 1997-98, FY 1998-99, and FY 1999-2000. The district's response and SCO's comment are as follows:

District's Response

The district's 1997-98 claim was filed on January 15, 2000. The district's 1998-1999 claim was filed on January 15, 2000. The district's 1999-2000 claim was filed on December 30, 2000. The draft audit report is dated May 2004. Therefore, these three claims were only subject to audit until December 31, 2002. Therefore, the proposed audit adjustments for these years are barred by the statute of limitations set forth in *Government Code* Section 17558.5.

SCO's Comment

The audit scope remains unchanged. *Government Code* Section 17558.5(a), effective July 1, 1996, states that a district's reimbursement claim is subject to audit no later than two years after the end of the calendar year in which the claim is filed or last amended. No statutory language defines when the SCO must issue an audit report. Furthermore, no statutory language requires an entrance conference or some other formal event to be held before the two-year period expires. SCO staff contacted the district to initiate the audit in December 2002, within the statute of limitations. The district requested that the audit start in January 2003, rather than December 2002. *Government Code* Section 17558.5(c), effective July 1, 1996, states, "Nothing in this section shall be construed to limit the adjustment of payments . . . when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement."

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

LOS RIOS COMMUNITY COLLEGE DISTRICT



SACRAMENTO CITY COLLEGE AMERICAN RIVER COLLEGE COSUMNES RIVER COLLEGE

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 24, 2004

Mr. Jim L. Spano, Chief
Compliance Audits Bureau
California State Controller
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Health Fee Elimination Audit

Dear Mr. Spano:

This letter is the response of Los Rios Community College District to the letter of Vincent P. Brown dated May 5, 2004 which enclosed a Draft Copy of your Audit Report of the district's Health Fee Elimination program, Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987, for the period of July 1, 1997 through June 30, 2002.

Statute of Limitations

The district's 1997-1998 claim was filed on January 15, 2000. The district's 1998-1999 claim was filed on January 15, 2000. The districts 1999-2000 claim was filed on December 30, 2000. The draft audit report is dated May 2004. Therefore, these three claims were only subject to audit until December 31, 2002. Therefore, the proposed audit adjustments for these years are barred by the statute of limitations set forth in Government Code Section 17558.5.

Finding 1 - Unallowable Salaries and Fringe Benefits

This finding is based, partially, upon the report's assertion that the "Parameters and Guidelines states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs." The Parameters and Guidelines actually state, in that regard, that "...all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs."

It would therefore appear that this finding is based upon the wrong standard for review.

1919 SPANOS COURT • SACRAMENTO, CA 95825-3981 • 916-568-3021

Jim L. Spano, Chief
Compliance Audits Bureau
May 24, 2004

Finding 2 - Unallowable services and Supplies

This finding disallows costs incurred for physical exams for intercollegiate athletics and for salaries of health professionals present at athletic events based upon the conclusion that "[T]hese costs are not reimbursable under the mandated program. This is not a correct interpretation of the law. Education Code Section 76355, subdivision (a), permits the collection of student fees for health services. Subdivision (d) requires that these fees, if collected, be deposited in a designated fund and be expended only as authorized. Subdivision (d) prohibits expenditures *from the fund* for physical examinations for intercollegiate athletics or the salaries of health professionals for athletic events. The prohibition only applies to expenditure of funds from the special account designated in which student fees are deposited.

Finding 3 - Overstated Indirect Cost Rates Claimed

This finding is based upon the report's statement that "[T]he district claimed indirect costs based on indirect cost rate proposals (IRCP) prepared for each fiscal year. However, the district did not obtain federal approval for its IRCPs."

The Parameters and Guidelines for Health Fee Elimination (as last amended on 5/25/89) state that "Indirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." It does not require that indirect costs be claimed in the manner described by the State Controller.

The State Controller's Claiming Instructions, at the Instructions for Form HFE-1.1, line (05), states, in relevant part: "For claiming indirect costs, college districts have the option of using a federally approved rate from the Office of Management and Budget Circular A-21, from FAM-29C, or a 7% indirect cost rate." The burden should be on the State Controller to show that the IRCP used by the district would not be approved by the federal government, since the State Controller is required to pay claims and may only reduce a claim upon a determination that the claim is excessive or unreasonable. Government Code Section 17651(d)(2)

Finding 4 - Understated Authorized Health Fee Revenues Claimed

This finding is based upon the report's statement that the district did not offset health services program costs by the amount of authorized health fee revenues.

Education Code Section 76355, subdivision (a), in relevant part, provides: "The governing board of a district maintaining a community college *may require* community college students to pay a fee...for health supervision and services..." There is no

Jim L. Spano, Chief
Compliance Audits Bureau
May 24, 2004

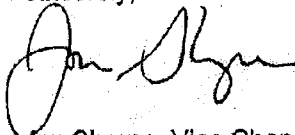
requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

This finding is also based upon the report's statement that the "Parameters and Guidelines states that health fees authorized by the Education Code must be deducted from the costs claimed." This is a misstatement of the Parameters and Guidelines. The Parameters and Guidelines, as last amended on 5/25/89, state, in relevant part, "Any offsetting savings...must be deducted from the costs claimed...This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)¹." The use of the term "any offsetting savings" further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not.

Finally, the report cites Government Code Section 17556 which only prohibits the Commission on State Mandates from finding costs in certain instances. Here, the Commission has already made a finding of a new program or increased costs.

Therefore, for the reasons stated above, Los Rios Community College District requests that the audit report be changed to comply with the law and to defer any request for payment until the audit report is corrected.

Sincerely,



Jon Sharpe, Vice Chancellor
Finance and Administration
Los Rios Community College District

C: Brice Harris, Chancellor
Carrie Bray, Director of Accounting Services

¹ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

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

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

S03-MCC-016

Exhibit E



1B/1

SACRAMENTO CITY COLLEGE

AMERICAN RIVER COLLEGE

COSUMNES RIVER COLLEGE

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May 24, 2004

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P.O. Box 942850
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1B/2

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Jim L. Spano, Chief
Compliance Audits Bureau
May 24, 2004

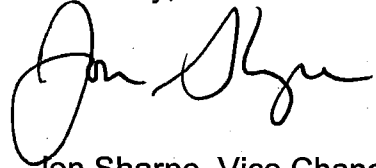
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Sincerely,



Jon Sharpe, Vice Chancellor
Finance and Administration
Los Rios Community College District

C: Brice Harris, Chancellor
Carrie Bray, Director of Accounting Services

¹ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

Exhibit F

**CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE**

1102 Q STREET
SACRAMENTO, CA 95814-6511
TEL 445-8752
HTTP://WWW.CCCCO.EDU



March 5, 2001

To: Superintendents/Presidents
Chief Business Officers
Chief Student Services Officers
Health Services Program Directors
Financial Aid Officers
Admissions and Records Officers
Extended Opportunity Program Directors

From: Thomas J. Nussbaum
Chancellor

Subject: Student Health Fee Increase

Education Code Section 76355 provides the governing board of a community college district the option of increasing the student health services fee by the same percentage as the increase in the Implicit Price Deflator for State and Local Government Purchase of Goods and Services. Whenever that calculation produces an increase of one dollar above the existing fee, the fee may be increased by \$1.00.

Based on calculations by the Financial, Economic, and Demographic Unit in the Department of Finance, the Implicit Price Deflator Index has now increased enough since the last fee increase of March 1997 to support a one dollar increase in the student health fees. Effective with the Summer Session of 2001, districts may begin charging a maximum fee of \$12.00 per semester, \$9.00 for summer session, \$9.00 for each intersession of at least four weeks, or \$9.00 for each quarter.

For part-time students, the governing board shall decide the amount of the fee, if any, that the student is required to pay. The governing board may decide whether the fee shall be mandatory or optional.

The governing board operating a health services program must have rules that exempt the following students from any health services fee:

- Students who depend exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization.

- Students who are attending a community college under an approved apprenticeship training program.
- Students who receive Board of Governors Enrollment Fee Waivers, including students who demonstrate financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid and students who demonstrate eligibility according to income standards established by the board of governors and contained in Section 58620 of Title 5 of the California Code of Regulations.

All fees collected pursuant to this section shall be deposited in the Student Health Fee Account in the Restricted General Fund of the district. These fees shall be expended only to provide health services as specified in regulations adopted by the board of governors. Allowable expenditures include health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, or both. Allowable expenditures exclude athletic-related salaries, services, insurance, insurance deductibles, or any other expense that is not available to all students. No student shall be denied a service supported by student health fee on account of participation in athletic programs.

If you have any questions about this memo or about student health services, please contact Mary Gill, Dean, Enrollment Management Unit at 916.323.5951. If you have any questions about the fee increase or the underlying calculations, please contact Patrick Ryan in Fiscal Services Unit at 916.327.6223.

CC: Patrick J. Lenz
Ralph Black
Judith R. James
Frederick E. Harris

I:\Fisc\FiscUnit\01StudentHealthFees\01\StuHealthFees.doc

Exhibit G

DECLARATION OF CARRIE BRAY

I, Carrie Bray, the undersigned, declare:

1. I am over the age of 18 and otherwise competent to testify in any court or administrative proceeding.
2. I have been employed by the Los Rios Community College District since April 1991.
3. At the present time, I am the Director of Accounting Services for the district.
4. On Thursday, December 12, 2002, I received a Telephone Message slip which indicated that a Mary Khoshmashrag of the State Controller's Office wanted to talk to me about an audit of our Health Fee Elimination and Mandated Reimbursement Process annual claims. A true and exact copy of the message slip is attached hereto as Exhibit "A" and is incorporated herein by reference.
5. I subsequently learned that the correct spelling of the caller's last name was Khoshmashrab.
6. Due to the press of business prior to the Christmas holiday and the ensuing weekend, I was not able to immediately return the call of Ms. Khoshmashrab.
7. On Tuesday, December 17, 2002, I received another Telephone Message slip which indicated that Mary Khoshmashrab wanted to schedule in December a meeting in January. The message also indicated that she was very anxious to hear from me. A true and exact copy of the Telephone Message slip is attached hereto as Exhibit "B" and is incorporated herein by reference.
8. I returned the telephone call of Ms. Khoshmashrab on Wednesday, December 18, 2002. Ms. Khoshmashrab stated that she assumed that we were too busy to

meet in December, so she requested a meeting during the first or second week of January.

9. Since we were talking about the first or second week of January, I made a note on my calendar at the time that Mary requested a meeting in the first or second week of January. A true and exact copy of my calendar page for the week of January 13 through January 19 is attached hereto as Exhibit "C" and is incorporated herein by reference.
10. After checking the availability of key district personnel, I called Ms. Khoshmashrab on Thursday, December 19, 2002, at 12:08 P.M., to set a date in January, as requested, for the meeting. Ms. Khoshmashrab was not in at the time, so I left a message for her to call me. A notation to this effect was made on Exhibit "C."
11. On Thursday, December 19, 2002, at 2:45 P.M., I received a message to call Ms. Khoshmashrab. I returned her call at 2:50 P.M. and a meeting was scheduled for January 16, 2003 at 9:30 A.M. Notations of these calls and conversation were made on Exhibit "C."
12. On Friday, December 20, 2002, at 10:23 A.M., I received a message that Ms. Khoshmashrab needed my FAX number. I returned her call at 1:30 P.M. and left my FAX number on her answering machine.
13. The notations on Exhibit "C" were made by me in the regular course of the business of Los Rios Community College District.
14. The notations on Exhibit "C" were made by me immediately on or about the time

of the calls and conversations noted thereon.

15. On January 2, 2003, I received a letter dated December 23, 2002, from Chris Prasad, Audit Manager, State Controller's Office. A true and exact copy of that letter with an in-coming mail stamp and my handwritten notations is attached hereto as Exhibit "D" and is incorporated herein by reference.
16. The Exhibit "D" letter clearly indicates that Ms. Khoshmashrab "will commence the audit" on Thursday, January 16, 2003.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except where stated upon information or belief and where so stated I declare that I believe them to be true.

EXECUTED this 30th day of September, 2004, at Sacramento, California.



Carrie Bray

TELEPHONE MESSAGE

For Carrie
Date 12-12 Time 11:06 AM
PM

WHILE YOU WERE OUT

M Mary Khoshmashrag
Of State Controller's office
Phone 327-0490

AREA CODE NUMBER EXTENSION

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input checked="" type="checkbox"/> on
Called to See You	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/> Mon.
Wants to See You	<input type="checkbox"/>	Urgent	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Came to See You	<input type="checkbox"/>

Message Re: audit on mandates:
2.5M - health fee elimination
- mandated reimbursement
claim

Signed gm

TELEPHONE MESSAGE

For Carie

Date 12-17 Time 10 ^{AM} _{PM}

WHILE YOU WERE OUT

M Mary Khoshmashrab

Of State Controllers Office

Phone 327-0490

AREA CODE NUMBER EXTENSION

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input checked="" type="checkbox"/>
Called to See You	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>
Wants to See You	<input type="checkbox"/>	Urgent	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Came to See You	<input type="checkbox"/>

Message Would like to schedule
in Dec. to meet in Jan.

(She was very anxious to hear
from you)

Signed Jim

January 13 -
January 19

12/18 Talked to Mary
She requested mtg on
1st or 2nd wk. of Jan

January 2003

S	M	T	W	T	F	S
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February 2003

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

12/19 12:00pm left msg w/ Mary to schedule appt

Monday, January 13
10:00am 11:30am DO Management (Chancellor's Conf Room)
3:00pm 4:00pm Chancellor's Cabinet
4:00pm 5:00pm LRCCD Management Meeting re: State Budget

Thursday, January 16

12/19 2:45 rec'd msg from Mary to return call.
Rec'd voicemail. left another msg.

12/19 2:50 - scheduled mtg

Jan 14 9:30

12/20/02
10:23

8:30am 12:00pm
1:00pm 5:00pm

Mary
State Controller's Office
Needs fax #
327 0490

Tuesday, January 22

9:00am 9:30am Ginny's Performance Eval (Jon's Office)

12/20 rec'd call from Mary for fax #
Called & left on recorder 1:30

Wednesday, January 23

9:30am 10:00am Board Agenda Review
10:30am 12:00pm Finance & Admin Mgmt (Business Services Conf)
3:00pm 4:30pm Budget Committee (Main Conf Room)
5:30pm 6:00pm Board Meeting

Saturday, January 26



JAN 02 2003
BY:

KATHLEEN CONNELL
Controller of the State of California

December 23, 2002

cc: Ray
Let's discuss
after you've had
chance to look
document
requirements
CB 1/6/03

Ms. Carrie Bray
Director of Accounting Services
District College Services
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Dear Ms. Bray:

This letter is to confirm that the State Controller's Office (SCO) has scheduled an audit of Los Rios Community College's legislatively mandated Health Fee Elimination program claims for fiscal year (FY) 1997-98 through FY 2000-2001, and legislatively mandated Mandate Reimbursement Process program claims for FY 1998-99 through FY 2000-2001.

As discussed during a telephone conversation on December 19, 2002, SCO auditor Mary Khoshmashrab will commence the audit of the subject programs on Thursday, January 16, 2003, beginning with an entrance conference at 9:30 a.m.

We would appreciate your furnishing working accommodations for and providing the necessary records (see attachment) available to Ms. Khoshmashrab.

If you have any questions, please contact me at (916) 445-8519.

Sincerely,

CHRIS PRASAD, Audit Manager
Compliance Audits Bureau
Division of Audits

CP:jj

Attachment

cc: (See Page 2)

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250
SACRAMENTO 300 Capitol Mall, Suite 518, Sacramento, CA 95814 (916) 324-8907
LOS ANGELES 600 Corporate Pointe, Suite 1000, Culver City, CA 90230 (310) 342-5656

EXHIBIT "D"
Page 1

cc: Jon Sharpe
Vice Chancellor of Finance and Administration
Los Rios Community College
Kim Sayles
Supervisor of Grants and Contracts
Los Rios Community College
Jim L. Spano, Chief
Compliance Audits Bureau
Division of Audits
Ginny Brummels, Section Manager
Division of Accounting and Reporting
Mary Khoshmashrab, Auditor
Compliance Audits Bureau
Division of Audits

3552

LOS RIOS COMMUNITY COLLEGE
RECORDS REQUEST FOR HEALTH FEE ELIMINATION AND MANDATED
REIMBURSEMENT PROCESS COST PROGRAM
FYs 1997-98 THROUGH 2000-2001

1. Copy of claims for mandated cost programs and related documentation;
2. Organization charts for the division or units handling the mandated cost program, effective during the audit period and currently, showing employee names and position titles;
3. Chart of accounts;
4. Audit period annual budgets for each college claimed, and a list of revenues and expenditures, including all state and federal grants received;
5. List of services provided for FY 1986-87.
6. List of all employees, showing the classifications, function performed, and actual number of hours devoted to each function;
7. Worksheets supporting the productive hourly rate used, including support for benefits rate used;
8. List of Services and Supplies that identifies the consumption purpose under the mandate;
9. List of student enrollment for each college claimed, for each fiscal year and each semester;
10. Support for costs claimed to derive the indirect costs rate proposal (ICRP) plan;
11. Employee time sheets or time logs claimed on the mandates;
12. Access to payroll records showing employee salaries and benefits paid during the audit period;
13. Access to general ledger accounts supporting disbursements;
14. Supporting documentation for amounts received from other funding sources;
15. Summary report explaining services function codes and provider I.D. codes;
16. Supporting documentation for units of services claimed;
17. List of consultant contracts;
18. Access to clients files;
19. Vendor invoices; and
20. Training agendas and sign-in logs.

Other documentation may be requested.

Exhibit H

CLAIM FOR PAYMENT
Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

(19) Pr. Number 00029
(20) Date file _____/_____/_____
(21) LRS Input _____/_____/_____

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(01) Claimant Identification Number S - 34050
(02) Mailing Address
Claimant Name Los Rios Community College Dist.
County of Location Sacramento
Street Address or P. O. Box 1919 Spanos Court
City Sacramento State Ca. Zip Code 95825

Reimbursement Claim Data
(22) HFE-1.0, (04)(b) 607,532
(23)
(24)
(25)
(26)

Claim File Copy

Type of Claim	Estimated Claim	Reimbursement Claim	
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(27)
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28)
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29)
Fiscal Year of Cost	(06) 19__/19__	(12) 19 <u>97</u> /19 <u>98</u>	(30)
Total Claimed Amount	(07)	(13) 607,532	(31)
Less: 10% Late Penalty, not to exceed \$1000		(14) 1,000	(32)
Less: Estimated Claim Payment Received		(15) 606,532	(33)
Net Claimed Amount		(16)	(34)
Due from State	(08)	(17) 606,532	(35)
Due to State		(18)	(36)

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987; and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987, set forth on the attached statements.

Claim File Copy

Signature of Authorized Representative

Louise Davatz

Type or Print Name

Date _____

Exec. Vice-Chancellor

Title Finance & Administration

(39) Name of Contact Person for Claim SixTen and Associates
Telephone Number (858) 514-8605
Ext. _____

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.0
--	-------------------------

(01) Claimant	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> <input type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 19 ⁹⁷ /19 ⁹⁸
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(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)

	(a) Name of College	(b) Claimed Amount
1.	American River College	248,662
2.	Cosumnes College	125,913
3.	Sacramento City College	232,957
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
(04) Total Amount Claimed		[Line (3.1b) + line (3.2b) + line (3.3b) + ...line (3.21b)] 607,532

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 19 <u>97</u> / 19 <u>98</u>
--	---	--

(03) Name of College American River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP; do not complete the form. No reimbursement is allowed.

LESS <input type="checkbox"/>	SAME <input checked="" type="checkbox"/>	MORE <input type="checkbox"/>	31.17%
----------------------------------	---	----------------------------------	--------

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim..	189,572	59,090	248,662
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	189,572	59,090	248,662

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	15,675		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	15,687		\$ 0.00	\$ 0.00			\$ 0.00
3. Per summer session	6,203		\$ 0.00	\$ 0.00			\$ 0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]	\$ 0.00
(10) Sub-total	[Line (07) - line (09)]	248,662

Cost Reduction

(11) Less: Offsetting Savings, if applicable	
(12) Less: Other Reimbursements, if applicable	
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] 248,662

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 97 98 19__/19__
--	--	-----------------------------------

(03) Name of College **Cosumnes College**

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE 31.17%

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim	95,992	29,921	125,913
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level (Line (05) - line (06))	95,992	29,921	125,913

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (c) - (f)
1. Per fall semester	10,166		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	10,595		\$ 0.00	\$ 0.00			\$ 0.00
3. Per summer session	3,571		\$ 0.00	\$ 0.00			\$ 0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]	\$ 0.00
(10) Sub-total	[Line (07) - line (09)]	125,913

Cost Reduction

(11) Less: Offsetting Savings, if applicable	
(12) Less: Other Reimbursements, if applicable	
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] 125,913

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY							FORM HFE-1.1	
(01) Claimant Los Rios Community College District			(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>			Fiscal Year 97 98 19__/19__		
(03) Name of College Sacramento City College								
(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.								
LESS <input type="checkbox"/>		SAME <input checked="" type="checkbox"/>		MORE <input type="checkbox"/>		31.17%		
						Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim						177,599	55,358	232,957
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87								
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]						177,599	55,358	232,957
(08) Complete columns (a) through (g) to provide detail data for health fees								
Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) - (f)	
1. Per fall semester	12,769		\$ 0.00	\$ 0.00			\$ 0.00	
2. Per spring semester	13,851		\$ 0.00	\$ 0.00			\$ 0.00	
3. Per summer session	5,125		\$ 0.00	\$ 0.00			\$ 0.00	
4. Per first quarter								
5. Per second quarter								
6. Per third quarter								
(09) Total health fee that could have been collected						[Line (8.1g) + (8.2g) +(8.6g)]		\$ 0.00
(10) Sub-total						[Line (07) - line (09)]		232,957
Cost Reduction								
(11) Less: Offsetting Savings, if applicable								
(12) Less: Other Reimbursements, if applicable								
(13) Total Amount Claimed						[Line (10) - (line (11) + line (12))]		232,957

**LOS RIOS COMMUNITY COLLEGE
CALCULATION OF INDIRECT COST RATE,
FISCAL YEAR 1997- 1998**

DESCRIPTION	1997-98
INSTRUCTIONAL ACTIVITY	
Instructional Costs	
Instructional Salaries and Benefits	62,427,826
Instructional Operating Expenses	1,957,752
Instructional Support	192,124
Auxiliary Classes Inst. Salaries and Benefits	33,633
TOTAL INSTRUCTIONAL COSTS 1	64,611,335
Non-Instructional Costs	
Non-Instructional Salaries and Benefits	2,345,567
Instructional Admin. Salaries and Benefits	7,365,842
Instructional Admin. Operating Expenses	867,313
Auxiliary Classes Non-Inst. Salaries and Benefits	351,278
Auxiliary Classes Operating Expenses	520,502
TOTAL NON-INSTRUCTIONAL COSTS 2	11,450,502
TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	76,061,837
DIRECT SUPPORT ACTIVITY	
Direct Support Costs	
Instructional Support Service	2,879,248
Admissions and Records	1,952,626
Counselling and Guidance	8,007,442
Other Student Services	12,423,658
TOTAL DIRECT SUPPORT COSTS 4	25,262,974
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)	
	101,324,811
Indirect Support Costs	
Operation and Maintenance of Plant	11,893,193
Planning and Policy Making	3,219,430
General Instructional Support Services	16,465,360
TOTAL INDIRECT SUPPORT COSTS 6	31,577,983
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS AND TOTAL INDIRECT SUPPORT COSTS (5 + 6) = TOTAL COSTS	
	132,902,794
SUPPORT COSTS ALLOCATION RATES	
Indirect Support Costs Allocation Rate =	
Total Indirect Supports Costs (6)	31.17%
Total Instructional Activity Costs and Direct Support Costs (5)	
Direct Support Costs Allocation Rate =	
Total Direct Support Costs (4)	33.21%
Total Instructional Activity Costs (3)	
Total Support Cost Allocation	64.38%

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LOS RIOS COMMUNITY COLLEGE DISTRICT
 HEALTH FEE ELIMINATI / ANDATED COST CLAIM
 Fiscal Year Ending June 30, 1998

FY	FUND	BUDGET NO.	OBJ CODE	LOC	TITLE	GDLNE	FTE	TOP CODE	OCB NO	OCB TITLE	Total
98	1	11110.11	1204	ARC	CERT. SAL. - NURSES	15E	2	6440.00	G501	HEALTH OFFICE	136,675.00
98	1	11110.22	1404	ARC	SUBS-NURSE	101S	0	6440.00	G501	HEALTH OFFICE	1,456.00
98	1	11110.44	1404	ARC	HEALTH SERVICES SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE	6,557.00
98	1	17121.16	2102	ARC	CL SAL-ATHLETIC TRAINER	21C	1	6440.00	F265	P E & ATHLETICS	52,117.00 *
98	1	17123.10	2102	ARC	CL SAL HEALTH SERVICES	21C	1	6440.00	G501	HEALTH OFFICE	34,929.00
98	1	14460.01	4500	ARC	HEALTH - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE	4,278.00
98	1	14460.03	5200	ARC	HEALTH-CONFERENCE	41A	0	6440.00	G501	HEALTH OFFICE	771.00
98	1	14460.06	5600	ARC	HEALTH CTR-MAINT/REPAIR	41A	0	6440.00	G501	HEALTH OFFICE	277.00
98	1	14460.08	5601	ARC	HEALTH CTR	41A	0	6440.00	G501	HEALTH OFFICE	140.00
98	1	14460.07	5890	ARC	HEALTH-OTHER OPER/PHYSICIANS	41A	0	6440.00	G501	HEALTH OFFICE	2,912
98	1	14460.09	6490	ARC	HEALTH CTR-INOC INC-EQUIP	41X	0	6499.00	G501	HEALTH OFFICE	1,576.00
										ARC Subtotal	<u>241,689.00</u>
98	1	31110.08	1204	CRC	CERT. SAL. - SCHOOL NURSE	15E	1.3	6440.00	G501	HEALTH OFFICE	79,080.00
98	1	31110.37	1404	CRC	HEALTH SVC SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE	15,904.00
98	1	37121.11	2102	CRC	CL SAL-ATHLETIC TRAINER	21C	0.83	6440.00	F111	PE/HEALTH/ARTS/FPC	43,444.00
98	1	34460.01	4500	CRC	HEALTH CENTER - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE	738.00
98	1	32210.02	5200	CRC	MILEAGE-NURSE	41A	0	6440.00	G501	HEALTH OFFICE	151.00
98	1	34460.04	5300	CRC	HEALTH CENTER - MEMBERSHIPS	41A	0	6440.00	G501	HEALTH OFFICE	49.00
98	1	34460.05	5601	CRC	HEALTH CTR-PAGER RENTAL	41A	0	6440.00	G501	HEALTH OFFICE	70.00
										CRC Subtotal	<u>95,912</u>
											<u>139,406.00</u>
98	1	21110.08	1204	SCC	CERT. SAL. - SCHOOL NURSE	15E	2	6440.00	G501	HEALTH OFFICE	164,487.00
98	1	21110.36	1404	SCC	HEALTH SERVICES SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE	7,747
98	1	27121.15	2102	SCC	CL SAL-ATHLETIC TRAINER 12MO.	21C	1	6440.00	F111	PE/HEALTH/ARTS/FPC	51,906.00
98	1	24460.01	4500	SCC	HEALTH CENTER - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE	1,934.00
98	1	22210.02	5200	SCC	MILEAGE - NURSE (HEALTH OFFICE	41A	0	6440.00	G501	HEALTH OFFICE	102.00
98	1	24460.03	5600	SCC	HLTH CTR-OUTSIDE VENDOR	41A	0	6440.00	G501	HEALTH OFFICE	30.00
98	1	24460.02	5890	SCC	HLTH CTR-PERSONAL SVCS	41A	0	6440.00	G501	HEALTH OFFICE	3,303.00
										SCC Subtotal	<u>177,519</u>
											<u>229,504.00</u>
											<u>610,599.00</u>

MANDATED COSTS HEALTH FEE ELIMINATION HEALTH SERVICES		FORM HFE-2	
(01) Claimant <i>LRCCD - SCC</i>	(02) Fiscal Year Costs Were Incurred <i>FY 98-99 + 97-98</i>		
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year. <i>None provided by Student Health Fees</i>		(a) FY 1986/87	(b) FY of Claim
Accident Reports		X	X
Appointments			
College Physician, surgeon			
Dermatology, Family practice			
Internal Medicine			
Outside Physician			
Dental Services			
Outside Labs. (X-ray, etc.)			
Psychologist, full services			
Cancel/Change Appointments		X	X
Registered Nurse			
Check Appointments			
<u>Assessment, Intervention and Counseling</u> <i>only</i>		<i>Cons.</i>	<i>Cons.</i>
Birth Control		X	X
Lab Reports		X	X
Nutrition			
Test Results, office			
Venereal Disease		<i>Cons.</i>	<i>Cons.</i>
Communicable Disease		X	X
Upper Respiratory Infection		<i>Cons.</i>	<i>Cons.</i>
Eyes, Nose and Throat		X	X
Eye/Vision		<i>Cons.</i>	<i>Cons.</i>
Dermatology/Allergy			
Gynecology/Pregnancy Service			
Neuralgic			
Orthopedic			
Genito/Urinary			
Dental			
Gastro-Intestinal		<i>Cons.</i>	<i>Cons.</i>
Stress Counseling		<i>Cons.</i>	<i>Cons.</i>
Crisis Intervention			
Child Abuse Reporting and Counseling			
Substance Abuse Identification and Counseling			
Acquired Immune Deficiency Syndrome			
Eating Disorders			
Weight Control		<i>Cons.</i>	<i>Cons.</i>
Personal Hygiene		<i>Cons.</i>	<i>Cons.</i>
Burnout			
Other Medical Problems, list			
Examinations, minor illnesses			
Recheck Minor Injury			
Health Talks or Fairs, Information		X	X
Sexually Transmitted Disease		X	X
Drugs		X	X
Acquired Immune Deficiency Syndrome			
Child Abuse			

MANDATED COSTS HEALTH FEE ELIMINATION HEALTH SERVICES	FORM HFE-2
--	-----------------------------

(01) Claimant LRCCD-300 (02) Fiscal Year Costs Were Incurred FY 98-99

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Birth Control/Family Planning	X	X
Stop Smoking		
Library, Videos and Cassettes		
First Aid, Major Emergencies	XXX	XXX
First Aid, Minor Emergencies	XXX	X
First Aid Kits, Filled		
Immunizations		
Diphtheria/Tetanus		
Measles/Rubella		
Influenza		
Information		
Insurance		
On Campus Accident		
Voluntary		
Insurance Inquiry/Claim Administration		
Laboratory Tests Done		
Inquiry/Interpretation		
Pap Smears		
Physical Examinations		
Employees		
Students		
Athletes		
Medications		
Antacids		
Antidiarrheal		
Aspirin, Tylenol, etc.		
Skin Rash Preparations		
Eye Drops		
Ear Drops		
Toothache, oil cloves		
Stingkill		
Midol, Menstrual Cramps		
Other, list		
Parking Cards/Elevator Keys		
Tokens		
Return Card/Key		
Parking Inquiry		
Elevator Passes		
Temporary Handicapped Parking Permits		

MANDATED COSTS HEALTH FEE ELIMINATION HEALTH SERVICES	FORM HFE-2
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(01) Claimant <u>LRCCD - Soc</u>	(02) Fiscal Year Costs Were Incurred <u>FY 98-99</u>
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(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Referrals to Outside Agencies		
Private Medical Doctor	X	X
Health Department	X	X
Clinic	X	X
Dental	X	X
Counseling Centers	X	X
Crisis Centers	X	X
Transitional Living Facilities, battered/homeless women	X	X
Family Planning Facilities	X	X
Other Health Agencies		
Tests		
Blood Pressure	X	X
Hearing	X	X
Tuberculosis	X	X
Reading Information	X	X
Vision	X	X
Glucometer	X	X
Unnalysis		
Hemoglobin		
EKG		
Strep A Testing		
PG Testing		
Monospot		
Hemacult		
Others, list		
Miscellaneous		
Absence Excuses/PE Waiver <u>NA</u>		
Allergy Injections <u>NA</u>		
Band-aids	X	X
Booklets/Pamphlets	X	X
Dressing Change <u>NA</u>		
Rest	X	X
Suture Removal <u>NA</u>		
Temperature		
Weigh	X	X
Information		
Report/Form <u>NA</u>	X	X
Wart Removal <u>NA</u>	X	X
Others, list		
Committees		
Safety	X	X
Environmental		
Disaster Planning		
Skin Rash Preparations		
Eye Drops		

Exhibit I

CLAIM RE PAYMENT
Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

(19) Prt Number 00029
(20) Date file _____/_____/_____
(21) LRS Input _____/_____/_____

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(01) Claimant Identification Number S - 34050
(02) Mailing Address
Claimant Name Los Rios Community College Dist.
County of Location Sacramento
Street Address or P. O.. Box 1919 Spanos Court
City Sacramento, State Ca. Zip Code 95825

Claim File Copy

Reimbursement Claim Data	
(22) HFE-1.0, (04)(b)	625,570
(23)	
(24)	
(25)	
(26)	

Type of Claim	Estimated Claim	Reimbursement Claim	
(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(27)	
(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28)	
(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29)	
(06) 19 99 /2000	(12) 19 98 /19 99	(30)	
(07) 600,000	(13) 625,570	(31)	
Less: 10% Late Penalty, not to exceed \$1000	(14) 0	(32)	
Less: Estimated Claim Payment Received	(15) 0	(33)	
Net Claimed Amount	(16) 625,570	(34)	
Due from State (08) 600,000	(17) 625,570	(35)	
Due to State	(18) 0	(36)	
		(37)	

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987; and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1, Statutes of 1984 and Chapter 1118, Statutes of 1987, set forth on the attached statements.

Signature of Authorized Representative
Louise Davatz
Type or Print Name

Claim File Copy
Date 4/27/02
Louise Davatz
Exec. Vice Chancellor
Title Finance & Administration

(39) Name of Contact Person for Claim SixTen and Associates Telephone Number (858) 514-8605 Ext.

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY		FORM HFE-1.0
(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> XXX Estimated <input type="checkbox"/>	Fiscal Year 19 <u>98</u> /19 <u>99</u>
(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)		
(a) Name of College	(b) Claimed Amount	
1. American River College	271,682	
2. Cosumnes College	120,750	
3. Sacramento City College	233,138	
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
(04) Total Amount Claimed	[Line (3.1b) + line (3.2b) + line (3.3b) + ...line (3.21b)]	625,570

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.1**

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 19 <u>98</u> / 19 <u>99</u>
--	--	--

(03) Name of College **American River College**

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

30.40%

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim	208,345	63,337	271,682
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level (Line (05) - line (06))	208,345	63,337	271,682

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	20,038		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	20,805		\$ 0.00	\$ 0.00			\$ 0.00
3. Per summer session	6,767		\$ 0.00	\$ 0.00			\$ 0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]	\$ 0.00
(10) Sub-total	[Line (07) - line (09)]	271,682

Cost Reduction

(11) Less: Offsetting Savings, if applicable		
(12) Less: Other Reimbursements, if applicable		
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))]	271,682

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------

(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1997/1998
--	--	--------------------------

(03) Name of College **Cosumnes College**

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE **30.40%**

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim	92,600	28,150	120,750
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	92,600	28,150	120,750

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	10,963		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	10,520		0.00	0.00			0.00
3. Per summer session	3,750		0.00	0.00			0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							
(09) Total health fee that could have been collected	(Line (8.1g) + (8.2g) +(8.6g))						0.00
(10) Sub-total	(Line (07) - line (09))						120,750
Cost Reduction							
(11) Less: Offsetting Savings, if applicable							
(12) Less: Other Reimbursements, if applicable							
(13) Total Amount Claimed	(Line (10) - (line (11) + line (12)))						120,750

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
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(01) Claimant Los Rios Community College District	(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1998/1999
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(03) Name of College **Sacramento City College**

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE 30.40%

	Direct Cost	Indirect Cost	Total
(05) Cost of health services for the fiscal year of claim	178,787	54,351	233,138
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87			
(07) Cost of providing current fiscal year health services at the 1986/87 level (Line (05) - line (06))	178,787	54,351	233,138

(08) Complete columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	12,119		\$ 0.00	\$ 0.00			\$ 0.00
2. Per spring semester	12,277		\$ 0.00	\$ 0.00			\$ 0.00
3. Per summer session	5,545		\$ 0.00	\$ 0.00			\$ 0.00
4. Per first quarter							
5. Per second quarter							
6. Per third quarter							

(09) Total health fee that could have been collected [Line (8.1g) + (8.2g) +(8.6g)] \$ 0.00

(10) Sub-total [Line (07) - line (09)] 233,138

Cost Reduction

(11) Less: Offsetting Savings, if applicable

(12) Less: Other Reimbursements, if applicable

(13) Total Amount Claimed [Line (10) - (line (11) + line (12))] 233,138

**LOS RIOS COMMUNITY COLLEGE
CALCULATION OF INDIRECT COST RATE,
FISCAL YEAR 1998-1999**

DESCRIPTION	1998-1999
INSTRUCTIONAL ACTIVITY	
Instructional Costs	
Instructional Salaries and Benefits	66,363,220
Instructional Operating Expenses	2,641,529
Instructional Support	211,179
Auxiliary Classes Inst. Salaries and Benefits	32,654
TOTAL INSTRUCTIONAL COSTS 1	69,248,582
Non-Instructional Costs	
Non-Instructional Salaries and Benefits	2,308,758
Instructional Admin. Salaries and Benefits	7,969,569
Instructional Admin. Operating Expenses	1,772,227
Auxiliary Classes Non-Inst. Salaries and Benefits	361,077
Auxiliary Classes Operating Expenses	391,864
TOTAL NON-INSTRUCTIONAL COSTS 2	12,803,495
TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	82,052,077
DIRECT SUPPORT ACTIVITY	
Direct Support Costs	
Instructional Support Service	3,535,803
Admissions and Records	2,040,311
Counseling and Guidance	8,685,890
Other Student Services	13,709,070
TOTAL DIRECT SUPPORT COSTS 4	27,971,074
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)	110,023,151
Indirect Support Costs	
Operation and Maintenance of Plant	12,292,216
Planning and Policy Making	3,367,447
General Instructional Support Services	17,786,018
TOTAL INDIRECT SUPPORT COSTS 6	33,445,681
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS, AND TOTAL INDIRECT SUPPORT COSTS (5 + 6) = TOTAL COSTS	143,468,832
SUPPORT COSTS ALLOCATION RATES	
Indirect Support Costs Allocation Rate =	
Total Indirect Support Costs (6)	30.40%
Total Instructional Activity Costs and Direct Support Costs (5)	
Direct Support Costs Allocation Rate =	
Total Direct Support Costs (4)	34.09%
Total Instructional Activity Costs (3)	
Total Support Cost Allocation	64.49%

LOS RIOS COMMUNITY COLLEGE DISTRICT
 HEALTH FEE ELIMINATION MANDATED COST CLAIM
 Fiscal Year 19 June 30, 1999

HPS

FY	FUND	BUDGET NO.	OBJ CODE	LOC TITLE	GDLNE	FTE	TOP CODE	OCB NO	OCB TITLE
1999	1	11110.11	1204	ARC CERT. SAL. - NURSES	15E	2	6440.00	G501	HEALTH OFFICE
				ARC Benefits					131,992.00
1999	1	11110.11	1204	ARC SUBS-NURSE	101S	0	6440.00	G501	HEALTH OFFICE
				ARC Benefits					18,952.00
1999	1	11110.22	1404	ARC HEALTH SERVICES SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE
				ARC Benefits					518.00
1999	1	11110.44	1404	ARC CL SAL-ATHLETIC TRAINER	21C	1	6440.00	F265	P E & ATHLETICS
				ARC Benefits					74.00
1999	1	17121.16	2102	ARC CL SAL HEALTH SERVICES	21C	1.5	6440.00	G501	HEALTH OFFICE
				ARC Benefits					6,626.00
1999	1	17123.10	2102	ARC HEALTH CTR-STUDENT HELP	41A	0	6440.00	G501	HEALTH OFFICE
				ARC Benefits					951.00
1999	1	14460.05	2303	ARC HEALTH - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE
				ARC HEALTH-CONFERENCE					388.00
1999	1	14460.03	5200	ARC HEALTH CTR	41A	0	6440.00	G501	HEALTH OFFICE
				ARC HEALTH OTHER OPER/PHYSICIANS					8.00
1999	1	14460.07	5890	ARC HEALTH CTR-INOC INC-EQUIP	41X	0	6499.00	G501	HEALTH OFFICE
									3,718.00
1999	1	14460.09	6490						1,017.00
									156.00
									2,769.00
									436.00
									264,309.00
									ARC Subtotal
1999	1	31110.08	1204	CRC CERT. SAL. - SCHOOL NURSE	15E	1.3	6440.00	G501	HEALTH OFFICE
				CRC Benefits					64,302.00
1999	1	31110.37	1404	CRC HEALTH SVC SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE
				CRC Benefits					9,233.00
1999	1	37121.11	2102	CRC CL SAL-ATHLETIC TRAINER	21C	0.83	6440.00	F111	PE/HEALTH/ARTS/FPC
				CRC Benefits					15,618.00
1999	1	34460.01	4500	CRC HEALTH CENTER - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE
				CRC MILEAGE-NURSE					2,242.00
1999	1	32210.02	5200	CRC HEALTH CENTER - MEMBERSHIPS	41A	0	6440.00	G501	HEALTH OFFICE
				CRC HEALTH CTR-PAGER RENTAL					40,764.00
1999	1	34460.04	5300						-5,853.00
									920.00
1999	1	34460.05	5601						140.00
									46.00
									99.00
									139,217.00
									CRC Subtotal
1999	1	21110.08	1204	SCC CERT. SAL. - SCHOOL NURSE	15E	2	6440.00	G501	HEALTH OFFICE
				SCC Benefits					148,611.00
1999	1	21110.36	1404	SCC HEALTH SERVICES SUPPLEMENT	15F	0.16	6440.00	G501	HEALTH OFFICE
				SCC Benefits					21,338.00
1999	1	27121.15	2102	SCC CL SAL-ATHLETIC TRAINER 12MO.	21C	1	6440.00	F111	PE/HEALTH/ARTS/FPC
				SCC Benefits					6,333.00
1999	1	24460.01	4500	SCC HEALTH CENTER - SUPPLIES	41A	0	6440.00	G501	HEALTH OFFICE
				SCC HLTH CTR-PERSONAL SVCS					909.00
1999	1	24460.02	5890		41A	0	6440.00	G501	HEALTH OFFICE
									46,745.00
									6,999.00
									1,187.00
									409.00
									176,787.00
									234,531.00
									SCC Subtotal
									638,057.00

MANDATED COSTS HEALTH FEE ELIMINATION HEALTH SERVICES		FORM HFE-2	
(01) Claimant <i>LRCCD - SCC</i>	(02) Fiscal Year Costs Were Incurred <i>FY 98-99 + 97-98</i>		
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year. <i>None provided by Student Health Fees</i>	(a) FY 1986/87	(b) FY of Claim	
Accident Reports	X	X	
Appointments College Physician, surgeon Dermatology, Family practice Internal Medicine Outside Physician Dental Services Outside Labs, (X-ray, etc.) Psychologist, full services Cancel/Change Appointments Registered Nurse Check Appointments	X	X	
<i>Assessment, Intervention and Counseling only</i>	<i>Couns.</i>	<i>Couns.</i>	
Birth Control	X	X	
Lab Reports	X	X	
Nutrition			
Test Results, office	<i>Couns.</i>	<i>Couns.</i>	
Venereal Disease	X	X	
Communicable Disease	X	X	
Upper Respiratory Infection	<i>Couns.</i>	<i>Couns.</i>	
Eyes, Nose and Throat	X	X	
Eye/Vision	<i>Couns.</i>	<i>Couns.</i>	
Dermatology/Allergy			
Gynecology/Pregnancy Service			
Neuralgic			
Orthopedic			
Genito/Urinary			
Dental			
Gastro-Intestinal	<i>Couns.</i>	<i>Couns.</i>	
Stress Counseling	<i>Couns.</i>	<i>Couns.</i>	
Crisis Intervention			
Child Abuse Reporting and Counseling			
Substance Abuse Identification and Counseling			
Acquired Immune Deficiency Syndrome			
Eating Disorders	<i>Couns.</i>	<i>Couns.</i>	
Weight Control	<i>Couns.</i>	<i>Couns.</i>	
Personal Hygiene			
Burnout			
Other Medical Problems, list			
Examinations, minor illnesses			
Recheck Minor Injury			
Health Talks or Fairs, Information	X	X	
Sexually Transmitted Disease	X	X	
Drugs	X	X	
Acquired Immune Deficiency Syndrome			
Child Abuse			

MANDATED COSTS HEALTH FEE ELIMINATION HEALTH SERVICES	FORM HFE-2
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(01) Claimant <u>LRCCD-SCC</u>	(02) Fiscal Year Costs Were Incurred <u>FY 98-99</u>
--------------------------------	--

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Birth Control/Family Planning	X	X
Stop Smoking		
Library, Videos and Cassettes		
First Aid, Major Emergencies	XXX	XX
First Aid, Minor Emergencies	XX	X
First Aid Kits, Filled		
Immunizations		
Diphtheria/Tetanus		
Measles/Rubella		
Influenza		
Information		
Insurance		
On Campus Accident		
Voluntary		
Insurance Inquiry/Claim Administration		
Laboratory Tests Done		
Inquiry/Interpretation		
Pap Smears		
Physical Examinations		
Employees		
Students		
Athletes	Y	X
Medications		
Antacids	X	X
Antidiarrheal		
Aspirin, Tylenol, etc.	XX	X
Skin Rash Preparations	X	X
Eye Drops		
Ear Drops	Y	X
Toothache, oil cloves	Y	X
Stingkill		
Midol, Menstrual Cramps		
Other, list		
Parking Cards/Elevator Keys		
Tokens		
Return Card/Key		
Parking Inquiry		
Elevator Passes		
Temporary Handicapped Parking Permits	X	X

MANDATED COSTS HEALTH FEE ELIMINATION HEALTH SERVICES	FORM HFE-2
--	-----------------------------

(01) Claimant <u>LRCCD - See</u>	(02) Fiscal Year Costs Were Incurred <u>FY 98-99</u>
----------------------------------	--

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Referrals to Outside Agencies		
Private Medical Doctor	X	X
Health Department	X	X
Clinic	X	X
Dental	X	X
Counseling Centers	X	X
Crisis Centers	X	X
Transitional Living Facilities, battered/homeless women X	X	X
Family Planning Facilities	X	X
Other Health Agencies		
Tests		
Blood Pressure	X	X
Hearing	X	X
Tuberculosis		
Reading Information	X	X
Vision	X	X
Glucometer	X	X
Urinalysis		
Hemoglobin		
EKG		
Strep A Testing		
PG Testing		
Monospot		
Hemacult		
Others; list		
Miscellaneous		
Absence Excuses/PE Waiver NA		
Allergy Injections NA		
Band-aids	X	X
Booklets/Pamphlets	X	X
Dressing Change NA		
Rest		
Suture Removal NA	X	X
Temperature		
Weigh	X	X
Information		
Report/Form NA	X	X
Wart Removal NA	X	X
Others; list		
Committees		
Safety	X	X
Environmental		
Disaster Planning		
Skin Rash Preparations		
Eye Drops		

Exhibit J

CLAIM FOR PAYMENT
 Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

For State Controller Use only

(19) Program Number 00029
 (20) Date File ____/____/____
 (21) LRS Input ____/____/____

(01) Claimant Identification Number: S-34050			Reimbursement Claim Data	
(02) Mailing Address:			(22) HFE - 1.0, (04)(b)	\$ 634,185
Claimant Name Los Rios Community College			(23)	
County of Location Sacramento			(24)	
Street Address 1919 Spanos Court			(25)	
City Sacramento	State CA	Zip Code 95825	(26)	
Type of Claim	Estimated Claim	Reimbursement Claim	(27)	
	(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(28)	
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(29)	
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(30)	
Fiscal Year of Cost	(06) 2000-2001	(12) 1999-2000	(31)	
Total Claimed Amount	(07) \$ 650,000	(13) \$ 634,185	(32)	
Less: 10% Late Penalty, but not to exceed \$1000		(14) \$ -	(33)	
Less: Estimate Claim Payment Received		(15) \$ 185,001	(34)	
Net Claimed Amount		(16) \$ 449,184	(35)	
Due from State	(08) \$ 650,000	(17) \$ 449,184	(36)	
Due to State		(18) \$ -	(37)	

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code Section 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 309, Statutes of 1995, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 309, Statutes of 1995.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 309, Statutes of 1995, set forth on the attached statements.

Signature of Authorized Representative

Date

Louise Davatz *Claim File Copy*

Louise Davatz

Vice Chancellor - Finance & Administration

Type or Print Name

Title

(39) Name of Contact Person or Claim

Telephone Number

SixTen & Associates

(858) 514-8605

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.0
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(01) Claimant: Claimant Name Los Rios Community College	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1999-2000
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(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)

(a) Name of College	(b) Claimed Amount
1. American River College	\$ 258,456.71
2. Consumnes River College	\$ 125,478.70
3. Sacramento City College	\$ 250,249.34
4.	\$ -
5.	\$ -
6.	\$ -
7.	\$ -
8.	\$ -
9.	\$ -
10.	\$ -
11.	\$ -
12.	\$ -
13.	\$ -
14.	\$ -
15.	\$ -
16.	\$ -
17.	\$ -
18.	\$ -
19.	\$ -
20.	\$ -
21.	\$ -
(04) Total Amount Claimed	\$ 634,185

[Line (3.1b) + line (3.2b) + line (3.3b) + ...line (3.21b)]

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.1**

<p>(01) Claimant: Los Rios Community College</p>	<p>(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/></p>	<p>Fiscal Year 1999-2000</p>
---	--	---------------------------------------

(03) Name of College American River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.40%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 198,203	\$ 60,254	\$ 258,457
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 198,203	\$ 60,254	\$ 258,457

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	22,774		no fees			\$ -	\$ -
2. Per spring semester	23,368		no fees			\$ -	\$ -
3. Per summer session	8,271		no fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						\$ -
(10) Sub-total	[Line (07) - line (09)]						\$ 258,457

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] \$ 258,457

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.1**

(01) Claimant: Los Rios Community College	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1999-2000
---	---	------------------------------

(03) Name of College Consumnes River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.40%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 96,226	\$ 29,253	\$ 125,479
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 96,226	\$ 29,253	\$ 125,479

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	12,229		no fees			\$ -	\$ -
2. Per spring semester	12,660		no fees			\$ -	\$ -
3. Per summer session	4,004		no fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						\$ -
(10) Sub-total	[Line (07) - line (09)]						\$ 125,479

Cost Reduction

(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	[Line (10) - {(line (11) + line (12))}] \$ 125,479

MANDATED COSTS HEALTH FEE ELIMINATION CLAIM SUMMARY	FORM HFE-1.1
--	-------------------------------

(01) Claimant: Los Rios Community College	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 1999-2000
---	---	------------------------------

(03) Name of College Sacramento City College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.40%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 191,909	\$ 58,340	\$ 250,249
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 191,909	\$ 58,340	\$ 250,249

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	13,074		no fees			\$ -	\$ -
2. Per spring semester	13,104		no fees			\$ -	\$ -
3. Per summer session	5,997		no fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -

(09) Total health fee that could have been collected [Line (8.1g) + (8.2g) +(8.6g)] \$ -

(10) Sub-total [Line (07) - line (09)] \$ 250,249

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed [Line (10) - (line (11) + line (12))]	\$ 250,249

**LOS RIOS COMMUNITY COLLEGE
CALCULATION OF INDIRECT COST RATE,
FISCAL YEAR 1998-1999**

**FOR FY 1999-2000
COSTS**

DESCRIPTION	1998-1999
INSTRUCTIONAL ACTIVITY	
Instructional Costs	
Instructional Salaries and Benefits	66,363,220
Instructional Operating Expenses	2,641,529
Instructional Support	211,179
Auxiliary Classes Inst. Salaries and Benefits	32,654
TOTAL INSTRUCTIONAL COSTS 1	69,248,582
Non-Instructional Costs	
Non-Instructional Salaries and Benefits	2,308,758
Instructional Admin. Salaries and Benefits	7,969,569
Instructional Admin. Operating Expenses	1,772,227
Auxiliary Classes Non-Inst. Salaries and Benefits	361,077
Auxiliary Classes Operating Expenses	391,864
TOTAL NON-INSTRUCTIONAL COSTS 2	12,803,495
TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	82,052,077
DIRECT SUPPORT ACTIVITY	
Direct Support Costs	
Instructional Support Service	3,535,803
Admissions and Records	2,040,311
Counseling and Guidance	8,685,890
Other Student Services	13,709,070
TOTAL DIRECT SUPPORT COSTS 4	27,971,074
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)	110,023,151
Indirect Support Costs	
Operation and Maintenance of Plant	12,292,216
Planning and Policy Making	3,367,447
General Instructional Support Services	17,786,018
TOTAL INDIRECT SUPPORT COSTS 6	33,445,681
TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS AND TOTAL INDIRECT SUPPORT COSTS (5 + 6) = TOTAL COSTS	143,468,832
SUPPORT COSTS ALLOCATION RATES	
Indirect Support Costs Allocation Rate =	
Total Indirect Supports Costs (6)	30.40%
Total Instructional Activity Costs and Direct Support Costs (5)	
Direct Support Costs Allocation Rate =	
Total Direct Support Costs (4)	34.09%
Total Instructional Activity Costs (3)	
Total Support Cost Allocation	64.49%

**LOS RIOS COMMUNITY COLLEGE DISTRICT
HEALTH FEE ELIMINATION CLAIM 1999-2000
STUDENT ENROLLMENT**

CAMPUS		FALL 1999	SPRING 2000	SUMMER 2000	TOTALS
AMERICAN RIVER	TOTAL	29472	29995	10558	70025
	BOGG	<u>-6698</u>	<u>-6627</u>	<u>-2287</u>	<u>-15612</u>
		22774	23368	8271	54413
COSUMNES	TOTAL	15882	16432	5350	37664
	BOGG	<u>-3653</u>	<u>-3772</u>	<u>-1346</u>	<u>-8771</u>
		12229	12660	4004	28893
SACRAMENTO CIT	TOTAL	19952	19754	9419	49125
	BOGG	<u>-6878</u>	<u>-6650</u>	<u>-3422</u>	<u>-16950</u>
		13074	13104	5997	32175
DISTRICT	TOTAL	65306	66181	25327	156814
	BOGG	<u>-17229</u>	<u>-17049</u>	<u>-7055</u>	<u>-41333</u>
	NET ENR	48077	49132	18272	115481

LOS RIOS COMMUNITY COLLEGE DISTRICT

Health Elimination Mandated Cost Claim

FYE Jun. 2000

Account	Account Title	GL Totals by Campus				Adjustments to tie to 311				311 Totals Allocated by Campus				
		ARC	CRC	SCC	PE	GL Total	Allocations	Retro	Benefits	ARC	CRC	SCC	Subtotal	PE
1204	Reg Health Svcs Salaries	111,652.40	62,455.70	144,342.00	318,450.10			19,886.44		338,336.54	153,355.81	338,336.54	0.00	338,336.54
	Benefits			0.00	0.00				50,192.55	50,192.55	22,750.48	50,192.55	0.00	50,192.55
1404	Non-Reg Health Svcs Salaries	7,233.05	15,380.79	7,228.78	29,842.62			1,092.34		30,934.96	7,493.38	30,934.96	0.00	30,934.96
	Benefits			0.00	0.00				4,589.23	4,589.23	1,111.65	4,589.23	0.00	4,589.23
2102	Reg Classified Salaries	32,699.91			77,121.78		1,420.62	6,415.33		84,957.73	0.00	36,022.38	48,935.35	84,957.73
	Benefits			0.00	0.00				12,603.56	12,603.56	0.00	5,343.95	7,259.61	12,603.56
2303	Student Help Wages	1,131.60			1,131.60		216.51			1,348.11	0.00	1,348.11	0.00	1,348.11
	Benefits			0.00	0.00				26.96	26.96	0.00	26.96	0.00	26.96
4500	Non-Inst-Supplies & Materials	3,777.83	1,538.37	2,320.01	7,636.21	(87.63)				7,548.58	2,293.39	7,548.58	0.00	7,548.58
5200	Travel & Conference	743.40	62.43	167.78	973.61	(1.27)				972.34	167.56	972.34	0.00	972.34
5201	Mileage - In District		28.00		28.00	(0.58)				27.42	0.00	27.42	0.00	27.42
5300	Dues and Membership		50.00		50.00	(1.03)				48.97	0.00	48.97	0.00	48.97
5600	Repairs	140.00			140.00	(2.55)				137.45	0.00	137.45	0.00	137.45
5601	Rents and Leases	118.00	59.00		177.00	(3.66)				115.56	57.78	173.34	0.00	173.34
5890	Other Operational Expense	2,957.50		2,940.00	5,897.50	3,603.13				4,764.41	0.00	9,500.63	0.00	9,500.63
6490	Equipment Capitalized	1,125.73			1,125.73	8.65				1,134.38	0.00	1,134.38	0.00	1,134.38
		161,579.42	79,574.29	156,998.57	442,574.15	5,152.19	27,394.11	67,412.30		198,203.14	96,226.16	486,337.79	56,194.96	542,532.75

<p align="center">MANDATED COSTS HEALTH FEE ELIMINATION COMPONENT/ACTIVITY COST DETAIL</p>	<p align="center">FORM HFE-2.1</p>	
<p>(01) Claimant Los Rios Community College District</p>	<p align="center">Fiscal Year 1999-2000</p>	
<p>(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.</p>	<p align="center">(a) FY 1986/87</p>	<p align="center">(b) FY of Claim</p>
<p>Accident Reports</p>	X	X
<p>Appointments</p>		
<p> College Physician, surgeon</p>		
<p> Dermatology, Family practice</p>		
<p> Internal Medicine</p>		
<p> Outside Physician</p>		
<p> Dental Services</p>		
<p> Outside Labs, (X-ray, etc.,)</p>		
<p> Psychologist, full services</p>		
<p> Cancel/Change Appointments</p>		
<p> Registered Nurse</p>	X	X
<p> Check Appointments</p>		
<p>Assessment, and Counseling (only)</p>		
<p> Birth Control</p>		
<p> Lab Reports</p>		
<p> Nutrition</p>	X	X
<p> Test Results, office</p>		
<p> Venereal Disease</p>	X	X
<p> Communicable Disease</p>	X	X
<p> Upper Respiratory Infection</p>	X	X
<p> Eyes, Nose and Throat</p>		
<p> Eye/Vision</p>	X	X
<p> Dermatology/Allergy</p>		
<p> Gynecology/Pregnancy Service</p>	X	X
<p> Neuralgic</p>		
<p> Orthopedic</p>		
<p> Genito/Urinary</p>		
<p> Dental</p>		
<p> Gastro-Intestinal</p>		
<p> Stress Counseling</p>	X	X
<p> Crisis Intervention</p>	X	X
<p> Child Abuse Reporting and Counseling</p>		
<p> Sunstance Abuse Identification and Counseling</p>		
<p> Eating Disorders</p>		
<p> Weight Control</p>	X	X
<p> Personal Hygiene</p>		
<p> Burnout</p>		
<p> Other Medical Problems, list</p>		
<p>Examinations, minor illnesses</p>		
<p> Recheck Minor Injury</p>		
<p>Health Talks or Fairs, Information</p>		
<p> Sexually Transmitted Disease</p>	X	X
<p> Drugs</p>	X	X
<p> Acquired Immune Deficiency Syndrome</p>	X	X
<p> Child Abuse</p>		

MANDATED COSTS HEALTH FEE ELIMINATION COMPONENT/ACTIVITY COST DETAIL		FORM HFE-2.1	
(01) Claimant Los Rios Community College District		Fiscal Year 1999-2000	
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.		(a) FY 1986/87	(b) FY of Claim
Birth Control/Family Planning		X	X
Stop Smoking			
Library, Videos and Cassettes			
First Aid, Major Emergencies		X	X
First Aid, Minor Emergencies		X	X
First Aid Kits, Filled		X	X
Immunizations			
Diphtheria/Tetanus			
Measles/Rubella			
Influenza			
Information		X	X
Insurance			
On Campus Accident		X	X
Voluntary		X	X
Insurance Inquiry/Claim Administration			
Laboratory Tests Done			
Inquiry/Interpretation			
Pap Smears			
Physical Examinations			
Employees			
Students			
Athletes		X	X
Medications			
Antacids		X	X
Antidiarrheal			
Aspirin, Tylenol, etc.,		X	X
Skin Rash Preparations		X	X
Eye Drops		X	X
Ear Drops			
Toothache, oil cloves			
Stingkill		X	X
Midol, Menstrual Cramps		X	X
Other, list--> Ibuprofen			
Parking Cards/Elevator Keys			
Tokens			
Return Card/Key			
Parking Inquiry		X	X
Elevator Passes			
Temporary Handicapped Parking Permits		X	X

MANDATED COSTS HEALTH FEE ELIMINATION COMPONENT/ACTIVITY COST DETAIL		FORM HFE-2.1	
(01) Claimant Los Rios Community College District		Fiscal Year 1999-2000	
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.		(a) FY 1986/87	(b) FY of Claim
Referrals to Outside Agencies			
Private Medical Doctor		X	X
Health Department		X	X
Clinic		X	X
Dental		X	X
Counseling Centers		X	X
Crisis Centers		X	X
Transitional Living Facilities, battered/homeless women		X	X
Family Planning Facilities		X	X
Other Health Agencies		X	X
Tests			
Blood Pressure		X	X
Hearing		X	X
Tuberculosis			
Reading		X	X
Information			
Vision		X	X
Glucometer		X	X
Urinalysis			
Hemoglobin			
EKG			
Strep A Testing			
PG Testing			
Monospot			
Hemacult			
Others, list			
Miscellaneous			
Absence Excuses/PE Waiver		X	X
Allergy Injections			
Bandaids		X	X
Booklets/Pamphlets		X	X
Dressing Change			
Rest		X	X
Suture Removal			
Temperature		X	X
Weigh		X	X
Information		X	X
Report/Form			
Wart Removal			
Others, list		X	X
Committees			
Safety		X	X
Environmental			
Disaster Planning			
Skin Rash Preparations			
Eye Drops			

Exhibit K

CLAIM FOR PAYMENT
Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

For State Controller Use only
(19) Program Number 00029
(20) Date File ___/___/___
(21) LRS Input ___/___/___

L
A
B
E
L
H
E
R
E

Claimant Identification Number:

S-34050

Reimbursement Claim Data

(02) Mailing Address:

(22) HFE - 1.0, (04)(b)

\$ 667,337

Claimant Name

Los Rios Community College District

Claim File Copy

(23)

County of Location

Sacramento

(24)

Street Address

1919 Spanos Court

(25)

City

Sacramento

State

CA

Zip Code

95825

(26)

Type of Claim

Estimated Claim

Reimbursement Claim

(27)

(03) Estimated

(09) Reimbursement

(28)

(04) Combined

(10) Combined

(29)

(05) Amended

(11) Amended

(30)

Fiscal Year of Cost

(06) 2001-2002

(12) 2000-2001

(31)

Total Claimed Amount

(07) \$ 730,000

(13) \$ 667,337

(32)

Less: 10% Late Penalty, but not to exceed \$1000

(14) \$ -

(33)

Plus: Estimate Claim Payment Received

(15) \$ 187,592

(34)

Net Claimed Amount

(16) \$ 479,745

(35)

Due from State

(08) \$ 730,000

(17) \$ 479,745

(36)

Due to State

(18) \$ -

(37)

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code § 17561, I certify that I am the officer authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987, set forth on the attached statements.

