

SixTen and Associates

Mandate Reimbursement Services

RECEIVED
September 26, 2014
*Commission on
State Mandates*

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September 26, 2014

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

Dear Ms. Halsey:

RE: CSM 05-4206-I-09
North Orange County Community College District
Fiscal Years: 2001-02 and 2002-03
Health Fee Elimination
Education Code Section 76355
Statutes of 1984, Chapter 1, 2nd. E.S.
Statutes of 1987, Chapter 1118
Incorrect Reduction Claim

I have received the Commission Draft Proposed Decision (DPD) dated July 30, 2014, for the above-referenced incorrect reduction claim, to which I respond on behalf of the District.

PART A. STATUTE OF LIMITATIONS APPLICABLE TO AUDITS OF ANNUAL REIMBURSEMENT CLAIMS

Fiscal Year 2000-01

The Commission (DPD, 12) determined that it does not have jurisdiction of FY 2000-01:

According to Government Code section 17551, the Commission has jurisdiction to find "that the Controller has incorrectly reduced payments to the local agency or school district." The Controller's audit of the reimbursement claim filed for fiscal year 2000-2001 did not result in a reduction of costs and the claimant has not argued that the Controller has incorrectly reduced any payments with respect to the 2000-2001 claim. The Commission, therefore, does not have jurisdiction to make findings with respect to the 2000-2001 reimbursement claim.

The draft audit report dated May 6, 2005, included the three fiscal years audited by the Controller: FY 2000-01, FY 2001-02, and FY 2002-03. In its letter dated June 15, 2005, in response to the draft audit report the District asserted that the statute of limitations for the audit of the FY 2000-01 claim expired December 31, 2003, pursuant to Government Code Section 17558.5, because the audit report was issued after that date. In the final audit report dated July 22, 2005, the Controller agreed, but for other reasons, that FY 2000-01 was past audit and deleted the audit findings for that year.

The District concurs that the Commission has no jurisdiction for FY 2000-01.

Fiscal Years 2001-02 and 2002-03

The Commission (DPD, 13) "further finds that the audit of the 2001-2002 and 2002-2003 reimbursement claims was timely." The District did not appeal the statute of limitations for audit for these two fiscal years. The District disagrees with the Commission rationale for the conclusion that the two years were timely audited. However, since the District did not appeal this issue for these fiscal years, the Commission finding is surplusage.

PART B. UNDERSTATED OFFSETTING REVENUES

This finding is the result of the Controller's recalculation of the student health services fees which may have been "collectible" which was then compared to the District's student health fee revenues actually charged or received, resulting in a total adjustment of \$252,286 for the audit period. The Controller computed the total student health fees collectible based on highest authorized state rates that districts can charge students while the District reported actual rates charged the students or actual fees collected.

The Commission (DPD, 15) finds that the correct calculation and application of offsetting revenue from student health fees have been resolved by the *Clovis Unified* decision, and that the reduction and method are correct as a matter of law:

After claimant filed its IRC, the Third District Court of Appeal issued the *Clovis* decision, 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. The Health Fee Rule, as provided in the Controller's *Health Fee Elimination Program* specific claiming instructions, provides that reimbursement will be reduced by the amount of *student fees authorized by statute*. As quoted by the court, the Health Fee Rule states in pertinent part:

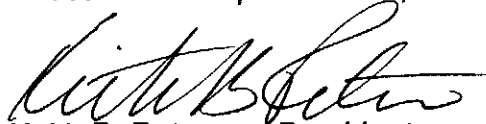
Eligible claimants will be reimbursed for health service costs at the level of service provided in the 1986/87 fiscal year. The reimbursement will be reduced by the amount of student health fees authorized per the Education Code [section] 76355.

The District agrees that claimants and state agencies are bound to apply the Health Fee Rule as decided law and that this extends to retroactive fiscal years still within the Commission's or Controller's jurisdiction. The District withdraws its appeal of this issue.

CERTIFICATION

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

Executed on September 26, 2014, at Sacramento, California, by



Keith B. Petersen, President
SixTen & Associates

Service by Commission Electronic Drop Box

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 September 29, 2014, I served the:

Claimant Comments

Health Fee Elimination, 05-4206-I-09

Education Code Section 76355

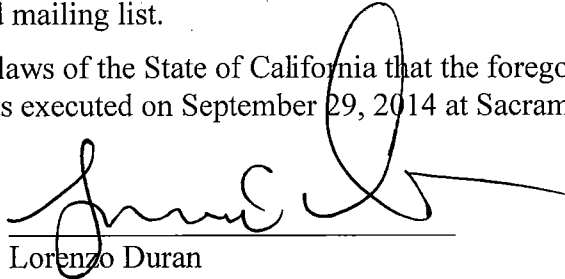
Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118

Fiscal Years 2001-2002 and 2002-2003

North Orange County 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 September 29, 2014 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
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(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/18/14

Claim Number: 05-4206-I-09

Matter: Health Fee Elimination

Claimant: North Orange County Community College District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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