Signature of Authorized Officer

Theresa Matista

Date

1/9/2002

Theresa Matista

Interim Vice Chancellor, Finance and Admin.

Type or Print Name

Title

(9) Name of Contact Person or Claim

Telephone Number (858) 514-8605

SixTen and Associates

E-Mail Address kbpsixten@aol.com

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.0**

(01) Claimant: Claimant Name Los Rios Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2000-2001
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(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)

	(b) Claimed Amount
(a) Name of College	
1. American River College	\$ 267,203.67
2. Cosumnes River College	\$ 131,951.72
3. Sacramento City College	\$ 268,181.66
4.	\$ -
5.	\$ -
6.	\$ -
7.	\$ -
8.	\$ -
9.	\$ -
10.	\$ -
11.	\$ -
12.	\$ -
13.	\$ -
14.	\$ -
15.	\$ -
16.	\$ -
17.	\$ -
18.	\$ -
19.	\$ -
20.	\$ -
21.	\$ -
(04) Total Amount Claimed	\$ 667,337

[Line (3.1b) + line (3.2b) + line (3.3b) + ...line (3.21b)]

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.1**

(01) Claimant: Los Rios Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2000-2001
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(03) Name of College American River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 31.45%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 203,274	\$ 63,930	\$ 267,204
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 203,274	\$ 63,930	\$ 267,204

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	25,192		No fees			\$ -	\$ -
2. Per spring semester	24,205		No fees			\$ -	\$ -
3. Per summer session	9,825		No fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						\$ -
(10) Sub-total	[Line (07) - line (09)]						\$ 267,204

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] \$ 267,204

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.2**

(01) Claimant:

Los Rios Community College District

(02) Type of Claim:

Reimbursement

Estimated

Fiscal Year

2000-2001

(03) Name of College

Cosumnes River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 31.45%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 100,382	\$ 31,570	\$ 131,952
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 100,382	\$ 31,570	\$ 131,952

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	14,245		No fees			\$ -	\$ -
2. Per spring semester	14,733		No fees			\$ -	\$ -
3. Per summer session	5,158		No fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						\$ -
(10) Sub-total	[Line (07) - line (09)]						\$ 131,952
Cost Reduction							
(11) Less: Offsetting Savings, if applicable							\$ -
(12) Less: Other Reimbursements, if applicable							\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))]						\$ 131,952

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.3**

(01) Claimant: Los Rios Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2000-2001
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(03) Name of College: Sacramento City College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 31.45%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 204,018	\$ 64,164	\$ 268,182
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 204,018	\$ 64,164	\$ 268,182

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester	16,904		No fees			\$ -	\$ -
2. Per spring semester	16,564		No fees			\$ -	\$ -
3. Per summer session	7,850		No fees			\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						\$ -
(10) Sub-total	[Line (07) - line (09)]						\$ 268,182
Cost Reduction							
(11) Less: Offsetting Savings, if applicable							\$ -
(12) Less: Other Reimbursements, if applicable							\$ -
(13) Total Amount Claimed	[Line (10) - {(line (11) + line (12))}]						\$ 268,182

**3 RIOS COMMUNITY COLLEGE
CALCULATION OF INDIRECT COST RATE,
FISCAL YEAR 1999-2000 CCFS 311 FOR 2000-2001 RATE**

REFERENCE (CCFS 311)	DESCRIPTION	1999-2000
<i>INSTRUCTIONAL ACTIVITY</i>		
	Instructional Costs	
	Instructional Salaries and Benefits	70,983,417
	Instructional Operating Expenses	3,674,093
	Instructional Support	241,888
	Auxiliary Classes Inst. Salaries and Benefits	27,282
	TOTAL INSTRUCTIONAL COSTS 1	74,926,680
	Non-Instructional Costs	
	Non-Instructional Salaries and Benefits	3,793,275
	Instructional Admin. Salaries and Benefits	8,364,740
	Instructional Admin. Operating Expenses	1,803,836
	Auxiliary Classes Non-Inst. Salaries and Benefits	725,149
	Auxiliary Classes Operating Expenses	560,834
	TOTAL NON-INSTRUCTIONAL COSTS 2	15,247,834
	TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	90,174,514
<i>DIRECT SUPPORT ACTIVITY</i>		
	Direct Support Costs	
	Instructional Support Service	4,803,997
	Admissions and Records	2,117,273
	Counselling and Guidance	9,941,803
	Other Student Services	13,082,464
	TOTAL DIRECT SUPPORT COSTS 4	29,945,537
	<u>TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)</u>	120,120,051
	Indirect Support Costs	
	Operation and Maintenance of Plant	13,331,397
	Planning and Policy Making	4,090,923
	General Instructional Support Services	20,355,449
	TOTAL INDIRECT SUPPORT COSTS 6	37,777,769
	<u>TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS, AND TOTAL INDIRECT SUPPORT COSTS (5 + 6) = TOTAL COSTS</u>	157,897,820
	<u>SUPPORT COSTS ALLOCATION RATES</u>	
Indirect Support Costs Allocation Rate =	Total Indirect Supports Costs (6) Total Instructional Activity Costs and Direct Support Costs (5)	31.45%
Direct Support Costs Allocation Rate =	Total Direct Support Costs (4) Total Instructional Activity Costs (3)	33.21%
Total Support Cost Allocation		64.66%

LOS RIOS COMMUNITY COLLEGE DISTRICT
 Health Fee Elimination Monitored Cost Claim
 For FYE June 30, 2001

Account	Account Title	GL Totals by Campus				Adjustments to lbs to 311				311 Totals Allocated by Campus				
		AIC	CRC	SCC	PE	GL Total	Allocations	Retip	Benefits	AIC	CRC	SCC	Subtotal	PE
1204	Reg Health Svcs Salaries	118,664.10	59,453.70	161,679.15		329,966.95	(147,89)	24,471.38		354,290.53	162,800.21	354,290.53	0.00	354,290.53
	Benefits				0.00	69,937.26				69,937.26	27,092.27	98,937.26	0.00	98,937.26
1404	Non-Reg Health Svcs Salaries	1,591.67	19,459.06	7,529.05		28,580.68		2,228.25		30,808.93	6,116.95	30,808.93	0.00	30,808.93
	Benefits				0.00	6,125.16				6,125.16	1,350.19	6,125.16	0.00	6,125.16
2102	Reg Classified Salaries	34,866.06		40,681.44		63,217.49	2,316.11	7,377.54		72,914.14	0.00	38,616.08	64,298.06	92,914.14
	Benefits				0.00	15,066.98				15,066.98	0.00	4,281.99	8,604.99	16,066.98
2303	Student Help Wages	1,265.32				1,286.32	338.05	3.59		2,889	0.00	1,627.97	0.00	1,627.97
	Benefits				0.00	26.89				26.89	0.00	26.89	0.00	26.89
4800	Non-Instr Supplies & Materials	1,441.44	1,361.17	1,525.78		4,328.39	144.05			4,472.44	1,576.96	4,472.44	0.00	4,472.44
6200	Travel & Conference	1,348.78		204.00		1,552.78	(155.75)			1,476.03	256.74	1,476.03	0.00	1,476.03
6301	Miscogst - in District					6.00				6.00	0.00	0.00	0.00	6.00
6300	Dues and Membership	308.90	50.00			50.00	(4.89)			45.20	0.00	45.20	0.00	45.20
6401	Rents and Leases	104.21	36.06			398.80	(58.30)			340.50	0.00	340.50	0.00	340.50
6690	Other Operational Expense	3,022.50		3,062.00		140.29	(13.46)			32.62	0.00	32.62	0.00	32.62
6499	Equipment Capitalized					6,082.50	(583.94)			5,498.56	2,766.23	5,498.56	0.00	5,498.56
					0.00	0.00				0.00	0.00	0.00	0.00	0.00
		162,631.97	80,340.80	164,077.97	48,631.44	456,684.30	1,556.17	34,080.76	79,158.29	570,776.52	190,381.68	570,776.52	63,105.05	570,776.52



**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

Claimant	Fiscal Year	
Los Rios Community College District	2000-2001	
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Accident Reports	X	X
Appointments		
College Physician, surgeon		
Dermatology, Family practice		
Internal Medicine		
Outside Physician		
Dental Services		
Outside Labs, (X-ray, etc.,)		
Psychologist, full services		X
Cancel/Change Appointments	X	X
Registered Nurse		X
Check Appointments		
Assessment, Intervention and Counseling		
Birth Control		X
Lab Reports	X	X
Nutrition		X
Test Results, office	X	X
Venereal Disease	X	X
Communicable Disease	X	X
Upper Respiratory Infection		X
Eyes, Nose and Throat		X
Eye/Vision	X	X
Dermatology/Allergy		X
Gynecology/Pregnancy Service	X	X
Neuralgic		X
Orthopedic		X
Genito/Urinary		X
Dental		X
Gastro-Intestinal		X
Stress Counseling	X	X
Crisis Intervention	X	X
Child Abuse Reporting and Counseling		X
Substance Abuse Identification and Counseling		X
Eating Disorders		X
Weight Control	X	X
Personal Hygiene		X
Burnout		
Other Medical Problems, list		
Examinations, minor illnesses		
Recheck Minor Injury		X
Health Talks or Fairs, Information		
Sexually Transmitted Disease	X	X
Drugs	X	X
Acquired Immune Deficiency Syndrome		X
Child Abuse		X

**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

Claimant Los Rios Community College District	Fiscal Year 2000-2001	
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.	(a) FY 1986/87	(b) FY of Claim
Birth Control/Family Planning	X	X
Stop Smoking		X
Library, Videos and Cassettes		X
First Aid, Major Emergencies	X	X
First Aid, Minor Emergencies	X	X
First Aid Kits, Filled	X	X
Immunizations		
Diphtheria/Tetanus		X
Measles/Rubella		X
Influenza		X
Information	X	X
Hepatitis B		X
Insurance		
On Campus Accident	X	
Voluntary	X	X
Insurance Inquiry/Claim Administration		X
Laboratory Tests Done		
Inquiry/Interpretation		X
Pap Smears		
Physical Examinations		
Employees		
Students		
Athletes	X	X
Medications		
Antacids	X	X
Antidiarrheal		X
Aspirin, Tylenol, etc.,	X	X
Skin Rash Preparations	X	X
Eye Drops	X	X
Ear Drops		
Toothache, oil cloves		
Stingkill	X	X
Midol, Menstrual Cramps	X	X
Others, list: Acetaminophen, Albutrol, Aliminum Hydroxide, Antibiotic Ointment, Benedryl Pepto Bismol, Caladryl, Cough Crops, Dextromethorphan, Epinephrine, Glucose, Imodium, ibuprofen, Hydrocortisone, Pseudoephedrine, Saline Solution, Ipecac, Syrup, & Zanatac	X	X
Parking Cards/Elevator Keys		
Tokens		
Return Card/Key		
Parking Inquiry	X	X
Elevator Passes		
Temporary Handicapped Parking Permits	X	X

**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

Claimant	Fiscal Year	
	(a) FY 1986/87	(b) FY of Claim
Los Rios Community College District		2000-2001
(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.		
Referrals to Outside Agencies	X	X
Private Medical Doctor	X	X
Health Department	X	X
Clinic	X	X
Dental	X	X
Counseling Centers	X	X
Crisis Centers	X	X
Transitional Living Facilities, battered/homeless women	X	X
Family Planning Facilities	X	X
Other Health Agencies		
Tests	X	X
Blood Pressure	X	X
Hearing		
Tuberculosis	X	X
Reading		X
Information	X	X
Vision	X	X
Glucometer		
Urinalysis		
Hemoglobin		
EKG		
Strep A Testing		X
PG Testing		
Monospot		
Hemacult		
Others, list		
Miscellaneous	X	X
Absence Excuses/PE Waiver		
Allergy Injections	X	X
Bandaids	X	X
Booklets/Pamphlets		X
Dressing Change	X	X
Rest		X
Suture Removal	X	X
Temperature	X	X
Weigh	X	X
Information		X
Report/Form		
Wart Removal	X	X
Others, list See medications - page #2		
Committees	X	X
Safety		X
Environmental		X
Disaster Planning		
Skin Rash Preparations		
Eye Drops		

Exhibit L

CLAIM FOR PAYMENT
 Pursuant to Government Code Section 17561
HEALTH FEE ELIMINATION

For State Controller Use only
 (19) Program Number 00029
 (20) Date File ___/___/___
 (21) LRS Input ___/___/___

Reimbursement Claim Data

(1) Claimant Identification Number:
 S-34050

(02) Mailing Address: **Claim File Copy**

Claimant Name
 Los Rios Community College District

County of Location
 Sacramento

Street Address
 1919 Spanos Court

City State Zip Code
 Sacramento CA 95825

(22) HFE - 1.0, (04)(b)	\$ 671,976
(23)	
(24)	
(25)	
(26)	
(27)	
(28)	
(29)	
(30)	
(31)	
(32)	
(33)	
(34)	
(35)	
(36)	
(37)	

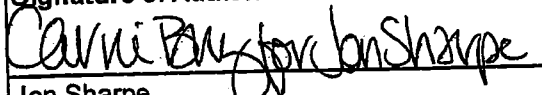
Type of Claim	Estimated Claim	Reimbursement Claim
(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(27)
(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28)
(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29)
(06) 2002-2003	(12) 2001-2002	(30)
(07) Total Claimed Amount \$ 738,000	(13) \$ 671,976	(31)
Less: 10% Late Penalty, but not to exceed \$1000	(14) \$ -	(32)
Less: Estimate Claim Payment Received	(15) \$ 170,489	(33)
Net Claimed Amount	(16) \$ 501,487	(34)
(08) Due from State \$ 738,000	(17) \$ 501,487	(35)
Due to State	(18) \$ -	(36)

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code § 17561, I certify that I am the officer authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, Inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1, Statutes of 1984, and Chapter 1118, Statutes of 1987, set forth on the attached statements.

Signature of Authorized Officer

 Jon Sharpe
 Type or Print Name

Date
 DEC 27, 2002
 Vice Chancellor Finance & Administration
 Title

(39) Name of Contact Person or Claim
SixTen and Associates
 Telephone Number (858) 514-8605
 E-Mail Address kbpsixten@aol.com

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.0**

(01) Claimant:	(02) Type of Claim:	Fiscal Year
Claimant Name	Reimbursement <input checked="" type="checkbox"/>	
Los Rio Community College District	Estimated <input type="checkbox"/>	2001-2002

(03) List all the colleges of the community college district identified in form HFE-1.1, line (03)

(a) Name of College	(b) Claimed Amount
1. American River College	\$ 215,372.00
2. Consumes River College	\$ 176,841.00
3. Sacramento City College	\$ 279,763.00
4.	\$ -
5.	\$ -
6.	\$ -
7.	\$ -
8.	\$ -
9.	\$ -
10.	\$ -
11.	\$ -
12.	\$ -
13.	\$ -
14.	\$ -
15.	\$ -
16.	\$ -
17.	\$ -
18.	\$ -
19.	\$ -
20.	\$ -
21.	\$ -
(04) Total Amount Claimed	\$ 671,976

[Line (3.1b) + line (3.2b) + line (3.3b) + ... line (3.21b)]

**LOS RIOS COMMUNITY COLLEGE DISTRICT
CALCULATION OF INDIRECT COST RATE,
FISCAL YEAR
2000-2001**

*FOR 01-02
CLAIMS*

REFERENCE (CCFS 311)	DESCRIPTION	2000-2001
INSTRUCTIONAL ACTIVITY		
	Instructional Costs	
	Instructional Salaries and Benefits	76,815,687
	Instructional Operating Expenses	4,978,978
	Instructional Support Instructional Salaries and Benefits	406,970
	Auxiliary Operations Instructional Salaries and Benefits	42,480
	TOTAL INSTRUCTIONAL COSTS 1	82,244,115
	Non-Instructional Costs	
	Non-Instructional Salaries and Benefits	4,323,694
	Instructional Admin. Salaries and Benefits	9,476,652
	Instructional Admin. Operating Expenses	1,017,503
	Auxiliary Classes Non-Inst. Salaries and Benefits	843,263
	Auxiliary Classes Operating Expenses	826,762
	TOTAL NON-INSTRUCTIONAL COSTS 2	16,487,874
	TOTAL INSTRUCTIONAL ACTIVITY COSTS 3 (1 + 2)	98,731,989
DIRECT SUPPORT ACTIVITY		
	Direct Support Costs	
	Instructional Support Services Non Inst. Salaries and Benefits	5,159,428
	Instructional Support Services Operating Expenses	1,130,609
	Admissions and Records	2,272,556
	Counseling and Guidance	11,203,436
	Other Student Services	13,029,445
	TOTAL DIRECT SUPPORT COSTS 4	32,795,474
	TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS 5 (3 + 4)	131,527,463
	Indirect Support Costs	
	Operation and Maintenance of Plant	15,229,939
	Planning and Policy Making	4,295,280
	General Instructional Support Services	20,884,012
	TOTAL INDIRECT SUPPORT COSTS 6	40,409,231
	TOTAL INSTRUCTIONAL ACTIVITY COSTS AND DIRECT SUPPORT COSTS AND TOTAL INDIRECT SUPPORT COSTS (5 + 6) = TOTAL COSTS	171,936,694
SUPPORT COSTS ALLOCATION RATES		
Indirect Support Costs Allocation Rate =		
	Total Indirect Support Costs (6)	30.72%
	Total Instructional Activity Costs and Direct Support Costs (5)	
Direct Support Costs Allocation Rate =		
	Total Direct Support Costs (4)	33.22%
	Total Instructional Activity Costs (3)	
Total Support Cost Allocation		63.94%

MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY

FORM
HFE-1.1

(01) Claimant: Los Rio Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2001-2002
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(03) Name of College American River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, **STOP**, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.72%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 164,758	\$ 50,614	\$ 215,372
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 164,758	\$ 50,614	\$ 215,372

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester				\$ -		\$ -	\$ -
2. Per spring semester				\$ -		\$ -	\$ -
3. Per summer session				\$ -		\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						0
(10) Sub-total	[Line (07) - line (09)]						\$ 215,372

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] \$ 215,372

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.2**

(01) Claimant: Los Rio Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2001-2002
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(03) Name of College Cosumnes River College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.72%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 135,282	\$ 41,559	\$ 176,841
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 135,282	\$ 41,559	\$ 176,841

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester				\$ -		\$ -	\$ -
2. Per spring semester				\$ -		\$ -	\$ -
3. Per summer session				\$ -		\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -

(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]	0
(10) Sub-total	[Line (07) - line (09)]	\$ 176,841

Cost Reduction		
(11) Less: Offsetting Savings, if applicable		\$ -
(12) Less: Other Reimbursements, if applicable		\$ -
(13) Total Amount Claimed	[Line (10) - ((line (11) + line (12)))]	\$ 176,841

**MANDATED COSTS
HEALTH FEE ELIMINATION
CLAIM SUMMARY**

**FORM
HFE-1.3**

(01) Claimant: Los Rio Community College District	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2001-2002
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(03) Name of College Sacramento City College

(04) Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year. If the "Less" box is checked, STOP, do not complete the form. No reimbursement is allowed.

LESS SAME MORE

	Direct Cost	Indirect Cost of: 30.72%	Total
(05) Cost of Health Services for the Fiscal year of Claim	\$ 214,017	\$ 65,746	\$ 279,763
(06) Cost of providing current fiscal year health services which are in excess of the level provided in 1986/87	\$ -	\$ -	\$ -
(07) Cost of providing current fiscal year health services at the 1986/87 level [Line (05) - line (06)]	\$ 214,017	\$ 65,746	\$ 279,763

(08) Complete Columns (a) through (g) to provide detail data for health fees

Period for which health fees were collected	(a) Number of Full-time Students	(b) Number of Part-time Students	(c) Unit Cost for Full-time Student per Educ. Code § 76355	(d) Full-time Student Health Fees (a) x (c)	(e) Unit Cost for Part-time Student per Educ. Code § 76355	(f) Part-time Student Health Fees (b) x (e)	(g) Student Health Fees That Could Have Been Collected (d) + (f)
1. Per fall semester				\$ -		\$ -	\$ -
2. Per spring semester				\$ -		\$ -	\$ -
3. Per summer session				\$ -		\$ -	\$ -
4. Per first quarter				\$ -		\$ -	\$ -
5. Per second quarter				\$ -		\$ -	\$ -
6. Per third quarter				\$ -		\$ -	\$ -
(09) Total health fee that could have been collected	[Line (8.1g) + (8.2g) +(8.6g)]						0
(10) Sub-total	[Line (07) - line (09)]						\$ 279,763

Cost Reduction	
(11) Less: Offsetting Savings, if applicable	\$ -
(12) Less: Other Reimbursements, if applicable	\$ -
(13) Total Amount Claimed	[Line (10) - (line (11) + line (12))] \$ 279,763

LOS RIOS CO. CITY COLLEGE DISTRICT
Health Fee Elimination Mandated Cost Claim
For FYE June 30, 2002

Account	Account Title	GL Totals by Campus				Adjustments to tie to 311				311 Totals Allocated by Campus					
		ARC	CRC	SCC	PE	GL Total	9900Us	Allocation 9900Us	Allocation Lottery	Benefits & Adj	Allocation Lottery Bene	311 Total	Subtotal	PE	Total
1204	Reg Health Svcs Salaries	76,280.40	94,358.42	158,663.20		329,302.02	15,336.18	18,056.85	(7,368.07)	59,496.76	(1,300.24)	355,326.98	355,326.98	0.00	355,326.98
	Benefits				0.00	0.00						58,196.52	58,196.52	0.00	58,196.52
1404	Non-Reg Health Svcs Salaries	16,939.59	13,185.98	8,164.13		38,289.70	1,558.54	(809.50)	(809.50)	6,536.73	(142.86)	39,038.74	39,038.74	0.00	39,038.74
	Benefits				0.00	0.00						6,393.87	6,393.87	0.00	6,393.87
2102	Reg Classified Salaries	36,057.49			50,863.56	86,921.05	4,439.26	4,618.47	(1,949.79)	15,744.43	(344.08)	94,028.99	94,028.99	55,022.91	149,051.90
	Benefits				0.00	0.00						15,400.35	15,400.35	9,011.82	24,412.17
4500	Non-Inst-Supplies & Materials	1,312.57	966.05	1,908.22		4,186.84		5.25				4,192.09	4,192.08	0.00	4,192.08
5200	Travel & Conference	588.90		150.00		738.90	(81.64)	(13.72)				657.26	657.26	0.00	657.26
5201	Mileage - In District		124.18			124.18	(13.72)					110.46	110.46	0.00	110.46
5300	Dues and Membership		75.00			75.00	(8.29)					66.71	66.71	0.00	66.71
5500	Utilities	79.73				79.73	(8.81)					70.92	70.92	0.00	70.92
5600	Repairs	456.72				456.72	(50.47)					406.25	406.25	0.00	406.25
5890	Other Operational Expense	1,302.80		3,420.00		4,722.80	(521.85)					4,200.95	4,200.95	0.00	4,200.95
												1,158.85	1,158.85	0.00	1,158.85
												3,042.10	3,042.10	0.00	3,042.10
												164,758.02	164,758.02	335,281.54	335,281.54
												214,015.79	214,015.79	514,085.35	514,085.35
												64,034.73	64,034.73	578,090.09	578,090.09

**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

) Claimant

Fiscal Year

Los Rio Community College District

2001-2002

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.

(a) FY 1986/87	(b) FY of Claim
----------------------	-----------------------

Accident Reports	X	X
Appointments		
College Physician, surgeon		
Dermatology, Family practice		
Internal Medicine		
Outside Physician		
Dental Services		
Outside Labs, (X-ray, etc.)		
Psychologist, full services		
Cancel/Change Appointments		
Registered Nurse	X	X
Check Appointments		
Assessment, Intervention and Counseling		
Birth Control	X	X
Lab Reports		
Nutrition		
Test Results, office		
Venereal Disease	X	X
Communicable Disease	X	X
Upper Respiratory Infection		
Eyes, Nose and Throat	X	X
Eye/Vision		
Dermatology/Allergy	X	X
Gynecology/Pregnancy Service		
Neuralgic		
Orthopedic		
Genito/Urinary		
Dental		
Gastro-Intestinal	X	X
Stress Counseling	X	X
Crisis Intervention		
Child Abuse Reporting and Counseling		
Substance Abuse Identification and Counseling		
Eating Disorders		
Weight Control	X	X
Personal Hygiene		
Burnout		
Other Medical Problems, list		
Examinations, minor illnesses		
Recheck Minor Injury		
Health Talks or Fairs, Information		
Sexually Transmitted Disease	X	X
Drugs	X	X
Acquired Immune Deficiency Syndrome	X	X
Child Abuse		

**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

Claimant

Fiscal Year

Los Rio Community College District

2001-2002

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.

(a) FY 1986/87	(b) FY of Claim
----------------------	-----------------------

Birth Control/Family Planning
Stop Smoking
Library, Videos and Cassettes

X X

First Aid, Major Emergencies
First Aid, Minor Emergencies
First Aid Kits, Filled

X X
X X
X X

Immunizations
Diphtheria/Tetanus
Measles/Rubella
Influenza
Information

X X

Insurance

On Campus Accident
Voluntary
Insurance Inquiry/Claim Administration

X X

Laboratory Tests Done
Inquiry/Interpretation
Pap Smears

Physical Examinations
Employees
Students
Athletes

X X

Medications
Antacids
Antidiarrheal
Aspirin, Tylenol, etc.,
Skin Rash Preparations
Eye Drops
Ear Drops
Toothache, oil cloves
Stingkill
Midol, Menstrual Cramps
Other, list--> Ibuprofen

X X
X X
X X
X X
X X
X X
X X
X X

Parking Cards/Elevator Keys
Tokens
Return Card/Key
Parking Inquiry
Elevator Passes
Temporary Handicapped Parking Permits

X X

**MANDATED COSTS
HEALTH FEE ELIMINATION
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HFE-2.1**

1) Claimant

Fiscal Year

Los Rio Community College District

2001-2002

(03) Place an "X" in column (a) and/or (b), as applicable, to indicate which health Service was provided by student health service fees for the indicated fiscal year.

(a) FY 1986/87	(b) FY of Claim
----------------------	-----------------------

Referrals to Outside Agencies

- Private Medical Doctor
- Health Department
- Clinic
- Dental
- Counseling Centers
- Crisis Centers
- Transitional Living Facilities, battered/homeless women
- Family Planning Facilities
- Other Health Agencies

X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X

Tests

- Blood Pressure
- Hearing
- Tuberculosis

X	X
X	X

- Reading Information

X	X
X	X
X	X
X	X

- Vision
- Glucometer
- Urinalysis
- Hemoglobin
- EKG
- Strep A Testing
- PG Testing
- Monospot
- Hemacult
- Others, list

Miscellaneous

- Absence Excuses/PE Waiver
- Allergy Injections
- Band-aids
- Booklets/Pamphlets
- Dressing Change
- Rest
- Suture Removal
- Temperature
- Weigh
- Information Report/Form
- Wart Removal
- Others, list

X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X
X	X

Committees

- Safety
- Environmental
- Disaster Planning
- Skin Rash Preparations
- Eye Drops

X	X
---	---

SixTen and Associates Mandate Reimbursement Services

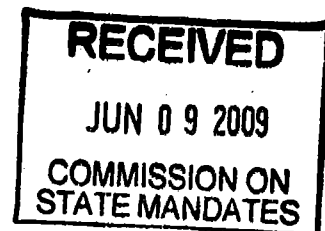
Exhibit C

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June 8, 2009



Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
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RE: CSM 05-4206-I-06
Incorrect Reduction Claim of Los Rios Community College District
Health Fee Elimination Audit #1
Fiscal Years: 1997-98 through 2001-02
Incorrect Reduction Claim

Dear Ms. Higashi:

This letter is in rebuttal to the State Controller's Office response dated March 10, 2008, to the Incorrect Reduction Claim of Los Rios Community College District (District) submitted on September 9, 2005.

Part I. Mr. Silva's Transmittal Letter

Mr. Silva's transmittal letter, dated March 10, 2008, contains factual and legal allegations regarding the District's Incorrect Reduction Claim. Also, it was not signed under the penalty of perjury. The conclusions and assertions contained in the letter should be disregarded by the Commission due to this lack of certification.

Contrary to the conclusions in Mr. Silva's letter, the Controller's reductions were not appropriate, nor were they in accordance with law. The District did not claim costs for services provided in excess of those provided in the base year, did not inaccurately claim student health fees, and did not utilize an invalid indirect cost rate.

A. CONTROLLER'S AUDIT AUTHORITY

The District does not dispute the Controller's authority to audit claims for mandated costs and to reduce those costs that are excessive or unreasonable. This authority is

expressly contained in Government Code Section 17561. Government Code Section 17564 identifies the minimum amount of costs required to file a claim and the manner of claiming costs to be reimbursed. Thus, it is unclear to the District why Mr. Silva's letter cites Section 17564 in support of the Controller's authority to audit mandated costs. Similarly, the Statement of Decision in the Incorrect Reduction Claim of San Diego Unified School District that is cited is superfluous because it simply restates the statutory authority without elaboration. The District is unable to respond to these two citations without further elaboration from the Controller as to their intended relevance, since none is readily apparent.

B. BURDEN OF PROOF

Mr. Silva's letter erroneously asserts that the burden of proof is upon the District to establish that the Controller's adjustments were incorrect. The letter's reliance on Evidence Code Section 500 is completely misplaced because that Section is not applicable to administrative hearings, such as those conducted by the Commission.

California Code of Regulations Section 1187.5 (a) states expressly that Commission "hearings will not be conducted according to technical rules relating to evidence and witnesses." The evidentiary standard for matters before the Commission, stated in that Section, is "[a]ny relevant non-repetitive evidence . . . [that] is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs." Further, Evidence Code Section 300 specifies that the Evidence Code is applicable only to actions before the California courts. There is no statute or regulation that makes the Evidence Code applicable to proceedings before the Commission, and therefore the Controller cannot rely on Section 500 to shift his burden of proof onto the District.

The Statement of Decision in the Incorrect Reduction Claim of San Diego Unified School District that is cited in Mr. Silva's letter relied on *Honeywell, Inc. v. State Board of Equalization* ((1982) 128 Cal.App.3d 739, 744) for the proposition that the claimant had the burden of proof in showing that it did not experience offsetting savings. The decision was supported by "common sense" in that the burden of proof should rest with the party having the power to create, maintain, and provide evidence.

In this incorrect reduction claim, the issue is not the District's original reimbursement claims, but the Controller's methods for determining adjustments. The Controller is the party with the power to create, maintain, and provide evidence regarding its auditing methods and procedures, as well as the specific facts relied upon for its audit findings. Thus, by Mr. Silva's own reasoning, the burden is upon the Controller to demonstrate that its methods were in compliance with applicable law.

Finally, the Controller must meet the burden of going forward. "Until the agency has met its burden of going forward with the evidence necessary to sustain a finding, the [party requesting review] has no duty to rebut the allegations or otherwise respond." (*Daniels v. Department of Motor Vehicles* (1983) 33 Cal.3d 532, 536). Therefore, the Controller

must first provide evidence as to the propriety of its audit findings because it bears the burden of going forward and because it is the party with the power to create, maintain, and provide this evidence.

C. SERVICES PROVIDED

Mr. Silva's letter makes several misstatements of the facts and the law regarding the specific audit findings. First, it asserts that the Parameters and Guidelines require that claimed costs are allowable only for services that were provided in the base year. The proper standard is that claimants must ensure that the same services that were *available* in the base year continue to be *available* for students. There is no requirement that particular services actually be utilized in subsequent years.

Thus, the fact that the District was given an "opportunity" to demonstrate that the services in question were actually provided in the base year is irrelevant because the District is not required to provide this information. There is no requirement that the college districts maintain records for over two decades to prove the specific health services that were provided because the mandate requires only a maintenance of effort.

D. INDIRECT COST RATE

Mr. Silva's letter asserts that the Controller's Office substituted its own indirect cost rate because the District used an "unapproved" rate. There is no requirement that the indirect cost rate be "approved" by any agency. The District calculated its indirect cost rate using the same source document (CCFS-311) as the Controller. It also used the FAM-29C method, but corrected for instances where the Controller did not follow the CCFS-311 determination of direct and indirect costs. The characterization of the indirect cost rate used by the District in Mr. Silva's letter is misleading and misstates the requirements of the Parameters and Guidelines.

E. AUTHORIZED HEALTH SERVICES FEES

The District did not "confuse" health services fees that were authorized and those that were collected, as claimed in Mr. Silva's letter. Further, his statement of the Parameters and Guidelines is out of context and misleading. The authorized health services fees are to be included in "reimbursement for this mandate received from any source" as stated in the parameters and guidelines. The District complied with Generally Accepted Accounting Principles (GAAP) and the Parameters and Guidelines when it properly reported, as offsetting revenue, health service fees that were actually received.

Although the Parameters and Guidelines clearly state that claimants must report revenue that is received, Mr. Silva's letter asserts that the amount authorized is relevant due to "mandate law in general" and the Court's decision in *Connell v. Santa Margarita Water District*. The District cannot respond to the rubric of "mandate law in general"

because it references no particular statute, regulation, or court decision as its basis. The reliance on *Connell* is misplaced because the Court in that case determined only that approval of the test claim in question was in violation of Government Code Section 17556 (d), which prohibits approval of a test claim when there are offsetting savings sufficient to fully fund it. The Court makes absolutely no finding regarding offsetting revenue in the parameters and guidelines or the reimbursement process.

F. AUDIT INITIATION

The assertions in Mr. Silva's letter regarding the facts surrounding the initiation of the audit and the relevant law are erroneous. Further, the gratuitous arguendo assumption that Ms. Bray's declaration is accurate is both insulting and unnecessary. Ms. Bray signed her declaration under the penalty of perjury and attached contemporaneously recorded documents to support her statements. Thus, there should be no implication that her declaration is anything but accurate.

Mr. Silva's letter states that it is the Controller's position that a field audit is initiated no later than the date of the audit letter. Although the letter claims this position is "consistent with other statutes of limitations provisions," absolutely no supporting law is cited. The District is unaware of any relevant statute, regulation, or case law that indicates that the date of the audit letter is the initiation date. Further, this position is contrary to the statements of the audit letter itself, which was included in Exhibit G of the District's Incorrect Reduction Claim. That letter clearly states:

As discussed during a telephone conversation on December 19, 2002, SCO auditor Mary Khoshmashrab *will commence the audit* of the subject programs on *Thursday, January 16, 2003*, beginning with an entrance conference at 9:30 a.m. (Emphasis supplied)

Thus, the very letter relied upon in Mr. Silva's letter contradicts the position the Controller is now taking.

The position in Mr. Silva's letter is also in direct contradiction with Mr. Spano's response, which was attached as Tab 2 to Mr. Silva's letter and is discussed more thoroughly below. Mr. Spano's response (Tab 2; pg. 20) states: "The SCO initiates an audit by conducting the audit entrance conference."¹ Therefore, it appears that the

¹ Audit Initiation: The Controller has taken various positions on the date the audit is initiated in different audit reports. For example, the following audits state that the initial telephone contact initiates the audit:

-Los Rios Community College District, Health Fee Elimination, issued June 24, 2004.
-Los Rios Community College District, Mandate Reimbursement Process, issued June 24, 2004.

Controller does not have a consistent "position" on the initiation of an audit, since two contradictory positions are stated.

Finally, Mr. Silva's letter cites "analogous procedures" and "established practice" for the proposition that an audit does not need to be completed within the statute of limitations. However, these assertions are completely unsupported by law or fact. As more thoroughly discussed below in Part II, the statute of limitations for audit would be meaningless if the Controller were permitted to merely initiate an audit and then complete it by issuing the final audit report at some unspecified future date.

The final audit report is the only logical document that concludes an audit, since adjustments can and are changed up until the time that it is issued, and there is no logical reason for allowing the Controller to complete an audit at any time after the statute of limitations has expired. Further evidence of this is provided by the Legislature's amendment of Government Code Section 17558.5, effective January 1, 2005, which states that in no circumstance may an audit be completed more than two years after it has been initiated.

Part II. State Controller's Office Analysis and Response to the Incorrect Reduction Claim by Los Rios Community College District (Spano Response)

RE: I. SCO REBUTTAL TO STATEMENT OF DISPUTE - CLARIFICATION OF REIMBURSABLE ACTIVITIES, CLAIM CRITERIA, AND DOCUMENTATION REQUIREMENTS

Mr. Spano's response (Tab 2; pg. 4) asserts the September 2002 Controller's claiming instructions in its "clarification" of applicable law and standards, specifically the section

The following audits state that the audit entrance conference initiates the audit:

- Newport-Mesa Unified School District, School District of Choice, issued August 31, 2004.
- State Center Community College District, Health Fee Elimination, issued September 17, 2004.
- Clovis Unified School District, Graduation Requirements, issued October 22, 2004.
- San Bernardino Community College District, Health Fee Elimination, issued November 10, 2004.
- West Valley-Mission Community College District, Health Fee Elimination, issued April 8, 2005.
- Long Beach Community College District, Health Fee Elimination, issued April 27, 2005.
- North Orange County Community College District, Health Fee Elimination, issued July 22, 2005.
- Poway Unified School District, Emergency Procedures, Earthquakes and Disasters, issued August 31, 2005.

discussing indirect costs. However, this version of the claiming instructions was issued *after* all of the fiscal years that are the subject of this Incorrect Reduction Claim. The District originally asserted the September 1997 version of the claiming instructions, which was in effect during the first fiscal year of this claim. It is unclear to the District why the Controller did not include a copy of the claiming instructions that were actually in effect during at least one of the fiscal years in question in its response. But, since the claiming instructions are only guidelines and not a statement of the applicable law, they should have no effect on the determination of this Incorrect Reduction Claim, regardless of the version cited.

RE: II. DISTRICT CLAIMED UNALLOWABLE SALARY AND RELATED INDIRECT COSTS

The Controller asserts that the District claimed unallowable employee salaries and benefits totaling \$128,593 for the audit period, with related indirect costs of \$39,529.

Services Provided vs. Available

Mr. Spano's response (Tab 2; pg. 5) states that the auditors used health service logs to determine the services provided at each college. However, there is no provision in the Parameters and Guidelines that requires the District to maintain such records. The District is only required to maintain the availability of the same services as those offered in the 1986-87 fiscal year. Therefore, the only relevant documentation for the Controller's audit is that which supports the costs associated with maintaining the availability of these services, and not the actual services provided.

Furthermore, the health service logs are not necessarily indicative of all of the services that were provided. The logs are simply a sign-in sheet on which the student states their symptoms or services they believe they might need, if that student wishes to disclose the information on the log. There is no evidence that students are able to accurately diagnose themselves or predict the services they will need in every case. Therefore, even if the Controller's audit of services rendered were appropriate, the health services logs chosen by the Controller are inadequate for that purpose.

The Controller incorrectly audited services *rendered*, rather than services *available*. Mr. Spano's response (Tab 2; pg. 6) concedes this when it states that it compared services rendered during the audit year with those available during the base year. There is no basis in law or fact that requires the entire variety of health care services *available* each year to actually have been utilized, which is to say *rendered*, each year. The costs of maintaining supplies and retaining trained personnel to make these services available are incurred regardless of whether students actually require a particular service each year. The District is certifying that the same level of services continue to be available, not that each and every service was rendered each year. For example, hearing tests may be available every year but there may be a year in which no hearing tests were required by students.

Incidences of diseases and courses of treatment change over time. This dynamic perhaps was not anticipated when the Parameters and Guidelines were adopted in 1987. If so, this matter cannot be charged to the claimants, as it is a Commission adopted document. The Controller, as the audit agency imposing the adjustment, has the burden of proving the factual and legal basis for its adjustments. Instead, the Controller incorrectly audited the services rendered rather than services available to the students.

The alleged "second-chance opportunity" to present documentation of services rendered in the base year was not appropriate because the District is not required to maintain such documentation. Section VII of the Parameters and Guidelines require only that the District maintain documentation "to substantiate a maintenance of effort," and not documentation that supports the services actually rendered in the base year. To require otherwise would create a statute of limitations for audit for the base year that never ends, so long as the health fee elimination mandate was in place.

Audit by Sampling

The Controller cites *Government Auditing Standards, 2003 Revision* (the Yellow Book) issued by the federal government in support of its choice to use sampling methods. (Selections discussed attached as Exhibit "B") However, it is unclear how these federal standards, of and by themselves, are applicable to state mandate reimbursement, or how they permit the Controller to circumvent the California Administrative Procedure Act (APA).

Generally Accepted Government Auditing Standards (GAGAS) derived from *Government Auditing Standards* are required to be used for state or local program auditing only when the audit concerns the receipt of federal funds or when a state or local statute requires their use.² The Health Fee Elimination mandate program does not concern the receipt of federal funds. As reimbursement for a state mandate, by definition, it concerns only the receipt of state funding. There is also no state statute that makes GAGAS applicable to state mandate reimbursement. Therefore, the Controller must comply with the APA if it wishes to impose these federal government auditing standards on the state mandate reimbursement claim audits.

Further, the Controller did not comply with Government Auditing Standards as stated in Mr. Spano's response (Tab 2; pg. 7). Section 3.34 of *Government Auditing Standards, 2003 Revision* (GAS), states that professional judgment "requires auditors to exercise reasonable care and diligence and to observe the principles of serving the public

² *Government Auditing Standards, 2003 Revision*, Section 1.05 (c) requires that "GAGAS be followed in audits of state and local governments and nonprofit entities that receive federal awards." Section 1.06 states that "state and local laws and regulations *may* require auditors at the state and local levels of government to follow GAGAS." (Emphasis supplied)

interest and maintaining the highest degree of integrity, objectivity, and independence. . . .” The Controller simply asserts that professional judgment was used without even addressing whether the method chosen was reasonable or objective. Professional judgment does not allow auditors to simply choose any method they want without supporting that decision. The Controller cannot support the decision to use sampling simply by asserting professional judgment without stating why it was appropriate in this mandate audit.

Section 8.11 of GAS provides that “when sampling significantly supports auditors’ findings, describe the sample design and state why it was chosen, including whether the results can be projected to the intended population.” The Controller did not do this. Specifically, the audit report contains no discussion of why or how the sample design was chosen, or of its applicability to the entire costs claimed. The ultimate risk from extrapolating findings from a sample is that the conclusions obtained from the sample may not be representative of the universe. That is, the errors perceived from the sample do not occur at the same rate in the universe. This is what has occurred in this audit. There is no evidence that a survey of services provided has any relationship to the services that are made available to students, and no evidence that the data from a single month has any relationship to other months throughout the school year or during the summer.

Further, Section 8.13 of GAS provides:

Auditors should report findings by providing credible evidence that relates to the audit objectives. These findings should be supported by sufficient, competent, and relevant evidence. They also should be presented in a manner to promote adequate understanding of the matters reported and to provide convincing but fair presentations in proper perspective. The audit report should provide selective background information to provide the context for the overall message and to help the reader understand the findings and significance of the issues discussed.

The audit report contains only peremptory statements regarding the results of the Controller’s sampling extrapolation. It does not report any “sufficient, competent, and relevant evidence” in support of these conclusions or the methods used, as is required. The Controller has not stated the selection criteria for the sample, the confidence interval, error range, or any of the other crucial elements of determining and applying a sample. Therefore, the audit report is not in compliance with *Government Auditing Standards*, notwithstanding the Controller’s assertion.

In a subsequent audit of this mandate program for this District, the Controller admitted that sampling was not a valid method of auditing this mandate program, and should not be used as the basis of an adjustment. The final audit report for fiscal years 2002-03, 2003-04, and 2004-05 (Exhibit “C”), which was released on May 21, 2008, states: “We revised our audit finding to eliminate previously reported unallowable costs that resulted from extrapolating sample results to the full fiscal year for each college.” The Controller

removed the adjustment because it agreed that the extrapolation was improper. The Controller's epiphany that sampling in the second audit was improper applies to the first audit as well.

The Controller determined a "percentage" that it asserts represented allowable services and then applied this to all salary and benefit costs. This method has no relation to the actual costs incurred for the services being disallowed. It also does not take into account that the District must maintain a staffed health services center in order to make sure that the base year services are available, even if the students do not require any such services at all. Additionally, this method assumes that the only mandate activities staff performs are student clinic visits. This ignores the fact that a wide variety of duties are required to maintain health services, other than the actual time spent with each student.

Claimants are required to report actual costs in their mandate reimbursement claims. The purpose of an audit is to determine if these actual costs are supported. Therefore, a method that relies on averages and percentages from a non-statistical sample cannot be used to show the validity of actual costs claimed. In its Incorrect Reduction Claim, the District raised the possibility that the sampling could improperly penalize it by excluding allowable services, particularly since the Controller determined that, when a student declines to state the reason for the visit, any services rendered are unallowable per se. Mr. Spano's response (Tab 2; pg. 8) states "[t]he district ignores the opposite possibility that the sample selection may have excluded additional unallowable services and thus, the unallowable costs are actually understated." The District does not ignore this possibility - Mr. Spano's response makes the District's point precisely. The sampling method is an unreliable means of "estimating" allowable costs. It should not be relied upon instead of auditing the actual costs reported.

Mr. Spano's response (Tab 2; pg. 8) attempts to shift the burden to the District in proving that the sampling method was improper by citing Title 2, CCR, Section 1185 (e)(3). However, that Section specifies that if the incorrect reduction claim "utilizes assertions or representations of fact, such assertions or representations shall be supported by testimonial or documentary evidence and shall be submitted with the claim." The District's opposition to the sampling method concerns the legality and propriety of that method. It does not concern any assertions of fact, and therefore the Controller cannot shift the burden to the District to prove that the method was improper.

Similarly, Mr. Spano's response (Tab 2; pg. 9) asserts that the District is somehow responsible for showing the actual costs of non-mandated activities. There is absolutely no requirement that the District maintain records or cost information regarding non-mandated activities. The District did not claim any costs related to non-mandated activities, and documentation is required only to support costs that are claimed. The Controller's conclusion that the only alternative to the District providing this information is to disallow all claimed costs is absurd. The alternative is not to disallow all costs - it is to properly audit those costs that were claimed.

Audit Standard

Mr. Spano's response (Tab 2; pg.10) asserts that:

Government Code Section 17561(d)(2) allows the SCO to audit the district's records to verify actual mandate-related costs and reduce any claim that the SCO determines is excessive or unreasonable. In addition, *Government Code* Section 12410 states, "The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment." (Emphasis in original)

Section 12410 is found in the part of the Government Code that provides a general description of the duties of the Controller. It is not specific to the audit of mandate reimbursement claims. The only applicable audit standard is found in Government Code Section 17561(d)(2), which specifically pertains to the audit standards for mandate reimbursement claims. The fact that Section 17561(d)(2) specifies its own audit standard (excessive or unreasonable) implies that the general SCO audit standard (correctness, legality, and sufficient provisions of law) is not generally intended to apply. Therefore, the Controller may only reduce a mandate reimbursement claim if it specifically finds that the amounts claimed are unreasonable or excessive under Section 17561(d)(2).

Further, the Controller has not asserted or demonstrated that, if Section 12410 was the applicable standard, the audit adjustments were made in accordance with this standard. The District's claim was correct, in that it reported the actual costs incurred. There is also no allegation in the audit report that the claim was in any way illegal. Finally, the phrase "sufficient provisions of law for payment" refers to the requirement that there be adequate appropriations prior to the disbursement of any funds. There is no indication that any funds were disbursed without sufficient appropriations. Thus, even if standards of Section 12410 were applicable to mandate reimbursement audits, the Controller has failed to put forth any evidence that these standards are not met.

Additionally, there is no indication that the Controller is actually relying on the audit standards set forth in Section 12410 for the adjustments to the District's reimbursement claims. Mr. Spano's response (Tab 2; pg.10) claims that it did indeed determine that the District's costs were excessive, as required by Section 17561(d)(2), because the claimed costs were not "proper" since they were for services that exceeded those provided in the FY 1986-87 base year. This statement has no basis in the Parameters and Guidelines, which require a maintenance of effort of those services available and make no requirement that the same services are actually provided in subsequent years. The audit report and Mr. Spano's response simply state a conclusion that the unallowable costs are excessive, without demonstrating that they are. The Parameters and Guidelines and the mandate legislation determine what services are "proper" for reimbursement, and the Controller has failed to show how the services in question contradicted these requirements. Specifically, the audit report and the Controller's

response fail to identify which services are being disallowed and exceeding those available in the base year.

RE: III. DISTRICT CLAIMED UNALLOWABLE SERVICES AND SUPPLIES AND RELATED INDIRECT COSTS

The Controller asserts that the District claimed unallowable services and supplies costs totaling \$28,782, with \$8,887 in related indirect costs.

Athletic Services

Of the unallowable costs, \$26,100 was attributed to physical exams for intercollegiate athletics and the salaries of health professionals present at athletic events. The Controller ignores the express provision of the Parameters and Guidelines that physicals for athletes are included as reimbursable costs, so long as the service was available in Fiscal Year 1986-87. There is also no condition on other services, such as medications or tests being available to student athletes. The Controller relies on Education Code Section 76355(e), which states in part, "[i]f the cost to maintain that level of service exceeds the limits specified in subdivision (a), the excess cost shall be borne by the district." Mr. Spano's response (Tab 2; pg. 11) then makes the conclusion that the "maintenance of effort" requirement applies to those health services for which the district may levy a fee." This conclusion ignores the history of the Health Fee Elimination mandate program, which at one time prohibited any fees from being collected.

Education Code Section 76355, subdivision (a), permits the collection of student fees for health services. Subdivision (d)(1) requires that these fees, if collected, be deposited in a designated fund and be expended only as authorized. Subdivision (d)(2) prohibits expenditures *from the fund* for physical examinations for intercollegiate athletics or the salaries of health professionals for athletic events. The prohibition only applies to the expenditure of funds from the special account into which the student fees are deposited. Since this District does not collect a student health services fee, there is no such restricted fund and the expenditures are not subject to the requirements of Section 76355, subdivision (d)(2).

The Parameters and Guidelines control the scope of reimbursement under the Health Fee Elimination mandate, and they expressly include physicals for athletes and the type of services that are provided by health professionals at athletic events, so long as these services were available in the base year. Therefore, a restriction on the use of fees collected cannot be used to support an adjustment that is in direct contradiction with the Parameters and Guidelines.

Mr. Spano's response (Tab 2; pg. 11) asserts that since athletic related costs are not permitted expenditures from the fund authorized by Section 76355, that the District is not required to provide these services. This link is not found in the law, and is in direct

contradiction with the Health Fee Elimination mandate legislation, which requires that health services that were available in the base year be maintained. As previously stated, the Parameters and Guidelines expressly include athletic related health services. Thus, the District is required by law to maintain athletic related health services that were available during the base year, and the costs associated with those services are reimbursable under this mandate.

RE: IV. DISTRICT OVERSTATED ITS INDIRECT COST RATES CLAIMED

The Controller determined that the District overstated indirect costs by \$361,689 for the audit period because the District's indirect cost rate was not federally approved. The Controller continues to insist that any indirect cost rate not derived from one of the three methods described in its claiming instructions must be excessive, regardless of the reasonableness of the rate used. However, the Controller's claiming instructions are not laws or regulations, and therefore are not enforceable.

No particular indirect cost rate calculation is required by law. The Controller insists that the rate be calculated according to the claiming instructions. The Parameters and Guidelines state that "[i]ndirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." The district claimed these indirect costs "in the manner" described by the Controller. The correct forms were used and the claimed amounts were entered at the correct locations. Further, "may" is not "shall"; the Parameters and Guidelines do not *require* that indirect costs be claimed in the manner described by the Controller.

The District utilized the CCFS-311 classification of accounts which is more rational and consistent than the Controller's evolving formula. Further, it should be noted that the Controller did not determine that the District's rate was excessive or unreasonable. In the audit report, the Controller asserts that because the Parameters and Guidelines specifically references the claiming instructions, the claiming instructions thereby become authoritative criteria. Since the Controller's claiming instructions were never adopted as law, or regulations pursuant to the Administrative Procedure Act, the claiming instructions are a statement of the Controller's interpretation and not law. The Controller's interpretation of Section VI of the Parameters and Guidelines would, in essence, subject claimants to underground rulemaking at the direction of the Commission. The Controller's claiming instructions are unilaterally created and modified without public notice or comment. The Commission would violate the Administrative Procedure Act if it held that the Controller's claiming instructions are enforceable as standards or regulations. In fact, until 2005, the Controller regularly included a "forward" in the Mandated Cost Manual for Community Colleges (September 30, 2003 version attached as Exhibit "D") that explicitly stated the claiming instructions were "issued for the sole purpose of assisting claimants" and "should not be construed in any manner to be statutes, regulations, or standards."

Neither State law nor the Parameters and Guidelines make compliance with the Controller's claiming instructions a condition of reimbursement. The District has followed the Parameters and Guidelines. The burden of proof is on the Controller to prove that the product of the District's calculation is unreasonable, not to recalculate the rate according to its unenforceable ministerial preferences.

Indeed, federally "approved" rates that the Controller will accept without further action, are "negotiated" rates calculated by a district and submitted for approval, indicating that the process is not an exact science, but a determination of the relevance and reasonableness of the cost allocation assumptions made for the method used. The indirect cost rates claimed by the District ranged from 30.4% to 31.45%, which is less than 2 percentage points from the 30% federally approved rate obtained by the District for FY 2005-06. This is convincing evidence that the District's indirect cost rates were in fact reasonable.

Further evidence of the arbitrary nature of the Controller's determination of the "allowable" indirect cost rate is found in its sudden and unsupported determination that federally approved rates are no longer permissible. The audit report for Yosemite Community College District, issued April 30, 2009 (attached as Exhibit "E"), states on page 7: "For FY 2004-05, FY 2005-06, and FY 2006-07, the parameters and guidelines and the SCO's claiming instructions do not provide districts the option of using a federally-approved rate." It then concludes, on page 9, that "[b]ecause the Health Fee Elimination Program's parameters and guidelines do not specifically allow for a federally-approved rate, the district's federally-approved rates are irrelevant for FY 2004-05, FY 2005-06, and FY 2006-07."

There is absolutely no basis in law for the Controller to make this change in policy. There was no amendment to the Parameters and Guidelines - the language regarding indirect cost rates remains exactly the same as it was prior to FY 2004-05. The Controller simply decided to stop accepting federally approved rates, after years of accepting them, with absolutely no justification or opportunity for public comment. This is in direct violation of the Administrative Procedures Act, and illustrates the unilateral and arbitrary method the Controller uses in determining "allowable" cost rates for this mandate program.

In an attempt to defend the arbitrariness of the choice to apply only the FAM-29C method, Mr. Spano's letter points out that the method is one of three that a *claimant may choose* to use under the parameters and guidelines for nine other mandate programs. However, there is no mention of the Controller's FAM-29C method in the Parameters and Guidelines adopted for *this* mandate program. Further, the fact that the claimants in those other mandate programs may choose one of three methods, with potentially widely divergent results, demonstrates that the Controller's choice to simply pick his own method and substitute it for the one used by the District was an arbitrary preference.

Finally, Mr. Spano's response (Tab 2; pg.14) notes that no district requested a review of the claiming instructions pursuant to Title 2, California Code of Regulations Section 1186. The claiming instructions are not properly adopted regulations or standards. There is no requirement that a claimant request such review, even if they are inconsistent with the Parameters and Guidelines, because the claiming instructions are not enforceable regulations. Thus, the fact that no review was requested by any of the claimants is not determinative of the validity or force of the claiming instructions.

RE: V. DISTRICT UNDERSTATED AUTHORIZED HEALTH SERVICE FEES

The Controller determined that revenue offsets were understated by \$6,101,947 for the audit period. This adjustment is due to the fact that the District did not collect any fees as "authorized" by Education Code Section 76355(a). Further, the Controller calculated the "authorized" health service fee amount without making any distinction between full-time and part-time students. Education Code Section 76355 gives the governing board the discretion to determine if any fee should be charged, and subsection (b) specifically permits the governing board to make a separate determination regarding part-time students. The District is not required to charge a health fee, and must only claim offsetting revenue it actually experiences.

The Controller continues to rely on Government Code Section 17556(d), as amended by Statutes of 1989, Chapter 589, while neglecting its context and omitting a crucial clause. Section 17556(d) does specify that the Commission on State Mandates shall not find costs mandated by the state if the local agency has the authority to levy fees, but only if those fees are "*sufficient to pay for the mandated program*" (emphasis added). Section 17556 pertains specifically to the Commission's determination on a test claim, and does not concern the development of parameters and guidelines or the claiming process. The Commission has already found state-mandated costs for this program, and the Controller cannot substitute its judgment for that of the Commission through the audit process.

The two court cases Mr. Spano's response (Tab 2; pg. 17) relies upon (*County of Fresno v. California* (1991) 53 Cal.3d 482 and *Connell v. Santa Margarita* (1997) 59 Cal.App.4th 382) are similarly misplaced. Both cases concern the approval of a test claim by the Commission. They do not address the issue of offsetting revenue in the reimbursement stages, only whether there is fee authority *sufficient to fully fund* the mandate that would prevent the Commission from approving the test claim.

In *County of Fresno*, the Commission had specifically found that the fee authority was sufficient to fully fund the test claim activities and denied the test claim. The court simply agreed to uphold this determination because Government Code Section 17556 (d) was consistent with the California Constitution. The Commission has approved the Health Fee Elimination mandate, and therefore found that the fee authority is not sufficient to fully fund the mandate. Thus, *County of Fresno* is not applicable because it concerns the activity of approving or denying a test claim and has no bearing on the

annual claim reimbursement process.

Similarly, although a test claim had been approved and parameters and guidelines were adopted, the court in *Connell* focused its determination on whether the initial approval of the test claim had been proper. It did not evaluate the parameters and guidelines or the reimbursement process because it found that the initial approval of the test claim had been in violation of Section 17556(d).

Next, the Controller notes that health service fees were included in the Parameters and Guidelines as a possible source of offsetting savings, and then concludes that fees authorized by Education Code Section 76355 *must* be deducted because “[t]o the extent districts have the authority to charge a fee, they are not required to incur a cost.” The Parameters and Guidelines actually state:

Any offsetting savings that the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim. This shall include the amount of [student fees] as authorized by Education Code Section 72246(a)³.

In order for a district to “experience” these “offsetting savings” the district must actually have collected these fees. Note that the student health fees are named as a potential source of the reimbursement *received* in the previous sentence. The use of the term “any offsetting savings” further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not. Thus, the Controller’s conclusion is based on an illogical interpretation of the Parameters and Guidelines by the Controller.

Mr. Spano’s response (Tab 2; pg. 17) claims that it is “clear” that the Commission’s intent was for claimed costs to be reduced by fees authorized, rather than fees received as stated in the Parameters and Guidelines. It is true that the Department of Finance proposed, as part of the amendments that were adopted on May 25, 1989, that a sentence be added to the offsetting savings section expressly stating that if no health service fee was charged, the claimant would be required to deduct the amount authorized.

However, the Commission declined to add this requirement and adopted the parameters and guidelines without this language. The fact that the Commission staff and the California Community College Chancellors Office agreed with DOF’s interpretation does not negate the fact that the Commission adopted parameters and guidelines that *did not* include the additional language. It would be ridiculous if the

³ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

Commission held that every proposal that is discussed was somehow implied into the adopted document, because the proposals of the various parties are often contradictory. Therefore, it is evident that the Commission intends the language of the parameters and guidelines to be construed as written, and only those savings that are *experienced* are to be deducted.

Finally, Mr. Spano's response (Tab 2; pg. 17) states that the auditor used the District's enrollment and BOGG grant records to calculate authorized health service fees, and then claims that the District is "responsible" for providing this information. This is not a requirement of the Parameters and Guidelines, and there is no other statutory requirement that the District provide this information to the Controller.

The District complied with the Parameters and Guidelines when it did not report health service fee revenue it never received. As discussed, there is no basis in law for the Controller's finding that the District was required to reduce its claimed costs by "authorized" health service fees. Therefore, the adjustments that result from this finding should be reversed.

RE: VI. STATUTE OF LIMITATIONS FOR AUDIT

The District asserts that the FY 1997-98, FY 1998-99 and FY 1999-00 claims were beyond the statute of limitations for audit when the Controller initiated its audit on June 24, 2004.

Scheduling of Audit Conference

Mr. Spano's response (Tab 2; pg. 20) claims that the District's inability to schedule an entrance conference with less than two weeks notice, and at the end of December when many employees schedule vacation time, constitutes a "willful act" to intentionally "delay the completion of an audit" under Government Code Section 17558.5(c). Yet, the District was not delaying the *completion* of the audit because the audit had not even begun. The Controller contends that "[b]ecause the district delayed the audit start date, the district equally delayed the audit completion." However, there is no support for this contention in the statute. Section 17558.5(c) specifically concerns only the completion of an audit and makes no mention of scheduling its initiation. Timely initiation of the audit is the responsibility of the Controller, and not the District.

As indicated by Carrie Bray's declaration, which is attached to the District's Incorrect Reduction Claim, she was first contacted by the Controller's Office regarding this audit on Thursday, December 12, 2002. Throughout the course of the next week there were a series of telephone calls and messages between Ms. Bray and the auditor, all with the stated intention of scheduling the entrance conference in January 2003, not December 2002 as stated in Mr. Spano's response (Tab 2; pg. 20).

Further, the District scheduled the entrance conference in January 2003 because a key employee was unavailable due to a previously scheduled vacation. Additionally, the same District staff that was essential to the mandate audit process were involved in the District's financial audit during December 2002. Mr. Spano's response (Tab 2; pg. 20) asserts that a telephone message was left for Ms. Bray on December 10, 2002, although Ms. Bray has no record of this message, which requested that a meeting be scheduled the week of December 16, 2002.

It is unreasonable to expect that District staff members could drop everything and schedule a meeting with all relevant personnel on only a few days notice. The inability of the District to comply with this demand is *not* a willful act designed for the purpose of delaying an audit. The purpose of scheduling the entrance conference in January was to ensure that the District's interests were adequately represented by having all necessary personnel present. The Controller routinely grants claimants several weeks to arrange for relevant staff to be present at an entrance conference. Yet, no such allowance was made for this district and no justification is provided for the immediate need to initiate the audit in this case.

This scheduling process is not unique, and the Controller should have planned for it. There is no reason that the SCO could not have contacted the District in October or November of 2002 if it desired to conduct an entrance conference in December 2002. The District should not be penalized for the Controller's delay in requesting an entrance conference. Further, it appears that the Controller was aware of this impending audit deadline due to the numerous phone calls to the District. The District's response and requests were not unreasonable, and the SCO's attempts to rush the District into an entrance conference at the eleventh hour do not have the effect of actually initiating the audit prior to the entrance conference.

Finally, Mr. Spano's response (Tab 2; pg. 20) asserts that the Controller *initiates* an audit by conducting the entrance conference. (As discussed above, there is no indication that the Controller actually has a firm position on the initiation of an audit due to the various standards set forth.) It then concludes that the audit was somehow "effectively initiated in December 2002," even though the entrance conference was not conducted until January 16, 2003, and that this result is dictated by Government Code Section 17558.5(c). As discussed above, the District's actions do not constitute a "willful act" to intentionally "delay the completion of an audit" under Government Code Section 17558.5(c). The Controller cannot move up the initiation date simply because the District was unable to comply with the Controller's unreasonable demands.

"Subject to Audit"

Even if the Commission finds that the "audit was effectively initiated in December 2002" as contended by the Controller, it was completed long after the time limitation for audit expired. As the Controller correctly points out, the phrase "subject to" in Government Code Section 17558.5 places a claimant "under the power or authority of" the Controller

in respect to audits. Therefore, once the FY 1997-98, FY 1998-99, and FY 1999-00 claims were no longer subject to audit on December 31, 2002, the Controller's authority to audit came to an end, along with the authority to make adjustments based on this audit. If the Controller had failed to make any adjustments by issuing a final audit report, then the time limitation is not extended simply because the audit process had begun.

A key tenet of statutory interpretation is that "statutes must be given a reasonable and common sense construction . . . that will lead to a wise policy rather than to mischief or absurdity." (*Bush v. Bright* (1968) 264 Cal.App.2d 788, 792) If the Controller's interpretation was correct, (i.e., so long as an audit was begun before the time limitation ran out then it could be completed at any later time) then there would be the absurd result that the Controller could issue a final audit report years or decades later and be entitled to the adjustments it contained.

The claimant would be in a state of limbo, not knowing whether the audit had been abandoned or the Controller's Office was simply taking its time. As the process currently stands, several months can pass between the exit conference, issuance of the draft audit report, and issuance of the final audit report. The Controller is free to abandon an audit at any point in the process, and there is no requirement that the claimant be notified of this. Thus, there is a very real possibility for this type of uncertainty to arise if the Controller's interpretation were correct.

Among the important purposes of statutes of limitations are protecting settled expectations, giving stability to transactions, and encouraging the prompt enforcement of substantive law. (*Marin Healthcare Dist. v. Sutter Health* (2002) 103 Cal.App.4th 861, 872). The Controller's interpretation of Section 17558.5 frustrates these important purposes by creating uncertainty and giving the Controller the ability to indefinitely delay the completion of an audit.

Finally, Mr. Spano's response (Tab 2; pg. 20) concludes that "clearly" the Legislature amended Government Code Section 17558.5 with Chapter 890, Statutes of 2004 to state that a reimbursement claim was "subject to the initiation of an audit" as a clarification of its intent for the previous language that stated only "subject to audit." However, the Controller provides absolutely no evidence that this is true.

"Courts are not to infer that legislation merely clarifies existing law unless (1) the nature of the amendment clearly demonstrates such an intent or (2) the legislature has itself stated that the particular amendment is merely declaratory of existing law." (*Goldman v. Standard Ins. Co.* (2003) 341 F.3d 1023, 1029). There is no evidence that either of these conditions exist for the 2004 amendment of Section 17558.5.

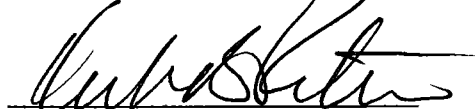
Therefore, the reasonable interpretation is that the reimbursement claim is only subject to any adjustments that are the result of an audit if the audit is completed before the time limitation for audit has run out. In this case, that would mean that the FY 1997-98,

FY 1998-99, and FY 1999-00 claims were beyond the time limitation when the Controller completed the audit by issuing the final audit report on June 24, 2004, and any resulting adjustments are void.

IV. 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 the attached documents are true and correct copies of documents received from or sent by the state agency which originated the document.

Executed on June 8, 2009 at Sacramento, California, by



Keith B. Petersen, President
SixTen & Associates

Attachments:

- Exhibit "A" *Daniels v. Department of Motor Vehicles* (1983) 33 Cal.3d 532
- Exhibit "B" Selections from *Government Auditing Standards*, 2003 Edition
- Exhibit "C" Los Rios CCD Health Fee Elimination Audit # 2 issued May 21, 2008
- Exhibit "D" SCO Mandated Cost Manual for Community Colleges, September 30, 2003 update
- Exhibit "E" Yosemite CCD Health Fee Elimination Draft Audit Report issued April 30, 2009
- Exhibit "F" *Bush v. Bright* (1968) 264 Cal.App.2d 788
- Exhibit "G" *Marin Healthcare Dist. v. Sutter Health* (2002) 103 Cal.App.4th 861
- Exhibit "H" *Goldman v. Standard Ins. Co.* (2003) 341 F.3d 1023

C: Jon Sharpe, Deputy Chancellor
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825-3981

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

1 **DECLARATION OF SERVICE**

2
3 Re: Incorrect Reduction Claim 05-4206-I-06
4 Los Rios Community College District
5 Health Fee Elimination
6

7 I declare:

8
9 I am employed in the office of SixTen and Associates, which is the appointed
10 representative of the above named claimant. I am 18 years of age or older and not a
11 party to the entitled matter. My business address is 3841 North Freeway Blvd., Suite
12 170, Sacramento, CA 95834.
13

14 On the date indicated below, I served the attached letter dated June 8, 2009, to Paula
15 Higashi, Executive Director, Commission on State Mandates, to:

16
17 Paula Higashi, Executive Director
18 Commission on State Mandates
19 980 Ninth Street, Suite 300
20 Sacramento, CA 95814
21

22 Jim L. Spano, Division of Audits
23 Office of the State Controller
24 P.O. Box 942850
25 Sacramento, CA 94250-5874

26
27 Jon Sharpe, Deputy Chancellor
28 Los Rios Community College District
29 1919 Spanos Court
30 Sacramento, CA 95825-3981
31

32 **U.S. MAIL:** I am familiar with the business
33 practice at SixTen and Associates for the
34 collection and processing of
35 correspondence for mailing with the
36 United States Postal Service. In
37 accordance with that practice,
38 correspondence placed in the internal mail
39 collection system at SixTen and
40 Associates is deposited with the United
41 States Postal Service that same day in the
42 ordinary course of business.

43 **FACSIMILE TRANSMISSION:** On the
44 date below from facsimile machine
45 number (858) 514-8645, I personally
transmitted to the above-named person(s)
to the facsimile number(s) shown above,
pursuant to California Rules of Court
2003-2008. A true copy of the above-
described document(s) was(were)
transmitted by facsimile transmission and
the transmission was reported as
complete and without error.

46 **OTHER SERVICE:** I caused such
47 envelope(s) to be delivered to the office of
48 the addressee(s) listed above by:

49 A copy of the transmission report issued
50 by the transmitting machine is attached to
51 this proof of service.

(Describe)

PERSONAL SERVICE: By causing a true
copy of the above-described document(s)
to be hand delivered to the office(s) of the
addressee(s).

46 I declare under penalty of perjury under the laws of the State of California that the
47 foregoing is true and correct and that this declaration was executed on June 8, 2009, at
48 Sacramento, California.
49

50
51 

Kyle M. Peters



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Daniels v. Department of Motor Vehicles (1983) 33 Cal.3d 532 , 189 Cal.Rptr. 512; 658 P.2d 1313

[L.A. No. 31586. Supreme Court of California. March 10, 1983.]

WILFRED ANTHONY DANIELS, Plaintiff and Appellant, v. DEPARTMENT OF MOTOR VEHICLES, Defendant and Respondent

(Opinion by Broussard, J., expressing the unanimous views of the court.) [33 Cal.3d 533]

COUNSEL

James Gaus for Plaintiff and Appellant.

George Deukmejian, Attorney General, and Thomas Scheerer, Deputy Attorney General, for Defendant and Respondent.

OPINION

BROUSSARD, J.

In this appeal we consider whether an accident report filed pursuant to Vehicle Code section 16000 fn. 1 is sufficient without additional evidence to support the suspension of a driver's license in a formal Department of Motor Vehicles (D.M.V.) hearing.

In May 1979, the D.M.V. received what is known as an SR 1 report fn. 2 completed and signed by Carlita Lynn Dorham. The report described an accident [33 Cal.3d 535] that allegedly occurred April 25, 1979, involving a vehicle owned and operated by Dorham and another vehicle owned and operated by licensee Daniels.

On October 10, 1979, the D.M.V. issued an order of suspension of Daniels' driver's license for his failure to file an accident report and proof of financial responsibility. Daniels requested a formal hearing pursuant to section 16075. At the hearing, the referee produced and received into evidence the SR 1 report. The attorney for Daniels objected to the report on the grounds that it contained hearsay and that it had not been authenticated. The objection was overruled on the theory that the report was admissible under section 14108, which provides that at formal hearings "... the department shall consider its official records and may receive sworn testimony"

Daniels was called as a witness by the referee, but on advice of counsel, refused to respond when asked whether he was involved in the accident. He asserted that testifying would tend to incriminate him in the commission of a crime.

The referee found that Daniels had been in an accident involving property damage in excess of \$350, and that he did not have insurance or other type of financial responsibility covering the accident in effect at the time that it occurred.

Following the recommendation of the referee, the D.M.V. issued its order of suspension January 28, 1980. Daniels' petition for writ of mandate was denied by the superior court. The Court of Appeal reversed.

The events underlying the companion case of Himelspach v. Department of Motor Vehicles (1983) post, at page 542 [189 Cal.Rptr. 518, 658 P.2d 1319], are procedurally similar except that Himelspach did not personally attend the formal hearing. However, she was represented by counsel who, coincidentally, is the same attorney who represents Daniels. The Court of Appeal affirmed the superior court's denial of a petition for writ of mandate. We granted a hearing to resolve the conflicting decisions of the Courts of Appeal.

The California Financial Responsibility Law (Veh. Code, § 16000 et seq.) requires drivers of motor vehicles to be self-insured, to have insurance, or to be otherwise financially responsible for damages caused by accidents. A driver involved in an accident causing property damage over \$500 (formerly \$350) or death or personal injury must report such accident to the D.M.V. on an approved SR 1 report form. Failure to report an accident covered by section 16000 results in a notice of intent to suspend. The notice advises the driver or owner of his or her right to a formal or an informal hearing on the matter. (See §§ 14100 et seq. and 16075.) Those sections provide the procedural parameters [33 Cal.3d 536] for the hearing. Those procedural matters not covered by the Vehicle Code are governed by the Administrative Procedure Act (Gov. Code, § 11500 et seq.; see Veh. Code, § 14112). The question in issue here is whether the procedure whereby the D.M.V. bases its order suspending a license solely on the SR 1 report is authorized by statute and complies with the dictates of due process. For the reasons that follow, we conclude that, when the licensee requests a hearing, the use of the SR 1 report as the sole basis for suspension of a license under the Financial Responsibility Law is not authorized by statute. Because we so conclude, we do not decide whether the procedure of basing suspensions solely on the SR 1 report violates due process.

[1] When an administrative agency initiates an action to suspend or revoke a license, the burden of proving the facts necessary to support the action rests with the agency making the allegation. Until the agency has met its burden of going forward with the evidence necessary to sustain a finding, the licensee has no duty to rebut the allegations or otherwise respond. *La Prade v. Dept. of Water & Power* (1945) 27 Cal.2d 47, 51 [162 P.2d 13]; *Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99, 113 [179 Cal.Rptr. 351]; *Martin v. State Personnel Bd.* (1972) 26 Cal.App.3d 573 [103 Cal.Rptr. 306]. [2] The mere fact that the licensee has the right to subpoena witnesses (§ 14104.5) does not relieve the D.M.V. of meeting its burden of producing competent evidence supporting a suspension. Thus, in this case, the licensee had no duty to testify or otherwise rebut the allegations at the hearing until the D.M.V. made a prima facie showing by competent evidence that the licensee was involved in an accident that required the filing of an SR 1 report.

[3] It is well recognized that the private interest at stake in this case -- the right to retain a driver's license absent competent proof of a violation of the law -- is a substantial one. (*Burkhart v. Department of Motor Vehicles* (1981) 124 Cal.App.3d 99, 108 [177 Cal.Rptr. 175]; see *Dixon v. Love* (1977) 431 U.S. 105 [52 L.Ed.2d 172, 97 S.Ct. 1723].) Nevertheless, the D.M.V. contends that the societal interest in having an expeditious and inexpensive hearing outweighs the interest of the licensee. Whatever the weight given to the interest in an expeditious hearing, it is not so great as to allow the deprivation of a property interest absent a showing by substantial competent evidence of facts supporting a suspension.

On this point, the United States Supreme Court has noted that the "assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence." (*Edison Co. v. Labor Board* (1938) 305 U.S. 197, 230 [83 L.Ed. 126, 140, 59 S.Ct. 206].) This court has also taken the position that "[t]here must be substantial evidence to support such a board's ruling, and hearsay, unless [33 Cal.3d 537] specially permitted by statute, is not competent evidence to that end. [Citations.]" (*Walker v. City of San Gabriel* (1942) 20 Cal.2d 879, 881 [129 P.2d 349, 142 A.L.R. 1383].) Thus, the suspension in this case is invalid unless it can be said that the evidence produced at the hearing was legally sufficient to support the findings.

[4] In this regard, two theories are advanced by the D.M.V. to support the use of the SR 1 report as the sole basis for findings justifying a suspension. First, it is argued that the evidence falls within a statutory exception to the hearsay rule. Second, even if the report is hearsay that would be inadmissible over objection in a civil action, it is specially permitted by statute in suspension hearings.

"Hearsay evidence' is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated." (Evid. Code, § 1200, subd. (a).) Unless otherwise provided by law, hearsay evidence is inadmissible. (Evid. Code, § 1200, subd. (b).) There is no dispute that the SR 1 report constitutes hearsay and that it would be inadmissible in a civil action unless it meets the requirements of a recognized exception to the hearsay rule. The D.M.V. asserts that the report falls within the business record exception provided by Evidence Code section 1271. That statute makes admissible evidence of a writing made as a record of an event when (a) the writing was made in the regular course of business; (b) the writing was made at or near the time of the act, condition or event, (c) the custodian or other qualified witness testifies to its identity and the mode of its preparation; and (d) the source of information and method and time of preparation were such as to indicate its trustworthiness.

Two of the four requirements of Evidence Code section 1271 are met in this case. The report was made shortly after the accident, and the fact that the report is made under penalty of perjury and pursuant to a legal duty tends to indicate its trustworthiness. However, the D.M.V. as custodian, upon receipt of the form, is in no position to testify to its identity and the mode of its preparation. Most significant, though, is the fact that the report is not made in the regular course of business.

The D.M.V. argues that the report is made in the regular course of business because it is required by law (§ 16000) and "it is the regular course of business for the Department of Motor Vehicles to receive such reports." This argument, however, misconstrues the nature of the first requirement of the business records exception. Although it may be the regular course of business for the D.M.V. to receive the report, it undoubtedly is not in the regular course of business for the citizen author to make to make such a report. And, it is this aspect of the report that bears on the trustworthiness factor contemplated by this [33 Cal.3d 538] exception to the hearsay rule. Thus, we conclude that the SR 1 report does not meet the requirements of the business record exception to the hearsay rule.

The D.M.V. argues, however, that even if the report is hearsay that would be inadmissible in a civil proceeding, the SR 1 is an official record of the D.M.V. and that its admission in the suspension hearing is specially provided by statute.

The D.M.V. contends that the specific authority for use of the SR 1 report in a suspension hearing is found in the sections of the Vehicle Code dealing with the procedure to be followed in formal and informal hearings. In particular, the D.M.V. contends that the matter of admission of the SR 1 report is "covered" by section 14108, which provides in pertinent part that at formal hearings "... the department shall consider its official records and may receive sworn testimony" Section 14112, provides that "[a]ll matters in a formal hearing not covered by this chapter shall be governed, as far as applicable, by the provisions of the Government Code relating to administrative hearings"

If the matter is not "covered" by the Vehicle Code, the D.M.V. appears to concede that the issue is governed by Government Code section 11513, which provides in relevant part that "[h]earsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions."

The question thus becomes whether the language "shall consider its official records" is a clear legislative authorization to allow use of the report as the sole basis to support a license suspension. We conclude that section 14108, while allowing consideration of the official records of the D.M.V., does not provide authority for allowing the SR 1 to form the sole basis for a license suspension. fn. 3

The legislative mandate of Government Code section 11513 against sole reliance on hearsay evidence is emphatic; the language of section 14108 fails to express a clear legislative intent to supersede section 11513. fn. 4 Unlike statutes [33 Cal.3d 539] that clearly authorize exceptions to the hearsay rule, fn. 5 section 14108 does not reflect any factors providing the necessary competency, reliability, and trustworthiness that would transform the SR 1 report into legally sufficient evidence. That the report is made an "official record" of the D.M.V. does not suffice to create a greater degree of competency, reliability or trustworthiness in the preparation of the report. Particularly in this case, the form, as filed, lacks the requisite assurance of reliability that must be demanded before it will support a finding. In this case, for example, there is no claim of bodily injury. The section of the form providing for a "Cost Estimate by a Garageman" is incomplete. The estimate by the author is of \$400 damage, but there is no mention of any expert opinion or other basis for concluding that there was in fact that amount of damage. The amount of property damage is crucial because no duty arises to prepare the report or otherwise rebut the claim of facts authorizing suspension unless, in the absence of bodily injury, the amount of damages exceeds the statutory trigger point.

The D.M.V. contends that the rationale of *Burkhart v. Department of Motor Vehicles*, supra, 124 Cal.App.3d 99, supports reliance solely on the SR 1 report. In *Burkhart* the court held that the police officer's written statement admitted in a license suspension hearing under the implied consent law (§ 13353) [33 Cal.3d 540] was sufficient in itself to support a finding of failure to complete a chemical test, and that the procedure did not violate due process. *Burkhart* was arrested for driving under the influence of alcohol. (§ 23102, subd. (a).) On the same date the arresting officer executed a sworn statement under section 13353 to the effect that *Burkhart* had refused to take any chemical test as required by that section. Upon notice of intent to suspend his license, *Burkhart* requested a hearing pursuant to section 14107. The hearing was postponed twice because of the failure of the arresting officer to appear, and finally an informal hearing was held without the presence of the officer. At the hearing, the referee introduced the officer's sworn statement over objection of *Burkhart's* counsel. *Burkhart* and his wife contested several portions of the officer's statement; nevertheless, the referee found against *Burkhart*. The superior court held that the officer's statement was not sufficient prima facie evidence of any matter as to which there is conflicting evidence. In holding to the contrary, the Court of Appeal recognized that due process required a balancing test of the various interests involved, but concluded that the presence of the officer would not substantially enhance the reliability

of the hearing process, and the governmental interest and fiscal and administrative burdens involved outweighed requiring the state to produce the officer at the hearing.

In reaching that conclusion, Burkhart relied on Fankhauser v. Orr (1968) 268 Cal.App.2d 418 [74 Cal.Rptr. 61]. The Fankhauser court held that the report of the officer in an implied consent hearing was hearsay but that it was made admissible by section 14108. However, Fankhauser was a case where the licensee testified at the hearing, and his testimony supported the officer's written statement regarding probable cause to stop him and did not controvert the other averments of the officer's sworn statement. (268 Cal.App.2d at p. 423.) In addition, Burkhart specifically recognized but refused to follow contrary authority that declined to elevate the officer's written statement to the status of prima facie evidence if objected to or in conflict with other evidence. (See August v. Department of Motor Vehicles (1968) 264 Cal.App.2d 52 [70 Cal.Rptr. 172]; Fallis v. Department of Motor Vehicles (1968) 264 Cal.App.2d 373 [70 Cal.Rptr. 595].)

The court in August found that there was no dispute as to the existence of the facts upon which the D.M.V. suspended August's license under section 13353, and that August had failed to object to the introduction of the officer's report or request cross-examination of the officer at the informal hearing. Nevertheless, the court suggested that due process required providing the right to cross-examination when the licensee requests a hearing and contests the evidence presented by the agency. (264 Cal.App.2d at p. 60.) A stronger case for the right to cross-examine exists where, as here, the suspension is based on the uncorroborated report of a citizen who by chance happens to be involved in an accident. [33 Cal.3d 541]

Assuming, arguendo, the viability of the conclusion of Burkhart in the implied consent context, that case does not necessarily dispose of the question in this case. The result in Burkhart could be justified under the theory that the report filed by an officer under section 13353 would qualify under Evidence Code section 1271 as a business record or under Evidence Code section 1280 as an official record. Unlike the driver involved in an automobile accident, the statement under section 13353 is made by the officer in the regular course of his or her "business." In addition, the officer's report is a writing "made by and within the scope of duty of a public employee," and meets the other criteria of Evidence Code section 1280, and would thus qualify under that statutory exception to the hearsay rule as well. Whether these distinctions justify sole reliance on the officer's report in an implied consent hearing we need not now decide.

The SR 1 report filed in this case does not in itself reflect the competency, reliability, and trustworthiness necessary to permit use of the report as the sole basis for a finding supporting a license suspension. In view of the importance of the right affected and the lack of legislative authorization allowing sole reliance on the SR 1 report, we hold that, when the licensee requests a hearing, the SR 1 report is in itself insufficient to establish a prima facie showing of the facts supporting the suspension of a driver's license.

The judgment of the trial court is reversed and the cause is remanded to the trial court with directions to grant Daniels' petition and issue a peremptory writ commanding the D.M.V. to set aside its order of suspension and proceed in accordance with the views expressed herein.

Bird, C. J., Mosk, J., Richardson, J., Kaus, J., Reynoso, J., and Dalsimer, J., concurred.

FN 1. All statutory references are to the Vehicle Code unless otherwise noted. At the time of the accident, section 16000 provided: "The driver of a motor vehicle which is in any manner involved in an accident originating from the operation of a motor vehicle on any street or highway which accident has resulted in damage to the property of any one person in excess of three hundred fifty dollars (\$350) or in bodily injury or in the death of any person shall within 15 days after the accident, report the accident on a form approved by the department to the office of the department of Sacramento, subject to the provisions of this chapter. A report shall not be required in the event that the motor vehicle involved in the accident was owned or leased by or under the direction of the United States, this state, or any political subdivision of this state or municipality thereof." Since the accident, the minimum monetary amount has been increased to \$500.

FN 2. The report required to be filed by section 16000 is designated by the D.M.V. as an SR 1 report, and for convenience shall be referred to as such in this opinion.

FN 3. The mere admissibility of evidence does not necessarily confer the status of "sufficiency" to support a finding absent other competent evidence. "Admissibility is not the equivalent of evaluation; the former makes certain concessions in the interest of full and complete discovery while the latter, in the interest of fairness, withholds legal sanction to evidence found not to be trustworthy. Unlike the common practice in judicial proceedings, the fact that evidence may be admissible does not therefore guarantee the sufficiency of such evidence to sustain a finding." (Collins, Hearsay and the Administrative Process: A Review and Reconsideration of the State of the Law of Certain Evidentiary Procedures Applicable in California Administrative Proceedings (1976) 8 Sw.U.L.Rev. 577, 591 (hereafter cited as Hearsay and the Administrative Process).)

FN 4. Other statutory schemes authorizing admission of hearsay evidence in administrative hearings do so unequivocally. For example, the statutes governing procedure in a workers' compensation hearing quite specifically authorize the admission and sufficiency of certain evidence. Labor Code section 5703 provides: "The appeals board may receive evidence either at or subsequent to a hearing, and use as proof of any fact in dispute, the following matters, in addition to sworn testimony presented in open hearing:

"(a) Reports of attending or examining physicians.

"(b) Reports of special investigators appointed by the appeals board or a referee to investigate and report upon any scientific or medical question.

"(c) Reports of employers, containing copies of timesheets, book accounts, reports, and other records properly authenticated.

"(d) Properly authenticated copies of hospital records of the case of the injured employee.

"(e) All publications of the Division of Industrial Accidents.

"(f) All official publications of state and United States governments.

"(g) Excerpts from expert testimony received by the appeals board upon similar issues of scientific fact in other cases and the prior decisions of the appeals board upon such issues." (Italics added.)

Labor Code section 5708 provides: "All hearings and investigations before the appeals board or a referee are governed by this division and by the rules of practice and procedures adopted by the appeals board. In the conduct thereof they shall not be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in the manner, through oral testimony and records, which is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this division. All oral testimony, objections, and rulings shall be taken down in shorthand by a competent phonographic reporter." (Italics added.)

Labor Code section 5709 provides: "No informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, or rule made and filed as specified in this division. No order, decision, award, or rule shall be invalidated because of the admission into the record, and use as proof of any fact in dispute, of any evidence not admissible under the common law or statutory rules of evidence and procedure." (Italics added.) Even in this context, however, the "use" of hearsay evidence does not necessarily sanction sole reliance on uncorroborated hearsay. (See Hearsay and the Administrative Process, *supra*, fn. 132 at p. 603.)

FN 5. See, for example, Evidence Code section 1271 (business records); Evidence Code section 1280 (official records); Evidence Code section 1220 (admissions of a party); Evidence Code section 1240 (spontaneous statements).

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Professional Judgment

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GAO-03-673G Government Auditing Standards > Chapter 3 General Standards > Professional Judgment

3.33 The general standard related to professional judgment is:

Professional judgment should be used in planning and performing audits and attestation engagements and in reporting the results.

3.34 This standard requires auditors to exercise reasonable care and diligence and to observe the principles of serving the public interest and maintaining the highest degree of integrity, objectivity, and independence in applying professional judgment to all aspects of their work. This standard also imposes a responsibility upon each auditor performing work under GAGAS to observe GAGAS. If auditors state they are performing their work in accordance with GAGAS, they should justify any departures from GAGAS.

3.35 Auditors should use professional judgment in determining the type of assignment to be performed and the standards that apply to the work; defining the scope of work; selecting the methodology; determining the type and amount of evidence to be gathered; and choosing the tests and procedures for their work. Professional judgment also should be applied in performing the tests and procedures and in evaluating and reporting the results of the work.

3.36 Professional judgment requires auditors to exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of evidence. Auditors use the knowledge, skills, and experience called for by their profession to diligently perform, in good faith and with integrity, the gathering of evidence and the objective evaluation of the sufficiency, competency, and relevancy of evidence. Since evidence is gathered and evaluated throughout the assignment, professional skepticism should be exercised throughout the assignment.

3.37 Auditors neither assume that management is dishonest nor assume unquestioned honesty. In exercising professional skepticism, auditors should not be satisfied with less than persuasive evidence because of a belief that management is honest.

3.38 The exercise of professional judgment allows auditors to obtain reasonable assurance that material misstatements or significant inaccuracies in data will likely be detected if they exist. Absolute assurance is not attainable because of the nature of evidence and the characteristics of fraud. Therefore, an audit or attestation engagement conducted in accordance with GAGAS may not detect a material misstatement or significant inaccuracy, whether from error or fraud, illegal acts, or violations of provisions of contracts or grant agreements. Accordingly, while this standard places responsibility on each auditor and audit organization to exercise professional judgment in planning and performing an assignment, it does not imply unlimited responsibility, nor does it imply infallibility on the part of either the individual auditor or the audit organization.

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GAO-03-673G Government Auditing Standards > Chapter 8 Reporting Standards for Performance Audits > Report Contents

8.07 The reporting standard related to the contents of the report for performance audits conducted in accordance with GAGAS is:

The audit report should include the objectives, scope, and methodology; the audit results, including findings, conclusions, and recommendations, as appropriate; a reference to compliance with generally accepted government auditing standards; the views of responsible officials; and, if applicable, the nature of any privileged and confidential information omitted.

Objectives, Scope, and Methodology

8.08 Auditors should include in the report the audit objectives and the scope and methodology used for achieving the audit objectives. This information is needed by report users to understand the purpose of the audit and the nature of the audit work performed, to provide perspective as to what is reported, and to understand any significant limitations in audit objectives, scope, or methodology.

8.09 Audit objectives should be communicated in the audit report in a clear, specific, and neutral manner that avoids unstated assumptions. Auditors should explain why the audit organization undertook the assignment and state what the report is to accomplish and why the subject matter is important. Articulating what the report is to accomplish normally involves identifying the audit subject and the aspect of performance examined. The reported audit objectives provide more meaningful information to report users if they are measurable and feasible and avoid being presented in a broad or general manner. To reduce misunderstanding in cases where the objectives are particularly limited and broader objectives can be inferred, it may be necessary to state objectives that were not pursued.

8.10 In reporting the scope of the audit, auditors should describe the depth and coverage of work conducted to accomplish the audit's objectives. Auditors should, as applicable, explain the relationship between the population of items sampled and what was audited; identify organizations, geographic locations, and the period covered; report the kinds and sources of evidence; and explain any problems with the evidence. Auditors should also report significant constraints imposed on the audit approach by data limitations or scope impairments, including demands of access to certain records or individuals.

8.11 To report the methodology used, auditors should clearly explain how the audit objectives were accomplished, including the evidence gathering and analysis techniques used, in sufficient detail to allow knowledgeable users of their reports to understand the work. This explanation should identify any significant assumptions made in conducting the audit; describe any comparative techniques applied; describe the criteria used; and,

when sampling significantly supports auditors' findings, describe the sample design and state why it was chosen, including whether the results can be projected to the intended population.

8.12 Auditors should attempt to avoid misunderstanding by the report user concerning the work that was and was not done to achieve the audit objectives, particularly when the work was limited because of constraints on time or resources. The auditors' report should clearly describe the scope of the work performed and any limitations; any applicable standards that were not followed, and the reasons therefor; and how not following the applicable standards affected or could affect the results of the work. For example, if the auditors are unable to determine the reliability of information from an agency's database, and information from this database is critical to achieving the audit objectives, the report should clearly state the limitations associated with the information and refrain from making unwarranted conclusions or recommendations. In these situations, the audit report should also include the reasons the auditors were unable to perform this work and the potential impact on the findings if the information is not reliable. ¹

Findings

8.13 Auditors should report findings by providing credible evidence that relates to the audit objectives. These findings should be supported by sufficient, competent, and relevant evidence. They also should be presented in a manner to promote adequate understanding of the matters reported and to provide convincing but fair presentations in proper perspective. The audit report should provide selective background information to provide the context for the overall message and to help the reader understand the findings and significance of the issues discussed. ²

8.14 As discussed in chapter 7, audit findings have often been regarded as containing the elements of criteria, condition, cause, and effect. However, the elements needed for a finding depend on the audit objectives. For example, an audit objective may be limited to determining the current status or condition of implementing legislative requirements, and not the related cause or effect. Thus, a finding or set of findings is complete to the extent that the audit objectives are satisfied and the report clearly relates those objectives to the elements of the finding.

8.15 To the extent possible, in presenting findings, auditors should develop the elements of criteria, condition, cause, and effect to assist officials of the audited entity or oversight officials of the audited entity in understanding the need for taking corrective action. In addition, if auditors are able to sufficiently develop the findings, auditors should provide recommendations for corrective action. Following is guidance for reporting on elements of findings:

a. Criteria provides information so that the report user will be able to determine what is the required or desired state or what is expected from the program or operation. The criteria are easier to understand when stated fairly, explicitly, and completely and when the source of the criteria is identified in the audit report. ³

b. Condition provides evidence on what the auditors found regarding the actual situation. Reporting the scope or extent of the condition allows the report user to gain an accurate perspective.

c. Cause provides persuasive evidence on the factor or factors responsible for the difference between condition and criteria. In reporting the cause, auditors may consider whether the evidence provides a reasonable and convincing argument for why the stated cause is the key factor or factors contributing to the difference as opposed to other possible causes, such as poorly designed criteria or factors uncontrollable by program management. The auditors also may consider whether the identified cause

could serve as a basis for the recommendations.

d. Effect provides a clear, logical link to establish the impact of the difference between what the auditors found (condition) and what should be (criteria). Effect is easier to understand when it is stated clearly, concisely, and, if possible, in quantifiable terms. The significance of the reported effect can be demonstrated through credible evidence.

8.16 The audit report should also include any significant deficiencies⁴ in internal control, all instances of fraud and illegal acts unless they are clearly inconsequential,⁵ significant violations of provisions of contracts or grant agreements, and significant abuse.

Internal Control Deficiencies

8.17 Auditors should include in the audit report the scope of their work on internal control and any significant deficiencies found during the audit. When auditors detect deficiencies in internal control that are not significant, they should communicate those deficiencies in a separate letter to officials of the audited entity unless the deficiencies are clearly inconsequential considering both qualitative and quantitative factors. If the auditors have communicated deficiencies in a separate letter to officials of the audited entity, they should refer to that letter in the audit report. Auditors should use professional judgment in determining whether or how to communicate deficiencies that are clearly inconsequential to officials of the audited entity. Auditors should include in their audit documentation evidence of all communications about internal control deficiencies found during the audit.

8.18 In a performance audit, auditors may identify significant deficiencies in internal control as the cause of deficient performance. In reporting this type of finding, the internal control weakness would be described as the cause.

Fraud, Illegal Acts, Violations of Provisions of Contracts or Grant Agreements, and Abuse

8.19 When auditors conclude, based on evidence obtained, that fraud, illegal acts, significant violations of provisions of contracts or grant agreements, or significant abuse either has occurred or is likely to have occurred, they should include in their audit report relevant information.⁶ Abuse occurs when the conduct of a government program or entity falls far short of behavior that is expected to be reasonable and necessary business practices by a prudent person.

8.20 When reporting instances of fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse, auditors should place their findings in proper perspective by providing a description of the work conducted that resulted in the finding. To give the reader a basis for judging the prevalence and consequences of these findings, the instances identified should be related to the population or the number of cases examined and be quantified in terms of dollar value, if appropriate. If the results cannot be projected, auditors should limit their conclusion to the items tested.

8.21 When auditors detect violations of provisions of contracts or grant agreements; or abuse that is not significant, they should communicate those findings in a separate letter to officials of the audited entity unless the findings are clearly inconsequential, considering both qualitative and quantitative factors. If the auditors have communicated instances of fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse in a separate letter to officials of the audited entity, auditors should refer to that letter in the audit report. Auditors should use their professional judgment in determining whether and how to communicate to officials of the audited entity fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse that are clearly inconsequential. Auditors should include in their

audit documentation evidence of all communications to officials of the audited entity about instances of fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse.

Direct Reporting of Fraud, Illegal Acts, Violations of Provisions of Contracts or Grant Agreements, and Abuse

8.22 GAGAS require auditors to report fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse directly to parties outside the audited entity in certain circumstances, as discussed below.⁷ These requirements are in addition to any legal requirements for direct reporting of fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse. Auditors should meet these requirements even if they have resigned or been dismissed from the audit.

8.23 The audited entity may be required by law or regulation to report certain fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse to specified external parties, such as a federal inspector general or a state attorney general. If auditors have communicated such fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse to the audited entity and it fails to report them, then the auditors should communicate their awareness of that failure to the governing body of the audited entity. If the audited entity does not make the required report as soon as possible after the auditors' communication with the entity's governing body, then the auditors should report such fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse directly to the external party specified in the law or regulation.

8.24 Officials of the audited entity are responsible for taking timely and appropriate steps to remedy fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse that auditors report to them. When fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse involves assistance received directly or indirectly from a government agency, auditors may have a duty to report such fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse directly to that government agency if officials of the audited entity fail to take remedial steps. If auditors conclude that such failure is likely to cause them to report such findings or resign from the audit, they should communicate that conclusion to the governing body of the audited entity. Then, if the audited entity does not report the fraud, illegal act, violation of provisions of contracts or grant agreements, or abuse as soon as possible to the entity that provided the government assistance, the auditors should report the fraud, illegal act, violation of provisions of contracts or grant agreements, or abuse directly to that entity.

8.25 In these situations, auditors should obtain sufficient, competent, and relevant evidence, such as confirmation with outside parties, to corroborate assertions by officials of the audited entity that the officials have reported fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse. If the officials are unable to do so, then the auditors should report such fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse directly as discussed above.

8.26 Laws, regulations, or other authority may require auditors to report promptly indications of certain types of fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse to law enforcement or investigatory authorities. In such circumstances, when auditors conclude that these types of fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse either have occurred or are likely to have occurred, they should ask those authorities or legal counsel if publicly reporting certain information about the potential fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse would compromise investigative or legal proceedings. Auditors should limit the extent of their public reporting to matters that would not compromise those proceedings, such as information that is

already a part of the public record.

Conclusions

8.27 Auditors should report conclusions when called for by the audit objectives and the results of the audit. Conclusions are logical inferences about the program based on the auditors' findings and should represent more than just a summary of the findings. Conclusions should be clearly stated, not implied. The strength of the auditors' conclusions depends on the persuasiveness of the evidence supporting the findings and the soundness of the logic used to formulate the conclusions. Conclusions are stronger if they set up the report's recommendations and convince the knowledgeable user of the report that action is necessary.

Recommendations

8.28 If warranted, auditors should make recommendations for actions to correct problems identified during the audit and to improve programs and operations. Auditors should make recommendations when the potential for improvement in programs, operations, and performance is substantiated by the reported findings and conclusions. Recommendations should logically flow from the findings and conclusions and need to state clearly the actions to be taken. Recommendations to effect compliance with laws and regulations and improve internal control also should be made when significant instances of possible fraud, illegal acts, or violations of provisions of contracts or grant agreements are noted, or when abuse or deficiencies in internal control are found.

8.29 Constructive recommendations can encourage improvements in the conduct of government programs and operations. For recommendations to be most constructive, they should be directed at resolving the cause of identified problems, action oriented and specific, addressed to parties that have the authority to act, practical and, to the extent feasible, cost effective and measurable.

Statement on Compliance with GAGAS

8.30 Auditors should report that the audit was made in accordance with GAGAS. The statement of compliance with GAGAS refers to all the applicable standards that the auditors should have followed during the audit. The statement referencing compliance with GAGAS should be qualified in situations in which the auditors did not follow an applicable standard. In these situations, auditors should disclose in the scope section of the report the applicable standard that was not followed, the reasons therefor, and how not following the standard affected, or could have affected, the results of the audit. In assessing the impact of not following an applicable standard on the results of the audit, auditors may need to qualify any assurances, disclaim from providing any assurances, or withdraw from the audit.

Reporting Views of Responsible Officials

8.31 Auditors should report the views of responsible officials of the audited program concerning auditors' findings, conclusions, and recommendations; as well as planned corrective actions. One of the most effective ways to ensure that a report is fair, complete, and objective is to obtain advance review and comments by responsible officials of the audited entity and others, as may be appropriate. Including the views of responsible officials results in a report that presents not only the auditors' findings, conclusions, and recommendations, but also what the responsible officials of the audited entity think about the audit results and what corrective actions officials of the audited entity plan to take. Auditors should include in their report a copy of the officials' written comments or a summary of the comments received.

8.32 Auditors should normally request that the responsible officials submit in writing their views on reported findings, conclusions, and recommendations, as well as management's planned corrective actions. Oral comments are acceptable as well and,

in some cases, may be the only or most expeditious way to obtain comments. Cases in which obtaining oral comments can be effective include when there is a time-critical requirement to meet a user's needs; the auditors have worked closely with the responsible officials throughout the conduct of the work and the parties are very familiar with the findings and issues addressed in the draft report; or the auditors do not expect major disagreements with the draft report's findings, conclusions, and recommendations, or perceive any major controversies with regard to the issues discussed in the draft report. Auditors should prepare a summary of the officials' oral comments and provide a copy of the summary to officials of the audited entity to verify that the comments are accurately stated prior to finalizing the report.

8.33 Comments should be fairly and objectively evaluated and recognized, as appropriate, in the final report. Comments, such as a promise or plan for corrective action, should be noted but should not be accepted as justification for dropping a finding or a related recommendation.

8.34 When the audited entity's comments oppose the report's findings, conclusions, or recommendations and are not, in the auditors' opinion, valid, or when planned corrective actions do not adequately address the auditors' recommendations, the auditors should state their reasons for disagreeing with the comments or planned corrective actions. The auditors' disagreement should be stated in a fair and objective manner. Conversely, the auditors should modify their report as necessary if they find the comments valid.

Reporting Privileged and Confidential Information

8.35 If certain pertinent information is prohibited from general disclosure, the audit report should state the nature of the information omitted and the requirement that makes the omission necessary.

8.36 Certain information may be prohibited from general disclosure by federal, state, or local laws or regulations. In such circumstances, auditors may issue a separate limited-official-use report containing such information and distribute the report only to persons authorized by law or regulation to receive it. Additional circumstances associated with public safety and security concerns could also justify the exclusion of certain information in the report. For example, detailed information related to computer security for a particular program may be excluded from publicly available reports because of the potential damage that could be caused by the misuse of this information. In such circumstances, auditors may issue a limited-official-use report containing such information and distribute the report only to those parties responsible for acting on the auditors' recommendations. The auditors should, when appropriate, consult with legal counsel regarding any requirements or other circumstances that may necessitate the omission of certain information.

8.37 Auditors' judgments that certain information should be excluded from publicly available reports should be made in a manner consistent with consideration of the broader public interest in the program or activity under review. When circumstances call for omission of certain information, auditors should consider whether this omission could distort the engagement results or conceal improper or unlawful practices. If auditors make the judgment that certain information should be excluded from a publicly available report, they should state the general nature of the information omitted and the reasons that make the omission necessary in the report.

1When computer-processed data are included in the report for background or informational purposes and are not significant to the auditors' findings, citing the source of the data and stating that they were not verified will satisfy the reporting standards.

2Appropriate background information may include information on how programs and

operations work; the significance of programs and operations (e.g., dollars, impact, purposes, and past audit work if relevant); a description of the audited entity's responsibilities; and explanation of terms, organizational structure, and the statutory basis for the program and operations.

3Common sources for criteria include laws, regulations, policies, procedures, and best or standard practices. The *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: Nov. 1999) and *Internal Control--Integrated Framework*, published by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) are two sources of established criteria auditors can use to support their judgments and conclusions about internal control. The related *Internal Control Management and Evaluation Tool*, GAO-01-1008G (Washington, D.C.: Aug. 2001), based on the federal internal control standards, provides a systematic, organized, and structured approach to assessing internal control.

4Significant deficiencies are those matters coming to the auditor's attention that, in the auditor's judgment, affect the results of the auditors' work and the auditors' conclusions and recommendations about those results.

5Whether a particular act is, in fact, illegal may have to await final determination by a court of law. Thus, when auditors disclose matters that have led them to conclude that an illegal act is likely to have occurred, they should take care not to unintentionally imply that a final determination of illegality has been made.

6See paragraphs 8.22 through 8.26 for additional reporting considerations.

7Internal audit organizations do not have a duty to report outside the entity unless required by law, rule, regulation, or policy. See paragraph 3.28 for reporting requirements for internal audit organizations when reporting externally.

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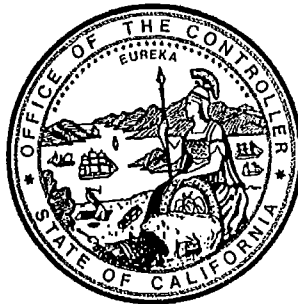
LOS RIOS COMMUNITY COLLEGE DISTRICT

Audit Report

HEALTH FEE ELIMINATION PROGRAM

Chapter 1, Statutes of 1984, 2nd Extraordinary Session,
and Chapter 1118, Statutes of 1987

July 1, 2002, through June 30, 2005



JOHN CHIANG
California State Controller

May 2008



JOHN CHIANG
California State Controller

May 21, 2008

Anne Blackwood, President
Board of Trustees
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825-3981

Dear Ms. Blackwood:

The State Controller's Office audited the costs claimed by the Los Rios Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2002, through June 30, 2005.

The district claimed \$2,554,615 (\$2,555,615 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that the entire amount is unallowable, primarily because the district did not report authorized health service fees. The State paid the district \$814,928, which the State will offset from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

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 CSM's Web site, at www.csm.ca.gov (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at csminfo@csm.ca.gov.

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
Chief, Division of Audits

JVB/vb

cc: Jon Sharpe, Deputy Chancellor
 Los Rios Community College District
Carrie Bray, Director, Accounting Services
 Los Rios Community College District
Marty Rubio, Specialist, Fiscal Accountability Section
 California Community Colleges Chancellor's Office
Jeannie Oropeza, Program Budget Manager
 Education Systems Unit
 Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Los Rios Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2002, through June 30, 2005.

The district claimed \$2,554,615 (\$2,555,615 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that the entire amount is unallowable, primarily because the district did not report authorized health service fees. The State paid the district \$814,928, which the State will offset from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

Background

Chapter 1, Statutes of 1984, 2nd Extraordinary Session (E.S.) repealed Education Code section 72246 which authorized community college districts to charge a health fee for providing health supervision and services, providing medical and hospitalization services, and operating student health centers. This statute also required that health services for which a community college district charged a fee during fiscal year (FY) 1983-84 had to be maintained at that level in FY 1984-85 and every year thereafter. The provisions of this statute would automatically sunset on December 31, 1987, reinstating the community college districts' authority to charge a health service fee as specified.

Chapter 1118, Statutes of 1987, amended Education Code section 72246 (subsequently renumbered as section 76355 by Chapter 8, Statutes of 1993). The law requires any community college district that provided health services in FY 1986-87 to maintain health services at the level provided during that year in FY 1987-88 and each fiscal year thereafter.

On November 20, 1986, the Commission on State Mandates (CSM) determined that Chapter 1, Statutes of 1984, 2nd Extraordinary Session imposed a "new program" upon community college districts by requiring specified community college districts that provided health services in FY 1983-84 to maintain health services at the level provided during that year in FY 1984-85 and each fiscal year thereafter. This maintenance-of-effort requirement applied to all community college districts that levied a health service fee in FY 1983-84.

On April 27, 1989, the CSM determined that Chapter 1118, Statutes of 1987, amended this maintenance-of-effort requirement to apply to all community college districts that provided health services in FY 1986-87, requiring them to maintain that level in FY 1987-88 and each fiscal year thereafter.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. CSM adopted parameters and guidelines on August 27, 1987, and amended them on May 25, 1989. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist school districts in claiming mandated program reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Health Fee Elimination Program for the period of July 1, 2002, through June 30, 2005.

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 the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

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.

We asked the district's representative to submit a written representation letter regarding the district's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Government Auditing Standards*. However, the district declined our request.

Conclusion

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

For the audit period, the Los Rios Community College District claimed \$2,554,615 (\$2,555,615 less a \$1,000 penalty for filing a late claim) for costs of the Health Fee Elimination Program. Our audit disclosed that the entire amount is unallowable.

The State paid the district \$814,928, which it will offset 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 February 20, 2008. Jon Sharpe, Deputy Chancellor, responded by letter dated March 11, 2008 (Attachment), disagreeing with the audit results. This final audit report includes the district's response.

After further review, we revised Finding 1 to eliminate previously reported unallowable costs that resulted from extrapolating non-statistical sample results to the population sampled. Finding 1 now shows unallowable salaries and benefits totaling \$16,019 and unallowable indirect costs totaling \$4,889. We previously reported unallowable salaries and benefits totaling \$148,851 and unallowable indirect costs totaling \$45,484.

Restricted Use

This report is solely for the information and use of the Los Rios Community College District, 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
Chief, Division of Audits

May 21, 2008

**Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2005**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2002, through June 30, 2003</u>				
Direct costs:				
Salaries	\$ 501,152	\$ 498,087	\$ (3,065)	Finding 1
Benefits	115,242	114,542	(700)	Finding 1
Services and supplies	12,117	6,287	(5,830)	Finding 2
Total direct costs	628,511	618,916	(9,595)	
Indirect costs	186,417	107,398	(79,019)	Findings 1, 2, 3
Total direct and indirect costs	814,928	726,314	(88,614)	
Less authorized health service fees	—	(1,293,681)	(1,293,681)	Finding 4
Subtotal	814,928	(567,367)	(1,382,295)	
Audit adjustments that exceed costs claimed	—	567,367	567,367	
Total program costs	<u>\$ 814,928</u>	—	<u>\$ (814,928)</u>	
Less amount paid by the State		(814,928)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (814,928)</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs:				
Salaries	\$ 516,187	\$ 508,796	\$ (7,391)	Finding 1
Benefits	128,945	127,151	(1,794)	Finding 1
Services and supplies	19,506	13,031	(6,475)	Finding 2
Total direct costs	664,638	648,978	(15,660)	
Indirect costs	201,983	113,671	(88,312)	Findings 1, 2, 3
Total direct and indirect costs	866,621	762,649	(103,972)	
Less authorized health service fees	—	(1,137,243)	(1,137,243)	Finding 4
Less late filing penalty	(1,000)	(1,000)	—	
Subtotal	865,621	(375,594)	(1,241,215)	
Audit adjustments that exceed costs claimed	—	375,594	375,594	
Total program costs	<u>\$ 865,621</u>	—	<u>\$ (865,621)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2004, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 516,410	\$ 513,946	\$ (2,464)	Finding 1
Benefits	128,609	128,004	(605)	Finding 1
Services and supplies	17,352	8,590	(8,762)	Finding 2
Total direct costs	662,371	650,540	(11,831)	
Indirect costs	211,695	231,352	19,657	Findings 1, 2, 3
Total direct and indirect costs	874,066	881,892	7,826	
Less authorized health service fees	—	(1,123,546)	(1,123,546)	Finding 4
Subtotal	874,066	(241,654)	(1,115,720)	
Audit adjustments that exceed costs claimed	—	241,654	241,654	
Total program costs	<u>\$ 874,066</u>	—	<u>\$ (874,066)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		
<u>Summary: July 1, 2002, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 1,533,749	\$ 1,520,829	\$ (12,920)	
Benefits	372,796	369,697	(3,099)	
Services and supplies	48,975	27,908	(21,067)	
Total direct costs	1,955,520	1,918,434	(37,086)	
Indirect costs	600,095	452,421	(147,674)	
Total direct and indirect costs	2,555,615	2,370,855	(184,760)	
Less authorized health service fees	—	(3,554,470)	(3,554,470)	
Less late filing penalty	(1,000)	(1,000)	—	
Subtotal	2,554,615	(1,184,615)	(3,739,230)	
Audit adjustments that exceed costs claimed	—	1,184,615	1,184,615	
Total program costs	<u>\$ 2,554,615</u>	—	<u>\$ (2,554,615)</u>	
Less amount paid by the State		(814,928)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (814,928)</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unallowable salaries and benefits

The district claimed unallowable salaries and benefits totaling \$16,019. The related indirect costs total \$4,889. The unallowable salaries and benefits are attributable to (1) the increased level of health services that American River College (ARC) provided and (2) the insufficient supporting documentation that Consumnes River College (CRC) and Sacramento City College (SCC) provided.

The district's claims identified the health services that the district provided during fiscal year (FY) 1986-87, the mandated program's base year. For each college, we examined health service logs that covered a one-month period in each fiscal year. For CRC, we expanded our sample to include a second one-month period in FY 2003-04. The health service logs identify actual health services provided. ARC's health service logs showed that it provided health services exceeding the services that the district provided during FY 1986-87. In addition, CRC's and SCC's health service logs included entries that did not identify the service provided. As a result, we were unable to verify that those services were mandate-related.

The following table shows the percentage of unallowable or unsupported health services provided and the resulting unallowable salaries and benefits for each college and fiscal year:

	ARC	CRC	SCC	Total
Fiscal Year 2002-03:				
Salaries and benefits claimed	\$ 241,188	\$ 145,430	\$ 229,776	
Number of months per year	÷ 12	÷ 12	÷ 12	
Average monthly salaries and benefits claimed	20,099	12,119	19,148	
Percentage of unallowable services provided	× (5.65)%	× (12.50)%	× (5.82)%	
Audit adjustment	<u>(1,136)</u>	<u>(1,515)</u>	<u>(1,114)</u>	\$ (3,765)
Fiscal Year 2003-04:				
Salaries and benefits claimed	240,486	179,984	224,662	
Number of months per year	÷ 12	÷ 12	÷ 12	
Average monthly salaries and benefits claimed	20,041	14,999	18,722	
Number of months audited	× 1	× 2	× 1	
Total salaries and benefits for months audited	20,041	29,998	18,722	
Percentage of unallowable services provided	× (4.20)%	× (24.09)%	× (5.96)%	
Audit adjustment	<u>(842)</u>	<u>(7,227)</u>	<u>(1,116)</u>	(9,185)
Fiscal Year 2004-05:				
Salaries and benefits claimed	253,007	178,176	213,836	
Number of months per year	÷ 12	÷ 12	÷ 12	
Average monthly salaries and benefits claimed	21,084	14,848	17,820	
Percentage of unallowable services provided	× (5.04)%	× (13.51)%	× —	
Audit adjustment	<u>(1,063)</u>	<u>(2,006)</u>	<u>—</u>	(3,069)
Total audit adjustment	<u>\$ (3,041)</u>	<u>\$ (10,748)</u>	<u>\$ (2,230)</u>	<u>\$ (16,019)</u>

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

	Fiscal Year			Total
	2002-03	2003-04	2004-05	
Salaries and benefits	\$ (3,765)	\$ (9,185)	\$ (3,069)	\$ (16,019)
Related indirect costs	(1,117)	(2,791)	(981)	(4,889)
Audit adjustment	\$ (4,882)	\$ (11,976)	\$ (4,050)	\$ (20,908)

The program's parameters and guidelines state that a community college district may claim costs only for those health services that it provided in FY 1986-87. In addition, the parameters and guidelines state that "all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs."

Recommendation

We recommend that the district maintain logs that consistently identify the health services actually provided. In addition, we recommend that the district adopt uniform health service logs by implementing ARC's health service log system for all colleges. We also recommend that the district claim only those costs related to health services that the district provided in FY 1986-87.

District's Response

The audit work which generated these findings was a review of "service logs" . . . These logs are actually sign-in sheets in which persons obtaining service, with or without appointments, write their name and provide a four or five word description of their ailment. Some patients declined to state the reason for their visit, which is their right under state and federal laws, specifically HIPPA privacy laws.

The service logs were not prepared for mandate or financial cost accounting purposes nor are they required by the parameters and guidelines. Neither the parameters and guidelines nor the Controller's claiming instructions require the claimants to report the number or type of service actually provided, but only require the claimant to provide an inventory of services available to students.

There is no evidence that the service logs record all of the services provided each month. The extrapolation [finding] assumes that all staff labor is applied only to patient visits.

There is no indication that the number of services provided in each of these months is a statistically valid sample of the scope of services provided. That is, patient visits may not be representative of all types of services provided.

The time spent by staff to provide service varies by the type of service provided. The extrapolation assumes every patient visit requires the same amount of staff time to provide service.

The audit disallows those visits for which no reason is stated by the patient. This essentially disallows services which are probably allowable. This penalizes the District for complying with privacy requirements.

The audit report recommends that in the future the district maintain logs "that consistently identify the health services actually provided." This of course indicates that the auditor does not believe the current logs are representative of the services actually provided, yet the auditor used the logs for sampling and extrapolation. Therefore, the audit report concedes that findings are based on an incompetent source.

The audit report quotes the parameters and guidelines as the legal basis for the adjustment, specifically, that " ... all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs." It is ironic and entirely unacceptable for the Controller to adjust claimed costs for insufficient documentation when the auditor chose documents never intended nor designed for cost accounting as the basis for these findings and then criticized the District's source documentation.

The district also objected to the SCO extrapolating sample results to total salaries and benefits claimed for each college and fiscal year.

SCO's Comment

We revised our audit finding to eliminate previously reported unallowable costs that resulted from extrapolating sample results to the full fiscal year for each college. For those colleges and fiscal years for which we sampled one month of services provided, we calculated unallowable costs by applying the percentage of unallowable services to the average monthly salaries and benefits claimed. Because we sampled two months for Consumnes River College's FY 2003-04 services provided, we doubled that amount. We also made non-substantive edits to our recommendation.

During our audit field work, we asked the district to provide documentation showing the actual services that the district provided. In response, the district provided the health service logs. We gave the district an opportunity to provide any other documentation that supports actual services provided. The district did not provide any other documentation during our audit fieldwork or in response to our draft audit report.

The district incorrectly states that the parameters and guidelines and the SCO's claiming instructions "only require the claimant to provide an inventory of services available to students." The parameters and guidelines actually state, "Only services provided in 1986-87 fiscal year may be claimed." They require the district to claim salaries and benefits by describing the mandated functions performed and specifying the actual number of hours devoted to each function. In addition, they state, "All costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs."

The district states that the service logs do not record all of the health services that it provided each month. However, the district provided no other documentation related to patient visits or the actual amount of time spent on reimbursable activities.

The district states, "The time spent by staff to provide service varies by the type of service provided. The extrapolation [finding] assumes every patient visit requires the same amount of staff time to provide service." However, the district did not provide any documentation that shows the actual time spent on unallowable activities. The district did not provide any documentation that specifies the actual number of hours devoted to each mandated function as required by the parameters and guidelines. In addition, the district failed to provide any reasonable alternative methodology to calculate costs claimed that are attributable to unallowable activities. The district's failure to provide any evidence of the individual costs allegedly incurred puts its entire claim in question. We conclude that the audit methodology is reasonable in light of the district's lack of supporting documentation.

The district also states, "The audit disallows those visits for which no reason is stated by the patient. This essentially disallows services which are probably allowable. This penalizes the District for complying with privacy requirements." The parameters and guidelines require the district to describe the mandated functions performed and specify the actual number of hours devoted to each function. The district provided no documentation showing that the referenced patient visits were "probably allowable." The district's compliance with Health Insurance Portability and Accountability Act (HIPAA) requirements is not relevant. It is the district's responsibility to maintain documentation that complies with the parameters and guidelines' requirements. The district may document actual services provided without violating HIPAA requirements simply by providing the same health service logs without disclosing patient names. District staff may contemporaneously identify the service(s) provided if the patient does not.

The district cites the audit report recommendation that states, "We recommend that the district maintain logs that consistently identify the health services actually provided." The district then incorrectly concludes that the SCO does not believe that the current logs are representative of the services actually provided and hypothesizes falsely that the audit report concedes to reporting a finding based on an incompetent source. Our recommendation only addresses the issue of documented patient visits that do not identify the actual service provided.

The district states, "It is ironic and entirely unacceptable for the Controller to adjust claimed costs for insufficient documentation when the auditor chose documents never intended nor designed for cost accounting as the basis for these findings and then criticized the District's source documentation." The SCO did not "choose" the documents. The SCO requested that the district provide documentation supporting actual services provided, in accordance with the parameters and guidelines' requirements. In response, the district provided copies of the health service logs. The district provided no other documentation to support actual services provided. The SCO did not "criticize" the source documentation, but instead noted instances in which the source documentation either did not identify the actual health services provided or identified unallowable services.

**FINDING 2—
Unallowable services
and supplies**

The district claimed unallowable services and supplies totaling \$21,067. The related indirect costs total \$6,497.

The district claimed \$12,305 to provide medical services at sporting events and physical examinations for intercollegiate athletes. Education Code section 76355, subdivision (d)(2), states that authorized expenditures shall not include physical examinations for intercollegiate athletics and the salaries of health professionals for athletic events.

In addition, the district claimed \$3,568 for laboratory service costs and \$5,194 for immunization costs. The district’s claims show that it did not provide these services during FY 1986-87. The parameters and guidelines state that a community college district may claim costs only for those health services that it provided in FY 1986-87.

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	2002-03	2003-04	2004-05	
Services and supplies	\$ (5,830)	\$ (6,475)	\$ (8,762)	\$ (21,067)
Indirect costs	(1,729)	(1,968)	(2,800)	(6,497)
Audit adjustment	\$ (7,559)	\$ (8,443)	\$ (11,562)	\$ (27,564)

Recommendation

We recommend that the district claim costs only for those health services that it provided in FY 1986-87.

District’s Response

The audit findings do not state which tests and immunizations are disallowed, so it cannot be determined if the finding is accurate.

SCO’s Comment

Our finding and recommendation are unchanged. During our exit conference conducted January 10, 2008, we provided the district a detailed schedule showing each individual unallowable item, identified by both the district’s reference number and voucher number. The district did not provide any documentation to refute the audit finding.

**FINDING 3—
Overstated and
understated indirect
cost rates claimed**

The district overstated its indirect cost rates for FY 2002-03 and FY 2003-04. The district understated its indirect cost rate for FY 2004-05. The overstated and understated indirect cost rates resulted in unallowable indirect costs totaling \$136,288.

The district prepared its FY 2002-03 and FY 2003-04 indirect cost rate proposals (ICRPs) using Office of Management and Budget (OMB) Circular A-21 methodology. However, the district did not obtain federal approval for these ICRPs.

The district prepared its FY 2004-05 ICRP using the SCO's FAM-29C methodology. However, the district did not prepare the ICRP according to the SCO's claiming instructions. The district prepared the FY 2004-05 ICRP using FY 2003-04 actual cost data and did not properly allocate costs as indirect costs or direct costs.

We calculated allowable indirect cost rates using the FAM-29C methodology that the SCO's claiming instructions allow. The following table summarizes the claimed and allowable indirect cost rates and the resulting audit adjustment.

	Fiscal Year			Total
	2002-03	2003-04	2004-05	
Allowable indirect cost rate	16.47%	16.26%	35.76%	
Claimed indirect cost rate	(29.66)%	(30.39)%	(31.96)%	
(Overstated)/understated indirect cost rate	(13.19)%	(14.13)%	3.80%	
Allowable direct costs claimed	\$ 577,502	\$ 591,315	\$ 616,785	
Audit adjustment	\$ (76,173)	\$ (83,553)	\$ 23,438	\$(136,288)

The parameters and guidelines state that "indirect costs may be claimed in the manner described by the State Controller in his claiming instructions." The SCO's claiming instructions state that districts must obtain federal approval for an ICRP prepared in accordance with OMB Circular A-21. Alternatively, the district may compute an indirect cost rate using Form FAM-29C, which is based on total fiscal year expenditures that the district reports in the California Community Colleges Annual Financial and Budget Report, Expenditures by Activity (CCFS-311).

Recommendation

We recommend that the district claim indirect costs based on indirect cost rates computed in accordance with the SCO's claiming instructions. The district must obtain federal approval for ICRPs prepared in accordance with OMB Circular A-21. Alternatively, the district should prepare its ICRPs using SCO's Form FAM-29C.

District's Response

This finding results from the District calculating the indirect cost rate based upon how the CCSF-311 report characterizes the various accounts as direct or indirect costs. The Controller's method arbitrarily assigns certain costs to different categories. For example, for the first two fiscal years in this audit, the Controller does not include depreciation as an indirect cost, but does for the third fiscal year. The Controller insists that the rate be calculated according to the claiming instructions. The parameters and guidelines for Health Fee Elimination (as last amended on 5/25/89) state that "Indirect costs maybe claimed in the manner described by the State Controller in his claiming instructions." It does not require that indirect costs be claimed in the manner described by the State Controller. The District utilized the CCSF-311 classification of accounts which is more rational and consistent than the Controller's evolving formula.

SCO's Comment

Our finding and recommendation are unchanged. The district erroneously states that it calculated its indirect cost rates "based upon how the CCFS-311 report characterizes the various accounts as direct or indirect costs." The California Community Colleges Chancellor's Office's (CCCCO's) CCFS-311 report does not identify individual accounts as direct or indirect.

The SCO did not "arbitrarily" assign costs to direct or indirect cost categories. The SCO calculated indirect cost rates based on its claiming instructions applicable to each fiscal year. The SCO's Form FAM-29C methodology provides equitable rates that districts may use to allocate district administrative support costs to personnel that perform mandated program activities.

The district incorrectly concludes that the parameters and guidelines do not require that the district claim indirect costs according to the SCO's claiming instructions. The parameters and guidelines state, "Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions." The district misinterprets "may be claimed" by concluding that compliance with the claiming instructions is voluntary. Instead, "may be claimed" simply permits the district to claim indirect costs. However, if the district chooses to claim indirect costs, then it must comply with the SCO's claiming instructions.

**FINDING 4—
Unreported authorized
health service fees**

The district did not report authorized health service fees totaling \$3,554,470.

Mandated costs do not include costs that are reimbursable from authorized fees. Government Code section 17514 states that "costs mandated by the state" means any increased costs that a school district is required to incur. To the extent community college districts can charge a fee, they are not required to incur a cost. In addition, Government Code section 17556 states that the Commission on State Mandates (CSM) shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.

For the audit period, Education Code section 76355, subdivision (c), states that health fees are authorized for all students except those who: (1) depend exclusively on prayer for healing; (2) are attending a community college under an approved apprenticeship training program; or (3) demonstrate financial need. The CCCCCO identified the fees authorized by Education Code section 76355, subdivision (a). For FY 2002-03 and FY 2003-04, the authorized fees are \$12 per semester and \$9 per summer session. For FY 2004-05, the authorized fees are \$13 per semester and \$10 per summer session.

We obtained student enrollment, Board of Governors Grant (BOGG) recipient, and apprenticeship program enrollment data from the CCCCCO. The CCCCCO data is based on student data that the district reported. We calculated total authorized health service fees using the authorized health service fee rates that the CCCCCO identified.

The following table shows the authorized health service fee calculation and audit adjustment:

	Semester			Total
	Summer	Fall	Spring	
Fiscal Year 2002-03:				
Student enrollment	28,310	72,031	68,248	
BOGG recipients	(7,847)	(20,059)	(19,597)	
Apprenticeship program enrollees	(790)	(5,236)	(2,335)	
Students subject to health fee	19,673	46,736	46,316	
Authorized health fee rate	× \$ (9)	× \$ (12)	× \$ (12)	
Audit adjustment, FY 2002-03	<u>\$ (177,057)</u>	<u>\$ (560,832)</u>	<u>\$ (555,792)</u>	\$ (1,293,681)
Fiscal Year 2003-04:				
Student enrollment	25,500	67,881	67,013	
BOGG recipients	(9,579)	(23,472)	(23,344)	
Apprenticeship program enrollees	(674)	(2,244)	(2,499)	
Students subject to health fee	15,247	42,165	41,170	
Authorized health fee rate	× \$ (9)	× \$ (12)	× \$ (12)	
Audit adjustment, FY 2003-04	<u>\$ (137,223)</u>	<u>\$ (505,980)</u>	<u>\$ (494,040)</u>	(1,137,243)
Fiscal Year 2004-05:				
Student enrollment	25,290	67,316	67,936	
BOGG recipients	(11,302)	(27,138)	(27,250)	
Apprenticeship program enrollees	(1,385)	(2,461)	(1,671)	
Students subject to health fee	12,603	37,717	39,015	
Authorized health fee rate	× \$ (10)	× \$ (13)	× \$ (13)	
Audit adjustment, FY 2004-05	<u>\$ (126,030)</u>	<u>\$ (490,321)</u>	<u>\$ (507,195)</u>	(1,123,546)
Total audit adjustment				<u>\$ (3,554,470)</u>

Recommendation

We recommend that the district deduct authorized health service fees from mandate-related costs claimed. The district should maintain records that support its calculation of authorized health service fees. These records should identify the actual non-duplicated student enrollment and students who are exempt from health service fees under Education Code section 76355, subdivision (c).

District's Response

This finding reduces the claimed program costs by a calculated amount of student health services fees never collected. The District does not collect a student health services fee.

Education Code Section 76355, subdivision (a), in relevant part, provides: "The governing board of a district maintaining a community college *may require* community college students to pay a fee . . . for health supervision and services. . . ." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, *if any*, that a part-time

student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

The Parameters and Guidelines, as last amended on 5/25/89, state, in relevant part, "Any offsetting savings . . . must be deducted from the costs claimed . . . This shall include the amount of (student fees) as authorized by Education Code Section 72246 (a)¹." The use of the term "offsetting savings" further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not.

The audit report also cites Government Code Section 17556 which only prohibits the Commission on State Mandates from finding costs in certain instances. Here, the Commission has already made a finding of a new program or increased costs.

¹ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

SCO's Comment

Our finding and recommendation are unchanged. We agree that community college districts may choose not to levy a health service fee. However, Education Code section 76355, subdivision (a), provides districts the authority to levy a health service fee. The CCCCO notifies districts of the fee amount authorized pursuant to Education Code section 76355, subdivision (a).

Regardless of the district's decision to levy or not levy a health service fee, the district does have the *authority* to levy the fee. Government Code section 17514 states, "'Costs mandated by the state' means any increased costs which a local agency or school district is *required* to incur . . ." [Emphasis added]." To the extent the district is authorized to collect health service fees attributable to health service expenses, it is not *required* to incur a cost. Therefore, those health service expenses do not meet the statutory definition of mandated costs.

In addition, Government Code section 17556, subdivision (d), state that the CSM shall not find costs mandated by the State if the district has the authority to levy fees to pay for the mandated program or increased level of service. For the Health Fee Elimination Program, the CSM did recognize that another funding source was available by including health service fees as offsetting savings in the parameters and guidelines. The result is the same: To the extent districts have the authority to charge a fee, they are not required to incur a cost.

**ADDITIONAL ISSUE—
Claim Payment**

The district's response included comments regarding the amounts paid by the State, as shown in Schedule 1, Summary of Program Costs. The district's response and SCO's comment are as follows:

District's Response

The audit report asserts in several locations that the District was paid \$814,928 and this amount should be remitted to the state. The money was never "paid" to the District. The Controller offset the amount payable by reductions to payments for other mandate claims and fiscal years.

SCO's Comment

The claim payment amount is unchanged. The term "paid" is simply the past tense of "pay," which is defined as "discharging indebtedness" ¹. The State discharged its FY 2002-03 indebtedness to the district by equally discharging the district's indebtedness to the State for other mandated program claims.

¹ Merriam-Webster's Collegiate Dictionary, Tenth Edition

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

LOS RIOS

COMMUNITY
COLLEGE
DISTRICT



March 11, 2008

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

Re: Chapter 1, Statutes of 1984
Health Fee Elimination
State Controller's Audit
Fiscal Years: 2002-03, 2003-04, and 2004-05

Dear Mr. Spano:

This letter is the response of the Los Rios Community College District to the letter from Jeffrey V. Brownfield, Chief, Division of Audits, dated February 20, 2008, and received by the District on February 28, 2008, which transmitted the draft audit report for the above referenced mandate program and fiscal years.

Finding 1 - Unallowable salaries and benefits

The draft audit report eliminates \$194,335 of salary and benefits for the three fiscal years. The stated reasons are that some of the services sampled exceeded those of the FY 1986-87 base year and that there was insufficient supporting documentation for other services. The audit work which generated these findings was a review of "service logs" for one month at each college for each fiscal year, with an additional month reviewed at Consumnes River College for one fiscal year. These logs are actually sign-in sheets in which persons obtaining service, with or without appointments, write their name and provide a four or five word description of their ailment. Some patients declined to state the reason for their visit, which is their right under state and federal laws, specifically HIPPA privacy laws.

Based on a review of these logs, the audit concluded that some visits were for services not provided in the base year, and where the patient declined to state the reason for the visit, the audit determined that this was insufficient documentation and thus disallowed the visit. These excess and unidentified services were determined to be "unallowable" and generated exception rates (ranging from about 4% to 24%) which were extrapolated to the entire cost of the salary and benefits for the student health services program.

American River College
Cosumnes River College
Folsom Lake College
Sacramento City College

1019 Spano Court
Sacramento, CA 95825
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These "service logs" are inappropriate as the basis for "findings" and extrapolation for the audit adjustments for several reasons:

-The service logs were not prepared for mandate or financial cost accounting purposes nor are they required by the parameters and guidelines. Neither the parameters and guidelines nor the Controller's claiming instructions require the claimants to report the number or type of service actually provided, but only require the claimant to provide an inventory of services available to students.

-There is no evidence that the one month of service logs reviewed for each of the three years (36 months of service) at each of the three colleges are representative of the entire year (total number of visits). There is definitely seasonal workload (fewer students in the summer) and seasonal staffing. The extrapolation assumes the workload and labor costs are the same each month.

-There is no evidence that the service logs record all of the services provided each month. The extrapolation is adjusting total salaries and benefits and therefore assumes that *all* staff labor is applied only to patient visits.

-There is no indication that the number of services provided in each of these months is a statistically valid sample of the scope of services provided. That is, patient visits may not be representative of all types of services provided.

-The time spent by staff to provide service varies by the type of service provided. The extrapolation assumes every patient visit requires the same amount of staff time to provide service.

-The audit disallows those visits for which no reason is stated by the patient. This essentially disallows services which are probably allowable. This penalizes the District for complying with privacy requirements.

-Extrapolation of sample findings requires a statistically valid sample. The service logs are not factually or statistically relevant to the cost of services so they cannot be used as a sample of services provided. The extrapolation of the exceptions to the total salary and benefits costs is not a relevant universe of cost for extrapolation of the service log. The audit report recommends that in the future the district maintain logs "that consistently identify the health services actually provided." This of course indicates that the auditor does not believe the current logs are representative of the services actually provided, yet the auditor used the logs for sampling and extrapolation. Therefore, the audit report concedes that findings are based on an incompetent source.

The audit report quotes the parameters and guidelines as the legal basis for the adjustment, specifically, that " . . . all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs." It is ironic and entirely unacceptable for the Controller to adjust claimed costs for insufficient

documentation when the auditor chose documents never intended nor designed for cost accounting as the basis for these findings and then criticized the District's source documentation.

Finding 2 - Unallowable services and supplies

Lab and Immunization Services

The finding disallows \$3,568 for laboratory services and \$5,194 for immunizations which the audit concludes were not provided in the base-year. The source of this conclusion was the health services inventory which is part of the claim. The audit findings do not state which tests and immunizations are disallowed, so it cannot be determined if the finding is accurate.

Finding 3 - Overstated and understated indirect cost rates claimed

This finding results from the District calculating the indirect cost rate based upon how the CCSF-311 report characterizes the various accounts as direct or indirect costs. The Controller's method arbitrarily assigns certain costs to different categories. For example, for the first two fiscal years in this audit, the Controller does not include depreciation as an indirect cost, but does for the third fiscal year.

The Controller insists that the rate be calculated according to the claiming instructions. The parameters and guidelines for Health Fee Elimination (as last amended on 5/25/89) state that "Indirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." It does not require that indirect costs be claimed in the manner described by the State Controller. The District utilized the CCSF-311 classification of accounts which is more rational and consistent than the Controller's evolving formula.

Finding 4 - Understated authorized health service fees

This finding reduces the claimed program costs by a calculated amount of student health services fees never collected. The District does not collect a student health services fee.

Education Code Section 76355, subdivision (a), in relevant part, provides: "The governing board of a district maintaining a community college may require community college students to pay a fee . . . for health supervision and services . . ." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

The Parameters and Guidelines, as last amended on 5/25/89, state, in relevant part, "Any offsetting savings . . . must be deducted from the costs claimed . . . This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)¹." The use of the term "any offsetting savings" further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not.

The audit report also cites Government Code Section 17556 which only prohibits the Commission on State Mandates from finding costs in certain instances. Here, the Commission has already made a finding of a new program or increased costs.

The audit manager indicated at the entrance conference that this adjustment would be made and then stated at the exit conference that future claims would be audited to continue this adjustment. It would seem unnecessary to continue to burden the District and expend state staff resources for field audits when the Controller has decided that no costs will be allowed.

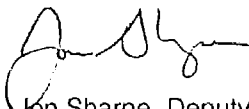
Claim Payment

The audit report asserts in several locations that the District was paid \$814,928 and this amount should be remitted to the state. The money was never "paid" to the District. The Controller offset the amount payable by reductions to payments for other mandate claims and fiscal years.

o o o

Therefore, for the reasons stated above, Los Rios Community College District requests that the audit report be changed to comply with the law.

Sincerely,



Jon Sharpe, Deputy Chancellor
Los Rios Community College District

C: Jeffrey V. Brownfield, Chief, Division of Audits
Keith Petersen, SixTen and Associates
Carrie Bray, Director, Accounting Services
Raymond Andres, General Accounting Supervisor

¹ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

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

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

MANDATED COST MANUAL FOR COMMUNITY COLLEGES

STATE OF CALIFORNIA



STEVE WESTLY
STATE CONTROLLER

FOREWORD

The claiming instructions contained in this manual are issued for the sole purpose of assisting claimants with the preparation of claims for submission to the State Controller's Office. These instructions have been prepared based upon interpretation of the State of California statutes, regulations, and parameters and guidelines adopted by the Commission on State Mandates. Therefore, unless otherwise specified, these instructions should not be construed in any manner to be statutes, regulations, or standards.

If you have any questions concerning the enclosed material, write to the address below or call the Local Reimbursements Section at (916) 324-5729, or email to lrsdar@sco.ca.gov.

State Controller's Office
Attn: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

Prepared by the State Controller's Office
Updated September 30, 2003

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REIMBURSABLE STATE MANDATED COST PROGRAMS

Claims for the following State mandated cost programs may be filed with the SCO. For your convenience, the programs are listed in alphabetical order by program name. An "X" indicates the fiscal year for which a claim may be filed.

2002-03 Reimburse- ment Claims	2003-04 Estimated Claims	Community College Districts	
x	x	Chapter 77/78	Absentee Ballots
x	x	Chapter 961/75	Collective Bargaining
x	x	Chapter 1120/96	Health Benefits for Survivors of Peace Officers & Firefighters
x	x	Chapter 1/84	Health Fee Elimination
x	x	Chapter 783/95	Investment Reports
x	x	Chapter 284/98	Law Enforcement College Jurisdiction Agreements
x	x	Chapter 126/93	Law Enforcement Sexual Harassment Training
x	x	Chapter 486/75	Mandate Reimbursement Process
x	x	Chapter 641/86	Open Meetings Act/Brown Act Reform
x	x	Chapter 465/76	Peace Officers Procedural Bill of Rights
x	x	Chapter 875/85	Photographic Record of Evidence
x	x	Chapter 908/96	Sex Offenders: Disclosure by Law Enforcement Officers
x	x	Chapter 1249/92	Threats Against Peace Officers

APPROPRIATIONS FOR THE 2003-04 FISCAL YEAR

Source of State Mandated Cost Appropriations			
Schedule		Program	Amount Appropriated
Chapter 379/02, Item 6110-295-0001¹			
(1)	Chapter 77/78	Absentee Ballots	\$ 0
(2)	Chapter 961/75	Collective Bargaining	0
(3)	Chapter 1120/96	Health Benefits for Survivors of Peace Officers and Firefighters	0
(4)	Chapter 783/95	Investment Reports	0
(5)	Chapter 284/98	Law Enforcement College Jurisdiction Agreements	0
(6)	Chapter 126/93	Law Enforcement Sexual Harassment Training	0
(7)	Chapter 486/75	Mandate Reimbursement Process	0
(8)	Chapter 641/86	Open Meetings Act/Brown Act Reform	0
(9)	Chapter 465/76	Peace Officers Procedural Bill of Rights	0
(10)	Chapter 875/85	Photographic Record of Evidence	0
(11)	Chapter 908/96	Sex Offenders: Disclosure by Law Enforcement Officers	0
(12)	Chapter 1249/92	Threats Against Peace Officers	0
Total Appropriations, Item 6110-295-001			\$ 0
Chapter 379/02, Item 6870-295-0001			
(13)	Chapter 1/84	Health Fee Elimination	1,000
TOTAL - Funding for the 2003-04 Fiscal Year			\$1,000

¹ Pursuant to provision 5, "The Controller shall not make any payment from this item to reimburse community college districts for claimed costs of state-mandated education programs. Reimbursements to community college districts for education mandates shall be paid from the appropriate item within the community colleges budget."

FILING A CLAIM

1. Introduction

The law in the State of California, (Government Code Sections 17500 through 17616), provides for the reimbursement of costs incurred by school districts for costs mandated by the State. Costs mandated by the State means any increased costs which a school district is required to incur after July 1, 1980, as a result of any statute enacted after January 1, 1975, or any executive order implementing such statute which mandates a new program or higher level of service of an existing program.

Estimated claims that show costs to be incurred in the current fiscal year and reimbursement claims that detail the costs actually incurred for the prior fiscal year may be filed with the State Controller's Office (SCO). Claims for on-going programs are filed annually by January 15. Claims for new programs are filed within 120 days from the date claiming instructions are issued for the program. A 10 percent penalty, (up to \$1,000 for continuing claims, no limit for initial claims), is assessed for late claims. The SCO may audit the records of any school district to verify the actual amount of mandated costs and may reduce any claim that is excessive or unreasonable.

When a program has been reimbursed for three or more years, the COSM may approve the program for inclusion in the State Mandates Apportionment System (SMAS). For programs included in SMAS, the SCO determines the amount of each claimant's entitlement based on an average of three consecutive fiscal years of actual costs adjusted by any changes in the Implicit Price Deflator (IPD). Claimants with an established entitlement receive an annual apportionment adjusted by any changes in the IPD and, under certain circumstances, by any changes in workload. Claimants with an established entitlement do not file further claims for the program.

The SCO is authorized to make payments for costs of mandated programs from amounts appropriated by the State Budget Act, by the State Mandates Claims Fund, or by specific legislation. In the event the appropriation is insufficient to pay claims in full, claimants will receive prorated payments in proportion to the dollar amount of approved claims for the program. Balances of prorated payments will be made when supplementary funds are made available.

The instructions contained in this manual are intended to provide general guidance for filing a mandated cost claim. Since each mandate is administered separately, it is important to refer to the specific program for information relating to established policies on eligible reimbursable costs.

2. Types of Claims

There are three types of claims: Reimbursement, Estimated, and Entitlement. A claimant may file a reimbursement claim for actual mandated costs incurred in the prior fiscal year or may file an estimated claim for mandated costs to be incurred during the current fiscal year. An entitlement claim may be filed for the purpose of establishing a base year entitlement amount for mandated programs included in SMAS. A claimant who has established a base year entitlement for a program would receive an automatic annual payment which is reflective of the current costs for the program.

All claims received by the SCO will be reviewed to verify actual costs. An adjustment of the claim will be made if the amount claimed is determined to be excessive, improper, or unreasonable. The claim must be filed with sufficient documentation to support the costs claimed. The types of documentation required to substantiate a claim are identified in the instructions for the program. The certification of claim, form FAM-27, must be signed and dated by the entity's authorized officer in order for the SCO to make payment on the claim.

A. Reimbursement Claim

A reimbursement claim is defined in GC Section 17522 as any claim filed with the SCO by a local agency for reimbursement of costs incurred for which an appropriation is made for the purpose of paying the claim. The claim must include supporting documentation to substantiate the costs claimed.

Initial reimbursement claims are first-time claims for reimbursement of costs for one or more prior fiscal years of a program that was previously unfunded. Claims are due 120 days from the date of issuance of the claiming instructions for the program by the SCO. The first statute that appropriates funds for the mandated program will specify the fiscal years for which costs are eligible for reimbursement.

Annual reimbursement claims must be filed by January 15 following the fiscal year in which costs were incurred for the program. A reimbursement claim must detail the costs actually incurred in the prior fiscal year.

An actual claim for the 2002-03 fiscal year may be filed by January 15, 2004, without a late penalty. Claims filed after the deadline will be reduced by a late penalty of 10%, not to exceed \$1,000. However, initial reimbursement claims will be reduced by a late penalty of 10% with no limitation. In order for a claim to be considered properly filed, it must include any specific supporting documentation requested in the instructions. Claims filed more than one year after the deadline or without the requested supporting documentation will not be accepted.

B. Estimated Claim

An estimated claim is defined in GC Section 17522 as any claim filed with the SCO, during the fiscal year in which the mandated costs are to be incurred by the local agency, against an appropriation made to the SCO for the purpose of paying those costs.

An estimated claim may be filed in conjunction with an initial reimbursement claim, annual reimbursement claim, or at other times for estimated costs to be incurred during the current fiscal year. Annual estimated claims are due January 15 of the fiscal year in which the costs are to be incurred. Initial estimated claims are due on the date specified in the claiming instructions. Timely filed estimated claims are paid before those filed after the deadline.

After receiving payment for an estimated claim, the claimant must file a reimbursement claim by January 15 following the fiscal year in which costs were incurred. If the claimant fails to file a reimbursement claim, monies received for the estimated claims must be returned to the State.

C. Entitlement Claim

An entitlement claim is defined in GC Section 17522 as any claim filed by a local agency with the SCO for the sole purpose of establishing or adjusting a base year entitlement for a mandated program that has been included in SMAS. An entitlement claim should not contain nonrecurring or initial start-up costs. There is no statutory deadline for the filing of entitlement claims. However, entitlement claims and supporting documents should be filed by January 15 to permit an orderly processing of claims. When the claims are approved and a base year entitlement amount is determined, the claimant will receive an apportionment reflective of the program's current year costs. School mandates included in SMAS are listed in Section 2, number 6.

Once a mandate has been included in SMAS and the claimant has established a base year entitlement, the claimant will receive automatic payments from the SCO for the mandate. The automatic apportionment is determined by adjusting the claimant's base year entitlement for changes in the implicit price deflator of costs of goods and services to governmental agencies, as determined by the State Department of Finance. For programs approved by the COSM for inclusion in SMAS on or after January 1, 1988, the payment for each year succeeding the three year base period is adjusted according to any changes by both the deflator and average daily attendance. Annual apportionments for programs included in the system are paid on or before November 30 of each year.

A base year entitlement is determined by computing an average of the claimant's costs for any three consecutive years after the program has been approved for the SMAS process. The amount is first adjusted according to any changes in the deflator. The deflator is applied separately to each year's costs for the three years, which comprise the base year. The SCO will perform this computation for each claimant who has filed claims for three consecutive years. If a claimant has incurred costs for three consecutive years but has not filed a claim in each of those years, the claimant may file an entitlement claim, form FAM-43, to establish a base year entitlement. An entitlement claim does not result in the claimant being reimbursed for the costs incurred, but rather entitles the claimant to receive automatic payments from SMAS.

3. Minimum Claim Amount

For initial claims and annual claims filed on or after September 30, 2002, if the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by GC Section 17564. The county shall determine if the submission of a combined claim is economically feasible and shall be responsible for disbursing the funds to each special district. Combined claims may be filed only when the county is the fiscal agent for the special districts. A combined claim must show the individual claim costs for each eligible school district. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a special district, provides to the county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

GC Section 17564(a) provides that no claim shall be filed pursuant to Sections 17551 and 17561, unless such a claim exceeds one thousand dollars (\$1,000), provided that a county superintendent of schools may submit a combined claim on behalf of school districts within their county if the combined claim exceeds \$1,000, even if the individual school district's claim does not each exceed \$1,000. The county superintendent of schools shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school district. These combined claims may be filed only when the county superintendent of schools is the fiscal agent for the districts. A combined claim must show the individual claim costs for each eligible district. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district provides a written notice of its intent to file a separate claim to the county superintendent of schools and to the SCO at least 180 days prior to the deadline for filing the claim.

4. Filing Deadline for Claims

Initial reimbursement claims (first-time claims) for reimbursement of costs of a previously unfunded mandated program must be filed within 120 days from the date of issuance of the program's claiming instructions by the SCO. If the initial reimbursement claim is filed after the deadline, but within one year of the deadline, the approved claim must be reduced by a 10% penalty. A claim filed more than one year after the deadline cannot be accepted for reimbursement.

Annual reimbursement claims for costs incurred during the previous fiscal year and estimated claims for costs to be incurred during the current fiscal year must be filed with the SCO and postmarked on or before January 15. If the annual or estimated reimbursement claim is filed after the deadline, but within one year of the deadline, the approved claim must be reduced by a 10% late penalty, not to exceed \$1,000. Claims must include supporting data to show how the amount claimed was derived. Without this information, the claim cannot be accepted.

Entitlement claims do not have a filing deadline. However, entitlement claims and supporting documents should be filed by January 15 to permit an orderly processing of claims. Entitlement claims are used to establish a base year entitlement amount for calculating automatic annual payments. Entitlement does not result in the claimant being reimbursed for costs incurred, but rather entitles the claimant to receive automatic payments from SMAS.

5. Payment of Claims

In order for the SCO to authorize payment of a claim, the Certification of Claim, form FAM-27, must be properly filled out, signed, and dated by the entity's authorized officer.

Reimbursement and estimated claims are paid within 60 days of the filing deadline for the claim. A claimant is entitled to receive accrued interest at the pooled money investment account rate if the payment was made more than 60 days after the claim filing deadline or the actual date of claim receipt, whichever is later. For an initial claim, interest begins to accrue when the payment is made more than 365 days after the adoption of the program's statewide cost estimate. The SCO may withhold up to 20 percent of the amount of an initial claim until the claim is audited to verify the actual amount of the mandated costs. The 20 percent withheld is not subject to accrued interest.

In the event the amount appropriated by the Legislature is insufficient to pay the approved amount in full for a program, claimants will receive a prorated payment in proportion to the amount of approved claims timely filed and on hand at the time of proration.

The SCO reports the amounts of insufficient appropriations to the State Department of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Chairperson of the respective committee in each house of the Legislature which considers appropriations in order to assure appropriation of these funds in the Budget Act. If these funds cannot be appropriated on a timely basis in the Budget Act, this information is transmitted to the COSM which will include these amounts in its report to assure that an appropriation sufficient to pay the claims is included in the next local government claims bill or other appropriation bills. When the supplementary funds are made available, the balance of the claims will be paid.

Unless specified in the statutes, regulations, or parameters and guidelines, the determination of allowable and unallowable costs for mandates is based on the Parameters and Guidelines adopted by the COSM. The determination of allowable reimbursable mandated costs for unfunded mandates is made by the COSM. The SCO determines allowable reimbursable costs, subject to amendment by the COSM, for mandates funded by special legislation. Unless specified, allowable costs are those direct and indirect costs, less applicable credits, considered to be eligible for reimbursement. In order for costs to be allowable and thus eligible for reimbursement, the costs must meet the following general criteria:

1. The cost is necessary and reasonable for proper and efficient administration of the mandate and not a general expense required to carry out the overall responsibilities of government.
2. The cost is allocable to a particular cost objective identified in the Parameters and Guidelines.
3. The cost is net of any applicable credits that offset or reduce expenses of items allocable to the mandate.

The SCO has identified certain costs that, for the purpose of claiming mandated costs, are unallowable and should not be claimed on the claim forms unless specified as reimbursable under the program. These expenses include, but are not limited to, subscriptions, depreciation, memberships, conferences, workshops general education, and travel costs.

6. State Mandates Apportionment System (SMAS)

Chapter 1534, Statutes of 1985, established SMAS, a method of paying certain mandated programs as apportionments. This method is utilized whenever a program has been approved for inclusion in SMAS by the COSM.

When a mandated program has been included in SMAS, the SCO will determine a base year entitlement amount for each school district that has submitted reimbursement claims, (or entitlement claims), for three consecutive fiscal years. A base year entitlement amount is determined by averaging the approved reimbursement claims, (or entitlement claims), for 1982-83, 1983-84, and 1984-85 years or any three consecutive fiscal years thereafter. The amounts are first adjusted by any change in IPD, which is applied separately to each year's costs for the three years

that comprise the base period. The base period means the three fiscal years immediately succeeding the COSM's approval.

Each school district with an established base year entitlement for the program will receive automatic annual payments from the SCO reflective of the program's current year costs. The amount of apportionment is adjusted annually for any change in the IPD. If the mandated program was included in SMAS after January 1, 1988, the annual apportionment is adjusted for any change in both the IPD and workload.

In the event a school district has incurred costs for three consecutive fiscal years but did not file a reimbursement claim in one or more of those fiscal years, the school district may file an entitlement claim for each of those missed years to establish a base year entitlement. An "entitlement claim" means any claim filed by a county with the SCO for the sole purpose of establishing a base year entitlement. A base year entitlement shall not include any nonrecurring or initial start-up costs.

Initial apportionments are made on an individual program basis. After the initial year, all apportionments are made by November 30. The amount to be apportioned is the base year entitlement adjusted by annual changes in the IPD for the cost of goods and services to governmental agencies as determined by the State Department of Finance.

In the event the county determines that the amount of apportionment does not accurately reflect costs incurred to comply with a mandate, the process of adjusting an established base year entitlement upon which the apportionment is based, is set forth in GC Section 17615.8 and requires the approval of the COSM.

School Mandates Included In SMAS

Program Name	Chapter/Statute	Program Number
Immunization Records	Ch. 1176/77	32

Pupil Expulsion Transcripts, program #91, Chapter 1253/75 was removed from SMAS for the 2002-03 fiscal year. This program was consolidated with other mandate programs that are included in Pupil Suspension, Expulsions, and Expulsion Appeals, program #176.

7. Direct Costs

A direct cost is a cost that can be identified specifically with a particular program or activity. Each claimed reimbursable cost must be supported by documentation as described in Section 12. Costs that are typically classified as direct costs are:

(1) Employee Wages, Salaries, and Fringe Benefits

For each of the mandated activities performed, the claimant must list the names of the employees who worked on the mandate, their job classification, hours worked on the mandate, and rate of pay. The claimant may, in-lieu of reporting actual compensation and fringe benefits, use a productive hourly rate:

(a) Productive Hourly Rate Options

A local agency may use one of the following methods to compute productive hourly rates:

- Actual annual productive hours for each employee
- The weighted-average annual productive hours for each job title, or
- 1,800* annual productive hours for all employees

If actual annual productive hours or weighted-average annual productive hours for each job title is chosen, the claim must include a computation of how these hours were computed.

* 1,800 annual productive hours excludes the following employee time:

- o Paid holidays
- o Vacation earned
- o Sick leave taken
- o Informal time off
- o Jury duty
- o Military leave taken.

(b) Compute a Productive Hourly Rate

1. Compute a productive hourly rate for salaried employees to include actual fringe benefit costs. The methodology for converting a salary to a productive hourly rate is to compute the employee's annual salary and fringe benefits and divide by the annual productive hours.

Table 1 Productive Hourly Rate, Annual Salary + Benefits Method

Formula: $[(EAS + Benefits) + APH] = PHR$ $[(\$26,000 + \$8,099)] + 1,800 \text{ hrs} = 18.94$	Description: EAS = Employee's Annual Salary APH = Annual Productive Hours PHR = Productive Hourly Rate
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- As illustrated in Table 1, if you assume an employee's compensation was \$26,000 and \$8,099 for annual salary and fringe benefits, respectively, using the "Salary + Benefits Method," the productive hourly rate would be \$18.94. To convert a biweekly salary to EAS, multiply the biweekly salary by 26. To convert a monthly salary to EAS, multiply the monthly salary by 12. Use the same methodology to convert other salary periods.
2. A claimant may also compute the productive hourly rate by using the "Percent of Salary Method."

Table 2 Productive Hourly Rate, Percent of Salary Method

Example:		
Step 1: Fringe Benefits as a Percent of Salary		Step 2: Productive Hourly Rate
Retirement	15.00 %	Formula: $[(EAS \times (1 + FBR)) + APH] = PHR$ $[(\$26,000 \times (1.3115)) + 1,800] = \18.94
Social Security & Medicare	7.65	
Health & Dental Insurance	5.25	
Workers Compensation	3.25	
Total	31.15 %	
Description:		
EAS = Employee's Annual Salary		APH = Annual Productive Hours
FBR = Fringe Benefit Rate		PHR = Productive Hourly Rate

- As illustrated in Table 3, both methods produce the same productive hourly rate.

Reimbursement for personnel services includes, but is not limited to, compensation paid for salaries, wages and employee fringe benefits. Employee fringe benefits include employer's contributions for social security, pension plans, insurance, workmen's compensation insurance and similar payments. These benefits are eligible for reimbursement as long as they are distributed equitably to all activities. Whether these costs are allowable is based on the following presumptions:

- The amount of compensation is reasonable for the service rendered.
- The compensation paid and benefits received are appropriately authorized by the governing board.
- Amounts charged for personnel services are based on payroll documents that are supported by time and attendance or equivalent records for individual employees.
- The methods used to distribute personnel services should produce an equitable distribution of direct and indirect allowable costs.

For each of the employees included in the claim, the claimant must use reasonable rates and hours in computing the wage cost. If a person of a higher-level job position performs an activity which normally would be performed by a lower-level position, reimbursement for time spent is allowable at the average salary range for the lower-level position. The salary rate of the person at the higher level position may be claimed if it can be shown that it was more cost effective in comparison to the performance by a person at the lower-level position under normal circumstances and conditions. The number of hours charged to an activity should reflect the time expected to complete the activity under normal circumstances and conditions. The numbers of hours in excess of normal expected hours are not reimbursable.

(c) Calculating an Average Productive Hourly Rate

In those instances where the claiming instructions allow a unit as a basis of claiming costs, the direct labor component of the unit cost should be expressed as an average productive hourly rate and can be determined as follows:

	<u>Time Spent</u>	<u>Productive Hourly Rate</u>	<u>Total Cost by Employee</u>
Employee A	1.25 hrs	\$6.00	\$7.50
Employee B	0.75 hrs	4.50	3.38
Employee C	3.50 hrs	10.00	35.00
Total	5.50 hrs		\$45.88
Average Productive Hourly Rate is \$45.88/5.50 hrs. = \$8.34			

(d) Employer's Fringe Benefits Contribution

A local agency has the option of claiming actual employer's fringe benefit contributions or may compute an average fringe benefit cost for the employee's job classification and claim it as a percentage of direct labor. The same time base should be used for both salary and fringe benefits when computing a percentage. For example, if health and dental insurance payments are made annually, use an annual salary. After the percentage of salary for each fringe benefit is computed, total them.

For example:

<u>Employer's Contribution</u>	<u>% of Salary</u>
Retirement	15.00%
Social Security	7.65%
Health and Dental Insurance	5.25%
Worker's Compensation	0.75%
Total	<u>28.65%</u>

(e) Materials and Supplies

Only actual expenses can be claimed for materials and supplies, which were acquired and consumed specifically for the purpose of a mandated program. The claimant must list the materials and supplies that were used to perform the mandated activity, the number of units consumed, the cost per unit, and the total dollar amount claimed. Materials and supplies purchased to perform a particular mandated activity are expected to be reasonable in quality, quantity and cost. Purchases in excess of reasonable quality, quantity and cost are not reimbursable. Materials and supplies withdrawn from inventory and charged to the mandated activity must be based on a recognized method of pricing, consistently applied. Purchases shall be claimed at the actual price after deducting discounts, rebates and allowances received by local agencies.

(f) Calculating a Unit Cost for Materials and Supplies

In those instances where the claiming instructions suggest that a unit cost be developed for use as a basis of claiming costs mandated by the State, the materials and supplies component of the unit cost should be expressed as a unit cost of materials and supplies as shown in Table 1 or Table 2:

Table 1 Calculating A Unit Cost for Materials and Supplies

Supplies	<u>Cost Per Unit</u>	<u>Amount of Supplies Used Per Activity</u>	<u>Unit Cost of Supplies Per Activity</u>
Paper	0.02	4	\$0.08
Files	0.10	1	0.10
Envelopes	0.03	2	0.06
Photocopies	0.10	4	<u>0.40</u>
			<u>\$0.64</u>

Table 2 Calculating a Unit Cost for Materials and Supplies

Supplies	Supplies Used	Unit Cost of Supplies Per Activity
Paper (\$10.00 for 500 sheet ream)	250 Sheets	\$5.00
Files (\$2.50 for box of 25)	10 Folders	1.00
Envelopes (\$3.00 for box of 100)	50 Envelopes	1.50
Photocopies (\$0.05 per copy)	40 Copies	2.00
		<u>\$9.50</u>

If the number of reimbursable instances, is 25, then the unit cost of supplies is \$0.38 per reimbursable instance (\$9.50 / 25).

(g) Contract Services

The cost of contract services is allowable if the local agency lacks the staff resources or necessary expertise, or it is economically feasible to hire a contractor to perform the mandated activity. The claimant must give the name of the contractor; explain the reason for having to hire a contractor; describe the mandated activities performed; give the dates when the activities were performed, the number of hours spent performing the mandate, the hourly billing rate, and the total cost. The hourly billing rate shall not exceed the rate specified in the claiming instructions for the mandated program. The contractor's invoice, or statement, which includes an itemized list of costs for activities performed, must accompany the claim.

(h) Equipment Rental Costs

Equipment purchases and leases (with an option to purchase) are not reimbursable as a direct cost unless specifically allowed by the claiming instructions for the particular mandate. Equipment rentals used solely for the mandate are reimbursable to the extent such costs do not exceed the retail purchase price of the equipment plus a finance charge. The claimant must explain the purpose and use for the equipment, the time period for which the equipment was rented and the total cost of the rental. If the equipment is used for purposes other than reimbursable activities, only the prorata portion of the rental costs can be claimed.

(i) Capital Outlay

Capital outlays for land, buildings, equipment, furniture and fixtures may be claimed if the claiming instructions specify them as allowable. If they are allowable, the claiming instructions for the program will specify a basis for the reimbursement. If the fixed asset or equipment is also used for purposes other than reimbursable activities for a specific mandate, only the prorata portion of the purchase price used to implement the reimbursable activities can be claimed.

(j) Travel Expenses

Travel expenses are normally reimbursable in accordance with travel rules and regulations of the local jurisdiction. For some programs, however, the claiming instructions may specify certain limitations on expenses, or that expenses can only be reimbursed in accordance with the State Board of Control travel standards. When claiming travel expenses, the claimant must explain the purpose of the trip, identify the name and address of the persons incurring the expense, the date and time of departure and return for the trip, description of each expense claimed, the cost of transportation,

number of private auto mileage traveled, and the cost of tolls and parking with receipts required for charges over \$10.00.

(k) Documentation

It is the responsibility of the claimant to make available to the SCO, upon request, documentation in the form of general and subsidiary ledgers, purchase orders, invoices, contracts, canceled warrants, equipment usage records, land deeds, receipts, employee time sheets, agency travel guidelines, inventory records, and other relevant documents to support claimed costs. The type of documentation necessary for each claim may differ with the type of mandate.

8. Indirect Costs

Indirect costs are: (a) Incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. Indirect costs can originate in the department performing the mandate or in departments that supply the department performing the mandate with goods, services and facilities. As noted previously, in order for a cost to be allowable, it must be allocable to a particular cost objective. With respect to indirect costs, this requires that the cost be distributed to benefiting cost objectives on bases, which produce an equitable result in relation to the benefits derived by the mandate.

A college has the option of using a federally approved rate, utilizing the cost accounting principles from Office of Management and Budget Circular A-21 "Cost Principles for Educational Institutions," or the Controller's methodology outlined in the following paragraphs. If the federal rate is used, it must be from the same fiscal year in which the costs were incurred.

The Controller allows the following methodology for use by community colleges in computing an indirect cost rate for state mandates. The objective of this computation is to determine an equitable rate for use in allocating administrative support to personnel that performed the mandated cost activities claimed by the community college. This methodology assumes that administrative services are provided to all activities of the institution in relation to the direct costs incurred in the performance of those activities. Form FAM-29C has been developed to assist the community college in computing an indirect cost rate for state mandates. Completion of this form consists of three main steps:

1. The elimination of unallowable costs from the expenses reported on the financial statements.
2. The segregation of the adjusted expenses between those incurred for direct and indirect activities.
3. The development of a ratio between the total indirect expenses and the total direct expenses incurred by the community college.

The computation is based on total expenditures as reported in "California Community Colleges Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)." Expenditures classified by activity are segregated by the function they serve. Each function may include expenses for salaries, fringe benefits, supplies, and capital outlay. OMB Circular A-21 requires expenditures for capital outlays to be excluded from the indirect cost rate computation.

Generally, a direct cost is one incurred specifically for one activity, while indirect costs are of a more general nature and are incurred for the benefit of several activities. As previously noted, the objective of this computation is to equitably allocate administrative support costs to personnel that perform mandated cost activities claimed by the college. For the purpose of this computation we have defined indirect costs to be those costs which provide administrative support to personnel who perform mandated cost activities. We have defined direct costs to be those costs that do not provide administrative support to personnel who perform mandated cost activities and those costs that are directly related to instructional activities of the college. Accounts that should be classified

as indirect costs are: Planning, Policy Making and Coordination, Fiscal Operations, Human Resources Management, Management Information Systems, Other General Institutional Support Services, and Logistical Services. If any costs included in these accounts are claimed as a mandated cost, i.e., salaries of employees performing mandated cost activities, the cost should be reclassified as a direct cost. Accounts in the following groups of accounts should be classified as direct costs: Instruction, Instructional Administration, Instructional Support Services, Admissions and Records, Counseling and Guidance, Other Student Services, Operation and Maintenance of Plant, Community Relations, Staff Development, Staff Diversity, Non-instructional Staff-Retirees' Benefits and Retirement Incentives, Community Services, Ancillary Services and Auxiliary Operations. A college may classify a portion of the expenses reported in the account Operation and Maintenance of Plant as indirect. The claimant has the option of using a 7% or a higher indirect cost percentage if the college can support its allocation basis.

The indirect cost rate, derived by determining the ratio of total indirect expenses to total direct expenses when applied to the direct costs claimed, will result in an equitable distribution of the college's mandate related indirect costs. An example of the methodology used to compute an indirect cost rate is presented in Table 4.

Table 4 Indirect Cost Rate for Community Colleges

MANDATED COST INDIRECT COST RATE FOR COMMUNITY COLLEGES						FORM FAM-29C	
(01) Claimant				(02) Period of Claim			
(03) Expenditures by Activity				(04) Allowable Costs			
Activity	EDP	Total	Adjustments	Total	Indirect	Direct	
Subtotal Instruction	599	\$19,590,357	\$1,339,059	\$18,251,298	\$0	\$18,251,298	
Instructional Administration and Instructional Governance	6000						
Academic Administration	6010	2,941,386	105,348	2,836,038	0	2,836,038	
Course and Curriculum Develop.	6020	21,595	0	21,595	0	21,595	
Academic/Faculty Senate	6030						
Other Instructional Administration & Instructional Governance	6090						
Instructional Support Services	6100						
Learning Center	6110	22,737	863	21,874	0	21,874	
Library	6120	518,220	2,591	515,629	0	515,629	
Media	6130	522,530	115,710	406,820	0	406,820	
Museums and Galleries	6140	0	0	0	0	0	
Academic Information Systems and Tech.	6150						
Other Instructional Support Services	6190						
Admissions and Records	6200	584,939	12,952	571,987	0	571,987	
Counseling and Guidance	6300						
Counseling and Guidance	6310						
Matriculation and Student Assessment	6320						
Transfer Programs	6330						
Career Guidance	6340						
Other Student Counseling and Guidance	6390						
Other Student Services	6400						
Disabled Students Programs & Services	6420						
Subtotal		\$24,201,764	\$1,576,523	\$22,625,241	\$0	\$22,625,241	

Table 4 Indirect Cost Rate for Community Colleges (continued)

MANDATED COST INDIRECT COST RATE FOR COMMUNITY COLLEGES					FORM FAM-29C	
(01) Claimant				(02) Period of Claim		
(03) Expenditures by Activity				(04) Allowable Costs		
Activity	EDP	Total	Adjustments	Total	Indirect	Direct
Extended Opportunity Programs & Services	6430					
Health Services	6440	0	0	0	0	0
Student Personnel Admin.	6450	289,926	12,953	276,973	0	276,973
Financial Aid Administration	6460	391,459	20,724	370,735	0	370,735
Job Placement Services	6470	83,663	0	83,663	0	83,663
Veterans Services	6480	25,427	0	25,427	0	25,427
Miscellaneous Student Services	6490	0	0	0	0	0
Operation & Maintenance of Plant	6500					
Building Maintenance and Repairs	6510	1,079,260	44,039	1,035,221	0	1,035,221
Custodial Services	6530	1,227,668	33,677	1,193,991	0	1,193,991
Grounds Maintenance and Repairs	6550	596,257	70,807	525,450	0	525,450
Utilities	6570	1,236,305	0	1,236,305	0	1,236,305
Other	6590	3,454	3,454	0	0	0
Planning, Policy Making, and Coordination	6600	587,817	22,451	565,366	565,366	0
General Inst. Support Services	6700					
Community Relations	6710	0	0	0	0	0
Fiscal Operations	6720	634,605	17,270	617,335	553,184	(a) 64,151
Human Resources Management	6730					
Noninstructional Staff Benefits & Incentives	6740					
Staff Development	6750					
Staff Diversity	6760					
Logistical Services	6770					
Management Information Systems	6780					
Subtotal		\$30,357,605	\$1,801,898	\$28,555,707	\$1,118,550	\$27,437,157

Table 4 Indirect Cost Rate for Community Colleges (continued)

MANDATED COST INDIRECT COST RATE FOR COMMUNITY COLLEGES					FORM FAM-29C	
(01) Claimant				(02) Period of Claim		
(03) Expenditures by Activity				(04) Allowable Costs		
Activity	EDP	Total	Adjustments	Total	Indirect	Direct
General Inst. Sup. Serv. (cont.)	6700					
Other General Institutional Support Services	6790					
Community Services	6800					
Community Recreation	6810	703,858	20,509	683,349	0	683,349
Community Service Classes	6820	423,188	24,826	398,362	0	398,362
Community Use of Facilities	6830	89,877	10,096	79,781	0	79,781
Economic Development	6840					
Other Community Svcs. & Economic Development	6890					
Ancillary Services	6900					
Bookstores	6910	0	0	0	0	0
Child Development Center	6920	89,051	1,206	87,845	0	87,845
Farm Operations	6930	0	0	0	0	0
Food Services	6940	0	0	0	0	0
Parking	6950	420,274	6,857	413,417	0	413,417
Student Activities	6960	0	0	0	0	0
Student Housing	6970	0	0	0	0	0
Other	6990	0	0	0	0	0
Auxiliary Operations	7000					
Auxiliary Classes	7010	1,124,557	12,401	1,112,156	0	1,112,156
Other Auxiliary Operations	7090	0	0	0	0	0
Physical Property Acquisitions	7100	814,318	814,318	0	0	0
(05) Total		\$34,022,728	\$2,692,111	\$31,330,617	\$1,118,550	\$30,212,067
(06) Indirect Cost Rate: (Total Indirect Cost/Total Direct Cost)				3,70233%		
(07) Notes						
(a) Mandated Cost activities designated as direct costs per claim instructions.						

9. Offset Against Mandated Claims

As noted previously, allowable costs are defined as those direct and indirect costs, less applicable credits, considered to be eligible for reimbursement. When all or part of the costs of a mandated program are specifically reimbursable from local assistance revenue sources (e.g., state, federal, foundation, etc.), only that portion of any increased costs payable from school district funds is eligible for reimbursement under the provisions of GC Section 17561.

Example 1:

As illustrated in Table 5, this example shows how the "Offset against State Mandated Claims" is determined for school districts receiving block grant revenues not based on a formula allocation. Program costs for each of the situations equals \$100,000.

Table 5 Offset Against State Mandates, Example 1

	Program Costs	Actual Local Assistance Revenues	State Mandated Costs	Offset Against State Mandated Claims	Claimable Mandated Costs
1.	\$100,000	\$95,000	\$2,500	\$-0-	\$2,500
2.	100,000	97,000	2,500	-0-	2,500
3.	100,000	98,000	2,500	500	2,000
4.	100,000	100,000	2,500	2,500	-0-
5.	100,000 *	50,000	2,500	1,250	1,250
6.	100,000 *	49,000	2,500	250	2,250

* School district share is \$50,000 of the program cost.

Numbers (1) through (4), in Table 5, show intended funding at 100% from local assistance revenue sources. Numbers (5) and (6) show cost sharing on a 50/50 basis with the district. In numbers (1) through (6), included in the program costs of \$100,000 are state mandated costs of \$2,500. The offset against state mandated claims is the amount of actual local assistance revenues which exceeds the difference between program costs and state mandated costs. This offset cannot exceed the amount of state mandated costs.

In (1), local assistance revenues were less than expected. Local assistance funding was not in excess of the difference between program costs and state mandated costs. As a result, the offset against state mandated claims is zero and \$2,500 is claimable as mandated costs.

In (4), local assistance revenues were fully realized to cover the entire cost of the program, including the state mandate activity; therefore, the offset against state mandated claims is \$2,500, and claimable costs are \$0..

In (5), the district is sharing 50% of the project cost. Since local assistance revenues of \$50,000 were fully realized, the offset against state mandated claims is \$1,250.

In (6), local assistance revenues were less than the amount expended and the offset against state mandated claims is \$250. Therefore, the claimable mandated costs are \$2,250.

Example 2:

As illustrated in Table 6, this example shows how the offset against state mandated claims is determined for school districts receiving special project funds based on approved actual costs. Local assistance revenues for special projects must be applied proportionately to approved costs.

Table 6 Offset Against State Mandates, Example 2

	Program Costs	Actual Local Assistance Revenues	State Mandated Costs	Offset Against State Mandated Claims	Claimable Mandated Costs
1.	\$100,000	\$100,000	\$2,500	\$2,500	\$-0-
2.	100,000 **	75,000	2,500	1,875	625
3.	100,000 **	45,000	1,500	1,125	375

** School district share is \$25,000 of the program cost.

In (2), the entire program cost was approved. Since the local assistance revenue source covers 75% of the program cost, it also proportionately covered 75% of the \$2,500 state mandated costs, or \$1,875.

If in (3) local assistance revenues are less than the amount expected because only \$60,000 of the \$100,000 program costs were determined to be valid by the contracting agency, then a proportionate share of state mandated costs is likewise reduced to \$1,500. The offset against state mandated claims is \$1,125. Therefore, the claimable mandated costs are \$375.

Federal and State Funding Sources

The listing in Appendix C is not inclusive of all funding sources that should be offset against mandated claims but contains some of the more common ones. State school fund apportionments and federal aid for education, which are based on average daily attendance and are part of the general system of financing public schools as well as block grants which do not provide for specific reimbursement of costs (i.e., allocation formulas not tied to expenditures), should not be included as reimbursements from local assistance revenue sources.

Governing Authority

The costs of salaries and expenses of the governing authority, such as the school superintendent and governing board, are not reimbursable. These are costs of general government as described in the Office of Management and Budget Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments".

10. Notice of Claim Adjustment

All claims submitted to the SCO are reviewed to determine if the claim was prepared in accordance with the claiming instructions. If any adjustments are made to a claim, the claimant will receive a "Notice of Claim Adjustments" detailing adjustments made by the SCO.

11. Audit of Costs

All claims submitted to the State Controller's Office (SCO) are reviewed to determine if costs are related to the mandate, are reasonable and not excessive, and the claim was prepared in accordance with the SCO's claiming instructions and the Parameters and Guidelines (P's & G's) adopted by the Commission on State Mandates (COSM). If any adjustments are made to a claim, a "Notice of Claim Adjustment" specifying the claim component adjusted, the amount adjusted, and the reason for the adjustment, will be mailed within 30 days after payment of the claim.

Pursuant to Government Code (GC) Section 17558.5, subdivision (a), 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 three years after 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 filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, must be

retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

On-site audits will be conducted by the SCO as deemed necessary. Accordingly, all documentation to support actual costs claimed must be retained for a period of three years after the end of the calendar year in which the reimbursement claim was filed or amended regardless of the year of costs incurred. When no funds are appropriated for initial claims at the time the claim is filed, supporting documents must be retained for three years from the date of initial payment of the claim. Claim documentation shall be made available to the SCO on request.

12. Source Documents

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.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

13. Claim Forms and Instructions

A claimant may submit a computer generated report in substitution for Form-1 and Form-2, provided the format of the report and data fields contained within the report are identical to the claim forms included with these instructions. The claim forms provided with these instructions should be duplicated and used by the claimant to file an estimated or reimbursement claim. The SCO will revise the manual and claim forms as necessary.

A. Form-2, Component/Activity Cost Detail

This form is used to segregate the detail costs by claim component. In some mandates, specific reimbursable activities have been identified for each component. The expenses reported on this form must be supported by the official financial records of the claimant and copies of supporting documentation, as specified in the claiming instructions, must be submitted with the claims. All supporting documents must be retained for a period of not less than three years after the reimbursement claim was filed or last amended.

B. Form-1, Claim Summary

This form is used to summarize direct costs by component and compute allowable indirect costs for the mandate. The direct costs summarized on this form are derived from Form-2 and are carried forward to form FAM-27.

Community colleges have the option of using a federally approved rate (i.e., utilizing the cost accounting principles from the Office of Management and Budget Circular A-21) or form FAM-29C.

C. Form FAM-27, Claim for Payment

This form contains a certification that must be signed by an authorized officer of the county. All applicable information from Form-1 must be carried forward onto this form in order for the SCO to process the claim for payment. An original and one copy of the FAM-27 is required.

Claims should be rounded to the nearest dollar. Submit a signed original and one copy of form FAM-27, Claim for Payment, and all other forms and supporting documents (**To expedite the payment process, please sign the form FAM-27 with blue ink, and attach a copy of the form FAM-27 to the top of the claim package.**) Use the following mailing addresses:

If delivered by
U.S. Postal Service:

Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

If delivered by
Other delivery services:

Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

14. RETENTION OF CLAIMING INSTRUCTIONS

For your convenience, the revised claiming instructions in this package have been arranged in alphabetical order by program name. These revisions should be inserted in the School Mandated Cost Manual and the old forms they replace should be removed. The instructions should then be retained permanently for future reference, and the forms should be duplicated to meet your filing requirements. Annually, updated forms and any other information or instructions claimants may need to file claims, as well as instructions and forms for all new programs released throughout the year will be placed on the SCO's web site at www.sco.ca.gov/ard/local/locreim/index/shtml.

If you have any questions concerning mandated cost reimbursements, please write to us at the address listed for filing claims, send e-mail to lrsdar@sco.ca.gov, or call the Local Reimbursements Section at (916) 324-5729.

All claims submitted to the SCO are reviewed to determine if costs are related to the mandate, are reasonable and not excessive, and the claim was prepared in accordance with the SCO's claiming instructions and the COSM's P's and G's. If any adjustments are made to a claim, a "Notice of Claim Adjustment" specifying the claim component adjusted, the amount adjusted, and the reason for the adjustment, will be mailed within 30 days after payment of the claim.

On-site audits will be conducted by the SCO as deemed necessary. Pursuant to GC Section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district is subject to audit by the State Controller no later than three years after the date the actual reimbursement claim was filed or last amended, whichever is later. However, if no funds were appropriated or no payment was made to a claimant for the program for the fiscal year for which the claim was filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. Therefore, all documentation to support actual costs claimed must be retained for the same period, and shall be made available to the SCO on request.

YOSEMITE COMMUNITY COLLEGE DISTRICT

Audit Report

HEALTH FEE ELIMINATION PROGRAM

Chapter 1, Statutes of 1984, 2nd Extraordinary Session,
and Chapter 1118, Statutes of 1987

July 1, 2002, through June 30, 2007



JOHN CHIANG
California State Controller

April 2009



JOHN CHIANG
California State Controller

April 30, 2009

Anne DeMartini, Board Chair
Board of Trustees
Yosemite Community College District
2201 Blue Gum Avenue
Modesto, CA 95358

Dear Ms. DeMartini:

The State Controller's Office audited the costs claimed by Yosemite Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2002, through June 30, 2007.

The district claimed \$1,203,995 (\$1,213,995 less a \$10,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$752,122 is allowable and \$451,873 is unallowable. The costs are unallowable because the district claimed understated services and supplies costs, overstated indirect costs, understated authorized health service fees, and understated offsetting savings/reimbursements. The State paid the district \$273,783. Allowable costs claimed exceed the amount paid by \$478,339.

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 CSM's Web site link at 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
Chief, Division of Audits

JVB/sk

cc: Teresa Scott, Executive Vice Chancellor
Yosemite Community College District
Kuldeep Kaur, Specialist
Fiscal Planning and Administration
California Community Colleges Chancellor's Office
Jeannie Oropeza, Program Budget Manager
Education Systems Unit
Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Yosemite Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2002, through June 30, 2007.

The district claimed \$1,203,995 (\$1,213,995 less a \$10,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$752,122 is allowable and \$451,873 is unallowable. The costs are unallowable because the district claimed understated services and supplies costs, overstated indirect costs, understated authorized health service fees, and understated offsetting savings/reimbursements. The State paid the district \$273,783. Allowable costs claimed exceed the amount paid by \$478,339.

Background

Chapter 1, Statutes of 1984, 2nd Extraordinary Session (E.S.) repealed Education Code section 72246, which authorized community college districts to charge a health fee for providing health supervision and services, providing medical and hospitalization services, and operating student health centers. This statute also required that health services for which a community college district charged a fee during fiscal year (FY) 1983-84 had to be maintained at that level in FY 1984-85 and every year thereafter. The provisions of this statute would automatically sunset on December 31, 1987, reinstating the community college districts' authority to charge a health service fee as specified.

Chapter 1118, Statutes of 1987, amended Education Code section 72246 (subsequently renumbered as section 76355 by Chapter 8, Statutes of 1993). The law requires any community college district that provided health services in FY 1986-87 to maintain health services at the level provided during that year for FY 1987-88 and for each fiscal year thereafter.

On November 20, 1986, the Commission on State Mandates (CSM) determined that Chapter 1, Statutes of 1984, 2nd Extraordinary Session imposed a "new program" upon community college districts by requiring specified community college districts that provided health services in FY 1983-84 to maintain health services at the level provided during that year for FY 1984-85 and for each fiscal year thereafter. This maintenance-of-effort requirement applied to all community college districts that levied a health service fee in FY 1983-84.

On April 27, 1989, the CSM determined that Chapter 1118, Statutes of 1987, amended this maintenance-of-effort requirement to apply to all community college districts that provided health services in FY 1986-87, requiring them to maintain that level in FY 1987-88 and for each fiscal year thereafter.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. CSM adopted parameters and guidelines on August 27, 1987, and amended them on May 25, 1989. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist school districts in claiming mandated program reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Health Fee Elimination Program for the period of July 1, 2002, through June 30, 2007.

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.

We asked the district's representative to submit a written representation letter regarding the district's accounting procedures, financial records, and mandated cost claiming procedures as recommended by generally accepted government auditing standards. However, the district declined our request.

Conclusion

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

For the audit period, Yosemite Community College District claimed \$1,203,995 (\$1,213,995 less a \$10,000 penalty for filing a late claim) for costs of the Health Fee Elimination Program. Our audit disclosed that \$752,122 is allowable and \$451,873 is unallowable.

For the FY 2002-03 claim, the State paid the district \$39,067. Our audit disclosed that the claimed costs are unallowable. The State will offset \$39,067 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

For the FY 2003-04 claim, the State made no payment to the district. Our audit disclosed that \$70,158 is allowable. The State will pay that amount, contingent upon available appropriations.

For the FY 2004-05 claim, the State made no payment to the district. Our audit disclosed that \$268,128 is allowable. The State will that amount, contingent upon available appropriations.

For the FY 2005-06 claim, the State made no payment to the district. Our audit disclosed that \$230,962 is allowable. The State will that amount, contingent upon available appropriations.

For the FY 2006-07 claim, the State paid the district \$234,716. Our audit disclosed that \$182,874 is allowable. The State will offset \$51,842 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 March 12, 2009. Teresa Scott, Executive Vice Chancellor, responded by letter dated March 24, 2009 (Attachment), disagreeing with the audit results except for Findings 1 and 3. This final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of Yosemite Community College District, 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
Chief, Division of Audits

April 30, 2009

**Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2007**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2002, through June 30, 2003</u>				
Direct costs:				
Salaries	\$ 248,395	\$ 248,395	\$ —	
Benefits	77,779	77,779	—	
Services and supplies	70,613	70,613	—	
Total direct costs	396,787	396,787	—	
Indirect costs	95,030	84,206	(10,824)	Finding 2
Total direct and indirect costs	491,817	480,993	(10,824)	
Less authorized health service fees	(446,250)	(490,194)	(43,944)	Finding 4
Less offsetting savings/reimbursements	(6,500)	(21,458)	(14,958)	Finding 5
Subtotal	39,067	(30,659)	(69,726)	
Audit adjustments that exceed costs claimed	—	30,659	30,659	
Total program costs	<u>\$ 39,067</u>	—	<u>\$ (39,067)</u>	
Less amount paid by the State		(39,067)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (39,067)</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs:				
Salaries	\$ 264,370	\$ 264,370	\$ —	
Benefits	116,417	116,417	—	
Services and supplies	89,423	90,508	1,085	Finding 1
Total direct costs	470,210	471,295	1,085	
Indirect costs	118,916	89,621	(29,295)	Finding 2
Total direct and indirect costs	589,126	560,916	(28,210)	
Less authorized health service fees	(431,580)	(442,899)	(11,319)	Findings 3, 4
Less offsetting savings/reimbursements	(6,500)	(47,859)	(41,359)	Finding 5
Total program costs	<u>\$ 151,046</u>	70,158	<u>\$ (80,888)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 70,158</u>		

Schedule 1 (continued)

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>	<u>Reference¹</u>
<u>July 1, 2004, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 303,647	\$ 303,647	\$ —	
Benefits	141,296	141,296	—	
Services and supplies	<u>73,063</u>	<u>73,237</u>	<u>174</u>	Finding 1
Total direct costs	518,006	518,180	174	
Indirect costs	<u>180,680</u>	<u>187,633</u>	<u>6,953</u>	Finding 2
Total direct and indirect costs	698,686	705,813	7,127	
Less authorized health service fees	(411,492)	(416,184)	(4,692)	Finding 4
Less offsetting savings/reimbursements	<u>(6,500)</u>	<u>(21,501)</u>	<u>(15,001)</u>	Finding 5
Total program costs	<u>\$ 280,694</u>	268,128	<u>\$ (12,566)</u>	
Less amount paid by the State		<u>—</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 268,128</u>		
<u>July 1, 2005, through June 30, 2006</u>				
Direct costs:				
Salaries	\$ 344,990	\$ 344,990	\$ —	
Benefits	159,108	159,108	—	
Services and supplies	<u>99,407</u>	<u>107,911</u>	<u>8,504</u>	Finding 1
Total direct costs	603,505	612,009	8,504	
Indirect costs	<u>219,555</u>	<u>203,371</u>	<u>(16,184)</u>	Finding 2
Total direct and indirect costs	823,060	815,380	(7,680)	
Less authorized health service fees	(402,179)	(554,058)	(151,879)	Finding 4
Less offsetting savings/reimbursements	<u>(7,557)</u>	<u>(30,360)</u>	<u>(22,803)</u>	Finding 5
Total program costs	<u>\$ 413,324</u>	230,962	<u>\$ (182,362)</u>	
Less amount paid by the State		<u>—</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 230,962</u>		
<u>July 1, 2006, through June 30, 2007</u>				
Direct costs:				
Salaries	\$ 453,320	\$ 453,320	\$ —	
Benefits	187,474	187,474	—	
Services and supplies	<u>105,929</u>	<u>105,929</u>	<u>—</u>	
Total direct costs	746,723	746,723	—	
Indirect costs	<u>306,679</u>	<u>259,188</u>	<u>(47,491)</u>	Finding 2
Total direct and indirect costs	1,053,402	1,005,911	(47,491)	
Less authorized health service fees	(709,335)	(774,633)	(65,298)	Finding 4
Less offsetting savings/reimbursements	(14,203)	(38,889)	(24,686)	Finding 5
Less late filing penalty ²	<u>(10,000)</u>	<u>(9,515)</u>	<u>485</u>	
Total program costs	<u>\$ 319,864</u>	182,874	<u>\$ (136,990)</u>	
Less amount paid by the State		<u>(234,716)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (51,842)</u>		

Schedule 1 (continued)

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>	<u>Reference¹</u>
<u>Summary: July 1, 2002, through June 30, 2007</u>				
Direct costs:				
Salaries	\$ 1,614,722	\$ 1,614,722	\$ —	
Benefits	682,074	682,074	—	
Services and supplies	438,435	448,198	9,763	
Total direct costs	2,735,231	2,744,994	9,763	
Indirect costs	920,860	824,019	(96,841)	
Total direct and indirect costs	3,656,091	3,569,013	(87,078)	
Less authorized health service fees	(2,400,836)	(2,677,968)	(277,132)	
Less offsetting savings/reimbursements	(41,260)	(160,067)	(118,807)	
Less late filing penalty ²	(10,000)	(9,515)	485	
Subtotal	1,203,995	721,463	(482,532)	
Audit adjustments that exceed costs claimed	—	30,659	30,659	
Total program costs	<u>\$ 1,203,995</u>	752,122	<u>\$ (451,873)</u>	
Less amount paid by the State		(273,783)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 478,339</u>		

¹ See the Findings and Recommendations section.

² The district incorrectly self-assessed a \$10,000 late claim penalty. The correct penalty amount is \$9,515.

Findings and Recommendations

**FINDING 1—
Understated services
and supplies**

The district understated services and supplies by \$9,763 for the audit period. The district accounted for most health services-related revenues and expenses in its Fund 14 accounts. The district claimed costs based on its Fund 14 accounts. However, the district separately accounted for some student fee revenue and related materials and supplies expenses in separate Fund 12 accounts that the district did not include in claimed costs. This finding reports an audit adjustment for the understated services and supplies. We reported an audit adjustment for the associated understated revenue in Finding 5 of our report.

The following table summarizes the audit adjustment.

	Fiscal Year			Total
	2003-04	2004-05	2005-06	
Audit adjustment	\$ 1,085	\$ 174	\$ 8,504	\$ 9,763

The parameters and guidelines state that all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs.

Recommendation

We recommend that the district claim health services costs that its accounting records support.

District's Response

The District does not dispute this finding.

SCO's Comment

Our finding and recommendation are unchanged.

**FINDING 2—
Overstated indirect costs**

The district overstated indirect costs by \$96,841 for the audit period. The district overstated or understated indirect costs for each fiscal year.

For fiscal year (FY) 2002-03 and FY 2003-04, the district claimed indirect costs based on indirect cost rates prepared using the principles of Title 2, *Code of Federal Regulations*, Part 220 (Office of Management and Budget Circular A-21). The district also had separate federally-approved rates. The district claimed indirect costs using indirect cost rates that did not agree with its federally-approved rate. We calculated allowable indirect costs based on the district’s federally-approved rate. We applied the district’s federally-approved rate to allowable salaries and wages, which is the direct cost base identified in the federal approval letter.

For FY 2004-05, FY 2005-06, and FY 2006-07, the parameters and guidelines and the SCO’s claiming instructions do not provide districts the option of using a federally-approved rate. The district claimed indirect costs based on indirect cost rates it prepared using the FAM-29C methodology allowed by the parameters and guidelines and the SCO’s claiming instructions. However, the district did not allocate direct and indirect costs as specified in the claiming instructions. We recalculated the rates and applied the allowable indirect cost rates to allowable direct costs.

The following table summarizes the audit adjustment:

	Fiscal Year					Total
	2002-03	2003-04	2004-05	2005-06	2006-07	
Allowable salaries and wages	\$ 248,395	\$ 264,370	\$ —	\$ —	\$ —	
Allowable direct costs	—	—	518,180	612,009	746,723	
Allowable indirect cost rate	× 33.90%	× 33.90%	× 36.21%	× 33.23%	× 34.71%	
Allowable indirect costs	84,206	89,621	187,633	203,371	259,188	
Less indirect costs claimed	(95,030)	(118,916)	(180,680)	(219,555)	(306,679)	
Audit adjustment	\$ (10,824)	\$ (29,295)	\$ 6,953	\$ (16,184)	\$ (47,491)	\$ (96,841)

The parameters and guidelines state, “Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions.”

For FY 2002-03 and FY 2003-04, the SCO’s claiming instructions state:

A college has the option of using a federally approved rate, utilizing the cost accounting principles from Office of Management and Budget Circular A-21 "Cost Principles for Educational Institutions," or the Controller's [FAM-29C] methodology

For FY 2004-05 forward, the SCO’s claiming instructions state:

A CCD [community college district] may claim indirect costs using the Controller’s methodology (FAM-29C) . . . If specifically allowed by a mandated program’s [parameters and guidelines], a district may alternately choose to claim indirect costs using either (1) a federally approved rate prepared in accordance with Office of Management and Budget (OMB) Circular A-21, *Cost Principles for Educational Institutions*; or (2) a flat 7% rate.

Because the Health Fee Elimination Program's parameters and guidelines do not specifically allow for a federally-approved rate, the district's federally-approved rates are irrelevant for FY 2004-05, FY 2005-06, and FY 2006-07.

Recommendation

We recommend that the district claim indirect costs based on indirect cost rates computed in accordance with the SCO's claiming instructions. For the Health Fee Elimination Program, the district should prepare its indirect cost rate proposals using SCO's FAM-29C methodology.

District's Response

FY 2002-03 and FY 2003-04

Since federally approved rates are an acceptable alternative method, the District does not dispute this audit finding as to FY 2002-03 and FY 2003-04.

FY 2004-05 and FY 2005-06

The draft audit report is factually in error when it states that the District prepared indirect cost rate proposals for FY 2004-05 and FY 2005-06 in accordance with OMB A-21. No proposal was made to any state or federal agency for an "approved" indirect cost rate. The District used the same FAM-29C method based on the CCFS-311 as the auditor, but made different allocations of indirect costs. The principal difference is that the District used the capital costs stated in the CCFS-311, whereas the Controller deleted these capital costs and substituted depreciation expense as stated on the District's annual financial statements.

FY 2006-07

The District used the same FAM-29C method based on the CCFS-311 as did the auditor. . . . The remaining difference in the rate claimed by the District in the amended FY 2006-07 claim and the audited rate is a result of differences in how some of the indirect costs were treated.

Parameters and Guidelines

The parameters and guidelines for the Health Fee Elimination program (as last amended on May 25, 1989), which are the legally enforceable standards for claiming costs, state that: "Indirect costs *may be claimed* in the manner described by the Controller in his claiming instructions." (Emphasis added) Therefore, the parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller.

Since the Controller's claiming instructions were never adopted as rules or regulations, they have no force of law. The burden is on the Controller to show that the indirect cost rate used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d)(2)). If the Controller wishes to enforce different audit standards for mandated cost reimbursement, the Controller should comply with the Administrative Procedure Act.

Prior Year CCFS-311

The draft audit report did not disclose that for FY 2004-05, FY 2005-06, and FY 2006-07, the audit used the most recent CCFS-311 information available for the calculation of the indirect cost rate. The District used the prior year CCFS-311. The CCFS-311 is prepared based on annual costs from the prior fiscal year for use in the current budget year. When the audit utilizes a different CCFS-311 than the District, this constitutes an undisclosed audit adjustment. The audit report does not state an enforceable requirement to use the most current CCFS-311.

As a practical example of how unjustifiable the Controller's position is on prior year CCFS-311 reports, note that the federally approved indirect cost rates (such as the federal rate the audit used for FY 2002-03 and FY 2003-04) are approved for periods of two to four years. This means the data from which the rates were calculated can be from three to five years prior to the last year in which the federal rate is used.

SCO's Comment

We modified our audit finding slightly for clarification. Our audit adjustment and recommendation are unchanged. Our comments to the district's response are as follows:

FY 2004-05 and FY 2005-06

The district inaccurately states "No proposal was made to any state or federal agency for an 'approved' indirect cost rate." On March 25, 2004, the U.S. Department of Health and Human Services approved the district's indirect cost rate for FY 2004-05 through FY 2007-08. However, the district did not use these federally approved rates to claim mandate-related indirect costs. We modified our audit finding to state that the district submitted indirect cost rate proposals using FAM-29C methodology for FY 2004-05 and FY 2005-06. In its response, the district states that it did not adhere to the SCO's claiming instructions because it "made different allocations of indirect costs." The parameters and guidelines state, "Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions."

FY 2006-07

The district did not provide its FY 2006-07 ICRP in time for inclusion in the draft report. Therefore, our draft audit report stated that the district did not provide its FY 2006-07 ICRP. We modified our audit finding to state that the district prepared its FY 2006-07 ICRP using FAM-29C methodology.

The district did not allocate direct and indirect costs as specified in the SCO's claiming instructions.

Parameters and Guidelines

The parameters and guidelines state, "Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions." The district misinterprets the phrase "may be claimed" by concluding that compliance with the claiming instructions is voluntary. The district's assertion is invalid, as it would allow districts to claim indirect costs in whatever manner they choose. Instead, "may be claimed" simply permits the district to claim indirect costs. However, if the district claims indirect costs, then the district must comply with the SCO's claiming instructions.

Neither this district nor any other district requested that the Commission on State Mandates (CSM) review the SCO's claiming instructions pursuant to Title 2, *California Code of Regulations* (CCR), Section 1186. Furthermore, the district may not now request a review of the claiming instructions applicable to the audit period. Title 2 CCR 1186(j)(2) states, "A request for review filed after the initial claiming deadline must be submitted on or before January 15 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year."

The district contends that "The burden is on the Controller to show that the indirect cost rate used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute..." Government Code section 17558.5 requires the district to file a reimbursement claim for actual mandate-related costs. Government Code section 17561, subdivision (d)(2), allows the SCO to audit the district's records to verify actual mandate-related costs and reduce any claim that the SCO determines is excessive or unreasonable. In addition, Government Code section 12410 states, "The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment." Therefore, the district's contention is without merit.

Nevertheless, the SCO did conclude that the district's FY 2005-06 and FY 2006-07 indirect cost rates were excessive. (The SCO concluded that the district understated its FY 2004-05 indirect cost rate. The district did not explain why it is contesting an audit adjustment in its favor.) "Excessive" is defined as "exceeding what is usual, *proper*, necessary, or normal... Excessive implies an amount or degree too great to be reasonable or acceptable... [emphasis added]."¹ The SCO calculated indirect cost rates using the alternative methodology identified in the SCO's claiming instructions. The alternative methodology indirect cost rates did not support the rates that the district claimed; thus, the claimed rates were excessive.

¹ Merriam-Webster's Collegiate Dictionary, Tenth Edition, © 2001.

Prior Year CCFS-311

The district states, “The CCFS-311 is prepared based on annual costs from the prior fiscal year for use in the current budget year.” Although this is how the district used its data, there are no mandate-related authoritative criteria supporting this methodology. Government Code section 17558.5 requires the district to file a reimbursement claim for actual mandate-related costs. In addition, the parameters and guidelines require the district to report actual costs. For each fiscal year, “actual costs” are costs of the current fiscal year, not costs from a prior fiscal year.

The parameters and guidelines and the SCO’s claiming instructions do not allow districts to claim indirect costs based on federally approved rates in FY 2004-05, FY 2005-06, and FY 2006-07. Therefore, the district’s comments regarding federally approved rates are irrelevant.

**FINDING 3—
Offsetting savings/
reimbursements
incorrectly reported as
authorized health
service fees**

The district incorrectly reported offsetting savings/reimbursements totaling \$39,090 as authorized health service fees in FY 2003-04. This amount included interest revenue, duplicate staff charges that the district also claimed as offsetting savings/reimbursements, and miscellaneous student fees that the district recognized when it converted from cash to accrual-basis accounting.

The following table summarizes the audit adjustment and the adjusted authorized health service fees claimed:

	<u>Fiscal Year 2003-04</u>
Interest	\$ 12,625
Staff charges	6,500
Miscellaneous student fees	<u>19,965</u>
Audit adjustment	39,090
Authorized health service fees claimed	<u>(431,580)</u>
Adjusted authorized health service fees claimed	<u><u>\$ (392,490)</u></u>

The parameters and guidelines state, “Reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.” The SCO’s claiming instructions direct claimants to separately report authorized health service fees and other reimbursements. Except for the duplicate staff charges, we recognized these revenues in our audit adjustment for understated offsetting savings/reimbursements in Finding 5.

Recommendation

We recommend that the district properly claim revenue as offsetting savings/reimbursements when the revenue is unrelated to the authorized student health fee.

District's Response

The District does not dispute this finding.

SCO's Comment

Our finding and recommendation are unchanged.

**FINDING 4—
Understated
authorized health
service fees**

The district understated authorized health service fees by \$316,222 for the audit period. The district understated these fees because it reported actual receipts rather than authorized fees and because it did not charge students the full authorized fee amount in FY 2005-06 and FY 2006-07.

Mandated costs do not include costs that are reimbursable from authorized fees. Government Code section 17514 states that "costs mandated by the state" means any increased costs that a school district is required to incur. To the extent community college districts can charge a fee, they are not required to incur a cost. In addition, Government Code section 17556 states that the Commission on State Mandates shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.

For the audit period, Education Code section 76355, subdivision (c), states that health fees are authorized for all students except those who: (1) depend exclusively on prayer for healing; (2) are attending a community college under an approved apprenticeship training program; or (3) demonstrate financial need. The California Community Colleges Chancellor's Office (CCCCO) identified the fees authorized by Education Code section 76355, subdivision (a). For FY 2002-03 and FY 2003-04, the authorized fees were \$12 per semester and \$9 per summer session. For FY 2004-05, the authorized fees were \$13 per semester and \$10 per summer session. For FY 2005-06, the authorized fees were \$14 per semester and \$11 per summer session. For FY 2006-07, the authorized fees were \$15 per semester and \$12 per summer session.

We obtained student enrollment and Board of Governors Grant (BOGG) recipient data from the CCCCCO. The CCCCCO identified enrollment and BOGG recipient data from its management information system (MIS) based on student data that the district reported. CCCCCO identified the district's enrollment based on CCCCCO's MIS data element STD7, codes A through G. CCCCCO eliminated any duplicate students based on their social security numbers. From the district enrollment, CCCCCO identified the number of BOGG recipients based on MIS data element SF21, all codes with first letter of B or F. The district does not have an apprenticeship program and it did not identify any students that it excluded from the health service fee pursuant to Education Code section 76355, subdivision (c)(1).

The following table shows the authorized health service fee calculation and audit adjustment:

	Semester			Total
	Summer	Fall	Spring	
<u>Fiscal Year 2002-03</u>				
Number of enrolled students	10,568	24,587	22,472	
Less number of BOGG recipients	<u>(2,694)</u>	<u>(6,214)</u>	<u>(5,901)</u>	
Subtotal	7,874	18,373	16,571	
Authorized health fee rate	× \$ (9)	× \$ (12)	× \$ (12)	
Authorized health service fees	<u>\$ (70,866)</u>	<u>\$(220,476)</u>	<u>\$(198,852)</u>	\$(490,194)
Less authorized health service fees claimed				446,250
Audit adjustment				<u>(43,944)</u>
<u>Fiscal Year 2003-04</u>				
Number of enrolled students	9,580	22,631	22,031	
Less number of BOGG recipients	<u>(2,569)</u>	<u>(6,486)</u>	<u>(6,526)</u>	
Subtotal	7,011	16,145	15,505	
Authorized health fee rate	× \$ (9)	× \$ (12)	× \$ (12)	
Authorized health service fees	<u>\$ (63,099)</u>	<u>\$(193,740)</u>	<u>\$(186,060)</u>	(442,899)
Less adjusted authorized health service fees claimed (Finding 3)				392,490
Audit adjustment				<u>(50,409)</u>
<u>Fiscal Year 2004-05</u>				
Number of enrolled students	9,865	21,620	20,839	
Less number of BOGG recipients	<u>(3,734)</u>	<u>(7,672)</u>	<u>(7,489)</u>	
Subtotal	6,131	13,948	13,350	
Authorized health fee rate	× \$ (10)	× \$ (13)	× \$ (13)	
Authorized health service fees	<u>\$ (61,310)</u>	<u>\$(181,324)</u>	<u>\$(173,550)</u>	(416,184)
Less authorized health service fees claimed				411,492
Audit adjustment				<u>(4,692)</u>
<u>Fiscal Year 2005-06</u>				
Number of enrolled students	10,127	21,763	21,020	
Less number of BOGG recipients	<u>(4,007)</u>	<u>(8,016)</u>	<u>—</u>	
Subtotal	6,120	13,747	21,020	
Authorized health fee rate	× \$ (11)	× \$ (14)	× \$ (14)	
Authorized health service fees	<u>\$ (67,320)</u>	<u>\$(192,458)</u>	<u>\$(294,280)</u>	(554,058)
Less authorized health service fees claimed				402,179
Audit adjustment				<u>(151,879)</u>
<u>Fiscal Year 2006-07</u>				
Number of enrolled students	10,579	22,214	20,965	
Authorized health fee rate	× \$ (12)	× \$ (15)	× \$ (15)	
Authorized health service fees	<u>\$(126,948)</u>	<u>\$(333,210)</u>	<u>\$(314,475)</u>	(774,633)
Less authorized health service fees claimed				709,335
Audit adjustment				<u>(65,298)</u>
Total audit adjustment				<u>\$(316,222)</u>

Recommendation

We recommend that the district deduct authorized health service fees from mandate-related costs claimed. To properly calculate authorized health service fees, we recommend that the district identify the number of enrolled students based on CCCCCO data element STD7, codes A through G. The district should eliminate duplicate entries for students who attend more than one of the district's colleges. In addition, we recommend that the district maintain documentation that identifies the number of students excluded from the health service fee based on Education Code section 76355, subdivision (c)(1). If the district denies health services to any portion of its student population, it should maintain contemporaneous documentation of a district policy that excludes those students and documentation identifying the number of students excluded.

District's Response

The audit utilizes student enrollment information from the State Community College Chancellor's data base. These statistics are not available to districts at the time the claims are prepared nor does the audit report substantiate this source as either uniquely accurate or superior to enrollment data maintained by the District and independently audited each year. However, since the District did not calculate the fees based on student enrollment, this is not a District annual claim issue, but a Controller's audit adjustment rationale.

COLLECTIBLE STUDENT HEALTH SERVICE FEES

The District asserts that the "collectible method" of determining the student health service fee revenue offset is not supported by law or fact.

"Authorized" Fee Amount

There is no "authorized" rate other than the amounts stated in Education Code Section 76355. The draft audit report alleges that claimants must compute the total student health fees collectible based on the highest authorized rate. The draft audit report does not provide the statutory basis for the calculation of the "authorized" rate, nor the source of the legal right of any state entity to "authorize" student health services rates absent rulemaking or compliance with the Administrative Procedure Act by the "authorizing" state agency.

Optional Fee

Education Code Section 76355, subdivision (a), states that "[t]he governing board of a district maintaining a community college may require community college students to pay a fee... for health supervision and services. . . ." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states: "If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional" (Emphasis supplied in both instances). Therefore, districts have the option of charging a fee to some or all of its students.

Government Code Section 17514

The draft audit report relies upon Government Code Section 17514 for the conclusion that “[t]o the extent that community college districts can charge a fee, they are not required to incur a cost.” First, charging a fee has no relationship to whether costs are incurred to provide the student health services program. Second, Government Code Section 17514, as added by Chapter 1459, Statutes of 1984, actually states:

“Costs mandated by the state” means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

The operating cost of the student health service program is not determined by the fees collected. There is nothing in the language of the statute regarding the authority to charge a fee, or any nexus of fee revenue to increased cost, or any language that describes the legal effect of fees collected.

Government Code Section 17556

The draft audit report relies upon Government Code Section 17556 for the conclusion that “the Commission on State Mandates (CSM) shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.”

The draft audit report misrepresents the law. Government Code Section 17556 prohibits the Commission on State Mandates from finding costs subject to reimbursement, that is, approving a test claim activity for reimbursement, where the authority exists to levy fees in an amount sufficient to offset the entire mandated costs. Here, the Commission has already approved the test claim and made a finding of a new program or higher level of service for which the claimants do not have the ability to levy a fee in an amount sufficient to offset the entire mandated costs.

Parameters and Guidelines

The parameters and guidelines, as last amended on May 25, 1989, state, in relevant part: “Any offsetting savings that the claimant experiences as a direct result of this statute must be deducted from the costs claimed. . . This shall include the amount of [student fees] as authorized by Education Code Section 72246(a).” The use of the term “any offsetting savings” further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not, because uncollected fees are “offsetting savings” that were not “experienced.” The parameters and guidelines do not allow the Controller to reduce claimed costs by revenue never received by the claimants and such an offset is contrary to the generally accepted accounting principle that requires revenues and costs to be properly matched.

SCO's Comment

Our finding and recommendation are unchanged. The district states, "The audit utilizes student enrollment information from the State Community College Chancellor's data base. These statistics are not available to districts at the time the claims are prepared nor does the audit report substantiate this source as either uniquely accurate or superior to enrollment data maintained by the District. . . ." This is the district's own data. In addition, the district implies that the SCO used data that is somehow different from "enrollment data maintained by the District." Our audit used data retrieved from the California Community Colleges Chancellor's Office (CCCCO). The CCCCCO data is extracted directly from enrollment information that the district submitted. Districts are required to submit this data to the CCCCCO within one month after each term ends; thus, the district has its fiscal year enrollment data available approximately seven months before its mandated program claims are due to the state.

The district also states, "Since the District did not calculate the fees based on student enrollment, this is not a District annual claim issue, but a Controller's audit adjustment rationale." We disagree; this is a district annual claim issue. For its FY 2002-03 claim, the district reported inaccurate student enrollment. For its FY 2003-04 through FY 2006-07 claims, the district failed to follow specific SCO claiming instructions. The district did not report student enrollment and did not calculate the total health fees that could have been collected.

"Authorized" Fee Amount

We agree that Education Code section 76355 (specifically, subdivision (a)) authorizes the health service fee rate. The statutory section also provides the basis for calculating the authorized rate applicable to each fiscal year. The statutory section states:

- (1) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than ten dollars (\$10) for each semester, seven dollars (\$7) for summer school, seven dollars (\$7) for each intersession of at least four weeks, or seven dollars (\$7) for each quarter for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, or both.
- (2) The governing board of each community college district may increase this fee by the same percentage increase as the Implicit Price Deflator for State and Local Government Purchase of Goods and Services. Whenever that calculation produces an increase of one dollar (\$1) above the existing fee, the fee may be increased by one dollar (\$1).

The CCCCCO *notifies* districts when the authorized rate increases pursuant to Education Code section 76355, subdivision (a)(2). Therefore, the Administrative Procedures Act is irrelevant.

Optional Fee

We agree that community college districts may choose not to levy a health service fee or to levy a fee less than the authorized amount. Regardless of the district's decision to levy or not levy the authorized health service fee, Education Code section 76355, subdivision (a), provides districts the *authority* to levy the fee.

Government Code Section 17514

Government Code section 17514 states, "Costs mandated by the state' means any increased costs which a local agency or school district is *required* [emphasis added] to incur. . . ." The district ignores the direct correlation that if the district has authority to collect fees attributable to health service expenses, then it is not *required* to incur a cost. Therefore, those health service expenses do not meet the statutory definition of mandated costs.

Government Code Section 17556

The district presents an invalid argument that the statutory language applies only when the fee authority is sufficient to offset the "entire" mandated costs. The CSM recognized that the Health Fee Elimination Program's costs are not uniform between districts. Districts provided different levels of service in FY 1986-87 (the "base year"). Furthermore, districts provided these services at varying costs. As a result, the fee authority may be sufficient to pay for some districts' mandated program costs, while it is insufficient to pay the "entire" cost of other districts. Meanwhile, Education Code section 76355 (formerly section 72246) established a uniform health service fee assessment for students statewide. Therefore, the CSM adopted parameters and guidelines that clearly recognize an available funding source by identifying the health service fees as offsetting reimbursements. To the extent that districts have authority to charge a fee, they are not required to incur a cost.

Two court cases addressed the issue of fee authority.² Both cases concluded that "costs" as used in the constitutional provision, exclude "expenses that are recoverable from sources other than taxes." In both cases, the source other than taxes was fee authority.

² *County of Fresno v. California* (1991) 53 Cal. 3d 482; *Connell v. Santa Margarita* (1997) 59 Cal. App. 4th 382.

Parameters and Guidelines

The district incorrectly interprets the parameters and guidelines' requirement regarding authorized health service fees. The CSM clearly recognized the *availability* of another funding source by including the fees as offsetting savings in the parameters and guidelines. The CSM's staff analysis of May 25, 1989, states the following regarding the proposed parameters and guidelines amendments that the CSM adopted that day:

Staff amended Item "VIII. Offsetting Savings and Other Reimbursements" to reflect the reinstatement of [the] fee authority.

In response to that amendment, the [Department of Finance (DOF)] has proposed the addition of the following language to Item VIII. to clarify the impact of the fee authority on claimants' reimbursable costs:

"If a claimant does not levy the fee authorized by Education Code Section 72246(a), it shall deduct an amount equal to what it would have received had the fee been levied."

Staff concurs with the DOF proposed language which does not substantively change the scope of Item VIII.

Thus, the CSM concluded that claimants must deduct authorized health service fees from mandate-reimbursable costs claimed. Furthermore, the staff analysis included an attached letter from the CCCCCO dated April 3, 1989. In that letter, the CCCCCO concurred with the DOF and the CSM regarding authorized health service fees.

The CSM did not revise the proposed parameters and guidelines amendments further, as the CSM's staff concluded that DOF's proposed language did not substantively change the scope of its proposed language. The CSM's meeting minutes of May 25, 1989, show that the CSM adopted the proposed parameters and guidelines on consent, with no additional discussion. Therefore, no community college districts objected and there was no change to the CSM's conclusion regarding authorized health service fees.

The district states that "such an offset is contrary to the generally accepted accounting principle that requires revenues and costs to be properly matched." This statement is presented out of context; generally accepted accounting principles are not controlling criteria in identifying authorized health fee revenues attributable to the Health Fee Elimination mandated program. If a district voluntarily assesses less than the authorized health service fees, or fails to collect fees assessed, it is the district's responsibility to "match" health service expenditures with other district revenue sources.

**FINDING 5—
Understated offsetting
savings/reimbursements**

The district understated offsetting savings/reimbursements by \$118,807 for the audit period.

The district did not report offsetting savings/reimbursements for interest, student fees, and other miscellaneous revenue documented in its accounting records. The district charged students a separate fee for various health services that it provided. In FY 2003-04, the district also recognized miscellaneous revenue as it converted from a cash to accrual basis accounting system.

The following table summarizes the audit adjustment:

	Fiscal Year					Total
	2002-03	2003-04	2004-05	2005-06	2006-07	
Interest	\$ (16,890)	\$ (12,625)	\$ (13,216)	\$ (17,014)	\$ (24,686)	\$ (84,431)
Student fees and other miscellaneous revenue	1,932	(28,734)	(1,785)	(5,789)	—	(34,376)
Audit adjustment	\$ (14,958)	\$ (41,359)	\$ (15,001)	\$ (22,803)	\$ (24,686)	\$ (118,807)

The parameters and guidelines state:

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

Recommendation

We recommend that the district report all offsetting savings/reimbursements on its mandated cost claims.

District's Response

Finding 5 offsets \$84,431 of interest income against the claimed cost of the student health services program. . . . The interest income is paid by the Stanislaus County Treasurer where the District deposits its cash in a pooled investment fund. The District allocates the total investment income reported by the County to its various funds.

The draft audit report characterizes the interest income offset as an "offsetting savings/reimbursement". . . .

The parameters and guidelines criteria for offsetting savings and reimbursements do not apply to interest income. First, the interest income is not generated "as a direct result of" Education Code 76355, the statutory basis for the student health services program. Indeed, since the student health service program operates at a loss (the reason for the annual mandate claim for excess costs), the student health service program cannot generate investment principal. Second, the interest income is neither state nor federal reimbursement for providing the student health service program. Third, the interest income is not fees paid by others for services not included in the student health service program.

SCO's Comment

The parameters and guidelines state, "Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed." In its response, the district confirms that it received pooled investment fund income attributable to its health services fund. The health services fund and its associated revenues exist specifically because of Chapter 1118, Statutes of 1987, which authorized districts to assess a health service fee.

The district states, "Indeed, since the student health service program operates at a loss . . . the student health service program cannot generate investment principal." The district's response fails to consider basic cash flow principles. Each term, districts collect health fee revenue at the beginning of the term. This revenue is available for deposit in the county pooled investment fund and is depleted during the term as the district incurs health service program expenses. The revenue earns interest until such time that it is depleted.

During our exit conference conducted January 23, 2009, the district's consultant stated to district personnel that the district's mistake was that it posted interest revenue to the health services fund. We strongly recommend that the district continue to allocate interest earned on pooled investment funds according to generally accepted accounting principles.

**OTHER ISSUE—
FY 2006-07 amounts
paid**

The district's response included comments regarding FY 2006-07 amounts paid. The district's response and SCO's comment are as follows:

District's Response

The draft audit report states that the District was paid \$234,716 on the FY 2006-07 annual claim. The last remittance advice (March 12, 2007) received by the District for this fiscal year indicates that the amount paid was \$263,110.

SCO's Comment

The Summary of Program Costs (Schedule 1) is unchanged. The district is contesting a reported amount that is in its favor. The district's response fails to disclose that the district re-paid the SCO \$28,394, as documented by the SCO's remittance advice dated April 23, 2008. Thus, the net amount that the State paid to the district is \$234,716.

**OTHER ISSUE—
FY 2006-07 late claim
filing penalty**

The district's response included comments regarding the FY 2006-07 late claim penalty. The district's response and SCO's comment are as follows:

District's Response

On February 6, 2009, the District submitted an amended FY 2006-07 claim in the amount of \$329,864 that incorporates some of the audit adjustments. presented at the January 23, 2009, exit conference. Since this amended claim is a late claim, it is subject to a late filing penalty of 10% of the amount claimed up to \$10,000. The draft audit report adjusts the late filing penalty to \$9,515 for the audited allowed "total program costs" of \$192,389. Ten percent of \$192,389-is not \$9,515. It appears the late filing penalty should be \$10,000.

SCO's Comment

The Summary of Program Costs (Schedule 1) is unchanged. Again, the district is contesting an adjustment in its favor. Nevertheless, the district is in error. The district erroneously equates an "amended claim" with a "late claim." When a district amends its claim after the claim filing date established by Government Code section 17560, only the additional claimed costs are subject to the late claim penalty assessment (i.e., the original amount claimed is not late; only the new, additional costs are filed late). The district's amended claim increased total claimed costs by \$95,148, from \$234,716 to \$329,864. The SCO correctly applied a 10% late penalty assessment to the \$95,148 increase pursuant to Government Code section 17568. Allowable costs are irrelevant to the late claim penalty assessment.

**OTHER ISSUE—
Statute of limitations**

The district's response included comments related to the statute of limitations applicable to the district's FY 2002-03 and FY 2003-04 mandated cost claims. The district's response and SCO's comment are as follows:

District's Response

Government Code Section 17558.5, as amended effective January 1, 2003, requires the Controller to initiate an audit within three years after a claim is filed. The District's FY 2002-03 claim was filed on January 12, 2004. The District's FY 2003-04 claim was filed on January 10, 2005. The entrance conference date for the audit was March 24, 2008, which is after the three-year period to commence the audit for those two fiscal years had expired.

SCO's Comment

Our findings and recommendations are unchanged. The district cited only a portion of Government Code section 17558.5, subdivision (a), which actually states:

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 three years after 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 filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim [emphasis added].

For its FY 2002-03 claim, the district received its initial payment on October 25, 2006. Pursuant to Government Code section 17558.5, subdivision (a), the SCO had until October 24, 2009, to initiate an audit of this claim. For its FY 2003-04 claim, the district received no payment. Pursuant to the same statutory language, the time for the SCO to initiate an audit has not yet commenced. Therefore, the SCO properly initiated an audit of these claims within the statutory time allowed.

**OTHER ISSUE—
Public records request**

The district's response included a public records request. The district's response and SCO's comment are as follows:

District's Response

The District requests that the Controller provide the District any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period to Finding 1 (indirect cost rate calculation standards) and Finding 2 (calculation of the student health services fees offset).

SCO's Comment

The SCO provided the district the requested records by separate letter dated April 7, 2009.

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

Office of the Executive Vice Chancellor



Yosemite Community College District

P.O. Box 4065 / Modesto, CA 95352 / 2201 Blue Gum Avenue
Phone (209) 575-6530 / FAX (209) 575-6562

March 24, 2009

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

**Re: Chapter 1, Statutes of 1984
Health Fee Elimination
Yosemite Community College District
Fiscal Years: 2002-03, 2003-04, 2004-05, 2005-06, and 2006-07 (amended)**

Dear Mr. Spano:

This letter is the response of the Yosemite Community College District to the draft audit report for the above referenced program and fiscal years transmitted by the letter from Jeffrey Brownfield, Chief, Division of Audits, State Controller's Office, dated March 12, 2009, and received by the District on March 13, 2009.

Finding 1: Understated services and supplies

This District does not dispute this finding. See Finding 5.

Finding 2: Overstated indirect costs

<u>Fiscal Year</u>	<u>Indirect Cost Rates Claimed and Audited</u>			<u>Audit Report Source</u>
	<u>As Claimed</u>	<u>Claimed Source</u>	<u>As Audited</u>	
2002-03	23.95%	CCFS-311	33.90%	"Federally approved rate"
2003-04	25.29%	CCFS-311	33.90%	"Federally approved rate"
2004-05	34.88%	CCFS-311	36.21%	CCFS-311 and depreciation
2005-06	36.38%	CCFS-311	33.23%	CCFS-311 and depreciation
2006-07 (amended)	41.07%	CCFS-311 and depreciation	34.71%	CCFS-311 and depreciation

The Controller asserts that the indirect cost method used by the District was inappropriate since it was not a cost study specifically approved by the federal government.

CHOICE OF METHODS

The draft audit report states that the District prepared its indirect cost rates for the fiscal years 2002-03 through 2005-06 as "proposals" in accordance with OMB A-21 that were not federally approved.

FY 2002-03 and FY 2003-04

The District had an "approved" federal rate for FY 2002-03 and FY 2003-04 that was used for the audit adjustment. Since federally approved rates are an acceptable alternative method, the District does not dispute this audit finding as to FY 2002-03 and FY 2003-04.

FY 2004-05 and FY 2005-06

The draft audit report is factually in error when it states that the District prepared indirect cost rate proposals for FY 2004-05 and FY 2005-06 in accordance with OMB A-21. No proposal was made to any state or federal agency for an "approved" indirect cost rate. The District used the same FAM-29C method based on the CCFS-311 as the auditor, but made different allocations of indirect costs. The principal difference is that the District used the capital costs stated in the CCFS-311, whereas the Controller deleted these capital costs and substituted depreciation expense as stated on the District's annual financial statements.

FY 2006-07

On February 6, 2009, the District submitted an amended FY 2006-07 claim. The District used the same FAM-29C method based on the CCFS-311 as did the auditor. The District deleted the capital costs stated in the CCFS-311 and substituted the depreciation expense as reported in the District's annual financial statements. The District was not on notice of this method of treating depreciation costs at the time the FY 2004-05 and FY 2005-06 annual claims were timely filed. The audit report uses this method retroactively to FY 2004-05. The remaining difference in the rate claimed by the District in the amended FY 2006-07 claim and the audited rate is a result of differences in how some of the indirect costs were treated.

Parameters and Guidelines

The parameters and guidelines for the Health Fee Elimination program (as last amended on May 25, 1989), which are the legally enforceable standards for claiming costs, state that: "Indirect costs *may be claimed* in the manner described by the Controller in his claiming instructions." (Emphasis added) Therefore, the parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller.

Since the Controller's claiming instructions were never adopted as rules or regulations, they have no force of law. The burden is on the Controller to show that the indirect cost rate used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d)(2)). If the Controller wishes to enforce different audit standards for mandated cost reimbursement, the Controller should comply with the Administrative Procedure Act.

PRIOR YEAR CCFS-311

The draft audit report did not disclose that for FY 2004-05, FY 2005-06, and FY 2006-07, the audit used the most recent CCFS-311 information available for the calculation of the indirect cost rate. The District used the prior year CCFS-311. The CCFS-311 is prepared based on annual costs from the prior fiscal year for use in the current budget year. When the audit utilizes a different CCFS-311 than the District, this constitutes an undisclosed audit adjustment. The audit report does not state an enforceable requirement to use the most current CCFS-311.

As a practical example of how unjustifiable the Controller's position is on prior year CCFS-311 reports, note that the federally approved indirect cost rates (such as the federal rate the audit used for FY 2002-03 and FY 2003-04) are approved for periods of two to four years. This means the data from which the rates were calculated can be from three to five years prior to the last year in which the federal rate is used.

Since the draft audit report has stated no legal basis to disallow the indirect cost rate calculation method used by the District, and has not shown a factual basis to reject the rates as unreasonable or excessive, the adjustments should be withdrawn.

Finding 3: Offsetting savings/reimbursements incorrectly reported as authorized health service fees

This District does not dispute this finding. See Finding 5.

Finding 4: Understated authorized health service fees

The draft audit report concludes that the student health service fee revenue offsets were understated for the five-year audit period. The difference between the claimed amount and the audited amount is that the District utilized actual revenues received rather than a calculation of the student health service fees potentially collectible. The auditor calculated "authorized health fee revenues," that is, the student fees collectible based on the highest student health service fee chargeable to all eligible students, rather than the full-time or part-time student health service fee actually charged by the District to the students not exempted by state law or District policy (e.g., BOGG waiver students).

The audit utilizes student enrollment information from the State Community College Chancellor's data base. These statistics are not available to districts at the time the claims are prepared nor does the audit report substantiate this source as either uniquely accurate

or superior to enrollment data maintained by the District and independently audited each year. However, since the District did not calculate the fees based on student enrollment, this is not a District annual claim issue, but a Controller's audit adjustment rationale.

COLLECTIBLE STUDENT HEALTH SERVICE FEES

The District asserts that the "collectible method" of determining the student health service fee revenue offset is not supported by law or fact.

"Authorized" Fee Amount

There is no "authorized" rate other than the amounts stated in Education Code Section 76355. The draft audit report alleges that claimants must compute the total student health fees collectible based on the highest authorized rate. The draft audit report does not provide the statutory basis for the calculation of the "authorized" rate, nor the source of the legal right of any state entity to "authorize" student health services rates absent rulemaking or compliance with the Administrative Procedure Act by the "authorizing" state agency.

Optional Fee

Education Code Section 76355, subdivision (a), states that "[t]he governing board of a district maintaining a community college *may require* community college students to pay a fee . . . for health supervision and services . . ." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states: "*If*, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, *if any*, that a part-time student is required to pay. *The governing board may decide whether the fee shall be mandatory or optional.*" (Emphasis supplied in both instances) Therefore, districts have the option of charging a fee to some or all of its students.

Government Code Section 17514

The draft audit report relies upon Government Code Section 17514 for the conclusion that "[t]o the extent that community college districts can charge a fee, they are not required to incur a cost." First, charging a fee has no relationship to whether costs are incurred to provide the student health services program. Second, Government Code Section 17514, as added by Chapter 1459, Statutes of 1984, actually states:

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

The operating cost of the student health service program is not determined by the fees collected. There is nothing in the language of the statute regarding the authority to charge a fee, or any nexus of fee revenue to increased cost, or any language that describes the legal effect of fees collected.

Government Code Section 17556

The draft audit report relies upon Government Code Section 17556 for the conclusion that "the Commission on State Mandates (CSM) shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service." Government Code Section 17556, as amended by Statutes of 2004, Chapter 895, actually states:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if after a hearing, the commission finds that: . . .

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

The draft audit report misrepresents the law. Government Code Section 17556 prohibits the Commission on State Mandates from finding costs subject to reimbursement, that is, approving a test claim activity for reimbursement, where the authority exists to levy fees in an amount sufficient to offset the entire mandated costs. Here, the Commission has already approved the test claim and made a finding of a new program or higher level of service for which the claimants do not have the ability to levy a fee in an amount sufficient to offset the entire mandated costs.

Parameters and Guidelines

The parameters and guidelines, as last amended on May 25, 1989, state, in relevant part: "Any offsetting savings that the claimant experiences as a direct result of this statute must be deducted from the costs claimed . . . This shall include the amount of [student fees] as authorized by Education Code Section 72246(a)." The use of the term "any offsetting savings" further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not, because uncollected fees are "offsetting savings" that were not "experienced." The parameters and guidelines do not allow the Controller to reduce claimed costs by revenue never received by the claimants and such an offset is contrary to the generally accepted accounting principle that requires revenues and costs to be properly matched.

Since the draft audit report has stated no legal basis to disallow actual revenues as the amount of the offsetting revenue, the adjustments should be withdrawn.

Finding 5: Understated offsetting savings/reimbursements

Findings 1, 3, and 5 are connected by their content.

"FUND 12"

In accordance with governmental accounting practices, the District separately accounted for some costs and revenues (e.g., clinical services) in a fund (Fund 12) separate from the student health service center fund (Fund 14). Finding 1 merges those costs (\$9,763) and revenue (\$34,376 located in Finding 5) with Fund 14 which is consistent with the cost accounting practice of matching costs and revenues. The District does not dispute Finding 1.

FY 2003-04 CORRECTIONS

Finding 3 properly reverses \$39,090 in revenue reductions to the FY 2003-04 claimed costs that were either duplicated from Fund 12 or the result of changes in accruals. The District does not dispute Finding 3.

INTEREST INCOME

Finding 5 offsets \$84,431 of interest income against the claimed cost of the student health services program. Of this amount, \$12,625 was properly added back to the program costs in Finding 3 for FY 2003-04. The interest income is paid by the Stanislaus County Treasurer where the District deposits its cash in a pooled investment fund. The District allocates the total investment income reported by the County to its various funds.

The draft audit report characterizes the interest income offset as an "offsetting savings/reimbursement." The draft audit report cites only a portion of the parameters and guidelines for this proposition. The entire relevant citation is:

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim. This shall include the amount of \$7.50 per full-time student per semester, \$5.00 per full-time student for summer school, or \$5.00 per full-time student per quarter, as authorized by Education Code Section 72246(a). This shall also include payments (fees) received from individuals other than students who are not covered by Education Code Section 72246 for health services.

The parameters and guidelines criteria for offsetting savings and reimbursements do not apply to interest income. First, the interest income is not generated "as a direct result of"

Education Code 76355, the statutory basis for the student health services program. Indeed, since the student health service program operates at a loss (the reason for the annual mandate claim for excess costs), the student health service program cannot generate investment principal. Second, the interest income is neither state nor federal reimbursement for providing the student health service program. Third, the interest income is not fees paid by others for services not included in the student health service program.

Since interest income does not meet the parameters and guidelines criteria for offsetting savings and reimbursements and the draft audit report has stated no other basis for this finding, the adjustments should be withdrawn.

Other Issues

FY 2006-07 Amounts Paid

The draft audit report states that the District was paid \$234,716 on the FY 2006-07 annual claim. The last remittance advice (March 12, 2007) received by the District for this fiscal year indicates that the amount paid was \$263,110.

FY 2006-07 Late Claim Filing Penalty

On February 6, 2009, the District submitted an amended FY 2006-07 claim in the amount of \$329,864 that incorporates some of the audit adjustments presented at the January 23, 2009, exit conference. Since this amended claim is a late claim, it is subject to a late filing penalty of 10% of the amount claimed up to \$10,000. The draft audit report adjusts the late filing penalty to \$9,515 for the audited allowed "total program costs" of \$192,389. Ten percent of \$192,389 is not \$9,515. It appears the late filing penalty should be \$10,000.

Statute of Limitations

<u>Fiscal Year</u>	<u>Date Submitted to SCO</u>	<u>SOL to audit expires</u>
FY 2002-03	January 12, 2004	Audit must start by January 12, 2007
FY 2003-04	January 10, 2005	Audit must start by January 10, 2008

Government Code Section 17558.5, as amended effective January 1, 2003, requires the Controller to initiate an audit within three years after a claim is filed. The District's FY 2002-03 claim was filed on January 12, 2004. The District's FY 2003-04 claim was filed on January 10, 2005. The entrance conference date for the audit was March 24, 2008, which is after the three-year period to commence the audit for those two fiscal years had expired.

The audit report should be changed to exclude findings for the FY 2002-03 and FY 2003-04 annual claims.

Public Records Request

The District requests that the Controller provide the District any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period to Finding 1 (indirect cost rate calculation standards) and Finding 2 (calculation of the student health services fees offset).

Government Code section 6253, subdivision (c), requires the state agency that is the subject of the request, within 10 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 its possession and to promptly notify the requesting party of that determination and the reasons therefore. Also, as required, when so notifying the District, please state the estimated date and time when the records will be made available.

O O O

The District requests that the audit report be changed to comply with the appropriate application of the parameters and guidelines regarding allowable activity costs and the Government Code sections concerning audits of mandate claims.

Sincerely,



Teresa Scott
Executive Vice Chancellor

TMS/KP/cs

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Bush v. Bright , 264 Cal.App.2d 788

[Civ. No. 24819. First Dist., Div. One. Aug. 8, 1968.]

ARTHUR CURTIS ANTRIM BUSH, Plaintiff and Respondent, v. TOM BRIGHT, as Director of the Department of Motor Vehicles, etc., et al., Defendants and Appellants.

COUNSEL

Thomas C. Lynch, Attorney General, and Victor D. Sonenberg, Deputy Attorney General, for Defendants and Appellants.

Berwyn A. Rice for Plaintiff and Respondent. [264 Cal.App.2d 790]

OPINION

ELKINGTON, J.

This appeal concerns the interpretation of Vehicle Code section 13353, enacted in 1966, relating to chemical tests of intoxicated automobile drivers.

The section applies to any lawfully arrested person whom a peace officer has reasonable cause to believe was driving a motor vehicle upon a highway while under the influence of intoxicating liquor. It provides that such person shall be deemed to have given his consent to a chemical test of his blood, breath or urine. He may choose the type of test to be given. It also provides that if such a person refuses the officer's request to submit to such a test it need not be given, but his driver's license shall be suspended for six months. provision is made that the person be told of the penalty which will result from his refusal.

[1] The purpose of section 13353 is to reduce the toll of death and injury resulting from the operation of motor vehicles on California highways by intoxicated persons. As said in *People v. Sudduth*, 65 Cal.2d 543, 546 [55 Cal.Rptr. 393, 421 P.2d 401], "In a day when excessive loss of life and property is caused by inebriated drivers, an imperative need exists for a fair, efficient, and accurate system of detection, enforcement and, hence, prevention."

The obvious reason for acquiescence in the refusal of such a test by a person who as a matter of law is "deemed to have given his consent" is to avoid the violence which would often attend forcible tests upon recalcitrant inebriates. With this exception, the chemical tests may be given to any person covered by the statute, even if he be "dead, unconscious, or otherwise in a condition rendering him incapable of refusal."

[2] Such tests do not violate one's right against self-incrimination (*Schmerber v. California*, 384 U.S. 757, 760-765 [16 L.Ed.2d 908, 913-916, 86 S.Ct. 1826]; *People v. Sudduth*, supra, 65 Cal.2d 543, 546-547; *United States v. Wade*, 388 U.S. 218, 221 [18 L.Ed.2d 1149, 1153, 87 S.Ct. 1926]), nor one's right to be free from unreasonable searches and seizures (*Schmerber v. California*, supra, pp. 766-772 [16 L.Ed.2d pp. 917-920]), nor one's right to counsel (*United States v. Wade*, supra; *People v. Sudduth*, supra, p. 546; see also *Gilbert v. California*, 388 U.S. 263 [18 L.Ed.2d 1178, 87 S.Ct. 1951]).

The record before us discloses facts which are essentially uncontradicted. Respondent Arthur Curtis Antrim Bush was seen by a police officer driving an automobile in an erratic manner. He was lawfully arrested for the offense of driving a motor

vehicle while under the influence of intoxicating liquor. [264 Cal.App.2d 791] Bush had been at a party earlier that evening where he admittedly had at least 12 drinks of Scotch over ice. The drinks were larger than one would get in a bar, "certainly" more than an ounce in each drink. He then went to another party where he was sure he did not decrease the amount of his drinking. It is clear that when he was arrested he was grossly intoxicated. However, on three occasions when requested to submit to a chemical test he responded by answering "No," or by shaking his head negatively. Accordingly, a test was not given him. He had been properly advised as to the consequences of such a refusal.

After a Motor Vehicle Department administrative hearing Bush's license was ordered revoked for six months. He then sought a writ of mandate (Code Civ. Proc., § 1094.5) in the superior court for the purpose of annulling the order. The superior court exercised its independent judgment on the administrative record. fn. 1

[3] The court's findings recite that at the time Bush "was requested to submit to said test [he] was incapable of refusing to so submit because of his extreme intoxication." It was concluded as a matter of law "The petitioner did not violate the provisions of Vehicle Code section 13353." From the ensuing judgment setting aside Bush's license suspension this appeal was taken.

Bush based his argument below, as he does here, on the following language of section 13353: "Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn his consent." He contends that this provision "is intended to provide the person arrested with certain inalienable rights" affording "a fundamental protection to the person whose reasoning power or intelligence has been so greatly impaired as to prevent him from making an intelligent choice or waiving the right afforded him." The Legislature, he says, "intended that a person be aware of his rights and be given an opportunity to make a reasonable choice or a waiver." Finally, he says, since he was too drunk to make an intelligent waiver of his rights, he was completely unaffected by the portion of the statute under which he could refuse the test, and by the penalty provision for its refusal. [264 Cal.App.2d 792]

The statute's provision that "Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn his consent" does not confer any "rights" upon an intoxicated driver. It simply allows the chemical test of a person who is dead, unconscious or otherwise unable to refuse--making it clear that even in such cases the earlier provision that the person shall be deemed to have given his consent shall nevertheless apply.

Bush otherwise misconstrues the purpose and meaning of the statute. It is firmly established that a drunken driver has no right to resist or refuse such a test (See *Schmerber v. California*, supra, 384 U.S. 757, 760-765 [16 L.Ed.2d 908, 913-916]; *People v. Sudduth*, supra, 65 Cal.2d 543, 546-547). It is simply because such a person has the physical power to make the test impractical, and dangerous to himself and those charged with administering it, that it is excused upon an indication of his unwillingness. Since Bush's claimed rights are nonexistent there can be no issue as to their waiver.

The construction placed upon the statute by the lower court and by Bush would lead to absurd consequences--the greater the degree of intoxication of an automobile driver, the lesser the degree of his accountability under the statute. It would invalidate section 13353 as to grossly intoxicated drivers and frustrate the purpose of the Legislature.

[4] "Statutes must be given a reasonable and common sense construction in accordance with the apparent purpose and intention of the lawmakers--one that is practical rather than technical, and that will lead to a wise policy rather than to mischief or absurdity." (45 Cal.Jur.2d 625-626.) [5] "[I]n construing a statute the courts may consider the consequences that might flow from a particular interpretation. They will construe the statute with a view to promoting rather than to defeating its general purpose and the policy behind it." (Id., p. 631.) [6] Remedial statutes such as section 13353 "must be liberally construed to effect their objects and suppress the mischief at which they are directed. They should not be given a strained construction that might impair their remedial effect." (Id., pp. 681-682.)

Bush seems to argue that it is unreasonable and unfair to hold a person, deprived of understanding by his voluntary intoxication, accountable under Vehicle Code section 13353. An accountability for the results of one's voluntary intoxication is by no means novel in our law. For example, it has long [264 Cal.App.2d 793] been the rule, as to crimes not involving specific intent or diminished capacity, that "No act committed by a person while in a state of voluntary intoxication is less criminal by reason of his having been in such condition." (Pen. Code, § 22.) Even if one be unconscious as a result of his voluntary intoxication he may nevertheless be held criminally responsible for an act committed while in that state. "The union or joint operation of act and intent or criminal negligence must exist in every crime, ... and is deemed to exist irrespective of unconsciousness arising from voluntary intoxication." (*People v. Conley*, 64 Cal.2d 310, 324 [49 Cal.Rptr. 815, 411 P.2d 911]; see also *People v. Alexander*, 182 Cal.App.2d 281, 291-292 [6 Cal.Rptr. 153]; *Witkin, Cal. Crimes* (1963) § 143, p. 136.)

It seems reasonable to us that an automobile driver should be held accountable for his act of refusing a test under section 13353 while in a state of voluntary intoxication. [7] We therefore hold that, if the requirements of section 13353 are otherwise met, regardless of the degree of his voluntary intoxication or lack of understanding resulting therefrom, when a driver of an automobile refuses or otherwise manifests an unwillingness to take the required test he is subject to the license suspension provisions of that section.

The judgment is reversed. The superior court, on appropriate findings, will enter judgment in favor of appellants.

Molinari, P. J., and Sims, J., concurred.

FN 1. The case was tried on the theory that the court was required to exercise its "independent judgment" on the record and that the "substantial evidence" rule did not apply. It is unnecessary in our resolution of this appeal to determine which was the applicable rule.

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Marin Healthcare Dist. v. Sutter Health (2002) 103 Cal.App.4th 861 , 127 Cal.Rptr.2d 113

[No. C034127. Third Dist. Nov. 14, 2002.]

MARIN HEALTHCARE DISTRICT, Plaintiff and Appellant, v. SUTTER HEALTH et al., Defendants and Respondents.

(Superior Court of Sacramento County, No. 97AS05803, John R. Lewis, Judge.)

(Opinion by Kolkey, J., with Blease, Acting P. J., and Raye, J., concurring.)

COUNSEL

Steeffel, Levitt & Weiss, Stephen S. Mayne and David T. Vanalek for Plaintiff and Appellant.

McDonough, Holland & Allen and Richard E. Brandt for Defendant and Respondent Sutter Health.

Keegin, Harrison, Schoppert & Smith, Jeffrey S. Schoppert and Wendy L. Wyse for Defendants and Respondents Marin General Hospital and Marin Community Health. [103 Cal.App.4th 866]

OPINION

KOLKEY, J.—

In this action, we must determine whether the judicially created doctrine enunciated in *Hoadley v. San Francisco* (1875) 50 Cal. 265 (*Hoadley*)-that the statute of limitations does not apply to actions by the state to recover property dedicated for public use against an adverse possessor-should be extended to bar the application of the statute of limitations to the state's action to void a *lease* of public-use property. Because the purpose of the *Hoadley* doctrine is to prevent public-use property that the state cannot directly alienate from being indirectly alienated through the passage of time-that is, through the statute of limitations-we conclude that the doctrine has no application to a lease of property which the state is authorized to make.

In this case, the plaintiff, Marin Healthcare District (the District), a political subdivision of the state, brought suit to recover possession of a publicly owned hospital and related assets that it had leased and transferred [103 Cal.App.4th 867] in 1985 to defendant Marin General Hospital (Marin General) fn. 1 pursuant to the terms of the Local Health Care District Law (Health & Saf. Code, § 32000 et seq.). The District's complaint alleges that the 1985 agreements are void because its chief executive and legal counsel had a financial interest in the agreements at the time of their execution, in violation of Government Code section 1090, which prohibits state employees from having any financial interest in any contract made by them or by any body of which they are members. fn. 2 But because the action was filed 12 years after the agreements were signed, the trial court concluded that the suit was time-barred.

The District contends here-as it did in the trial court-that under the California Supreme Court's decision in *Hoadley*, "a suit by a governmental entity to recover public-use property from a private party to whom it was illegally or invalidly transferred is *never* barred by *any* statute of limitations."

We conclude, to the contrary, that *Hoadley* stands for the more narrow rule that "property held by the state in trust for the people cannot be lost through adverse possession." (*People v. Shirokow* (1980) 26 Cal.3d 301, 311 [162 Cal.Rptr. 30, 605 P.2d 859].) Other cases have only extended the doctrine to prevent the statute of limitations from barring the recovery of public-use property that the state had no authority to alienate. (E.g., *Sixth District etc. Assoc. v. Wright* (1908) 154 Cal. 119, 129-130 [97 P. 144].) The doctrine has no application to the lease of property into which the state is authorized by law to enter (and which property the state will recover at the end of the lease term).

Extension of the *Hoadley* doctrine here would conflict with the Legislature's determination to apply statutes of limitations to actions brought by the state, including the type pleaded here. Specifically, ever since the first session of the California Legislature, "[t]he general legislative policy of California [has been] that the state shall be bound by its statute of limitations with respect to the bringing of actions for the enforcement of any and all such rights as may accrue to the state." (*People v. Osgood* (1930) 104 [103 Cal.App.4th 868] Cal.App. 133, 135 [285 P. 753].) While there are good policy reasons both for and against subjecting void leases of public property to the statute of limitations, we must defer to the Legislature's determination that the state, like other parties, is bound by the statute of limitations. We shall therefore affirm the judgment barring this 12-year-delayed suit from unsettling the balance of Marin General's lease term.

Factual and Procedural Background

The facts underlying this action are undisputed.

The District, a political subdivision of the State of California, is a local health care district organized and operating under the provisions of the Local Health Care District Law (Health & Saf. Code, § 32000 et seq.). The District owns an acute care hospital facility located in Marin County.

The statutory scheme governing local health care districts permits such districts to delegate pursuant to a lease of up to 30 years the responsibility of operating and maintaining a district-owned hospital (Health & Saf. Code, § 32126), and authorizes them to transfer the assets to a nonprofit corporation "to operate and maintain the assets" (Health & Saf. Code, § 32121, subd. (p)(1)). *fn. 3* "The Legislature's stated reason for allowing such transfers [was] to permit local hospital districts 'to remain competitive in the ever changing health care environment' (Stats. 1985, ch. 382, § 5, p. 1556.)" (*Yoffie v. Marin Hospital Dist.* (1987) 193 Cal.App.3d 743, 746 [238 Cal.Rptr. 502].)

In or about November 1985, pursuant to those statutory provisions, the District leased the hospital's facilities and transferred certain of the District's assets used in the operation of the hospital, including cash, accounts receivable, and inventory, to defendant Marin General, a nonprofit public benefit corporation. The relevant agreements included a 30-year lease agreement and an agreement for transfer of assets (collectively, the 1985 contracts). Marin General has continuously operated the hospital facility since 1985.

At the time the 1985 contracts were entered, the District's chief executive officer was Henry J. Buhrmann. However, while Buhrmann was still employed as the District's chief executive officer, he became president and chief executive officer of Marin General and signed the 1985 contracts on [103 Cal.App.4th 869] behalf of *Marin General*. Two of the District's directors executed the contracts on the District's behalf. Moreover, the District's legal counsel, Quentin L. Cook, became legal counsel to Marin General before the 1985 contracts were executed. And when Marin General later combined to form another health care entity, Cook became chief executive officer of that entity.

In November 1997, nearly 12 years after the 1985 contracts were signed, the District filed the instant action against Marin General and the affiliated defendants, Marin Community Health and Sutter Health. (See *fn. 1, ante.*) The operative (first amended) complaint alleges that at the time the 1985 contracts were entered, Buhrmann's and Cook's simultaneous employment by Marin General and the District created a prohibited financial interest in those contracts within the meaning of Government Code section 1090. That statute prohibits state, county, district, and city officers or employees from being "financially interested in any contract made by them in their official capacity, or by any body or board of which they are members." (*Ibid.*) *fn. 4* And because the 1985 contracts were purportedly made in violation of Government Code section 1090, the complaint alleges that the contracts are void under Government Code section 1092. *fn. 5*

The first and second causes of action of the complaint seek a declaration that the 1985 contracts are void by virtue of Buhrmann's or Cook's alleged financial interest in the contracts and that therefore the District is entitled to recover the assets transferred by the 1985 contracts. The District also seeks to impose a constructive trust on all hospital assets (the fifth cause of action), to conduct an accounting of the assets transferred under the 1985 contracts and their proceeds (the sixth cause of action), and to direct defendants to deliver the assets to the District (the seventh cause of action). *fn. 6*

Defendants admitted the existence of a controversy concerning the District's claim that the 1985 contracts are void, denied

any wrongdoing, and alleged that the causes of action based on the purported invalidity of the 1985 contracts (the first, second, fifth, sixth, and seventh causes of action) were barred by the applicable statutes of limitations. [103 Cal.App.4th 870]

Defendants then brought a motion for summary adjudication with respect to the first, second, fifth, sixth, and seventh causes of action on the grounds that they were barred by all applicable statutes of limitations. *fn. 7* In support of their motion, defendants argued that the gravamen of the District's complaint was a claim that the 1985 contracts were void in violation of Government Code section 1092. As such, they claimed that the suit was an action "other than for the recovery of real property" within the meaning of Code of Civil Procedure section 335 et seq. and was barred by the applicable statutes of limitations.

The District, in turn, moved for summary adjudication of, among other things, "defendants' affirmative defense of the statute of limitations." Relying on the common law principle adopted by the California Supreme Court in *Hoadley, supra*, 50 Cal. 265, the District argued, both in support of its motion and in opposition to defendants' motion, that under settled case law, "a suit by a governmental entity to recover public-use property from a private party to whom it was illegally or invalidly transferred is *never* barred by *any* statute of limitations."

The trial court rejected the District's purported application of *Hoadley* and granted defendants' motions. In its tentative decision, which was subsequently incorporated into the judgment, the trial court opined in part that the "contracts here are fundamentally different from those in the *Hoadley* line of cases. The 1985 lease and sale of assets were legitimate contracts. Violation of [Government Code] Section 1090 can result in them being declared void. This is not like the *Hoadley* line of cases where the orig[i]nal transactions had no legitimacy. Statutes of limitations do attach to claims seeking to have contracts declared void based on the nature of the claim asserted.... The issue here then is what limitations period applies to actions brought under [Government Code] Section 1090. *Schaeff[er v. Berinstein* [(1960) 180 Cal.App.2d 107 [4 Cal.Rptr. 236], disapproved on another point in *Jefferson v. J. E. French Co.* (1960) 54 Cal.2d 717, 719-720 [7 Cal.Rptr. 899, 355 P.2d 643]] is on point and stands for the proposition that the nature of the underlying right sued on will determine the applicable statute." (Italics added.)

The trial court then concluded that the appropriate statute of limitations for the District's claims concerning the validity of the 1985 contracts under Government Code section 1092 was the four-year catchall provision of [103 Cal.App.4th 871] Code of Civil Procedure section 343, and applying that statute, ruled that the District's claims were time-barred.

The parties thereafter settled the remaining claims in the complaint and stipulated to entry of judgment incorporating the trial court's ruling on the statute of limitations.

Discussion

I. *Standard of Review*

[1] "[F]rom commencement to conclusion, the party moving for summary judgment bears the burden of persuasion that there is no triable issue of material fact and that he is entitled to judgment as a matter of law. [Fn. omitted.]" (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850 [107 Cal.Rptr.2d 841, 24 P.3d 493].) We review independently an order granting summary judgment or summary adjudication of issues. (*Id.* at p. 860; *Hernandez v. Modesto Portuguese Pentecost Assn.* (1995) 40 Cal.App.4th 1274, 1279 [48 Cal.Rptr.2d 229].)

[2] Although resolution of a statute of limitations defense normally poses a factual question reserved to the trier of fact, summary adjudication will nonetheless be proper "if the court can draw only one legitimate inference from uncontradicted evidence regarding the limitations question." (*City of San Diego v. U.S. Gypsum Co.* (1994) 30 Cal.App.4th 575, 582 [35 Cal.Rptr.2d 876]; *FNB Mortgage Corp. v. Pacific General Group* (1999) 76 Cal.App.4th 1116, 1126 [90 Cal.Rptr.2d 841].) This is such a case.

II. *The Causes of Action are Subject to the Statute of Limitations*

The gravamen of the District's claims is that the 1985 contracts are void as a matter of law because its chief executive officer and counsel each had a financial interest in the contracts in violation of Government Code section 1090. It is settled that "a contract in which a public officer is interested is *void*, not merely voidable. [Citations.]" (*Thomson v. Call* (1985) 38 Cal.3d 633, 646, *fn. 15* [214 Cal.Rptr. 139, 699 P.2d 316].)

But the District refrained from filing suit for the first 12 years of its 30-year lease. It argues that "under the rule confirmed in [*Hoadley*], a conveyance of public-use property that was not valid and effective when it was made can be attacked, and the

property reclaimed by the public, regardless of how much time has passed."

[3] There are certainly good policy arguments both for and against applying a limitations period to an action to void a lease of public property. **[103 Cal.App.4th 872]** On the one hand, "[t]he purpose of statutes of limitations is to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared." (*Cutujian v. Benedict Hills Estates Assn.* (1996) 41 Cal.App.4th 1379, 1387 [49 Cal.Rptr.2d 166], citing *Telegraphers v. Ry. Express Agency* (1944) 321 U.S. 342, 348-349 [64 S.Ct. 582, 586, 88 L.Ed. 788, 792]; accord, *Wood v. Elling Corp.* (1977) 20 Cal.3d 353, 362 [142 Cal.Rptr. 696, 572 P.2d 755].) Statutes of limitations also serve many other salutary purposes-some of which are relevant to this case-including protecting settled expectations; giving stability to transactions; promoting the value of diligence; encouraging the prompt enforcement of substantive law; avoiding the retrospective application of contemporary standards; and reducing the volume of litigation. (*Board of Regents v. Tomanio* (1980) 446 U.S. 478, 487 [100 S.Ct. 1790, 1796-1797, 64 L.Ed.2d 440, 449]; *Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 395-396 [87 Cal.Rptr.2d 453, 981 P.2d 79]; *Gutierrez v. Mofid* (1985) 39 Cal.3d 892, 899 [218 Cal.Rptr. 313, 705 P.2d 886]; Ochoa & Wistrich, *The Puzzling Purposes of Statutes of Limitation* (1997) 28 Pacific L.J. 453.)

On the other hand, courts have noted that cases should be decided on their merits (see *Norgart v. Upjohn Co.*, *supra*, 21 Cal.4th at p. 396) and that "[t]he public is not to lose its rights through the negligence of its agents" in failing to bring suit promptly. (*Board of Education v. Martin* (1891) 92 Cal. 209, 218 [28 P. 799].)

However, as a court, we must defer to the Legislature's judgment on which of these two policies to adopt. As our Supreme Court stated in a somewhat similar circumstance, "[t]o establish any particular limitations period under any particular statute of limitations entails the striking of a balance between the two [policies]. To establish any such period under any such statute belongs to the Legislature alone [citation], subject only to constitutional constraints [citation]." (*Norgart v. Upjohn Co.*, *supra*, 21 Cal.4th at p. 396.)

As shown below, the Legislature has expressly addressed the application of statutes of limitations to actions brought by the state or its agencies.

A. *The Application of Statutes of Limitations to a Public Entity*

The parties agree that the District is a political subdivision of the state. We thus first turn to whether the Legislature intended to apply a statute of limitations to a suit by a state entity to void a contract in violation of Government Code section 1092. **[103 Cal.App.4th 873]**

"The rule quod nullum tempus occurrit regi-that the sovereign is exempt from the consequences of its laches, and from the operation of statutes of limitations-appears to be a vestigial survival of the prerogative of the Crown," but is nowadays premised on considerations of public policy. (*Guaranty Trust Co. v. U.S.* (1938) 304 U.S. 126, 132 [58 S.Ct. 785, 788, 82 L.Ed. 1224, 1227-1228].) "The true reason ... is to be found in the great public policy of preserving the public rights, revenues, and property from injury and loss, by the negligence of public officers." (*Ibid.*)

[4] Accordingly, "the implied immunity of the domestic 'sovereign,' state or national, has been universally deemed to be an exception to local statutes of limitations where the government, state or national, is not expressly included" (*Guaranty Trust Co. v. U.S.*, *supra*, 304 U.S. at p. 133 [58 S.Ct. at p. 789, 82 L.Ed. at p. 1228].)

This is the rule in California: The rights of the sovereign "are not barred by lapse of time unless by legislation the immunity is expressly waived." (*City of L. A. v. County of L. A.* (1937) 9 Cal.2d 624, 627 [72 P.2d 138, 113 A.L.R. 370].) fn. 8

But sections 315 and 345 of the Code of Civil Procedure fn. 9 expressly waive the state's legislative immunity by applying statutes of limitations to various types of actions by the state and its agencies. "That it is not the policy of this commonwealth not to be bound by any statute of limitations is made clear by certain enactments which date back to the first session of the state legislature. (Code Civ. Proc., [§§] 315, 317, 345.) ... 'The general legislative policy of California is that the state shall be bound by its statute of limitations with respect to the bringing of actions for the enforcement of any and all such rights as may accrue to the state.' " (*People v. Osgood*, *supra*, 104 Cal.App. at p. 135.)

Title 2 of part 2 (commencing with § 312) addresses general statutes of limitations. Section 312, which is part of chapter 1 of title 2, reflects the Legislature's historical preference for limiting the time within which civil actions may be initiated: "Civil actions, *without exception*, can only be commenced within the periods prescribed in this title, after the cause of action shall have accrued, unless where, in special cases, a different limitation is prescribed by statute." (Italics added.) Chapter 2 of title 2 addresses **[103 Cal.App.4th 874]** the time for commencing actions for the recovery of real property (§ 315 et seq.),

while chapter 3 (§ 335 et seq.) addresses the time for commencing actions other than for the recovery of real property. In both cases, the Legislature has expressly subjected the state to the limitations periods.

With respect to actions for the recovery of real property, section 315 provides that "[t]he people of this State will not sue any person for or in respect to any real property, or the issues or profits thereof, by reason of the right or title of the people to the same, unless: [¶] 1. Such right or title shall have accrued within ten years before any action or other proceeding for the same is commenced" "The words 'right or title' in this passage are to be construed to mean 'cause of action.'" (*People v. Kings Co. Development Co.* (1918) 177 Cal. 529, 534 [171 P. 102]; accord, *People v. Chambers* (1951) 37 Cal.2d 552, 556 [233 P.2d 557] (*Chambers*)).

[5a] Thus, if the present action is deemed to seek the recovery of real property under chapter 2 of title 2 "by reason of the right or title of the people to the same," this 12-year-delayed action, brought by a state entity, would be subject to (and as we shall show, barred by) the 10-year limitations period specified in section 315.

On the other hand, if this action is deemed other than for the recovery of real property, it comes under chapter 3 of title 2 (commencing with section 335). fn. 10 But section 345 expressly waives the state's immunity from *any* of the relevant statutes of limitations in that chapter: "The limitations prescribed in this chapter apply to actions brought in the name of the state or county or for the benefit of the state or county, in the same manner as to actions by private parties" (§ 345.)

Accordingly, we next address whether one of the statutes of limitations that the Legislature has expressly made applicable to the state applies to the claim here.

B. Determination of the Applicable Statute of Limitations

[6] "To determine the statute of limitations which applies to a cause of action it is necessary to identify the nature of the cause of action, i.e., the 'gravamen' of the cause of action. [Citations.] '[T]he nature of the right sued upon and not the form of action nor the relief demanded determines the [103 Cal.App.4th 875] applicability of the statute of limitations under our code.' [Citation.]" (*Hensler v. City of Glendale* (1994) 8 Cal.4th 1, 22-23 [32 Cal.Rptr.2d 244, 876 P.2d 1043], citing *Leeper v. Beltrami* (1959) 53 Cal.2d 195, 214 [1 Cal.Rptr. 12, 347 P.2d 12, 77 A.L.R.2d 803], and *Maguire v. Hibernia S. & L. Soc.* (1944) 23 Cal.2d 719, 733 [146 P.2d 673, 151 A.L.R. 1062]; see also Note, *Developments in the Law-Statutes of Limitations* (1950) 63 Harv. L.Rev. 1177, 1192, 1195-1198.)

Put another way, "[w]hat is significant for statute of limitations purposes is the primary interest invaded by defendant's wrongful conduct. [Citation.]" (*Barton v. New United Motor Manufacturing, Inc.* (1996) 43 Cal.App.4th 1200, 1207 [51 Cal.Rptr.2d 328]; see *Day v. Greene* (1963) 59 Cal.2d 404, 410-411 [29 Cal.Rptr. 785, 380 P.2d 385, 94 A.L.R.2d 802] [although a complaint may be styled as a breach of contract action, if the gravamen of the claim is fraud, the three-year period prescribed in § 338 governs, rather than the period applicable to contracts]; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, § 474, p. 599 ["If the 'gravamen' of the action is held to be tort, the action, though in form one for breach of contract, is subject to the tort limitation period"].)

Thus, for example, in *Leeper v. Beltrami*, *supra*, 53 Cal.2d 195, the California Supreme Court held that an action to set aside a deed and to quiet title to real property was barred by the three-year limitation period for fraud actions under section 338, rather than the five-year period under section 318 fn. 11 applicable to the recovery of real property, because the plaintiffs' recovery depended upon their right to avoid a contractual obligation, which, in turn, depended upon a finding of duress, a type of fraud. (*Leeper*, at pp. 213-214.) Based on its conclusion that "the modern tendency is to look beyond the relief sought, and to view the matter from the basic cause of action giving rise to the plaintiff's right to relief" (*id.* at p. 214), the state Supreme Court analyzed the case as follows: "Quieting title is the relief granted once a court determines that title belongs in plaintiff. In determining that question, where a contract exists between the parties, the court must first find something wrong with that contract. In other words, in such a case, the plaintiff must show he has a substantive right to relief before he can be granted any relief at all. Plaintiff must show a right to rescind before he can be granted the right to quiet his title." (*Id.* at p. 216.) Accordingly, the court applied the three-year limitation period for fraud actions to the quiet title action. [103 Cal.App.4th 876]

[5b] Here, the gravamen of the District's first and second causes of action, seeking to declare the 1985 contracts void, is its claim that these agreements are unlawful under Government Code section 1090, and therefore void under Government Code section 1092. Indeed, the operative complaint styles both the first and second causes of action "[f]or a Declaration Against All Defendants that the 1985 Contracts Were Made in Violation of Government Code § 1090." While the form of the pleading is not determinative of the issue (*Quintilliani v. Mannerino* (1998) 62 Cal.App.4th 54, 65-66 [72 Cal.Rptr.2d 359]), none of the allegations in either cause of action hint at another basis for the District's claim for relief. And the other causes of action subject to defendants' summary adjudication motion-imposition of a constructive trust over the transferred assets,

an accounting of the transferred assets, and an injunction to return the transferred assets-are fairly described as ancillary to the first two.

Thus, the nature of the right sued on here is the public's right to be free of a government contract made under the influence of a financial conflict of interest. Accordingly, the applicable statute of limitations is the statute applicable to a claim under Government Code sections 1090 and 1092, not a claim for the recovery of real property-although that is the ultimate relief the declaration seeks.

C. Claims Under Government Code Section 1092 Are Subject to the Limitations Periods Under Chapter 3

Neither Government Code sections 1090 and 1092, nor the statutory scheme of which they are a part, specifies a limitations period for actions brought to void a contract entered in violation of Government Code section 1092.

Accordingly, the limitations periods under title 2 of part 2 apply (commencing with § 312) because section 312 provides that "[c]ivil actions, *without exception*, can only be commenced within the periods prescribed in this title ... unless where, in special cases, a different limitation is prescribed by statute." (Italics added.)

And since the nature of the right sued on here is the public's right to be free of a government contract made under the influence of a financial conflict of interest, this is an action "other than for the recovery of real property," and is thus covered by chapter 3 of title 2 of part 2 (commencing with § 335). And "[t]he limitations prescribed in [that] chapter apply to actions brought in the name of the State ... or for the benefit of the State" (§ 345.) [103 Cal.App.4th 877]

However, no case has squarely addressed the applicable statute of limitations for suits to void a contract in violation of Government Code section 1092, although various decisions have applied statutes of limitations to cases raising a financial conflict of interest under Government Code section 1090 or its predecessor statute. (See, e.g., *People v. Honig* (1996) 48 Cal.App.4th 289, 304, fn. 1 [55 Cal.Rptr.2d 555] [applying the three-year limitations period to penal actions under Gov. Code, § 1097 for violations of Gov. Code, § 1090]; *County of Marin v. Messner* (1941) 44 Cal.App.2d 577, 591 [112 P.2d 731] [action to recover money paid without authority under predecessor statute to Gov. Code, § 1090 is subject to three-year limitations period for liability created by statute]; *Schaefer v. Berinstein* (1956) 140 Cal.App.2d 278, 294, 297 [295 P.2d 113] [when gravamen of taxpayer's action is fraud against the city based, in part, on violation of Gov. Code, § 1090, three-year statute applies].)

Accordingly, as we noted, to determine the applicable statute of limitations, we must look to the "nature of the right sued upon and not ... the relief demanded." (*Hensler v. City of Glendale, supra*, 8 Cal.4th at p. 23.) Government Code section 1090 prohibits state, county, district, and city officers or employees from being "financially interested in any contract made by them in their official capacity, or by any body or board of which they are members." And under Government Code section 1092, "[e]very contract made in violation of any of the provisions of Section 1090 may be avoided at the instance of any party except the officer interested therein." [7] "California courts have generally held that a contract in which a public officer is interested is *void*, not merely voidable." (*Thomson v. Call, supra*, 38 Cal.3d at p. 646, fn. 15.) Moreover, a governmental agency "is entitled to recover any consideration which it has paid, without restoring the benefits received under the contract." (*Id.* at p. 647.) The California Supreme Court has ruled that this remedy results "in a substantial forfeiture" and provides "public officials with a strong incentive to avoid conflict-of-interest situations scrupulously." (*Id.* at p. 650.)

In this light, the one-year limitations period under section 340, subdivision (1), could be argued to apply to the District's claims to declare the 1985 contracts void and to repossess the transferred assets because it applies to "[a]n action upon a statute for a penalty or forfeiture, when the action is given to an individual, or to an individual and the state, except when the statute imposing it prescribes a different limitation." [8] A forfeiture is "[t]he divestiture of property without compensation" or "[t]he loss of a right, privilege, or property because of a crime, breach of obligation, or neglect of duty." (Black's Law Dict. (7th ed. 1999) p. 661, col. 1.) Government Code section 1092, which voids contracts in which a state employee has a financial conflict of interest without regard to the restoration of benefits, certainly would appear to effect a forfeiture. [103 Cal.App.4th 878]

[5c] However, we need not decide whether section 340, subdivision (1), applies in this case. Even if an action under Government Code section 1092 is not deemed a claim based on a statute for a forfeiture, the District's causes of action-brought 12 years after it entered the purportedly void agreements-would be time-barred under the four-year limitations period under the catchall provision of section 343. Section 343, which is also part of chapter 3 (which applies to all actions brought by the state [§ 345]), provides: "An action for relief not hereinbefore provided for must be commenced within four years after the cause of action shall have accrued."

[9] As the California Supreme Court long ago explained, "[t]he legislature has ... specified the limitations applicable to a wide variety of actions, and then to rebut the possible inference that actions not therein specifically described are to be regarded as exempt from limitations, it has specified a four-year limitation upon "an action for relief not hereinbefore provided for" (§ 343); and where it has intended that an action shall be exempt from limitations it has said so in clear and unmistakable language. [Citations.]" (*Moss v. Moss* (1942) 20 Cal.2d 640, 645 [128 P.2d 526, 141 A.L.R. 1422], quoting *Bogart v. George K. Porter Co.* (1924) 193 Cal. 197, 201 [223 P. 959, 31 A.L.R. 1045].)

[5d] Applying section 343 to this action to void the 1985 contracts on the ground of illegality would certainly be consistent with existing case authority. (E.g., *Moss v. Moss*, *supra*, "20 Cal.2d at pp. 644-645 [holding that cause of action for cancellation of an agreement is governed by § 343, in part because there is "no section of the code that expressly limits the time within which an action must be brought for cancellation of an instrument because of its illegality"]; *Zakaessian v. Zakaessian* (1945) 70 Cal.App.2d 721, 725 [161 P.2d 677] ["ordinarily a suit to set aside and cancel a void instrument is governed by section 343 of the Code of Civil Procedure" unless, for example "the gravamen of the cause of action stated involves fraud or a mistake"]; see also *Piller v. Southern Pac. R.R. Co.* (1877) 52 Cal. 42, 44 ["the four years' limitation of [section] 343 applies to all suits in equity not strictly of concurrent cognizance in law and equity"]; *Dunn v. County of Los Angeles* (1957) 155 Cal.App.2d 789, 805 [318 P.2d 795] [action to set aside deed on the ground of coercion is governed by § 343].)

[10] In any event, we reject the District's contention that the gravamen of its causes of action is possession of real property or ejection. First, possession of real property is the ultimate relief sought (following a declaration to that effect), not the nature of the right sued upon, which controls the selection of the statute of limitations. (See *Leeper v. Beltrami*, *supra*, 53 [103 Cal.App.4th 879] Cal.2d at pp. 213-214.) *fn. 12* Instead, the District's right to recover the hospital facility from defendants depends wholly upon its establishing that Buhrmann and Cook were "financially interested" in the 1985 contracts so as to render those agreements void under Government Code section 1092. Second, only one of the two 1985 contracts that the District seeks to void pertains to real property. The agreement for transfer of assets cannot be founded on a claim to recover real property; therefore, this portion of the claim must surely be premised on chapter 3 of title 2 of part 2 of the Code of Civil Procedure addressing actions other than for the recovery of real property.

Nor does the fact that the contracts are claimed void avoid the statute of limitations. Actions to void contracts are nonetheless subject to the statute of limitations. (E.g., *Smith v. Bach* (1921) 53 Cal.App. 63 [199 P. 1106]; 3 Witkin, Cal. Procedure, *supra*, Actions § 507, p. 640.)

[5e] Finally, even if the gravamen of the District's causes of action was deemed to be for the recovery of real property under chapter 2 of title 2 (commencing with § 315), the District's 12-year delayed action would be barred because it would be subject to the 10-year limitations period under section 315 for actions by the people of this state "in respect to any real property" by reason of "the right or title of the people to the same."

D. *Accrual of the District's Causes of Action*

[11] As a general rule, a statute of limitations accrues when the act occurs which gives rise to the claim (*Myers v. Eastwood Care Center, Inc.* (1982) 31 Cal.3d 628, 634 [183 Cal.Rptr. 386, 645 P.2d 1218]), that is, when "the plaintiff sustains actual and appreciable harm. [Citation.] Any 'manifest and palpable' injury will commence the statutory period. [Citation.]" (*Garver v. Brace* (1996) 47 Cal.App.4th 995, 1000 [55 Cal.Rptr.2d 220].)

[5f] Assuming for the sake of argument that the 1985 agreements were made in violation of Government Code section 1090, the District sustained a "manifest and palpable" injury no later than November 1985. That is when it entered a contract influenced by a financial conflict of interest-the harm the statute seeks to avoid.

[12] After all, "Government Code section 1090 codified the common law prohibition of public officials having a financial interest in contracts [103 Cal.App.4th 880] they make in their official capacities." (*BreakZone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1230 [97 Cal.Rptr.2d 467].) Because "it is recognized 'that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government' ' [citations]," the objective of the conflict of interest statutes " 'is to remove or limit the possibility of any personal influence, either directly or indirectly which might bear on an official's decision' [Citations.]" (*People v. Honig*, *supra*, 48 Cal.App.4th at p. 314.) Accordingly, Government Code section 1090 has been interpreted to prohibit a financially interested employee from participating in the "planning, preliminary discussion, compromises, drawing of plans and specifications and solicitation of bids that [lead] up to the formal making of the contract." (*People v. Honig*, *supra*, 48 Cal.App.4th at pp. 314-315, citing *Stigall v. City of Taft* (1962) 58 Cal.2d 565, 571 [25 Cal.Rptr. 441, 375 P.2d 289]; see also *Thomson v. Call*, *supra*, 38 Cal.3d at pp. 647-648.)

[5g] Based on the limited record before us, it is undisputed that Buhrmann and Cook worked simultaneously for the District and Marin General before the 1985 contracts were executed in November 1985. Hence, the harm that Government Code section 1090 seeks to avoid arose no later than November 1985 when the contracts were executed. Accordingly, the District's causes of action to declare the 1985 contracts void under Government Code section 1092 accrued no later than November 1985. And the District makes no allegation that the commencement of the running of the statute of limitations should be tolled, only that its action is exempt from the otherwise applicable statute of limitations. Thus, unless the *Hoadley* doctrine exempts this action from the statute of limitations, defendants have successfully established that this action, filed in 1997-12 years later-is untimely under either section 315, section 340, subdivision (1), or section 343.

III. *The District Has Not Established That Its Action Is Exempt from the Statute of Limitations*

[13] The District's opposition to defendants' motion for summary adjudication rests wholly upon its insistence that "under the rule confirmed in [*Hoadley*] a conveyance of public-use property that was not valid and effective when it was made can be attacked, and the property reclaimed by the public, regardless of how much time has passed."

As we shall explain, *Hoadley* does not stand for such a broad proposition. No published case has applied the holding of *Hoadley*, or its reasoning, to an action to set aside contracts allegedly made in violation of Government Code section 1090. [103 Cal.App.4th 881]

In *Hoadley*, the plaintiff sued the City of San Francisco to quiet title to two parcels of land, located in an area dedicated for use as city squares. He claimed that he had acquired title (1) by virtue of an ordinance and a confirmatory act, and (2) by adverse possession. (*Hoadley, supra*, 50 Cal. at pp. 271-272.)

After holding that the plaintiff did not acquire title to the public squares pursuant to the ordinance or the confirmatory act (*Hoadley, supra*, 50 Cal. at p. 273), the court in *Hoadley* considered whether the city was barred by the applicable statute of limitations from opposing the plaintiff's claim of adverse possession. First, the court ruled that adverse possession could not extinguish a public use to which the land had been dedicated: "The Statute of Limitations was not intended as a bar to the assertion by the public of rights of that character." (*Id.* at p. 275.) Next, it ruled that the city's legal title could not be extinguished by adverse possession: "That is to say, the title was granted to the city in trust, for public use; and the city had no authority ... to alienate or in any manner dispose of it, but only to hold it for the purposes expressed in the statute. It was granted to the city for public use, and is held for that purpose only. It cannot be conveyed to private persons, and is effectually withdrawn from commerce; and the city having no authority to convey the title, private persons are virtually precluded from acquiring it. The land itself, and not the use only, was dedicated to the public. Land held for that purpose, whether held by the State or a municipality, in our opinion, is not subject to the operation of the Statute of Limitations." (*Id.* at pp. 275-276.)

Thus, *Hoadley's* holding was premised on the governmental entity's lack of "authority ... to alienate" property held for public use (*Hoadley, supra*, 50 Cal. at p. 275) and the presumably concomitant inability of a private person to acquire it indirectly through the failure of the government to timely bring suit within the statute of limitations-quite unlike the instant case where the District had statutory authority to enter into a lease.

This is made more clear by *Hoadley's* reliance on the reasoning in *Commonwealth v. Alberger* (1836) 1 Whart. 469 (*Commonwealth*), among other cases, in coming to its conclusion. (*Hoadley, supra*, 50 Cal. at p. 275.) In *Commonwealth*, the Supreme Court of Pennsylvania held that William Penn's son had no authority to sell a portion of a public square in Philadelphia dedicated to public use by his father. In holding that the defendants were not "protected by the lapse of time" (*Commonwealth*, at p. 486), the Supreme Court of Pennsylvania opined: "It is well settled that lapse of time furnishes no defense for an encroachment on a public right; such as the erecting of an obstruction on a street or public square.... [¶] These [103 Cal.App.4th 882] principles are of universal application, and control the present case as well as others. There is no room for presumption since the grant itself is shown and proves defective; and if there were no grant shown, presumption will not be made to support a nuisance, by encroachment on a public right; and no statute of limitations bars the proceeding by indictment to abate it. These principles, indeed, pervade the laws of the most enlightened nations as well as our own code, and are essential to the protection of public rights, which would be gradually frittered away, if the want of complaint or prosecution gave the party a right. Individuals may reasonably be held to a limited period to enforce their right against adverse occupants, because they have interest sufficient to make them vigilant. But in public rights of property, each individual feels but a slight interest, and rather tolerates even a manifest encroachment, than seeks a dispute to set it right ... [citation]." (*Id.* at pp. 486, 488.)

Accordingly, based on this analysis, it is clear that *Hoadley* held that public-use property that cannot be alienated directly should not be alienated indirectly to an adverse possessor through the passage of time.

Indeed, *Hoadley's* holding that the statute of limitations does not bar the state's recovery of public-use property against a claim of adverse possession is simply the mirror image of the rule that a private party cannot acquire prescriptive title to public-use property through adverse possession: "[S]o far as the title to real property is concerned, prescription and limitation are convertible terms; and a plea of the proper statute of limitations is a good plea of a prescriptive right." (*Water Co. v. Richardson* (1887) 72 Cal. 598, 601 [14 P. 379]; see *People v. Shirokow*, *supra*, 26 Cal.3d at p. 311.) Thus, *Hoadley's* holding that property held by the state in trust cannot be lost through adverse possession is not so much a rule concerning the application of the statute of limitations as it is a substantive doctrine that a private party cannot acquire prescriptive title to public rights founded on adverse possession. Indeed, Civil Code section 1007 was amended in 1935 to codify this by prohibiting the acquisition of title by adverse possession of any public-use property, no matter how long the property is occupied. (Stats. 1935, ch. 519, § 1, p. 1592.) *fn. 13* Hence, a statute now defines in more direct terms the common law exception that *Hoadley* established.

We thus face the question whether *Hoadley* should be *extended* beyond its codification to exempt any conveyance of public-use property from the [103 Cal.App.4th 883] statute of limitations, in the face of other statutory enactments that expressly apply limitations to actions brought by the state.

A. The Adverse Possession Cases

Hoadley has most commonly been cited as authority to bar an adverse possessor of public-use property from asserting the statute of limitations against the government's action to recover the property. (E.g., *Board of Education v. Martin*, *supra*, 92 Cal. 209 [the California Supreme Court relied upon *Hoadley* to hold that no statute of limitations bars an educational district from recovering lands taken by adverse possession]; *People v. Kerber* (1908) 152 Cal. 731, 733 [93 P. 878] [the statute of limitations does not apply to an action by the state to recover a portion of San Diego Bay tidelands purportedly acquired by adverse possession because tidelands "belong to the state by virtue of its sovereignty" and "constitute property devoted to public use, of which private persons cannot obtain title by prescription, founded upon adverse occupancy for the period prescribed by the statute of limitations"]; *County of Yolo v. Barney* (1889) 79 Cal. 375, 378-381 [21 P. 833] [no statute of limitations restricted ability of hospital district to quiet title to property claimed by adverse possession]; *San Leandro v. Le Breton* (1887) 72 Cal. 170, 177 [13 P. 405] [no statute of limitations bars city from recovering land marked for public use against a claim of adverse possession], disapproved on another ground in *People v. Reed* (1889) 81 Cal. 70, 79 [22 P. 474]; *Visalia v. Jacobs* (1884) 65 Cal. 434, 435-436 [4 P. 433] [no statute of limitations bars city from recovering a portion of a city street taken by adverse possession]; *Proctor v. City & County of San Francisco* (9th Cir. 1900) 100 Fed. 348, 350-351 ["It is ... settled by a series of decisions by the supreme court that the rights of municipal corporations in such property are not affected by adverse possession, however long continued"]; see 3 Witkin, Cal. Procedure, *supra*, Actions, § 456, p. 578 ["There can be no adverse possession of property devoted to a public use"].)

More recently, in *People v. Shirokow*, *supra*, 26 Cal.3d 301, the California Supreme Court characterized *Hoadley* in conformity with these cases as holding that property held in public trust cannot be lost through adverse possession: "More than a century ago, in *Hoadley*[, *supra*,] 50 Cal. [at pages] 274-276, we articulated the rule that property held by the state in trust for the people cannot be lost through adverse possession. The statute of limitations is of no effect in an action by the state to recover such property from an adverse possessor whose use of the property for private purposes is not [103 Cal.App.4th 884] consistent with the public use. [Citation.]" (*People v. Shirokow*, *supra*, 26 Cal.3d at p. 311.)

Accordingly, *Hoadley* has no application to the circumstances presented here for several reasons.

First, the instant case does not involve the application of the statute of limitations to a claim of adverse possession of public property.

Second, *Hoadley's* premise is that the passage of time cannot grant title to that which the government has no authority to alienate. Here, the District had authority to enter into a lease of the hospital. The issue in this case is not whether the public property could be leased, but whether it was leased in conformity with the law. For this reason, too, *Hoadley* does not apply.

Indeed, the California Supreme Court in *Ames v. City of San Diego* (1894) 101 Cal. 390 [35 P. 1005], distinguished *Hoadley* on precisely this ground: "[I]n case of lands, the legal title to which is vested in the city, and which may be alienated by it, the rule just stated [in *Hoadley*] in relation to land dedicated to the public use does not apply." (*Id.* at p. 394.)

Finally, *Hoadley* surely does not apply to that part of the District's claim that concerns property that could never be the subject of adverse possession, namely, the assets (including the cash, inventory, and accounts receivable) which were transferred under the 1985 contracts.

B. The Unauthorized Transfer Cases

The District observes, however, that "the Supreme Court ... disposed of any notion that the *Hoadley* no-limitations rule was restricted to situations where public-use property had merely been seized and held by a private individual on a claim of adverse possession," since it has also been cited to defeat the application of the statute of limitations in actions for the recovery of public-use property that has been voluntarily transferred.

But a careful reading of the cases upon which the District relies demonstrates that they do not support its assertion that the "*Hoadley* rule" bars the application of the statute of limitations to *any* invalid, illegal, or "ineffective" transfer of a public-use asset, "*regardless* of the particular legal defect that rendered the original transfer invalid." Instead, these cases only extend *Hoadley* to bar the assertion of the statute of limitations with respect to the recovery of public-use property that the government had no authority to alienate. [103 Cal.App.4th 885]

In *Sixth District etc. Assoc. v. Wright, supra*, 154 Cal. 119 (*Sixth District*), for instance, the California Supreme Court cited *People v. Kerber, supra*, 152 Cal. 731 (an adverse possession case, which in turn relied upon *Hoadley*) to reject a statute of limitations defense to an action to recover a gift made in violation of the state Constitution's ban on gifts of public property. (*Sixth District, supra*, at p. 130.) In *Sixth District*, the governing board of an agricultural district conveyed to a private corporation all of the district's property in purported accordance with a statute expressly authorizing such transactions. (*Id.* at pp. 122-126.) However, the California Supreme Court held that the act purporting to authorize the transaction conflicted with a provision of the state Constitution barring gifts of public property (*id.* at pp. 128-129) and rejected the defendants' assertion of the statute of limitations: "[T]he property was held in trust by a state institution or public agency for a public use, which public use has not been discontinued or abandoned *by any lawful act of public authority*. As to such property it is well settled that the statute of limitations has no application." (*Id.* at p. 130, italics added.)

Thus, *Sixth District*, like *Hoadley*, was premised on public property held in trust that the government had no authority to alienate; thus, no limitation period could operate to alienate indirectly what could not be alienated directly.

The District also relies on *Chambers, supra*, 37 Cal.2d 552, for the proposition that no limitations period can bar a suit to retrieve public-trust property invalidly conveyed to a private party. But in *Chambers*, the state sought to quiet title on park land, which was mistakenly conveyed by a tax deed to a private party, *Chambers*. (*Id.* at p. 555.) Opposing the state's argument that the tax deed was void, *Chambers* defended on the basis of various statutes of limitations (*id.* at pp. 555-556), which the court rejected. First, the court found that the action was commenced *within* the 10-year period of section 315 for actions by the people of the state " 'in respect to any real property.' " (*Id.* at p. 556, quoting § 315.) And citing *Hoadley*, it noted that in any event, "neither section 315 of the Code of Civil Procedure nor the provisions on adverse possession ... apply to property owned by the state and devoted to a public use." (*Chambers*, at pp. 556-557.) Next, the court rejected *Chambers*'s assertion that the action was barred by the one-year limitations periods contained in the Revenue and Taxation Code, observing the general rule that "statutes of limitation do not apply against the state unless expressly made applicable" and ruling that "tax statutes do not apply against the state as to its property." (*Chambers, supra*, at p. 559.) It further reasoned that "it seems that if the statutes on adverse possession do not run against the property of the state which is dedicated to a public purpose (see authorities cited [including *Hoadley*]) the opposite result should not be reached, depriving the state of its property, by application to it of the [103 Cal.App.4th 886] provisions ... of the Revenue and Taxation Code. We hold therefore that they do not apply to the state." (*Id.* at p. 560, bracketed text added.)

Chambers, supra, 37 Cal.2d 552, does not assist the District. First and foremost, relying on the rule that statutes of limitations do not apply against the state unless made expressly applicable, *Chambers* merely construed the limitations periods in the tax statutes not to "apply against the state as to its property." (*Id.* at p. 559.) Second, although it suggested in dictum that section 315 does not apply to public-use property owned by the state, we do not rely on section 315 for the applicable limitations period in this case; thus, we have no need to rely on a construction of that section. Moreover, the cases that the Supreme Court cited for its dictum that section 315 does not apply to public-use property owned by the state (many of which we have cited here) do not so broadly hold. Third, regardless of the characterization of *Hoadley* in *Chambers*, the California Supreme Court's more recent characterization of *Hoadley* in *People v. Shirokow, supra*, 26 Cal.3d at page 311, more narrowly defines the doctrine to hold that the rule is "that property held by the state in trust for the people cannot be lost through adverse possession." The Supreme Court's holding in *Hoadley* and its most recent characterization of *Hoadley* would appear to be the most reliable expositions of the decision's scope. Fourth and finally, *Chambers* acknowledged that the limitations periods under *chapter 3* of title 2 of part 2 (which we have found applies here) are, in fact, applicable to actions brought by the state. (*Chambers, supra*, "37 Cal.2d at p. 559.)

The remainder of the cases relied upon by the District simply hold that the passage of time does not prevent the state from recovering public-use property that the state has no right to alienate. (*People v. California Fish Co.* (1913) 166 Cal. 576, 598-600, 611-612 [138 P. 79] [the state did not have the legal power to transfer certain coastal tidelands because, in part, "[a] patent for state land, issued by the officers in a case where there has been no valid application or survey approved nor any valid payment of the price, is, of course, void as against the state"]; *California Trout, Inc. v. State Water Resources*

Control Bd. (1989) 207 Cal.App.3d 585, 631 [255 Cal.Rptr. 184] [licenses to validate diversion of water exceeded amount permitted under state law and thus action seeking rescission of licenses was not untimely because "[a]n encroachment on the public trust interest shielded by [statute] cannot ripen into a contrary right due to lapse of any statute of limitations"]; *Allen v. Hussey* (1950) 101 Cal.App.2d 457, 467-468, 473-475 [225 P.2d 674] [lucrative long-term lease of airport facilities, for which irrigation district received \$1 annual fee, was unauthorized breach of public trust and an unconstitutional gift of public funds].)

In contrast, the District here makes no allegation that it had "no authority" to effect a lease and transfer hospital assets on the terms provided. To the [103 Cal.App.4th 887] contrary, the provisions of the Local Health Care District Law then in effect expressly authorized such a lease and the other transfers involved. Nor does the District contend that the then-statutory framework permitting the transactions was unconstitutional or otherwise unlawful. The prohibition on conflicts of interest contained in Government Code section 1090 in no way prohibits the transfers authorized by the Local Health Care District Law (Health & Saf. Code, § 32000 et seq.), but instead directs individual government employees not to "hav[e] a financial interest in contracts they make in their official capacities." (*BreakZone Billiards v. City of Torrance, supra*, 81 Cal.App.4th at p. 1230.)

Accordingly, Government Code section 1090 does not deprive the government of authority to contract over, and thus the District had authority to lease, the public-use property. In contrast, all of the aforementioned cases that bar application of the statute of limitations are based on the premise that the passage of time cannot be permitted to indirectly alienate public-use property that the government is not authorized to alienate directly. Here, the District is entitled to lease the property, and just as importantly, the passage of time will not cause the District to lose the property. To the contrary, the lease will ultimately expire by its own terms, and the District will regain possession of the property. We thus decline to expand the holding of *Hoadley* to apply to a lease of public-use property and to the transfer of assets that the law authorizes the District to make.

IV. Conclusion

An action to void a contract under Government Code section 1092 comes within the limitations periods specified in chapter 3 of title 2 of part 2 of the Code of Civil Procedure. (§ 335 et seq.) And the Legislature has expressly applied all of the limitations periods in that chapter to actions brought in the name of the state. (§ 345.)

The public policy underlying *Hoadley, supra*, 50 Cal. 265-that "property held by the state in trust for the people cannot be lost through adverse possession" (*People v. Shirokow, supra*, 26 Cal.3d at p. 311)-is not furthered by extending it to allow an untimely suit to void a lease of public-use property, which will expire by its own terms and which the state is otherwise authorized to enter. Instead, *Hoadley* is meant to prevent public-use property that the state cannot directly alienate from being indirectly alienated by the passage of time. That is not the case with property that the state is authorized to lease and which the state will recover at the end of the lease term.

Moreover, even if the public policy under *Hoadley* was furthered by allowing an untimely suit to void a lease of public-use property, it is for the [103 Cal.App.4th 888] Legislature to weigh the competing public policies and so determine. Thus far, the Legislature has not created any exceptions to its subjection of the state to the limitation periods in chapter 3, and it has expressly codified *Hoadley* with respect to adverse possession claims.

Accordingly, we conclude that this action is time-barred. Defendants' uninterrupted operation of the hospital facility for nearly half of its 30-year lease before suit was brought certainly gave rise to a legitimate expectation that the 1985 contracts would not be challenged and that defendants could rely on those contracts in making investment decisions. Such expectations are precisely what the Legislature chose to protect when it expressly subjected the state to the same limitation periods that bind private parties' contract, tort, and statutory claims.

Disposition

The judgment is affirmed. Defendants are awarded their costs on appeal. (Cal. Rules of Court, rule 26(a).)

Blease, Acting P. J., and Raye, J., concurred.

Appellant's petition for review by the Supreme Court was denied February 25, 2003.

FN 1. Codefendant Marin Community Health is the sole member of defendant Marin General. After the agreements in issue were signed, another codefendant, Sutter Health, became the sole member of Marin Community Health.

FN 2. Government Code section 1090 provides: "Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity. [¶] As used in this article, 'district' means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries."

FN 3. The applicable code provisions have been amended several times since 1985 when the lease here was entered. Health and Safety Code section 32121 was amended in 1986, 1988, 1989, 1990, 1992, 1993, 1994, 1995, 1996, and 1998; Health and Safety Code section 32126 was amended in 1992, 1993, 1994, and 1998. (See 41 West's Ann. Health & Saf. Code (1999 ed.) foll. §§ 32121, 32126, pp. 242, 257.)

FN 4. See footnote 2, *ante*, for the full text of Government Code section 1090.

FN 5. Government Code section 1092 states: "Every contract made in violation of any of the provisions of Section 1090 may be avoided at the instance of any party except the officer interested therein. No such contract may be avoided because of the interest of an officer therein unless such contract is made in the official capacity of such officer, or by a board or body of which he is a member."

FN 6. The District's other causes of action have been dismissed.

FN 7. Marin General and Marin Community Health filed a joint motion for summary adjudication; Sutter Health filed a separate motion. However, as the two motions raise essentially the same issues, we shall refer to the defendants' motions for summary adjudication in the singular.

FN 8. Some courts have somewhat broadened this standard and ruled that statutes of limitations do not bind the state and its agencies "unless they do so expressly *or by necessary implication*." (E.g., *Philbrick v. State Personnel Board* (1942) 53 Cal.App.2d 222, 228 [127 P.2d 634], italics added.)

FN 9. Unless otherwise designated, all further statutory references (including statutory references to chapters and title) are to the Code of Civil Procedure.

FN 10. Section 335 provides: "The periods prescribed for the commencement of actions other than for the recovery of real property, are as follows:"

The sections that follow section 335 then prescribe the limitations periods for various types of actions.

FN 11. Section 318 provides in pertinent part: "No action for the recovery of real property, or for the recovery of the possession thereof, can be maintained, unless it appear that the plaintiff ... was seized or possessed of the property in question, within five years before the commencement of the action."

FN 12. A contrary result was suggested in *People v. Kings Co. Development Co.*, *supra*, 177 Cal. at page 535, where the court found that an action by the state to cancel a land patent, issued by officers acting under the influence of fraud, was an action in respect to land and was governed by section 315 for actions to recover real property. But that case preceded *Leeper v. Beltrami*, *supra*, 53 Cal.2d 195, and *Hensler v. City of Glendale*, *supra*, 8 Cal.4th at pages 22-23, which so clearly held that the nature of the right sued upon controlled the determination of the applicable statute of limitations.

FN 13. Civil Code section 1007, following a further amendment in 1968, presently provides: "Occupancy for the period prescribed by the Code of Civil Procedure as sufficient to bar any action for the recovery of the property confers a title thereto, denominated a title by prescription, which is sufficient against all, *but no possession by any person, firm or corporation no matter how long continued* of any land, water, water right, easement, or other property whatsoever dedicated to a public use by a public utility, or dedicated to or owned by the state or any public entity, shall ever ripen into any title, interest or right against the owner thereof." (Civ. Code, § 1007, italics added, as further amended by Stats. 1968, ch. 1112, § 1, pp. 2125-2126.)

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FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PATRICE L. GOLDMAN, individually
and on behalf of others similarly
situated,

Plaintiff-Appellant,

v.

STANDARD INSURANCE COMPANY,

Defendant-Appellee.

No. 00-16691

D.C. No.
CV-98-01013-VRW

OPINION

Appeal from the United States District Court
for the Northern District of California
Vaughn R. Walker, District Judge, Presiding

Argued and Submitted September 12, 2001
Submission Withdrawn November 21, 2001
Resubmitted March 17, 2003
San Francisco, California

Filed August 29, 2003

Before: William A. Fletcher, Raymond C. Fisher and
Richard C. Tallman,* Circuit Judges.

Opinion by Judge Fisher

*Judge Tallman was drawn to replace Judge Henry Politz. Judge Tallman has read the briefs, reviewed the record, and listened to the tape of oral argument held on September 12, 2001.

COUNSEL

Claudia Center and William C. McNeill, III, The Employment Law Center, a Project of The Legal Aid Society of San Francisco, San Francisco, California, for the plaintiff-appellant.

Shawn Hanson and Katherine S. Ritchey, Pillsbury Winthrop LLP, San Francisco, California, for the defendant-appellee.

OPINION

FISHER, Circuit Judge:

In 1996, appellant Patrice Goldman, an attorney, applied for a disability income insurance policy with appellee Standard Insurance Company ("Standard") through a program approved by the State Bar of California and available only to its members. Standard declined to issue Goldman a policy, because she had been diagnosed as having an "Adjustment Disorder with mixed anxiety and depressed mood, DSM IV (Diagnostic and Statistical Manual of Mental Disorders) 309.28," and was participating in weekly therapy sessions with a licensed clinical social worker.¹ Standard's underwrit-

¹Adjustment disorder is a short-term condition that occurs when a person is unable to cope with a particular source of stress. American Psychi-

ing policy is to deny coverage for applicants with adjustment disorder until at least one year after the cessation of treatment.

Goldman initially filed suit in federal district court seeking damages and declaratory and injunctive relief for violation of the Americans With Disabilities Act (“ADA”), 42 U.S.C. § 12101 *et seq.*; California’s Unruh Civil Rights Act, California Civil Code section 51 (“Unruh Act”); and California Business and Professions Code section 17200 *et seq.*, but shortly thereafter she dismissed her federal complaint and filed the same claims in California state court. Standard, however, removed the case to federal court on March 13, 1998. The district court exercised its jurisdiction under 28 U.S.C. § 1331 based on the ADA claim, and its supplemental jurisdiction over the state law claims.

In December 1999, the district court granted summary judgment against Goldman. The court found that Goldman could not qualify as a disabled person under the ADA, because Standard did not regard her as *presently* substantially limited by her adjustment disorder but only as a person who *may* be substantially limited in the future. In so holding, the court relied upon the United States Supreme Court’s interpretation of the ADA in *Sutton v. United Air Lines*, 527 U.S. 471, 482 (1999), requiring a plaintiff to show she is “presently — not potentially or hypothetically — substantially limited.” *Id.* The district court concluded that the Unruh Act incorporated the ADA definition of disability and thus Goldman also was not covered by the Unruh Act. Finally, the court rejected Goldman’s claim under section 17200. Goldman appeals the entry of summary judgment on her claims under the Unruh

atric Association, Diagnostic and Statistical Manual of Mental Disorders 679-80 (4th ed. 2000). The distress is in excess of that which would be expected to result from the stressor and causes a significant impairment in social or occupational functioning. *Id.* The type of adjustment disorder from which Goldman suffers manifests itself in a combination of depressed and anxious feelings.

Act and section 17200, but does not pursue her ADA claim.² We conclude that unlike the ADA as interpreted by *Sutton*, the definition of disability under the Unruh Act does not require a plaintiff to show that she is regarded as having a *present* limitation of a major life activity.³ As the California Legislature recently clarified, this was the state of California law in 1997, when Standard refused to issue Goldman a policy, and it remains the law today. We thus reverse the summary judgment on Goldman's claim under the Unruh Act and under section 17200.

Discussion

I.

Standard of Review

We “review de novo a grant of summary judgment and must determine whether, viewing the evidence in the light most favorable to the nonmoving party, there are any genuine issues of material fact and whether the district court correctly applied the relevant substantive law.” *Roach v. Mail Handlers Benefits Plan*, 298 F.3d 847, 849 (9th Cir. 2002) (internal quotations and citation omitted). A district court's interpretation of state law is reviewed de novo. *Paulson v. City of San Diego*, 294 F.3d 1124, 1128 (9th Cir. 2002) (en banc). We must determine what meaning the state's highest court would give the statute in question. *Id.*

²Because Goldman does not appeal her ADA claim, we do not address the propriety of the district court's ruling that Goldman failed to satisfy the definition of disability under the ADA's “regarded as” prong, 42 U.S.C. § 12102(2)(C).

³We are not concerned with whether or not the Unruh Act requires the limitation to be substantial. Standard regards Goldman as having a condition that may completely prohibit her from performing her job and thus as having a condition that may substantially limit her ability to work, which we assume, absent argument to the contrary, is a major life activity under pre-2000 California law.

II.

Goldman's Unruh Civil Rights Act claim

[1] The Unruh Act provides:

All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, *disability*, or medical condition are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

Cal. Civ. Code § 51(b) (West 2003) (emphasis added). “The Unruh Civil Rights Act works to ensure that all persons receive the full accommodations of any business within California, regardless of the person’s disabilities.” *Chabner v. United of Omaha Life Ins. Co.*, 225 F.3d 1042, 1050 (9th Cir. 2000) (holding that the Unruh Act prohibits an insurance company from imposing unreasonable pricing differentials based on an applicant’s disability).

[2] Goldman alleges that Standard refused to issue her insurance coverage solely on the basis of her diagnosis of adjustment disorder. The Unruh Act applies to insurance companies, *see* Cal. Ins. Code § 1861.03(a) (West 2003), and an insurance company’s refusal to provide coverage on the basis of disability may constitute a denial of “full and equal . . . services” if the discrimination is not reasonable. *See Chabner*, 225 F.3d at 1050 (“disparities in treatment and pricing that are reasonable do not violate the Unruh Act”) (citing *Koire v. Metro Car Wash*, 40 Cal. 3d 24 (1985)). Thus, if Goldman’s adjustment disorder constitutes a disability within the meaning of the Unruh Act, then the Act may provide relief against Standard’s refusal to issue a policy.

A. Goldman is disabled for the purposes of the Unruh Act.

[3] To survive summary judgment, Goldman must first demonstrate a triable issue of fact as to whether she has a “disability” within the meaning of the Unruh Act. Thus we must determine what constitutes a disability for purposes of that Act. In 1997, when Standard refused to issue a policy to Goldman, the Act did not define the term “disability.”⁴ In 2000, however, the California Legislature enacted the Poppink Act, which amended the Unruh Act to define the term as any mental or physical disability covered by the Fair Employment and Housing Act (“FEHA”), California Government Code section 12920 *et seq.* Cal. Civ. Code § 51(e)(1) (West 2003); *see* 2000 Cal. Stat. Ch. 1049 (Assembly Bill 2222,

⁴We are aware that the pre-2000 version of California Civil Code § 54 contained a definition of “disability,” which incorporated the language used in the ADA definition of the term, and that courts and commentators have sometimes referred to § 54 of the Civil Code as part of the Unruh Act. *See, e.g., Molski v. Gleich*, 318 F.3d 937, 944-45 (9th Cir. 2003); *Botosan v. Paul McNally Realty*, 216 F.3d 827, 835 n.3 (9th Cir. 2000); *Colmenares v. Braemar Country Club, Inc.*, 29 Cal. 4th 1019, 1025-26, 1027-28 (2003); *Donald v. Sacramento Valley Bank*, 209 Cal. App. 3d 1183, 1185-86 (1989). However, the California Court of Appeal has explained that only § 51 truly comprises the Unruh Act and that courts should not permit the inclusion of other Civil Code sections as nominally part of the Unruh Act to obscure legally significant differences between the statutes. *Gatto v. County of Sonoma*, 98 Cal. App. 4th 744, 757-58 (2002) (discussing different statutes of limitations applicable to various Civil Code sections sometimes termed as part of the Unruh Act); *cf. Hankins v. El Torito Rests., Inc.*, 63 Cal. App. 4th 510, 517, 520 n.4 (1988) (noting that unlike a § 51 claim, § 54 does not require intent); *see also* Cal. Dep’t of Fair Employment & Hous., General Information about the Unruh Civil Rights Act, at <http://www.dfeh.ca.gov/Publications/DFEH%20250.pdf> (last visited July 29, 2003) (explaining the Unruh Act is codified at Civil Code §§ 51 through 51.3). This comports with the fact that the definition of “disability” in § 54 is applicable to statutes in Part 2.5 of the Civil Code, Cal. Civ. Code § 54(b) (West 1997), whereas § 51 is in Part 2. To avoid any confusion, all references to the Unruh Act in this opinion mean California Civil Code § 51.

Sec. 2). FEHA includes within the definition of “mental disability” two subsections that are relevant here:

(1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity.

...

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that *has no present disabling effect, but that may become a mental disability* as described in paragraph (1) or (2).

Cal. Gov’t Code § 12926(i)(1), (5) (West 2003) (emphasis added).

Through the help of therapy, Goldman functions effectively in her daily life and occupation as an attorney. She is not presently limited in any major life activity and — given subsection (5) of California Government Code § 12926(i), which directly addresses a future disability — does not appear to be covered by subsection (1). Standard, however, believes that Goldman may someday be entirely prohibited from working given her diagnosis of adjustment disorder. This belief was the basis of Standard’s refusal to issue Goldman a disability insurance policy. Thus, assuming the definition of disability in the 2000 amendment is applicable to Goldman, either because the amendments were intended to apply retroactively or because they merely clarified existing law, Goldman would be regarded as disabled under subsection (5) of the definition. *Id.* § 12926(i)(5).⁵

⁵Goldman alternatively argues that the pre-2000 Unruh Act shares the definition of “mental disability” in the pre-2000 version of FEHA, which,

Standard contends that the 2000 amendments were not intended to apply retrospectively and that the amendments constituted a change rather than a clarification of existing law under the Unruh Act. According to Standard, the 1997 version of the Unruh Act incorporated the ADA definition of "disability," and thus the Supreme Court's interpretation of the ADA as requiring a person to be presently limited in a major life function must apply to the Unruh Act as well. *See Sutton*, 527 U.S. at 482. Because it considered Goldman to be potentially but not presently limited by her condition, Standard argues that in 1997, Goldman did not come within the disability antidiscrimination protections of the Unruh Act.

[4] The parties have argued extensively as to the retroactive application of the 2000 amendments. In the absence of an express retroactivity provision, California legislation is presumed to operate prospectively "unless it is very clear from extrinsic sources that the Legislature or the voters must have intended a retroactive application." *In re Eastport Assocs.*,

unlike FEHA's definition of "physical disability," did not require that a mental disability have *any* limiting effect, present or future. *See Jensen v. Wells Fargo Bank*, 85 Cal. App. 4th 245, 257 (2000); *Pensinger v. Bowsmith, Inc.*, 60 Cal. App. 4th 709, 721-22 (1998). *But see Muller v. Auto. Club*, 61 Cal. App. 4th 431, 441-43 (1998) (mental disability requires substantial limitation of major life activity). Standard not only disagrees that this FEHA definition applies, but argues the question is foreclosed by the California Supreme Court's recent decision in *Colmenares*, where the court noted that certain non-FEHA statutes, including "the Unruh Act," had incorporated the ADA's definition of "disability." 29 Cal.4th at 1025-27 (citing § 54 as the "Unruh Act"). Thus, argues Standard, the pre-2000 FEHA definition cannot be the same as that under the Unruh Act.

It is neither prudent nor necessary for us to decide whether *Colmenares'* reference to the Unruh Act embraced § 51, the section under which Goldman's claim arises, or whether it meant only to refer to § 54 *et seq.* As discussed at note 4 *supra*, the term Unruh Act has commonly been used in referring to § 54. Instead, we assume *arguendo* the pre-2000 version of the Unruh Act's definition of "mental disability" required a limitation of a major life function.

935 F.2d 1071, 1079 (9th Cir. 1991) (quoting *Evangelatos v. Superior Court*, 44 Cal.3d 1188, 1209 (1988)). While Goldman's appeal was pending before us, the California Supreme Court took for review a case that raised the issue of whether the 2000 amendments were intended to apply retroactively. *Colmenares v. Braemar Country Club, Inc.*, 29 Cal.4th 1019, 1024 n.2 (2003).⁶ Accordingly, we withdrew submission of Goldman's case pending a decision in *Colmenares*. Rather than reaching the retroactivity question, however, the California Supreme Court concluded that the 2000 amendments merely clarified, rather than changed, the existing law that was relevant to the specific claims involved in that case. *Id.* at 1024 n.2, 1030-31 (noting, in construing whether FEHA required a limitation be substantial, that a legislative act that merely clarifies the law has no retrospective effect because the true meaning of the statute remains the same).

[5] For similar reasons, and guided by *Colmenares*, we likewise do not need to resolve the retroactive application of the Poppink Act generally, because we are persuaded that California's disability antidiscrimination law has never required that a plaintiff be regarded as *presently* limited by her disability. The 2000 amendments, although making other changes to the existing definition of disability under California law, merely clarified that the definition does not include such a limitation nor has it ever done so.

Courts are not to infer that legislation merely clarifies existing law unless (1) the nature of the amendment clearly demonstrates such an intent or (2) the legislature has itself stated that the particular amendment is merely declaratory of exist-

⁶In addition to granting review of *Colmenares*, previously published at 89 Cal. App. 4th 778 (2001), which had held that the Poppink Act modified existing law to a standard that is broader than the ADA, the California Supreme Court granted review of *Wittkopf v. County of Los Angeles*, previously published at 90 Cal. App. 4th 1205 (2001), which had come to the opposite conclusion.

ing law. *Victoria Groves Five v. Chaffey Joint Union High Sch. Dist.*, 225 Cal. App. 3d 1548, 1555 (1990). Both indicia are present here.

1. *Nature of the Amendment — The Unruh Act Before 2000*

In ascertaining the intent of the California Legislature, it is instructive to look to the pre-2000 understanding of disability in the context of the Unruh Act as section 51 has evolved. The Unruh Act was enacted in 1959 to broaden the prior version of California Civil Code section 51 to provide full and equal public accommodations regardless of race, color, religion, ancestry or national origin. *Harris v. Capital Growth Investors XIV*, 52 Cal.3d 1142, 1151-52 (1991). In 1987, the Legislature added “blindness or other physical disability” to the list of protected classifications. *Id.* at 1153. This amendment brought the Unruh Act into accord with California Civil Code section 54 *et seq.*, which entitled “[b]lind persons, visually handicapped persons, deaf persons, and other physically disabled persons” to full and equal access to common carriers, places of public accommodation, telephone facilities and other enumerated services, *see* Cal. Civ. Code § 54.1 (West 1987), and with FEHA, which prohibited employment discrimination based on “physical handicap.” *Colmenares*, 29 Cal.4th at 1024-25. In the version of FEHA in effect from 1980 through 1992, “physical handicap” was defined to include “impairment of sight, hearing, or speech, or impairment of physical ability.” *Id.* (internal quotations omitted). Rather than defining the term “impairment” as used in FEHA, the Fair Employment and Housing Commission adopted a regulation, drawn from the federal Rehabilitation Act of 1973, which defined “physical handicap” as a condition that “substantially limits one or more major life activities.” *Id.* at 1025 (quoting former Cal. Admin. Code tit. 2, § 7293.6, subd. (j)(1)).

In 1990, Congress enacted the ADA, which defined the term "disability" as "(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment." 42 U.S.C. § 12102(2). Two years later, the California Legislature amended the Unruh Act, Civil Code section 54 and FEHA to expand coverage in light of the ADA. The Unruh Act's terminology, "blindness and physical disability," was changed to simply "disability," which was not defined. The Unruh Act was, however, amended so that "[a] violation of the right of any individual under the Americans with Disabilities Act (Public Law 101-336) shall also constitute a violation of this section." Cal. Civ. Code § 51 (West 1993). The Legislature added this reference to the ADA in order "to strengthen California law in this area [i.e., disability rights] where it is weaker than the Americans with Disabilities Act of 1990 . . . and to retain California law when it provides more protection for individuals with disabilities than the [ADA]." *Gatto*, 98 Cal. App. 4th at 758-59 (quoting Assemb. Bill No. 1077, ch. 913, § 1, 1992 Cal. Stat. 4282). Section 54's definition of "physical and mental disability" and FEHA's definition of "physical disability," on the other hand, were given statutory definitions generally modeled on the language of the ADA definition. *Colmenares*, 29 Cal.4th at 1025-26. Of particular importance here, both section 54 and FEHA required that the impairment "*limits*" participation in major life activities, the same language used in the ADA and in the California regulations implementing the prior version of FEHA.⁷

⁷Although both were modeled on the ADA's definition, § 54 differed from FEHA in that the former, like the ADA itself, required the limitation to be substantial. Section 54 defined "disability" as an "impairment that *substantially limits* one or more of the major life activities of the individual." Compare Cal. Civ. Code § 54(b)(1) (West 1997) (defining "disability" as an "impairment that *substantially limits* one or more of the major life activities of the individual"), with Cal. Gov't Code § 12926(k)(1)(B) (West 1997) (defining "physical disability" as a condition that "*limits* an individual's ability to participate in major life activities").

In 1999, the United States Supreme Court held that “a person [must] be *presently* — not potentially or hypothetically — substantially limited in order to demonstrate a disability” within the meaning of the ADA. *Sutton*, 527 U.S. at 482 (emphasis added). This conclusion turned largely on the fact that “the phrase ‘substantially *limits*’ appears in the Act in the present indicative verb form.” *Id.* (emphasis added). The definition of “physical disability” employed in FEHA and of “mental and physical disability” in California Civil Code section 54 also use the present indicative verb form, “limits.” We assume *arguendo* that the definition of mental disability for purposes of the Unruh Act pre-2000 would also have been expressed using “limits” in the present indicative. We cannot, however, take the next step Standard urges: that the verb form compels reading the Unruh Act in the restrictive manner *Sutton* read the ADA. To do so would fly in the face of the California Legislature’s clearly expressed intent that the Unruh Act’s antidiscrimination provisions be read broadly, and that it looked to the ADA as a model for putting a floor on coverage for the disabled, not a cap on liability.

First, when it adopted the “limits” terminology of the ADA, the Legislature also specified that, for purposes of FEHA:

It is the intent of the Legislature that the definition of “physical disability” in this subdivision shall have the *same meaning as* the term “physical handicap” formerly defined by this subsection and construed in *American National Ins. Co. v. Fair Employment & Housing Com.*, 32 Cal.3d 603.

Cal. Gov’t Code § 12926(k)(4) (West 1997) (emphasis added); *see also Cassista v. Cmty. Foods, Inc.*, 5 Cal.4th 1050, 1059 (1993) (discussing the legislative intent to maintain continuity of the definition). In *American National*, the California Supreme Court interpreted the term “physical handicap” as used in the pre-1992 version of FEHA broadly and, among other things, held that the term included physical

conditions “that may handicap in the future but have no presently disabling effect.” *Am. Nat’l Ins. Co. v. Fair Employment and Hous. Comm’n*, 32 Cal.3d 603, 610 (1982) (emphasis added).⁸

By adopting *American National’s* interpretation, the California Legislature made clear that it did not understand the term “limits” in the 1992 version of FEHA to imply a requirement of present disability, contrary to the Supreme Court’s later interpretation of the same term in the ADA in *Sutton*. The same 1992 act that incorporated the limits language into FEHA also did so for section 54, albeit further requiring that the limitation be substantial. Given the clear legislative understanding of the term “limits” in FEHA as being consistent with *American National’s* holding that a presently disabling condition was not necessary, we must assume — absent compelling evidence otherwise — that the California Legislature did not intend a different understanding of that term in other sections that were amended by the same legislation.⁹ Thus,

⁸The version of FEHA in effect at the time *American National Insurance Co.* was decided in 1982 did not use the “limits” terminology. Rather, it defined “physical handicap” to include an “(1) impairment of sight, hearing or speech, or (2) impairment of physical ability because of amputation or loss of function or coordination.” *Am. Nat’l Ins. Co.*, 32 Cal.3d at 608.

⁹Relying on *Harris*, 52 Cal.3d at 1173-1174, Standard contends that the California Supreme Court has expressly disapproved an analogy between FEHA and the Unruh Act. In that case, the court refused to apply FEHA’s disparate impact test to the Unruh Act. In doing so, it stated that “the general antidiscriminatory objectives of the Unruh Act are much broader than the specific antidiscrimination principles underlying titles VII and VIII . . . [and] their state FEHA counterparts.” *Id.* at 1174 (internal quotation marks omitted). This language does not foreclose our analysis that the two statutes use the same definition of the term “limits.” While application of the disparate impact model — a new type of liability — to the Unruh Act would expose all businesses to “new liability and potential court regulation of their day-to-day practices,” *id.*, no such consequence flows from application of FEHA’s definition of the term “limits” across the California statutes amended by the same 1992 Act.

whether construing FEHA's or Civil Code section 54's use of the word "limits" or the Unruh Act's implied incorporation of that terminology as of 1997, we should assume that a plaintiff would have been considered disabled if she was regarded as having a disability that might limit a major life activity in the future.

[6] The 2000 amendments therefore did not alter, but merely clarified, that California's disability antidiscrimination statutes — although historically modeled on the ADA — are broader than federal law, as it came to be interpreted by the Supreme Court in *Sutton* in 1999. This conclusion is reinforced by the California Legislature's own declaration enacted in 2000 as part of the Poppink Act and by that Act's legislative history.

2. Legislative Statement that the 2000 Amendment was Merely Declaratory of Existing Law

In the Poppink Act the Legislature declared that:

The law of this state in the area of disabilities provides protections independent from those in the federal Americans with Disabilities Act of 1990 (Public Law 101-336). Although the federal act provides a floor of protection, *this state's law has always, even prior to passage of the federal act, afforded additional protections.*

Cal. Gov't Code § 12926.1(a) (emphasis added). This statement appears to be at least in part a reference to the California Supreme Court's decision in *American National*, which preceded the enactment of the ADA by eight years. For instance, the Report of the Assembly Committee on the Judiciary specifically noted that the incorporation by the Poppink Act of *American National's* interpretation of FEHA into California Government Code section 12926(k)(4) reflected that California law has always been different from the ADA as inter-

preted in *Sutton*.¹⁰ See Assembly Comm. on Judiciary, Bill Analysis of Assembly Bill No. 2222, 1999-2000 Reg. Sess., at 4-5 (Apr. 11, 2000) (noting that *American National* is contrary to *Sutton* and that “the more restrictive ADA definition, as recently construed by the U.S. Supreme Court, should not . . . be allowed to preclude a finding that a person is disabled under FEHA). Moreover, this declaration echoes the intent of the California Legislature in 1992 “to strengthen California law in this area . . . where it is weaker than the Americans with Disabilities Act of 1990 . . . and to retain California law when it provides more protection for individuals with disabilities than the [ADA].” *Gatto*, 98 Cal. App. 4th at 759 (quoting Assemb. Bill No. 1077, ch. 913, § 1, 1992 Cal. Stat. 4282) (emphasis added).¹¹ “[A]lthough construction of a statute is a

¹⁰Standard notes that a prior version of the Poppink Act contained legislative findings that specifically stated:

The Legislature declares that the amendments made by this act to subdivisions (h), (i), and (k) of Section 12926 of the Government Code and Sections 51, 51.5, and 54 of the Civil Code are declaratory of existing state law.

See Assembly Bill No. 2222 § 1.5, 1999-2000 Reg. Sess., at 2 (as amended on May 26, 2000). On July 6, 2000, the bill was amended to delete these findings and to replace them with those now codified at California Government Code § 12926.1. See Assembly Bill No. 2222, 1999-2000 Reg. Sess., at 3 (as amended on July 6, 2000). This substitution does not help Standard, however. The declaration that was enacted continues to note the historical distinction between the ADA and California law. Moreover, unlike the original draft, the enacted declaration recognizes that the amendments clarified some aspects of the law while changing others. Thus, § 12926.1 appears to be a more narrowly tailored declaration of the clarification of existing law.

¹¹Our understanding of § 12926.1 as declaratory of existing law is supported by the California Supreme Court’s decision in *Colmenares*. The lower court’s decisions in *Colmenares*, previously published at 89 Cal. App. 4th 778, 781-84 (2001), read § 12926.1 as indicating a modification. In coming to this conclusion, it emphasized a few select words in the declaration that it believed demonstrated the statute “tells us not what the law already says but that, in a time yet to come, the statute is intended to result in broader coverage.” *Id.* at 781-83 (relying on the words “to result in” in

judicial function, where a statute is unclear, a subsequent expression of the Legislature bearing upon the intent of the prior statute may be properly considered in determining the effect and meaning of the prior statute.” *Tyler v. State*, 134 Cal. App. 3d 973, 977 (1982).

Nonetheless, Standard contends the legislative history of the Poppink Act shows that it modified existing law and was not intended merely as a clarification. It notes two press releases from the bill’s author, then Assembly Member Sheila James Kuehl, which state that the Poppink Act was “designed to strengthen the rights of workers with disabilities.” Standard also relies on the report of the Assembly Committee on Appropriations, which stated that the bill:

Modifies and standardizes the definitions of “mental disability,” “physical disability” and “medical condition” for purposes of California’s Unruh Civil Rights Act and Fair Employment and Housing Act (FEHA) and *to clarify* that California’s disability protections are broader than federal protections under the Americans with Disabilities Act (ADA).

Assembly Comm. on Appropriations, Bill Analysis of Assembly Bill No. 2222, 1999-2000 Reg. Sess., at 1-2 (May 17, 2000) (emphasis added). These statements do not alter our conclusion; they simply show that the legislation modified the law in part and clarified it in part.

subsection (c) and “to require” and “to provide” in subsection (d)). On the other hand, in *Wittkopf v. County of Los Angeles*, previously published at 90 Cal. App. 4th 1205, 1215-17 (2001), Justice Boland interpreted § 12926.1 as a declaration of existing law, noting as we do that the section begins by stating that California disability antidiscrimination law has always been broader than the ADA. In reversing *Colmenares* and upholding *Wittkopf*, the California Supreme Court clearly expressed its preference for Justice Boland’s analysis.

First, Standard's argument ignores statements of the intent to clarify contained in these same sources. Second, the California Supreme Court, in *Colmenares*, specifically held that parts of the Poppink Act were intended to clarify rather than to modify existing law. *Colmenares*, 29 Cal.4th at 1030-31. Finally, we find no anomaly in legislative statements that the Poppink Act was designed both to modify *and* to clarify. Clearly, the amendments did both. For instance, the Poppink Act modified the definition of "disability" in section 54 to delete the requirement that a limitation be substantial. *Compare* Cal. Civ. Code § 54(b) (West 1997), *with* Cal. Civ. Code § 54(b) (West 2003) (incorporating the definition enacted by the Poppink Act and found in Cal. Gov't Code § 12926). The Poppink Act both modified and clarified FEHA, first by adding the "limits" language to the definition of "mental disability," then by clarifying that FEHA — past or present — did not require that a limitation be substantial. *Compare* Cal. Gov't Code § 12926(i) (West 1997) (no limits language for mental disability), *with* Cal. Gov't Code § 12926(i)(1) (West 2003) (adding limits language). Thus, it is not surprising that the Legislature would have referred to both modification and clarification.

Moreover, the intent to clarify that California disability antidiscrimination law is broader than that of the ADA is evident throughout the legislative history of the Poppink Act. The Assembly Committee on the Judiciary framed the "key issue" as whether "the definition of mental and physical disability and medical condition [should] be clarified in California's civil rights laws," Assembly Comm. on Judiciary, Bill Analysis of Assembly Bill No. 2222, 1999-2000 Reg. Sess., at 1 (Apr. 11, 2000), and specifically stated that the bill would "*clarify* the definition" of disability in the Unruh Act, which had previously "had no definition at all." *Id.* at 5 (emphasis added). Additionally, the California Supreme Court in *Colmenares* emphasized that certain changes to the Unruh Act were made to "*clarify*[] that California's disability protections are

broader than federal protections.” 29 Cal.4th at 1027 (emphasis in original).

Only one piece of legislative history counsels against our interpretation. The Report of the Senate Judiciary Committee cast the bill as one which “make[s] various definitional changes to the existing civil rights laws” and that “[t]he greatest change” is the definition of “limitation,” which is to be determined without regard to mitigating measures. Senate Comm. on Judiciary, Bill Analysis of Assembly Bill No. 2222, 1999-2000 Reg. Sess., at 1 (Aug. 8, 2000).

[7] Despite this one statement, we are persuaded that existing law as relevant here was merely clarified and that California law has not required that a plaintiff be regarded as having a presently limiting condition. This intent is evident in the wealth of legislative statements, the declaration contained in California Government Code section 12926.1, the California Supreme Court’s decision in *Colmenares* and our own review of California law as it existed before the 2000 amendments. Because Goldman established that Standard refused to insure her based on a mental condition that has no present disabling effect, but that may become a mental disability that will substantially limit Goldman’s ability to engage in a major life function, she has established that she was “disabled” in 1997 within the meaning of the Unruh Act.

B. Goldman presents a genuine issue of material fact as to the reasonableness of Standard’s decision to deny her coverage.

[8] Standard might still be entitled to summary judgment if its decision to deny Goldman insurance coverage because of her assumed disability was reasonable as a matter of law. We have held that California Insurance Code section 10144 establishes the standard for assessing the reasonableness of a non-standard insurance premium, prohibiting any insurer from refusing insurance “solely because of a physical or mental

impairment,” except where the refusal “is based on sound actuarial principles or is related to actual and reasonably anticipated experience.” *Chabner*, 225 F.3d at 1050 (quoting Cal. Ins. Code § 10144).

[9] Viewing the facts most favorably to Goldman as the nonmoving party, we conclude that Standard has not established as a matter of law that its decision to refuse coverage to Goldman was “based on sound actuarial principles” or “related to actual and reasonably anticipated experience.” Goldman has presented sufficient evidence to create triable issues of fact regarding both prongs of the section 10144 standard. In assessing Goldman’s proffered evidence, our role is not to “weigh the evidence [or] determine the truth of the matter, but to determine whether there is a genuine issue for trial.” *Suzuki Motor Corp. v. Consumers Union of U.S., Inc.*, 330 F.3d 1110, 1140 (9th Cir. 2003) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986)).

First, Goldman’s actuarial expert, Charles C. DeWeese, examined Standard’s underwriting policy regarding adjustment disorder and concluded in his expert witness report that Standard’s policy as well as its application to Goldman was inconsistent with principles of risk classification embodied in Actuarial Standard of Practice No. 12. DeWeese’s expert opinion thus creates a triable issue whether Standard’s refusal of coverage was “based on sound actuarial principles,” section 10144’s first prong.

Second, Goldman presented evidence to refute Standard’s fundamental thesis relating to section 10144’s second prong — that a diagnosis of adjustment disorder may predict future disability. Goldman’s experts challenged this proposition on the basis of medical data, actuarial principles and actual experience.

According to Goldman’s expert, Gary S. Sachs, M.D., nothing in his clinical experience, research or the professional literature suggests that employed individuals with a current diagnosis of adjustment disorder are more likely than other

individuals to become subsequently disabled from working for any non-psychiatric or psychiatric reason. Dr. Sachs specifically contradicted the declarations of Standard's own actuarial and underwriting experts. Similarly, Goldman's actuarial expert, DeWeese, stated that no "credible publicly available actuarial data, studies, or other objective evidence," including Standard's own studies, "support the proposition that working individuals with adjustment disorder and/or receiving mental health counseling are at a higher risk than other individuals to subsequently become disabled from working."

Both of these experts' opinions directly challenged the validity of Standard's studies. They criticized Standard for grouping together all individuals with psychiatric conditions or receiving medical health services as posing a similar risk of subsequent disability from working. The experts explained that such a grouping was not supported by medical data, reported claims experience or sound actuarial principles of risk classification. Dr. Sachs claimed that "better predictors of whether an individual will or will not subsequently become disabled from working are their personal work history, response to treatment, compliance with treatment, persistence of severe symptoms, prolonged periods of remission during treatment, and an absence of alcohol and substance abuse." DeWeese echoed the sentiment, stating that actuarial literature also recognized "an individual's work history and their motivation to work" as a "critical factor."

In addition to presenting evidence contradicting Standard's claim that individuals diagnosed with adjustment disorders are more likely to become disabled, Goldman also raised questions of fact as to whether Standard could profitably offer disability income insurance to Goldman. Dr. Sachs stated that Goldman did not present greater-than-average risk of becoming disabled. DeWeese disputed the more general proposition that "an insurance company jeopardizes the financial viability of the insurance by underwriting this risk [of mental disorder claims]." DeWeese pointed out that Standard's conclusion was based on the duration of psychiatric claims, a factor

which is relevant only when considered in conjunction with the number of claims. Moreover, DeWeese posited that Standard would not have to “increase prices dramatically” if it investigated and considered applicants with current or past treatment for a nondisabling psychiatric condition.

Who is correct in this battle of experts is not for us to decide. We do conclude, however, that Goldman’s expert evidence is sufficient to deny Standard summary judgment on its section 10144 defense.

III.

Goldman’s Section 17200 claim

[10] California’s unfair competition law, Business & Professions Code section 17200 *et seq.*, prohibits “any unlawful, unfair or fraudulent business act or practice. . . . By proscribing any unlawful business practice, § 17200 borrows violations of other laws and treats them as unlawful practices that the unfair competition law makes independently actionable.” *Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.*, 20 Cal. 4th 163, 180 (1999) (quotations and citations omitted). Because summary judgment is not warranted on Goldman’s Unruh Act claim, her claim under section 17200 also survives.

Goldman urges that we hold Standard liable under section 17200 even if we conclude Standard has not violated the Unruh Act. Goldman relies on the principle that “a practice may be deemed unfair even if not specifically proscribed by some other law In other words, a practice is prohibited as ‘unfair’ or ‘deceptive’ even if not ‘unlawful’ and vice versa.” *Id.* at 180. But there is a “safe harbor” exception to this principle that precludes Goldman’s attempt to isolate her section 17200 claim. *Id.* at 165-66.

Under California law, if the Legislature has provided a safe harbor for certain conduct, that conduct will not create liabil-

ity under section 17200. But “[t]o forestall an action under the unfair competition law, another provision must actually ‘bar’ the action or clearly permit the conduct.” *Id.* at 183. We view California Insurance Code section 10144 as meeting this standard. As we have seen, it specifically permits an insurance company to refuse coverage on the basis of a mental impairment, as long as that denial was “based on sound actuarial principles or [was] related to actual and reasonably anticipated experience.” Section 10144 provides a safe harbor for such denials of insurance coverage, thereby defeating a section 17200 claim based upon “unfair business practices.” Thus, Goldman’s section 17200 claim is dependant upon her prevailing on her Unruh Act claim and overcoming Standard’s reasonableness defense under section 10144.

Conclusion

We hold that, unlike the ADA as interpreted by the United States Supreme Court in *Sutton v. United Air Lines*, 527 U.S. 471 (1999), the 1997 version of the Unruh Act did not require a presently limiting disability. The 2000 Poppink Act merely clarified that this was the existing state of California law. Goldman satisfies the Unruh Act definition of disability that was effective in 1997, because Standard regarded her as having a mental disorder that has no presently disabling effect but may have that effect in the future. Further, Goldman has sufficiently disputed Standard’s claim that its decision was based on sound actuarial principles or related to actual and reasonably anticipated experience. Cal. Ins. Code § 10144. Therefore, the district court’s grant of summary judgment on Goldman’s Unruh Act claim is reversed as is the court’s grant of summary judgment on Goldman’s unfair competition claim.

REVERSED AND REMANDED.

COMMISSION ON STATE MANDATES

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January 30, 2015

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

Re: **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
Health Fee Elimination, 05-4206-I-06
 Education Code Section 76355
 Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118
 Fiscal Years 1997-1998, 1998-1999, 1999-2000, 2000-2001, and 2001-2002
 Los Rios Community College District, Claimant

Dear Ms. Asmundson 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 **February 20, 2015**. You are advised that comments filed with the 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, March 27, 2015**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about March 13, 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,

Heather Halsey
 Executive Director

ITEM __
INCORRECT REDUCTION CLAIM
DRAFT PROPOSED DECISION

Former Education Code Section 72246 (Renumbered as § 76355)¹
Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.); Statutes 1987, Chapter 1118

Health Fee Elimination

Fiscal Years 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002

05-4206-I-06

Los Rios Community College District, Claimant

EXECUTIVE SUMMARY

Overview

Los Rios Community College District (claimant) filed this incorrect reduction claim (IRC) challenging reductions totaling \$3,205,600 by the State Controller's Office (Controller) to reimbursement claims for costs incurred during fiscal years 1997-1998 through 2001-2002 under the *Health Fee Elimination* program. The parties dispute the following issues:

- The statute of limitations applicable to audits of reimbursement claims by the Controller;
- Reduction of salary, benefit, and related indirect costs claimed, based on the scope of services provided during fiscal years 1997-1998 through 2001-2002 that allegedly exceed the services provided by claimant in the 1986-1987 base year;
- Reduction of costs for services and supply costs, including those costs claimed for student athletic costs, which the Controller asserts go beyond the scope of the mandate, were not provided by claimant in the 1986-1987 base year, and are not supported by source documentation;
- Reduction of indirect costs based on asserted faults in the development and application of indirect cost rates; and
- The amount of offsetting revenue to be applied from student health fee authority.

The proposed decision addresses the statute of limitations and offsetting revenue issues only. As described further below, staff finds that the Controller did not timely initiate the audit of the 1997-1998, 1998-1999, and 1999-2000 fiscal year claims and, thus, the audit of those claims is void. The remaining analysis therefore focuses on the reductions made on the 2000-2001 and 2001-2002 reimbursement claims. Since the amount authorized to be charged and required to be identified as offsetting revenue in fiscal years 2000-2001 and 2001-2002 (\$2,939,470) exceeds the total amount claimed in those years (\$1,339,313), the remaining substantive issues

¹ Statutes 1993, chapter 8.

challenging the reduction of costs claimed for salaries and benefits, services and supplies, and indirect costs are not addressed.

Health Fee Elimination Program

Prior to 1984, former Education Code section 72246 authorized community college districts to charge almost all students a general fee (health service fee) for the purpose of voluntarily providing health supervision and services, direct and indirect medical hospitalization services, and operation of student health centers.² In 1984, the Legislature repealed the community colleges' fee authority for health services.³ However, the Legislature also reenacted section 72246, to become operative on January 1, 1988, in order to reauthorize the fee, at \$7.50 for each semester (or \$5 for quarter or summer semester).⁴

In addition to temporarily repealing community college districts' authority to levy a health services fee, the 1984 enactment required any district that provided health services during the 1983-1984 fiscal year, for which districts were previously authorized to charge a fee, to maintain health services at the level provided during the 1983-1984 fiscal year for every subsequent fiscal year until January 1, 1988.⁵ As a result, community college districts were required to maintain health services provided in the 1983-1984 fiscal year without any fee authority for this purpose until January 1, 1988.

In 1987, the Legislature amended former Education Code section 72246, operative January 1, 1988, to incorporate and extend the maintenance of effort provisions of former Education Code section 72246.5, which became inoperative by its own terms as of January 1, 1988.⁶ In addition, Statutes 1987, chapter 1118 restated that the fee would be reestablished at not more than \$7.50 for each semester, or \$5 for each quarter or summer semester.⁷ As a result, beginning January 1, 1988 all community college districts were required to maintain the same level of health services they provided in the 1986-1987 fiscal year each year thereafter, with limited fee authority to offset the costs of those services. In 1992, section 72246 was amended to provide that the health fee could be increased by the same percentage as the Implicit Price Deflator whenever that calculation would produce an increase of one dollar.⁸

² Former Education Code section 72246 (Stats. 1981, ch. 763) [Low-income students, students that depend upon prayer for healing, and students attending a college under an approved apprenticeship training program, were exempt from the fee.]

³ Statutes 1984, 2nd Extraordinary Session, chapter 1, section 4 [repealing Education Code section 72246].

⁴ Statutes 1984, 2nd Extraordinary Session, chapter 1, section 4.5.

⁵ Education Code section 72246.5 (Stats. 1984, 2d. Ex. Sess., ch. 1, § 4.7).

⁶ Education Code section 72246 (as amended, Stats. 1987, ch. 1118). See also former Education Code section 72246.5 (Stats. 1984, 2d Ex. Sess., ch. 1, § 4.7).

⁷ Education Code section 72246 (as amended, Stats. 1987, ch. 1118).

⁸ Education Code section 72246 (as amended, Stats. 1992, ch. 753). In 1993, former Education Code section 72246, was renumbered as Education Code section 76355. (Stats. 1993, ch. 8).

Procedural History

Claimant filed its reimbursement claims for fiscal years 1997-1998 and 1998-1999 on January 15, 2000.⁹ The reimbursement claim for fiscal year 1999-2000 was filed on December 30, 2000.¹⁰ The reimbursement claim for fiscal year 2000-2001 and 2001-2002 were both filed in 2002.¹¹ From December 12, 2002 through December 19, 2002, the Controller contacted the claimant to schedule an entrance conference.¹² The entrance conference was held on January 16, 2003.¹³ The Controller issued the final audit report on June 24, 2004.¹⁴ The claimant filed this IRC on September 5, 2005.¹⁵ The Controller submitted comments on the IRC on March 12, 2008.¹⁶ The claimant filed rebuttal comments on June 9, 2009.¹⁷ This draft proposed decision was issued for comment on January 30, 2015.

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 on State Mandates (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, 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 parameters and guidelines, de novo, without consideration of 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 6.¹⁸ 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

⁹ Exhibit A, IRC, at p. 28 (all page number citations reference the PDF page number).

¹⁰ *Ibid.*

¹¹ Exhibit B, Controller's Comments on IRC, p. 190, 201.

¹² Exhibit A, IRC, pp. 82-90; Exhibit B, Controller's Comments on IRC, p. 42.

¹³ Exhibit A, IRC, p. 28; Exhibit B, Controller's Comments on IRC, p. 2.

¹⁴ Exhibit B, Controller's Comments on IRC, p. 116.

¹⁵ Exhibit A, IRC.

¹⁶ Exhibit B, Controller's Comments on IRC.

¹⁷ Exhibit C, Claimant's Rebuttal Comments.

¹⁸ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹⁹

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.²⁰

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 the claimant.²¹ In addition, section 1185.2I of the Commission’s regulations requires 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.²²

Claims

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

Issue	Description	Staff Recommendation
Statutory deadlines applicable to the audit of claimant’s 1997-1998, 1998-1999 and 1999-2000 annual reimbursement claims.	At the time the underlying reimbursement claims were filed, Government Code section 17558.5 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. Claimant asserts that the claim was no longer <i>subject to audit</i> at the time the final audit	<i>The audit of the 97-98 through 99-00 reimbursement claims was not timely initiated and is therefore void.</i> Staff finds that the plain language of section 17558.5, at the time the reimbursement claims were filed, did not require the Controller to complete an audit within any specified period of time, and that a subsequent amendment to the statute demonstrates that “subject to audit” means “subject to the initiation of an

¹⁹ *County of Sonoma*, supra, 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

²⁰ *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.

²¹ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

²² 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.

	report was issued.	audit.” These reimbursement claims were filed in 2000 and, therefore, the audit had to be initiated by December 31, 2002. However, based on evidence in the record, the audit was not initiated until January 16, 2003, when the entrance conference occurred. Staff recommends that the Commission request the Controller to reinstate all costs incorrectly reduced for these fiscal years, totaling \$1,866,287.
Reduction based on offsetting student health fee authority.	Claimant asserts that the Controller incorrectly reduced the costs claimed based on health fees authorized to be charged, rather than health fees actually collected. Since the claimant does not impose a health fee on its students, it collected \$0 in health service fees during the fiscal years at issue. Claimant therefore asserts that no offsetting revenues were required to be identified.	<p><i>Correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.</i></p> <p>This issue has been conclusively decided by <i>Clovis Unified School District v. Chiang</i> (2010) 188 Cal.App.4th 794, in which the court held that to the extent a local agency or school district “has the authority” to charge for the mandated program or increased level of service, the costs cannot be recovered as a state-mandated cost.</p> <p>In addition, the Controller’s calculation of authorized health service fees (\$2,939,470), based on enrollment data provided by the claimant, is not arbitrary, capricious, or entirely lacking in evidentiary support.</p>

Staff Analysis

- A. The Audit of the Fiscal Year 1997-1998, 1998-1999, and 1999-2000 Reimbursement Claims is Barred by the Statute of Limitations Found in Government Code section 17558.5 and Thus, the Costs Reduced for Those Fiscal Years, Totaling \$1,866,287, Should be Reinstated.**

Claimant alleges that the audit of the fiscal year 1997-1998, 1998-1999, and 1999-2000 reimbursement claims was not timely and is therefore void.

At the time these reimbursement claims were filed in 2000, Government Code section 17558.5, as added in 1995, provided in relevant part that “[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.”

The claimant asserts that “subject to audit” requires the Controller to complete the audit no later than two years after the end of the calendar year that the reimbursement claim was filed. In this case, the claimant contends that the audit of the reimbursement claims for fiscal years 1997-1998 and 1998-1999, filed on January 15, 2000, and for fiscal year 1999-2000, filed on December 30, 2000, were subject to audit and had to be completed by December 31, 2002. The claimant reasons that since the final audit report was issued on June 24, 2004, eighteen months after the deadline, the audit of these reimbursement claims is barred.

The Controller contends that Government Code section 17558.5 requires that an audit of a reimbursement claim must be “initiated” within two years after the end of the calendar year in which the claim was filed, and that there is no statutory deadline to complete the audit.

Staff finds that 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 is consistent with the 2002 amendment to the statute, which clarified that “subject to audit” means “subject to the initiation of an audit.”²³ The reimbursement claims for fiscal years 1997-1998, 1998-1999, and 1999-2000 were all filed in 2000 and, thus the audit had to be initiated by December 31, 2002.

The record, however, shows that the Controller has taken different views with respect to when the audit in this case was actually initiated. As described in the proposed decision, the Controller contacted the claimant to schedule an entrance conference for the audit before the December 31, 2002 deadline, but the entrance conference did not occur until January 16, 2003, after the deadline. The Controller filed conflicting comments, asserting that the audit was initiated when the initial contact was made in December 2002, and the opposite conclusion that the audit was initiated when the entrance conference occurred.

The Legislature did not specifically define the event that initiates the audit and, thus, a phone call, a confirming letter, or an entrance conference, are all events that could reasonably be viewed as the initiation date under the statute. However, unlike other agencies that conduct audits and have adopted formal regulations to make it clear when the audit begins, the Controller has not adopted a regulation for the audits of state-mandate reimbursement claims. Nor has the Controller’s position been clear in this case. Under these circumstances, the Commission is not required to give the Controller’s assertions about when an audit is initiated any weight.

Thus, the Commission must interpret when the audit of the 1997-1998, 1998-1999, and 1999-2000 reimbursement claims was initiated based on the plain language of 17558.5 and the evidence in the record. Black’s Law Dictionary defines an audit as “[a] formal examination of

²³ Statutes 2002, chapter 1128.

an individual's or organization's accounting records..."²⁴ And, "initiate" means to "begin."²⁵ Thus, pursuant to the plain language of section 17558.5, the audit is initiated when the Controller begins its formal examination of the records.

In this case, staff finds, based on the Controller's December 23, 2002 letter to the claimant, that the audit was initiated when the entrance conference was conducted on January 16, 2003. That letter plainly states that the audit "will commence ... beginning with an entrance conference"²⁶ The Controller's December 23, 2002 letter also requests that the claimant provide the "necessary records" to the auditor during the entrance conference. Thus, the audit and the formal review of the records did not start until the entrance conference was conducted on January 16, 2003, at the earliest. Since the deadline to initiate the audit in this case expired on December 31, 2002, the Controller did not timely initiate the audit of the 1997-1998, 1998-1999, and 1999-2000 reimbursement claims within the deadline imposed by Government Code section 17558.5, as added in 1995. Under these circumstances, failure to initiate the audit within the two-year deadline is a jurisdictional bar to the Controller's reduction of claimant's reimbursement claims.

Therefore, staff finds that the audit of the district's reimbursement claims for fiscal years 1997-1998, 1998-1999, and 1999-2000 is barred by the statute of limitations and that all costs reduced for these fiscal years, totaling \$1,866,287, should be reinstated.

B. The Controller's Reductions for Unreported Offsetting Health Service Fee Authority Pursuant to Clovis Unified and the Health Fee Rule were Correct as a Matter of Law, and Not Arbitrary, Capricious, or Entirely Lacking in Evidentiary Support.

The Controller reduced all amounts claimed in fiscal years 2000-2001 and 2001-2002 (\$667,337 and \$671,976, respectively), finding that the claimant had fee authority of \$1,368,418 in fiscal year 2000-2001 and \$1,571,052 in fiscal year 2001-2002, that should have been deducted as offsetting revenue. Because the district does not collect a health services fee, no offsetting revenue was identified by claimant in the reimbursement claims. The Controller calculated health fees authorized to be charged by using student enrollment data provided by the claimant's Institutional Research Office.

After the claimant filed its IRC, the Third District Court of Appeal issued its opinion in *Clovis Unified School Dist. v. Chiang*, which specifically addressed the Controller's practice of reducing claims of community college districts by the maximum fee amount that districts are statutorily authorized to charge students, whether or not a district chooses to charge its students those fees. As cited by the court, the "Health Fee Rule" states in pertinent part:

Eligible claimants will be reimbursed for health service costs at the level of service provided in the 1986/87 fiscal year. The reimbursement will be reduced by the amount of student health fees authorized per the Education Code [section] 76355.²⁷

²⁴ Black's Law Dictionary, Seventh Edition, p. 126.

²⁵ Webster's II New College Dictionary, p. 570.

²⁶ Exhibit A, IRC, pp. 88-90.

²⁷ *Clovis Unified School Dist. v. Chiang*, *supra*, 188 Cal.App.4th 811.

The court in *Clovis Unified* upheld the Controller’s use of the Health Fee Rule to reduce reimbursement claims based on the fee districts are *authorized* to charge. In making its decision the court noted that the concept underlying the state mandates process that Government Code sections 17514 and 17556(d) embody is:

To the extent a local agency or school district “has the authority” to charge for the mandated program or increased level of service, that charge cannot be recovered as a state-mandated cost.²⁸

The court also noted that, “this basic principle flows from common sense as well. As the Controller succinctly puts it, ‘Claimants can choose not to require these fees, but not at the state’s expense.’”²⁹ 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.³⁰

Therefore, staff finds the Controller’s adjustment is correct as a matter of law. Staff further finds that the Controller’s calculation of the claimant’s total authorized offsetting fee revenue in fiscal years 2000-2001 and 2001-2002 totaling \$2,939,470 is not arbitrary, capricious, or entirely lacking in evidentiary support since the Controller used the enrollment data available and reported by the claimant.

Conclusion

Pursuant to Government Code section 17551(d) and section 1185.9 of the Commission’s regulations, staff finds that the following reductions by the Controller are *incorrect* as a matter of law:

- The audit of the reimbursement claims for fiscal years 1997-1998, 1998-1999, and 1999-2000 was not timely initiated pursuant to Government Code section 17558.5 and is, therefore, void. All costs disallowed for these fiscal years, totaling \$1,866,287, should be reinstated to the claimant.

The Commission further finds that the Controller’s reduction of all costs claimed in fiscal years 2000-2001 and 2001-2002, on the ground that claimant had sufficient fee authority to pay for the costs incurred, is *correct* as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

Staff Recommendation

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

²⁸ *Clovis Unified School Dist. v. Chiang, supra*, 188 Cal.App.4th 812.

²⁹ *Ibid.*

³⁰ *Fenske v. Board of Administration* (1980) 103 Cal.App.3d 590, 596.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM
ON:

Former Education Code Section 72246
(Renumbered as §76355)³¹

Statutes 1984, Chapter 1 (1983-1984 2nd Ex.
Sess.) (AB2X 1) and Statutes 1987, Chapter
1118 (AB 2336)

Fiscal Years 1997-1998 through 2001-2002

Los Rios Community College District,
Claimant.

Case No.: 05-4206-I-06

Health Fee Elimination

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

(Adopted March 27, 2015)

DECISION

The Commission on State Mandates (Commission) heard and decided this incorrect reduction claim (IRC) during a regularly scheduled hearing on March 27, 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

This decision addresses an incorrect reduction claim (IRC) filed by Los Rios Community College District (claimant) challenging reductions totaling \$3,205,600 by the State Controller's Office (Controller) to reimbursement claims for costs incurred during fiscal years 1997-1998 through 2001-2002 under the *Health Fee Elimination* program.

The Commission finds that the Controller did not timely initiate the audit of the 1997-1998, 1998-1999, and 1999-2000 fiscal year claims pursuant to Government Code section 17558.5 and, thus, the audit of those claims is void. The reduction of costs totaling \$1,866,287 for those fiscal years is therefore incorrect as a matter of law and should be reinstated to the claimant.

The Commission further finds that the reduction of costs in 2000-2001 and 2001-2002, based on authorized offsetting health fee revenue of \$2,939,470 which exceeds claimant's costs for the mandated program in those fiscal years (\$1,339,313), is correct as a matter of law. The reduction is consistent with the *Clovis Unified School District* decision, which upheld the Controller's

³¹ Statutes 1993, chapter 8.

reduction of reimbursement claims based on the health service fees districts are authorized to charge.³² In addition, the Controller's calculation of authorized health service fees based on enrollment data provided by the claimant, is not arbitrary, capricious, or entirely lacking in evidentiary support. Since the amount authorized to be charged and required to be identified as offsetting revenue in fiscal years 2000-2001 and 2001-2002 exceeds the total amount claimed in those years, the remaining substantive issues challenging the reduction of costs claimed for salaries and benefits, services and supplies, and indirect costs are not addressed.

Accordingly, the Commission partially approves this IRC.

COMMISSION FINDINGS

I. Chronology

- 01/15/2000 Claimant filed a reimbursement claim for fiscal year 1997-1998.³³
- 01/15/2000 Claimant filed a reimbursement claim for fiscal year 1998-1999.³⁴
- 12/30/2000 Claimant filed a reimbursement claim for fiscal year 1999-2000.³⁵
- 01/09/2002 Claimant filed a reimbursement claim for fiscal year 2000-2001.³⁶
- 12/27/2002 Claimant filed a reimbursement claim for fiscal year 2001-2002.³⁷
- 12/10/2002 – Controller contacted claimant to schedule an entrance conference.³⁸
12/19/2002
- 01/16/2003 The entrance conference was held.³⁹
- 06/24/2004 Controller issued the final audit report for fiscal years 1997-1998 through 2001-2002.⁴⁰
- 09/05/2005 Claimant filed this IRC.⁴¹
- 03/12/2008 The Controller submitted comments on the IRC.⁴²
- 06/09/2009 Claimant submitted rebuttal comments.⁴³

³² *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 812.

³³ Exhibit A, IRC, at p. 28 (all page number citations reference the PDF page number).

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ Exhibit B, Controller's Comments on IRC, p. 190.

³⁷ Exhibit B, Controller's Comments on IRC, p. 201.

³⁸ Exhibit A, IRC, pp. 82-90; Exhibit B, Controller's Comments on IRC, p. 42.

³⁹ Exhibit A, IRC, p. 28; Exhibit B, Controller's Comments on IRC, p. 2.

⁴⁰ Exhibit B, Controller's Comments on IRC, p. 116.

⁴¹ Exhibit A, IRC.

⁴² Exhibit B, Controller's Comments on IRC.

01/30/2015 Commission staff issued the draft proposed decision.

II. Background

Health Fee Elimination Program

Prior to 1984, former Education Code section 72246 authorized community college districts to charge almost all students a general fee (health service fee) for the purpose of voluntarily providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers.⁴⁴ In 1984, the Legislature repealed the community colleges' fee authority for health services.⁴⁵ However, the Legislature also reenacted section 72246, to become operative on January 1, 1988, in order to reauthorize the fee at \$7.50 for each semester (or \$5 for quarter or summer semester).⁴⁶

In addition to temporarily repealing community college districts' authority to levy a health services fee, the 1984 enactment required any district that provided health services during the 1983-1984 fiscal year, for which districts were previously authorized to charge a fee, to maintain health services at the level provided during the 1983-1984 fiscal year for every subsequent fiscal year until January 1, 1988.⁴⁷ As a result, community college districts were required to maintain health services provided in the 1983-1984 fiscal year without fee authority for this purpose until January 1, 1988.

In 1987, the Legislature amended former Education Code section 72246, operative January 1, 1988, to incorporate and extend the maintenance of effort provisions of former Education Code section 72246.5, which became inoperative by its own terms as of January 1, 1988.⁴⁸ In addition, Statutes 1987, chapter 1118 restated that the fee would be reestablished at not more than \$7.50 for each semester, or \$5 for each quarter or summer semester.⁴⁹ As a result, beginning January 1, 1988 all community college districts were required to maintain the same level of health services they provided in the 1986-1987 fiscal year each year thereafter, with limited fee authority to offset the costs of those services. In 1992, section 72246 was amended to provide that the health fee could be increased by the same percentage as the Implicit Price Deflator whenever that calculation would produce an increase of one dollar.⁵⁰

⁴³ Exhibit C, Claimant's Rebuttal Comments.

⁴⁴ Former Education Code section 72246 (Stats. 1981, ch. 763) [Low-income students, students that depend upon prayer for healing, and students attending a college under an approved apprenticeship training program, were exempt from the fee.].

⁴⁵ Statutes 1984, 2nd Extraordinary Session, chapter 1, section 4 [repealing Education Code section 72246].

⁴⁶ Statutes 1984, 2nd Extraordinary Session, chapter 1, section 4.5.

⁴⁷ Education Code section 72246.5 (Stats. 1984, 2d. Ex. Sess., ch. 1, § 4.7).

⁴⁸ Education Code section 72246 (as amended, Stats. 1987, ch. 1118). See also former Education Code section 72246.5 (Stats. 1984, 2d Ex. Sess., ch. 1, § 4.7).

⁴⁹ Education Code section 72246 (as amended, Stats. 1987, ch. 1118).

⁵⁰ Education Code section 72246 (as amended, Stats. 1992, ch. 753). In 1993, former Education Code section 72246 was renumbered as Education Code section 76355. (Stats. 1993, ch. 8).

On November 20, 1986, the Commission determined that Statutes 1984, chapter 1 imposed a reimbursable state-mandated new program on community college districts. On August 27, 1987, the Commission adopted parameters and guidelines for the *Health Fee Elimination* program. On May 25, 1989, the Commission adopted amendments to the parameters and guidelines to reflect amendments made by Statutes 1987, chapter 1118.

The parameters and guidelines generally provide that eligible community college districts shall be reimbursed for the costs of providing a health services program, and that only services specified in the parameters and guidelines and provided by the community college in the 1986-1987 fiscal year may be claimed.

Controller's Audit and Summary of the Issues

The Controller reduced all costs claimed totaling \$3,205,600 in fiscal years 1997-1998 through 2001-2002 under the *Health Fee Elimination* program. The following issues disputed by the parties:

- The statute of limitations applicable to audits of reimbursement claims by the Controller;
- Reduction of salary, benefit, and related indirect costs claimed, based on the scope of services provided during fiscal years 1997-1998 through 2001-2002 that allegedly exceed the services provided by claimant in the 1986-1987 base year;
- Reduction of costs for services and supply costs, including those costs claimed for student athletic costs, which the Controller asserts go beyond the scope of the mandate, were not provided by claimant in the 1986-1987 base year, and are not supported by source documentation;
- Reduction of indirect costs based on asserted faults in the development and application of indirect cost rates; and
- The amount of offsetting revenue to be applied from student health fee authority.

This decision addresses the statute of limitations and offsetting revenue issues only. As described further below, the Commission finds that the Controller did not timely initiate the audit of the 1997-1998, 1998-1999, and 1999-2000 fiscal year claims and, thus, the audit of those claims is void. The remaining analysis therefore focuses on the reductions made on the 2000-2001 and 2001-2002 reimbursement claims. Since the amount authorized to be charged and required to be identified as offsetting revenue in fiscal years 2000-2001 and 2001-2002 (\$2,939,470) exceeds the total amount claimed in those years (\$1,339,313), the remaining substantive issues challenging the reduction of costs claimed for salaries and benefits, services and supplies, and indirect costs are not addressed.

III. Positions of the Parties

Los Rios Community College District

Claimant asserts that the Controller missed the statute of limitations applicable to audits of reimbursement claims for fiscal years 1997-1998, 1998-1999, and 1999-2000 and that the audit for these years is void. Claimant also argues that the Controller inappropriately reduced reported costs of salaries and benefits, and other indirect costs claimed. Claimant argues that the Controller's reduction of salaries and benefits was improper because the Controller's audit did not demonstrate if the enumerated services allegedly 'not provided' in FY 1986-87 were actually

available to students. Claimant also disagrees with the Controller's disallowance costs of services and supplies on the grounds that the services and supplies were not reimbursable under the mandate or provided during the base year. In addition, claimant asserts that the reduction of \$361,689 in overstated indirect costs on the basis that the claimant did not obtain federal approval for its indirect cost rates is incorrect. Claimant argues that there is no requirement in law that indirect cost rate must be federally' approved, and the Controller did not make findings that the claimant's rate was excessive or unreasonable. Claimant also asserts that a reduction of \$6,101,947, based on unreported authorized health service fees is incorrect because the parameters and guidelines require claimants to state offsetting revenues "experienced," and claimant did not experience offsetting revenues for fees that it did not charge to students.⁵¹

State Controller's Office

The Controller contends that the reductions are correct as a matter of law and in accordance with the parameters and guidelines. The Controller argues that that the audit of these reimbursement claims was timely pursuant to Government Code section 17558.5, based on a number of assertions described below.

The Controller disallowed salaries, benefits, and related indirect costs on the basis that claimant provided health services in fiscal years 1997-1998 through 2001-2002 that exceeded those services provided by in the base year. The Controller also reduced amounts claimed for "services and supplies" on the grounds that physical exams for intercollegiate athletics and Hepatitis B vaccinations are beyond the scope of the mandate. The Controller further asserts that the claimant overstated its indirect costs, because claimant did not obtain federal approval for its indirect cost rate proposals, as required by the Controller's claiming instructions. The Controller asserts that since the claimant did not have a current approved rate (via the OMB Circular A-21 method), the auditors utilized the FAM-29C and determined that the allowable rate was much less than claimed. In addition, the Controller found that the claimant understated its authorized health service fees for the audit period in the amount of \$6,101,947. Using enrollment and exemption data, the Controller recalculated the health fees that the claimant was authorized to collect, and reduced the claim by the amount not stated as offsetting revenues. The Controller argues that the relevant amount of offsetting revenues is not the amount charged or the amount collected, but the amount authorized by law.⁵²

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 Commission determines that a reimbursement claim has been incorrectly reduced, 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.

⁵¹ Exhibit A, IRC; Exhibit C, Claimant's Rebuttal Comments.

⁵² Exhibit B, Controller's Comments on IRC.

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 6.⁵³ 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.”⁵⁴

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.⁵⁵ 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.’ ”⁵⁶

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.⁵⁷ In addition, section 1185.2(c) of the Commission’s regulations requires 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.⁵⁸

⁵³ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

⁵⁴ *County of Sonoma, supra*, 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

⁵⁵ *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.

⁵⁶ *American Bd. of Cosmetic Surgery, Inc, supra*, 162 Cal.App.4th at pgs. 547-548.

⁵⁷ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

⁵⁸ 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.

A. The Audit of the Fiscal Year 1997-1998, 1998-1999, and 1999-2000 Reimbursement Claims is Barred by the Statute of Limitations Found in Government Code Section 17558.5 and Thus, the Costs Reduced for Those Fiscal Years, Totaling \$1,866,287, Should be Reinstated.

The claimant asserts that the statute of limitations applicable to the Controller's audit of mandate reimbursement claims bars the audit of the claims filed in this case for fiscal years 1997-1998, 1998-1999, and 1999-2000. Claimant therefore seeks reimbursement for the all costs reduced for those years, totaling \$1,866,287 (\$606,532 in fiscal year 1997-1998; \$625,570 in fiscal year 1998-1999; \$634,185 in fiscal year 1999-2000).⁵⁹

The time to audit a reimbursement claim is provided in Government Code section 17558.5. At the time the three reimbursement claims at issue were filed in 2000, Government Code section 17558.5, as added in 1995, stated the following:

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.⁶⁰

The parties disagree about the interpretation of section 17558.5 as applicable to this case. The claimant argues that the first sentence in Government Code section 17558.5, as added by Statutes 1995, chapter 945 (operative July 1, 1996), applies and requires that a reimbursement claim "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..." The claimant asserts that "subject to audit" requires the Controller "to complete" the audit no later than two years after the end of the calendar year that the reimbursement claim was filed. In this case, the claimant contends that the audit of the reimbursement claims for fiscal years 1997-1998 and 1998-1999, filed on January 15, 2000, and for fiscal year 1999-2000, filed on December 30, 2000, were subject to audit and had to be completed by December 31, 2002. The claimant reasons that since the final audit report was issued on June 24, 2004, eighteen months after the deadline, the audit of these reimbursement claims is barred.⁶¹

The Controller contends that the first sentence in the 1995 version of Government Code section 17558.5 requires that an audit of a reimbursement claim must be "initiated" within two years after the end of the calendar year in which the claim was filed, and that there is no statutory

⁵⁹ See, Exhibit B, Controller's Comments on IRC, Final Audit Report, at p. 124.

⁶⁰ 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.

⁶¹ Government Code section 17558.5 (Stats. 1995, ch. 945 (SB 11)); Exhibit A, IRC, at pp. 28-32; Exhibit C, Claimant's Rebuttal Comments, at pp. 4-5.

deadline to complete the audit.⁶² The record, however, shows that the Controller has taken different views with respect to when the audit in this case was actually initiated. As described below, the Controller contacted with the claimant to schedule an entrance conference for the audit before the December 31, 2002 deadline, but the entrance conference did not occur until January 16, 2003, after the deadline.

Thus, the Commission must interpret the legal requirements of Government Code section 17558.5(a), as added in 1995, and determine if the Controller complied with the statutory deadlines in that section.

1. Government Code section 17558.5, as added in 1995, requires the Controller to initiate the audit within two years after the end of the calendar year in which the claim is filed.

Government Code section 17558.5, as added in 1995, stated the following:

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.

The plain language of 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” 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 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 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 this inference does not apply to this statute.⁶³

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 the two is whether an appropriation has been made for the program. The use of the word “however” to begin the second sentence, signals the contrast between when funds are 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, when there is an appropriation and when there is not, the Controller must perform some activity within a two-year period. 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,

⁶² Exhibit B, Controller’s Comments on IRC, pp. 1-2.

⁶³ *Fairbanks v. Superior Court* (2009) 46 Cal.4th 56, 62.

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 first appropriation. The only difference is the triggering event of an appropriation, which determines when the two-year period to initiate an audit begins to run.

The Commission further finds that this interpretation is consistent with the 2002 amendment to the first sentence of section 17558.5, which clarified that “subject to audit” means “subject to the initiation of an audit” as follows:⁶⁴

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.⁶⁵

Moreover, section 17558.5 was amended in 2004 to establish, for the first time, the requirement to “complete” the audit two years after the audit is commenced. As amended and effective beginning January 1, 2005, it reads 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 three years after 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 filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.⁶⁶

The 2004 amendment, however, became effective *after* the completion of the audit of the reimbursement claims for fiscal years 1997-1998, 1998-1999, and 1999-2000 on June 24, 2004 (with the issuance of the final audit report) and, thus, does not apply to the audit in this case.

The reimbursement claims for fiscal years 1997-1998, 1998-1999, and 1999-2000 were all filed in 2000⁶⁷ and, thus, were subject to audit that had to be initiated by December 31, 2002.

⁶⁴ See, *McClung v. Employment Development Dept.* (2004) 34 Cal.4th 467, 471, where the court stated that an amendment to a statute that clarifies the law is merely a statement of what the law has always been.

⁶⁵ Statutes 2002, chapter 1128.

⁶⁶ Statutes 2004, chapter 313.

⁶⁷ Exhibit B, Controller’s Comments on IRC, at pp. 155, et seq..

2. Based on the evidence in the record, the audit of the 1997-1998, 1998-1999, and 1999-2000 reimbursement claims was not timely initiated and is therefore void with respect to those claims.

As stated above, the Controller's audit of the 1997-1998, 1998-1999, and 1999-2000 reimbursement claims had to be initiated by December 31, 2002. The undisputed facts show that the Controller contacted the claimant to schedule an entrance conference before December 31, 2002, but the entrance conference did not occur until January 16, 2003, after the deadline.⁶⁸ The parties do not agree, however, about the event that constitutes the initiation of the audit for purposes of Government Code section 17558.5.

In this respect, the Controller's comments on this IRC contain conflicting assertions about when the audit was initiated, with some statements alleging that the audit was initiated at the entrance conference on January 16, 2003, and other statements alleging that the audit was initiated at the initial contact with the claimant in December 2002. For example, the affidavit of the Controller's Chief of the Compliance Audit Bureau, dated April 14, 2006, states in paragraph seven that "[a] field audit of the claims for fiscal year (FY) 1997-98, FY 1998-99, FY 1999-00, FY 2000-01, and FY 2001-02, commenced on January 16, 2003, and ended on March 11, 2004."⁶⁹ (Emphasis added.)

However, the Controller's analysis and response to the IRC asserts that the audit was timely initiated in December 2002 when the Controller contacted the claimant by phone to request an entrance conference. These comments state the following:

Government Code section 17558.5(a), effective July 1, 1996, states that a district's reimbursement claim is subject to audit no later than two years after the end of the calendar year in which the claim is filed or last amended. The district filed its FY 1997-1998 and 1998-99 claims on January 18, 2000, and filed its FY 1999-2000 claim on December 29, 2000. The SCO made several attempts to contact the district and conduct an entrance conference during December 2000. Ultimately, at the district's request, the SCO delayed the entrance conference until January 16, 2003 (Tab 6). Therefore the SCO notified the district that it would conduct an audit within the period that all claims were subject to audit.⁷⁰

In support of this position, the Controller filed a declaration of Mary Khoshmashrab, Staff Management Auditor-Specialist in the Division of Audits, stating that "the district requested that the entrance conference be delayed until January 2003 based on the availability of staff."⁷¹ A contact log prepared by Ms. Khoshmashrab is attached, which states the following:

12/10/02 – called district to set up entrance meeting for week of December 16, 2002. Left message for Carrie to call me about meeting and gave the mandate and fiscal years we were going to audit.

⁶⁸ Exhibit A, IRC, p. 28; Exhibit B, Controller's Comments on IRC, p. 2.

⁶⁹ Exhibit B, Controller's Comments on IRC, p. 8.

⁷⁰ Exhibit B, Controller's Comments on IRC, p. 27. This is also the position expressed in the Final Audit Report (Exhibit B, p. 132).

⁷¹ Exhibit B, Controller's Comments on IRC, p. 42.

12/12/02 – called district to follow up on entrance conference. Left message for Carrie to call regarding meeting. Asked for Vice Chancellor’s name. Jon Sharpe’s name was provided.

12/16/02 – called district to set up an entrance conference for this week. Still no call back from Carrie requested her to call as soon as possible. Noted to secretary that I have left several messages.

12/19/02 – called district Carrie answered phone. Requested meeting with her she stated that December would not work because Kim Sayles needed to attend and she would not be in. Carrie would call me back.

12/19/02 – Carrie called back set entrance for January 16, 2003 at 9:30 a.m.

12/19/02 – Called left message with Carrie for fax number to fax copy of Contract Letter.⁷²

Similarly, the Controller’s analysis and response to the IRC asserts that although it normally “initiates an audit by conducting the audit entrance conference... [,] for this audit the district denied the SCO’s request to conduct an entrance conference in December 2002.”⁷³ The Controller cites Government Code section 17558.5(c), as added in 1995 (currently codified in section 17558.5(e)), which provides in part that nothing shall be construed to limit the adjustment of payments “when delay in the completion of an audit is the result of willful acts by the claimant.” The Controller contends that the district delayed the audit completion by willfully denying the SCO’s request to conduct an audit entrance conference in December 2002. Thus, the audit should be considered initiated when the Controller initially contacted the claimant in December 2002.

The Controller’s staff counsel also filed a response to the IRC offering another interpretation of when the audit was initiated. The letter assumes that the claimant’s version of the facts are accurate (i.e., that the claimant did not willfully deny the request to conduct the entrance conference), and asserts that the audit of the claims filed for fiscal years 1997-1998, 1998-1999, and 1999-2000 was timely initiated “no later than the date of the audit letter” on December 23, 2002, “reiterating the intent to audit the identified mandated programs for the fiscal years indicated.” The letter states that this interpretation “is consistent with other statutes of limitations provisions, which are satisfied by the lodgment of a document with the reviewing authority, indicating a concrete intent to proceed against the identified party.”⁷⁴

The claimant factually disputes the Controller’s assertions about when the audit was “initiated.” The claimant argues that an audit is initiated when the entrance conference is held, and that the Controller’s position (that the audit was initiated *before* the entrance conference) is new and conflicts with prior positions of the Controller, including the position taken in the body of the Controller’s response to the IRC, which states that the “SCO initiates an audit by conducting the audit entrance conference.”⁷⁵

⁷² Exhibit B, Controller’s Comments on IRC, p. 43.

⁷³ *Id.*, at p. 29.

⁷⁴ *Id.*, at pp. 2-3.

⁷⁵ Exhibit C, Claimant’s Rebuttal Comments, pp. 4-5.

The claimant also strongly disagrees with the Controller's factual assertion that the claimant willfully caused the delay of the entrance conference.⁷⁶ In this respect, the claimant filed a declaration, signed under penalty of perjury, from Carrie Bray, Director of Accounting Services for Los Rios Community College District, describing the communication with the Controller that began with a message left for Ms. Bray on December 12, 2002.⁷⁷ Ms. Bray declares that she worked with Mary Khoshmashrab of the Controller's Office to set up a date for the entrance conference. Ms. Bray states that Ms. Khoshmashrab stated "that [Ms. Khoshmashrab] assumed that we were too busy to meet in December, so she requested a meeting during the first or second week of January." On January 2, 2003, Ms. Bray received a letter from the Controller's audit manager, dated December 23, 2002, stating that "as discussed during a telephone conversation on December 19, 2002, SCO auditor Mary Khoshmashrab will commence the audit of the subject programs on Thursday, January 16, 2003, beginning with an entrance conference at 9:30 a.m." Attached to the letter is a list of records requested by the Controller for the audit, including copies of the claims and related documents, organization charts for the division handling the mandated programs, chart of accounts, audit period annual budgets for each college claimed, a list of employees, and worksheets supporting productive hourly rates.⁷⁸ Ms. Bray's declaration is also supported by written telephone messages dated December 12 and December 17, showing that Mary Khoshmashrab left messages regarding an audit of the Health Fee Elimination claims that she wanted to schedule in December and that Ms. Khoshmashrab "was very anxious to hear from [Ms. Bray]." Also attached is a calendar for the week of January 13-19, 2003, with the following handwritten notes made by Ms. Bray:

12/18 Talked to Mary. She requested mtg in 1st/2nd wk. of Jan.

12/19, 2:45, rcv'd msg from Mary to return call. Rcv'd voice mail. Left another msg.

12/19, 2:50 – scheduled mtg. Jan 16 9:30

12/20/02, 10:23, Mary, State Controller's Office needs fax #

12/20 rcv'd call from Mary for fax #, called and left on recorder, 1:39.⁷⁹

First, the Commission finds that there is no evidence in the record to support the Controller's assertion that the claimant willfully delayed the audit pursuant to section 17558.5(c). That section provides that "Nothing in this section shall be construed to limit the adjustment of payments when inaccuracies are determined to be the result of the intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement." The statute does not define "willful acts" by the claimant. However, the courts, when reviewing insurance policies containing exclusionary clauses to deny coverage for willful acts, have defined "willful" as a deliberate action which causes harm that the insured intended and

⁷⁶ *Id.*, at pp. 16-17.

⁷⁷ Exhibit A, IRC, pp. 82-90.

⁷⁸ *Id.*, pp. 88-90.

⁷⁹ *Id.*, p. 87.

expected.⁸⁰ Although the Controller asserts that the entrance conference was delayed until January 16, 2003 because of the claimant's willful act to delay the audit, the Controller's argument is not supported by the evidence in the record. Instead, the declaration of Ms. Khoshmashrab filed in support of the Controller's position, and the declaration of Ms. Bray for the claimant, indicate that the claimant cooperated with the Controller and that, at most, made a reasonable request, given the short notice provided, to hold the entrance conference in January 2003 because of the unavailability of a necessary employee in December 2002.⁸¹ The records also do not indicate that Ms. Bray was informed that the entrance conference must be held in December 2002 to meet a statutory deadline, or that holding the entrance conference in January 2003 would affect the statute of limitations applicable to the audit. Therefore, there is no evidence in the record that the audit entrance conference was held on January 16, 2003 because the claimant willfully or deliberately delayed the initiation of the audit until after the December deadline.

The issue remains, however, what section 17558.5(a) means when it requires the Controller to initiate the audit within two years after the end of the calendar year in which the reimbursement claim is filed or last amended. Some of the Controller's comments in this case have interpreted the statute to mean that the audit is initiated either when the initial phone contact with the claimant was made or when the letter confirming the date of the audit entrance conference is sent. These interpretations benefit the Controller here because it leads to the conclusion that the Controller's audit was timely initiated before the December 31, 2002 deadline. Other interpretations suggest that the entrance conference initiates the audit.

The Legislature did not specifically define the event that initiates the audit and, thus, a phone call, a confirming letter, or an entrance conference, are all events that could reasonably be viewed as the initiation date under the statute. However, unlike other agencies that conduct audits and have adopted formal regulations to make it clear when the audit begins (which can be viewed as the controlling interpretation of a statute) the Controller has not adopted a regulation for the audits of state-mandate reimbursement claims.⁸² Nor has the Controller's position been clear in this case. Under these circumstances, the Commission is not required to give the Controller's assertions about when an audit is initiated any weight. In this respect, the courts have stated the following:

Courts must, in short, independently judge the text of the statute, taking into account and respecting the agency's interpretation of its meaning, of course, whether embodied in a formal rule or less formal representation. Where the meaning and legal effect of a statute is the issue, an agency's interpretation is one among several tools available to the court. Depending on the context, it may be helpful, enlightening, even convincing. It may sometimes be of little worth. Considered alone and apart from the context and circumstances that produce

⁸⁰ *Shell Oil Co. v. Winterthur Swiss Ins. Co.* (1993) 12 Cal.App.4th 715, 743.

⁸¹ Exhibit B, Controller's Comments on IRC, pp. 42-43.

⁸² See, e.g., regulations adopted by the California Board of Equalization (title 18, section 1698.5, stating that an "audit engagement letter" is a letter "used by Board staff to confirm the start of an audit or establish contact with the taxpayer").

them, agency interpretations are not binding or necessarily even authoritative. To quote the statement of the Law Revision Commission in a recent report, “The standard for judicial review of agency interpretation of law is the independent judgment of the court, giving deference to the determination of the agency appropriate to the circumstances of the agency action.”⁸³

Thus, the Commission must interpret when the audit of the 1997-1998, 1998-1999, and 1999-2000 reimbursement claims was initiated based on the plain language of 17558.5 and the evidence in the record. Black’s Law Dictionary defines an audit as “[a] formal examination of an individual’s or organization’s accounting records...”⁸⁴ And, “initiate” means to “begin.”⁸⁵ Thus, pursuant to the plain language of section 17558.5, the audit is initiated when the Controller begins its formal examination of the records.

In this case, the Commission finds, based on the Controller’s December 23, 2002 letter, that the audit was initiated when the entrance conference was conducted on January 16, 2003. That letter plainly states that the audit “will commence ... beginning with an entrance conference” as follows:

This letter is to confirm that the State Controller’s Office (SCO) has scheduled an audit of Los Rios Community College’s legislatively mandated Health Fee Elimination program claims for fiscal year (FY) 1997-98 through FY 2000-2001, and legislatively mandated Mandate Reimbursement Process program claims for FY 1998-99 through FY 2000-2001.

As discussed during a telephone conversation on December 19, 2002, *SCO auditor Mary Khoshmashrab will commence the audit of the subject programs on Thursday, January 16, 2003, beginning with an entrance conference at 9:30 a.m.*

We would appreciate your furnishing working accommodations for and providing the necessary records (see attachment) available to Ms. Khoshmashrab. (Emphasis added.)⁸⁶

The Controller’s December 23, 2002 letter also requests that the claimant provide the “necessary records” to the auditor during the entrance conference. Thus, the audit and the formal review of the records did not start until the entrance conference was conducted on January 16, 2003, at the earliest. Since the deadline to initiate the audit in this case expired on December 31, 2002, the Controller did not timely initiate the audit of the

⁸³ *Yamaha Corp. of America v. State Board of Equalization* (1998) 19 Cal.4th 1, 7-8 [Citing *Traverso v. People ex rel. Dept. of Transportation* (1996) 46 Cal.App.4th 1197, 1206 as an example of an agency interpretation “of little worth,” and quoting *Judicial Review of Agency Action* (Feb.1997) 27 Cal. Law Revision Com. Rep. (1997) p. 81].

⁸⁴ Black’s Law Dictionary, Seventh Edition, p. 126.

⁸⁵ Webster’s II New College Dictionary, p. 570.

⁸⁶ Exhibit A, IRC, pp. 88-90.

1997-1998, 1998-1999, and 1999-2000 reimbursement claims within the deadline imposed by Government Code section 17558.5, as added in 1995.⁸⁷

Although section 17558.5 does not specify the consequences for failing to meet the deadlines imposed by the statute, the Commission finds that the deadlines in section 17558.5 are jurisdictional and the failure to meet the deadlines makes the audit findings void. Courts have ruled that, when a deadline is for the protection of a person or class of persons, and the language of the statute as a whole indicates the Legislature's intent to enforce the deadline, the deadline is mandatory.

[T]he intent must be gathered from the terms of the statute construed as a whole, from the nature and character of the act to be done, and from the consequences which would follow the doing or the failure to the particular act at the required time. (Citation.) When the provision is to serve some public purpose, the provision may be held directory or mandatory as will best accomplish that purpose (citation)...⁸⁸

The California Supreme Court specifically rejected the notion that a statute could only be mandatory if it included a means of enforcement. Rather, the Court ruled that the important analysis is whether the purpose of the statute is to require an act.⁸⁹ Here, the plain language of section 17558.5 requires a reimbursement claim to be subject to audit and initiated “no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended.” The Controller had more than two years to initiate the audit after these reimbursement claims were filed. The Controller failed to meet that statutory deadline. In these circumstances, failure to initiate the audit within the two-year deadline is a jurisdictional bar to the Controller's reduction of claimant's reimbursement claims.

Based on the foregoing, the Commission finds that the audit of the district's reimbursement claims for fiscal years 1997-1998, 1998-1999, and 1999-2000 is barred by the statute of limitations and that all costs disallowed for these fiscal years, totaling \$1,866,287, should be reinstated.

The remaining analysis therefore focuses on the reductions made on the 2000-2001 and 2001-2002 reimbursement claims.

B. The Controller's Reductions for Unreported Offsetting Health Service Fee Authority Pursuant to Clovis Unified and the Health Fee Rule were Correct as a

⁸⁷ Since the audit of the 1997-1998, 1998-1999, and 1999-2000 reimbursement claims was not pending and already barred on January 1, 2003, the Controller does not get the benefit of the 2002 amendment to section 17558.5, which expanded the time allowed to initiate an audit to three years after the date the reimbursement claim is filed or last amended. The Controller gets the benefit of an expansion of a statute of limitations only when the audit is pending and not already barred. (*Mudd v. McColgan* (1947) 30 Cal.2d 463, 468).

⁸⁸ *People v. McGee* (1977) 19 Cal.3d 948, 962, citing *Morris v. County of Marin* (18 Cal.3d 901, 909-910).

⁸⁹ *Id.*

Matter of Law, and Not Arbitrary, Capricious, or Entirely Lacking in Evidentiary Support.

The Controller reduced the all amounts claimed in fiscal years 2000-2001 and 2001-2002 (\$667,337 and \$671,976, respectively), finding that the claimant had fee authority of \$1,368,418 in fiscal year 2000-2001 and \$1,571,052 in fiscal year 2001-2002, that should have been deducted as offsetting revenue.⁹⁰ Because the district does not collect a health services fee, no offsetting revenue was identified by claimant in the reimbursement claims.⁹¹ The Controller calculated health fees authorized to be charged by using student enrollment data provided by the claimant's Institutional Research Office.⁹²

Claimant argues that the parameters and guidelines only require a claimant to declare offsetting revenues that the claimant "experiences," and that while the fee amount that claimant was authorized to impose may have increased for the applicable period, nothing in the Education Code made the increase of those fees mandatory.⁹³ Claimants argue that the issue is the difference between fees collected and fees collectible.⁹⁴

The Commission finds that the correct calculation and application of offsetting revenue from student health fees has been resolved by the *Clovis Unified* decision, and that the reduction is correct as a matter of law.

After the claimant filed its IRC, the Third District Court of Appeal issued its opinion in *Clovis Unified*, which specifically addressed the Controller's practice of reducing claims of community college districts by the maximum fee amount that districts are statutorily authorized to charge students, whether or not a district chooses to charge its students those fees. As cited by the court, the Health Fee Rule states in pertinent part:

Eligible claimants will be reimbursed for health service costs at the level of service provided in the 1986/87 fiscal year. The reimbursement will be reduced by the amount of student health fees authorized per the Education Code [section] 76355.⁹⁵ (Underline in original.)

The Health Fee Rule relies on Education Code section 76355(a), which provides in relevant part:

(a)(1) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than ten dollars (\$10) for each semester, seven dollars (\$7) for summer school, seven dollars (\$7) for each intersession of at least four weeks, or seven dollars (\$7) for each quarter for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, or both.

⁹⁰ Exhibit B, Controller's Comments on IRC, p. 130.

⁹¹ Exhibit C, Claimant's Rebuttal Comments, p. 14.

⁹² Exhibit B, Controller's Comments on IRC, Final Audit Report, Finding 4, p. 130.

⁹³ Exhibit A, IRC, at p. 22.

⁹⁴ *Id.* at pp. 22-23.

⁹⁵ *Clovis Unified School Dist. v. Chiang, supra*, 188 Cal.App.4th 794, 811.

(a)(2) The governing board of each community college district may increase [the health service fee] by the same percentage increase as the Implicit Price Deflator for State and Local Government Purchase of Goods and Services. Whenever that calculation produces an increase of one dollar (\$1) above the existing fee, the fee may be increased by one dollar (\$1).⁹⁶

Pursuant to the plain language of Education Code section 76355(a)(2), the fee authority given to districts automatically increases at the same rate as the Implicit Price Deflator; when that calculation produces an increase of one dollar above the existing fee, the fee may be increased by one dollar.⁹⁷ The Chancellor of the California Community Colleges issues a notice to the governing boards of all community colleges when a fee increase is triggered.⁹⁸ Here, the Controller asserts that claimant had the authority to increase its health fee in accordance with the notices periodically issued by the Chancellor, stating that the Implicit Price Deflator Index had increased enough to support a one dollar increase in student health fees. The Controller argues that the claimant was required to claim offsetting fees in the amount authorized.⁹⁹ Claimant argues that the Controller cannot rely on the Chancellor's notice as a basis to adjust the claim for 'collectible' student health services fees because the fees levied on students are raised by action of the governing board of the community college district.¹⁰⁰ But the *authority* to impose the health service fees increases automatically with the Implicit Price Deflator, as noticed by the Chancellor. Accordingly, the court in *Clovis Unified* upheld the Controller's use of the Health Fee Rule to reduce reimbursement claims based on the fees districts are *authorized* to charge. In making its decision the court notes that the concept underlying the state mandates process that Government Code sections 17514 and 17556(d) embody is:

To the extent a local agency or school district "has the authority" to charge for the mandated program or increased level of service, that charge cannot be recovered as a state-mandated cost.¹⁰¹

The court also notes that, "this basic principle flows from common sense as well. As the Controller succinctly puts it, 'Claimants can choose not to require these fees, but not at the

⁹⁶ Education Code section 76355(d)(2) (Stats. 1993, ch. 8 (AB 46); Stats. 1993, ch. 1132 (AB 39); Stats. 1994, ch. 422 (AB 2589); Stats. 1995, ch. 758 (AB 446); Stats. 2005, ch. 320 (AB 982)) [Formerly Education Code section 72246(e) (Stats. 1987, ch. 118)].

⁹⁷ See Education Code section 76355 (Stats. 1995, ch. 758 (AB 446)). The Implicit Price Deflator for State and Local Purchase of Goods and Services is a number computed annually (and quarterly) by the United States Department of Commerce as part of its statistical series on measuring national income and product, and is used to adjust government expenditure data for the effect of inflation.

⁹⁸ See, e.g., Exhibit A, Incorrect Reduction Claim [Letter from Chancellor, pages 69-70].

⁹⁹ See Exhibit B, Controller's Comments, pages 16-18; Exhibit A, Incorrect Reduction Claim, pages 69-70.

¹⁰⁰ Exhibit A, Incorrect Reduction Claim, pages 17-18.

¹⁰¹ *Clovis Unified School Dist. v. Chiang, supra*, 188 Cal.App.4th 794, 812.

state's expense.”¹⁰² Additionally, in responding to claimant's argument that, “since the Health Fee Rule is a claiming instruction, its validity must be determined *solely* through the Commission's P&G's”,¹⁰³ the court held:

To accept this argument, though, we would have to ignore, and so would the Controller, the fundamental legal principles underlying state-mandated costs. We conclude *the Health Fee Rule is valid*.¹⁰⁴ (Italics added.)

Thus, pursuant to the court's decision in *Clovis Unified*, the Health Fee Rule used by the Controller to adjust reimbursement claims filed by claimant for the *Health Fee Elimination* program is valid. 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.¹⁰⁵ In addition, the *Clovis* decision is binding on the claimant under principles of collateral estoppel.¹⁰⁶ 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.¹⁰⁷ Although the claimant to this IRC was not a party to the *Clovis* action, the claimant is in privity with the petitioners in *Clovis*. “A party is adequately represented for purposes of the privity rule if his or her interests are so similar to a party's interest that the latter was the former's virtual representative in the earlier action.”¹⁰⁸

The Commission further finds that the Controller's calculation of the claimant's total authorized offsetting fee revenue in fiscal years 2000-2001 and 2001-2002 totaling \$2,939,470 is not arbitrary, capricious, or entirely lacking in evidentiary support since the Controller used the enrollment data available and reported by the claimant. The Controller obtained student enrollment, Board of Governors Grant (BOGG) recipient, and apprenticeship program enrollment data reported to the Chancellor's Office and maintained by the claimant's Institutional Research Office, and calculated the authorized health service fees using the rates that the Chancellor's Office noticed during the fiscal years at issue.

Therefore, the Commission finds that the Controller's reduction of costs based on the claimant's unreported offsetting fee authority is correct as a matter of law, and is not arbitrary, capricious,

¹⁰² *Ibid.*

¹⁰³ *Ibid.* (Original italics).

¹⁰⁴ *Clovis Unified School Dist. v. Chiang, supra*, 188 Cal.App.4th 794, 812.

¹⁰⁵ *Fenske v. Board of Administration* (1980) 103 Cal.App.3d 590, 596.

¹⁰⁶ The petitioners in the *Clovis* case included Clovis Unified School District, El Camino Community College District, Fremont Unified School District, Newport-Mesa Unified School District, Norwalk-La Mirada Unified School District, Riverside Unified School District, San Mateo Community College District, Santa Monica Community College District, State Center Community College District, and Sweetwater Union High School District.

¹⁰⁷ *Roos v. Red* (2006) 130 Cal.App.4th 870, 879-880.

¹⁰⁸ *Rodgers v. Sargent Controls & Aerospace* (2006) 136 Cal.App.4th 82, 91.

or entirely lacking in evidentiary support. Since the amount authorized to be charged and required to be identified as offsetting revenue in fiscal years 2000-2001 and 2001-2002 (\$2,939,470) exceeds the total amount claimed in those years (\$1,339,313), the remaining substantive are not addressed.

V. Conclusion

The Commission partially approves this IRC. Pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, the Commission finds that the following reductions by the Controller are *incorrect* as a matter of law:

- The audit of the reimbursement claims for fiscal years 1997-1998, 1998-1999, and 1999-2000 was not timely initiated pursuant to Government Code section 17558.5 and is, therefore, void. All costs disallowed for these fiscal years, totaling \$1,866,287, should be reinstated to the claimant.

The Commission further finds that the Controller's reduction of all costs claimed in fiscal years 2000-2001 and 2001-2002, on the ground that claimant had sufficient fee authority to pay for the costs incurred, is *correct* as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

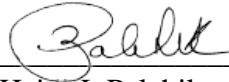
I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On January 30, 2015, I served the:

Draft Proposed Decision, Schedule for Comments, and Notice of Hearing
Health Fee Elimination, 05-4206-I-06
Education Code Section 76355
Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118
Fiscal Years 1997-1998, 1998-1999, 1999-2000, 2000-2001, and 2001-2002
Los Rios Community 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 January 30, 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: 1/29/15

Claim Number: 05-4206-I-06

Matter: Health Fee Elimination

Claimant: Los Rios 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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RECEIVED
February 20, 2015
*Commission on
State Mandates*

Corrected February 24, 2015

BETTY T. YEE
California State Controller

February 20, 2015

(Via efile and email)

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

Sigrid Asmundson
Best Best & Krieger, LLP
500 Capitol Mall, Suite 1700
Sacramento, CA 95814

Re: Controller's Comments on Draft Proposed Decision

Health Fee Elimination, 05-4206-I-06

Education Code Section 76355

Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118

Fiscal Years 1997-98 through 2001-02

Los Rios Community College District, Claimant

Dear Ms. Halsey and Ms. Asmundson:

This letter constitutes this office's response to the Draft Proposed Decision (DPD) in this matter. Although we agree with the portion that addresses the effect of the offsetting student health fee authority, we disagree with the conclusion that the audit is initiated when the entrance conference occurs. Given the conceded ambiguity as to what constitutes the initiation of an audit, we believe that a more in depth analysis with reference to the purposes of statutes of limitation and a comparison to their application in other legal fields is necessary.

The Controller's Office agrees with the preliminary determination (found in Sec. IV(A)(1), on page 16 of the DPD) that Government Code¹ section 17558.5, as added in 1995, only requires the Controller initiate the audit within two years after the end of the calendar year in which the claim is filed, not complete it, with respect to the fiscal years in question (1997-98 to 1999-2000). However, as noted above we disagree with the conclusion that the entrance conference constitutes the initiation of the audit. Given that

¹ All further references shall be to the Government Code, unless otherwise indicated.

the Controller's phone call and audit letter occurred before the expiration of the time to file, and the entrance conference occurred after time had passed, the pivotal issue is what it meant by the "initiation of an audit" in Section 17558.5

As noted in the DPD (Page 21, 3rd ¶) "a phone call, a confirming letter, or an entrance conference, are all events that could reasonably be viewed as the initiation date under the statute". Given this ambiguity, and the importance of the conclusion, a detailed in depth statutory interpretation of Section 17558.5 was appropriate, but the DPD only devotes three sentences to the analysis of the critical phrase, "initiation of an audit", stating that:

Black's Law Dictionary defines an audit as "a formal examination of an individual's or organization's accounting records ...". And, "initiate" means to "begin." Thus, pursuant to the plain language of section 17558.5, the audit is initiated when the Controller begins its formal examination of the records. (Page 22, 2nd ¶.)

The DPD does not explain what a formal examination entails, but appears to conclude that it requires an onsite visit. Not only does this analysis ignore numerous rules of statutory construction, but it is inconsistent with prior rationale of the Commission with respect to what constitutes an audit. In the Grossmont Increased Graduation Requirements IRC, the Commission addressed the assertion that a desk review (sometimes called an informal audit) did not satisfy the audit requirement of Section 17561. In that case the Commission noted that "[t]here is nothing in this section [17561] that defines the scope of the SCO's audit, or the manner in which the audit may be conducted." Relying on the constitutional and statutory audit authority granted to the Controller, the Commission concluded that the "SCO exercised its audit authority in accordance with state law", when a claim was reduced based on a desk review of the claim and its supporting documentation. We do not believe it is appropriate to limit the concept of an audit in this case to an onsite formal examination of the records of the claimant.

In addition, the analysis of this question is not consistent with how the Division of Audits actually conducts audits. The Division begins reviewing claims and their supporting documentation before they even call the auditee to arrange the entrance conference. They do this to determine the time left to audit the different claimants, and how to allocate available manpower. The document request in the formal audit letter is made because the auditors want to look at all relevant documents not just those submitted with the claim, and to ensure that the most recent versions are available. For a full description of the process involved in determining whom and when to audit, see the attached declaration of Jim Spano.

The primary purpose of statutory construction is “to determine the Legislature’s intent so as to effectuate the law’s purpose.” *In re C.H.* (2011) 53 Cal.4th 94, 100. “We give the words of the statute their ordinary and usual meaning and view them in their statutory context. *Ibid.* We should “examine[] the disputed phrases in the context of the statute as a whole.” *Grafton Partners v. Superior Court* (2005) 36 Cal.4th 944, 959. In this case the DPD focuses on only four words from the statute, not the statute as a whole. In addition, the analysis does not look at how Section 17558.5 fits within the statutory scheme governing mandates. The courts have held that statutes must be harmonized “both internally and with each other, to the extent possible.” *Scottsdale Ins. Co. v. State Farm Mut. Auto Ins. Co.* (2005) 130 Cal.App.4th 890, 898. We believe that the analysis in the DPD is too narrow to satisfy the rules and purposes of statutory interpretation.

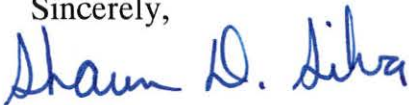
When looking at Section 17558.5, subdivision (a) we can clearly see that it is a statute of limitations provision. To aid us in interpretation we should also look at the purpose of a statute of limitation, as well as compare it to other statutes of limitations. Statutes of limitations are “designed to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared.” *Romano v. Rockwell International, Inc.* (1996) 14 Cal.4th 479, 488. The courts have also stated that the “legislative goal underlying limitations statutes is to require diligent prosecution of known claims so that legal affairs can have their necessary finality and predictability and so that claims can be resolved while evidence remains reasonably available and fresh.” *Jordache Enterprises, Inc. v. Brobeck, Phleger & Harrison* (1998) 18 Cal.4th 739, 756. In this case, as in other audits conducted by the Controller, the claimant’s sense of finality is not disturbed as they have received notice before the expiration of the statute of limitations. If we are looking for finality and predictability, relying on the entrance conference is misplaced. It can be delayed or continued by scheduling issues as well as staff availability or natural disasters, and is only certain once it occurs. For finality and predictability we should identify a more certain and definite event.

Use of the entrance conference is even more questionable when we compare the application of the statutes of limitations in other areas of the law. In civil and criminal law (misdemeanor), the event that ends the running of the statute is the filing of a complaint. For administrative law, the Continuing Education of the Bar, California Administrative Hearing Guide states that “[i]n practice, the accusation or statement of issues is considered filed on the date when it was signed and dated by the executive officer or other employee of an agency.” (§3.26, page 3-19.) Each of these processes relies at its core on a written document, not a face to face meeting between the parties. Another characteristic in common is that the filing is accomplished by a unilateral act of the plaintiff/complainant, no contact or coordination with the opposing party is required. The conclusion of the DPD would create a statute of limitations procedure that is unlike

Heather Halsey
February 20, 2015
Page 4

any other, essentially requiring the consent of the auditee and a face to face meeting, before an audit could be initiated. There is nothing in Section 17558.5(a) that suggests such a departure from other statute of limitation procedures. In light of the purposes of statutes of limitations, as well as the common characteristics of other statutes of limitation schemes, we believe that the formal audit letter should constitute the initiating act, and the date thereon, the date of initiation of the audit. In this case the audit letter was dated December 23, 2002, which should be when the audit is considered initiated. Since the statute didn't run until December 31, 2002, the audit of fiscal years 1997-98 through 1999-2000 should be considered timely.

Sincerely,



SHAWN D. SILVA
Senior Staff Counsel

Attachment

SDS/ss

1 **OFFICE OF THE STATE CONTROLLER**

2 300 Capitol Mall, Suite 1850
3 Sacramento, CA 94250
4 Telephone No.: (916) 445-6854

5 **BEFORE THE**
6 **COMMISSION ON STATE MANDATES**
7 **STATE OF CALIFORNIA**

8 **INCORRECT REDUCTION CLAIM ON:**

No.: CSM 05-4206-I-06

9 *Health Fee Elimination Program*

AFFIDAVIT OF BUREAU CHIEF

10 Education Code section 76355
11 Statutes 1984, Chapter 1
(1983-1984 2nd Ex. Session)
12 Statutes 1987, Chapter 1118

13 Los Rios Community College District,
Claimant

14 I, Jim L. Spano, make the following declarations:

- 15 1) I am an employee of the State Controller's Office (SCO) and am over the age of 18 years.
- 16 2) I am currently employed as a Bureau Chief, and have been so since April 21, 2000. Before
17 that, I was employed as an Audit Manager for two years and three months.
- 18 3) I am a California Certified Public Accountant.
- 19 4) I reviewed the work performed by the SCO auditors.
- 20 5) The SCO Division of Audits develops an annual workplan using a risk-based approach that
21 identifies claims subject to audit. We audited the district's Health Fee Elimination Program
22 claims for fiscal year (FY) 1997-98 through FY 2001-02. The claims were selected from the
23 annual work plan and assigned by the Audit Manager. The Auditor-in-Charge pulled the
24 claims packages from the SCO's Division of Accounting and Reporting claim files and
25 reviewed and analyzed the filed claim forms and attached supporting documentation.
- 26 6) For this audit, the documentation included schedules detailing the district's calculations
27 of its indirect cost rates along with relevant expenditure data taken from the district's
accounting system. The claims also included schedules detailing the specific health services
that the district provided during each fiscal year compared to services provided during the
program's base year of 1986-87. The Auditor-in-Charge noted the official filing dates for
the various claims and determined that they were still subject to audit in accordance with
the language of Government Code section 17558.5 at that time.

1 7) Prior to making telephone contact with the district, the Auditor-in-Charge reviewed all
2 of these claimant-prepared records to ascertain whether to officially initiate an audit of the
3 district's claims. The Auditor-in-Charge then requested payment information from the
4 Division of Accounting and Reporting's database to confirm that the claims were still
subject to audit based on claim payment information. The Audit Manager then discussed the
audit with the Bureau Chief prior to proceeding.

5 8) The Auditor-in-Charge contacted the district on December 10, 2002, and left a message
6 with the district's Director of Accounting Services, stating that the SCO will be initiating an
7 audit of the district's mandated cost claims for the Health Fee Elimination Program and
8 requesting to schedule an entrance conference. The Auditor-in-Charge left messages on
9 December 12 and 16, 2002.

10 9) The Auditor-in-Charge made contact with the district's Director of Accounting Services
11 on December 19, 2002. The Auditor-in-Charge informed the Director that the SCO will be
12 initiating an audit the district's mandated cost claims for the Health Fee Elimination
13 Program and requested to schedule an entrance conference. The Auditor-in-Charge and
14 district's Director of Accounting Services agreed to a January 16, 2003, start date for the
15 fieldwork portion of the audit.

16 10) The Auditor-in-Charge processed a formal start letter, dated December 23, 2002, that was
17 addressed to the district's Director of Accounting Services and signed by the Audit Manager.
18 The start letter identified the Auditor-in-Charge, program being audited, telephone contact
19 date, reference to standards being used to perform the audit, the entrance conference date and
20 time, and a basic records request. Some of the basic records requested in the audit start letter
21 included claimant-prepared records already made available, such as copies of claims, support
22 for the district's indirect cost rates, and relevant accounting data. The document request was
23 made because the auditors want to review all relevant documents, not just those submitted with
24 the claim, and to ensure that the most recent versions are available.

25 11) The protocol described above is consistent with the protocol for all audits of mandated
26 cost claims. In addition, the Auditor-in-Charge sends a follow-up email to the claimant to
27 confirm their telephone conversation.

I declare that the above declarations are made under penalty of perjury and are true and correct
to the best of my knowledge, and that such knowledge is based on personal observation,
information, or belief.

Date: February 20, 2015

OFFICE OF THE STATE CONTROLLER

By: 

Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento 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 February 25, 2015, I served the:

SCO Comments filed February 20, 2015 (corrected February 24, 2015)

Health Fee Elimination, 05-4206-I-06

Education Code Section 76355

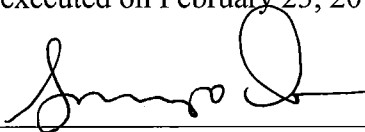
Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118

Fiscal Years 1997-1998, 1998-1999, 1999-2000, 2000-2001, and 2001-2002

Los Rios Community 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 February 25, 2015 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 2/3/15

Claim Number: 05-4206-I-06

Matter: Health Fee Elimination

Claimant: Los Rios 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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