



JOHN CHIANG
California State Controller

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December 02, 2014
**Commission on
State Mandates**

LATE FILING

December 2, 2014

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

Re: **Incorrect Reduction Claim (IRC)**
Health Fee Elimination, 10-4206-I-33
Education Code Section 76355
Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118
Fiscal Years: 2003-04, 2004-2005, 2005-06, and 2006-2007
El Camino Community College District, Claimant

Dear Ms. Halsey:

The State Controller's Office (SCO) is transmitting our response to the above-titled IRC.

The district did not comply with the requirements of the claiming instructions in developing its indirect cost rates. The SCO's adjustment to the indirect cost rates based on the SCO's FAM-29C methodology is supported by the Commission's decisions on previous IRCs (e.g., statement of decision adopted on January 24, 2014, for the San Mateo County and San Bernardino community college districts on this same program). The parameters and guidelines, which were duly adopted at a Commission hearing, require compliance with the claiming instructions. The claiming instructions and related general provisions of the SCO's Mandated Cost Manual provide ample notice for claimants to properly claim indirect costs.

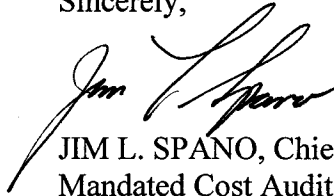
The district offset revenues collected from student health fees rather than by the fee amount the district was authorized to impose. The SCO's reduction of reimbursement to the extent of fee authority is supported by Education Code section 76355, the Commission decisions on previous IRCs, as mentioned above, and the appellate court decision in *Clovis Unified School District v. Chiang*.

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250-5874
SACRAMENTO 3301 C Street, Suite 700, Sacramento, CA 95816 (916) 324-8907
LOS ANGELES 901 Corporate Center Drive, Suite 200, Monterey Park, CA 91754-7619 (323) 981-6802

Heather Halsey, Executive Director
December 2, 2014
Page 2

If you have any questions, please contact me by telephone at (916) 323-5849.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim L. Spano". The signature is written in a cursive style with a large initial "J" and "S".

JIM L. SPANO, Chief
Mandated Cost Audits Bureau
Division of Audits

JS/kw

14821

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

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Note: References to Exhibits relate to the district's IRC filed on September 1, 2010 as follows:

- Exhibit A – PDF page 38
- Exhibit B – PDF page 43
- Exhibit C – PDF page 51
- Exhibit D – PDF page 64
- Exhibit E – PDF page 105
- Exhibit F – PDF page 107
- Exhibit G – PDF page 110
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Tab 1

1 **OFFICE OF THE STATE CONTROLLER**

Division of Audits

2 3301 C Street, Suite 725

Sacramento, CA 95816

3 Telephone No.: (916) 323-5849

4
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 EL CAMINO COMMUNITY
15 COLLEGE DISTRICT, Claimant

No.: CSM 10-4206-I-33

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.
- 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 El Camino
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.

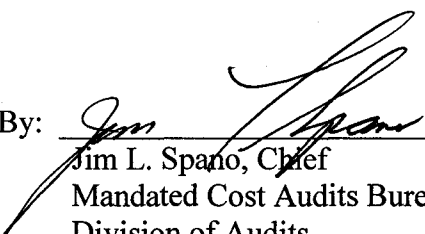
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7) A field audit of the claims for fiscal year (FY) 2003-04, FY 2004-05, FY 2005-06, and FY 2006-07 commenced on September 11, 2008, and ended on December 18, 2008.

I do 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: December 2, 2014

OFFICE OF THE STATE CONTROLLER

By: 
Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office

Tab 2

**STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE
TO THE INCORRECT REDUCTION CLAIM BY
EL CAMINO COMMUNITY COLLEGE DISTRICT
For Fiscal Year (FY) 2003-04, FY 2004-05, FY 2005-06, and FY 2006-07**

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 El Camino Community College District submitted on October 11, 2010. The SCO audited the district's claims for costs of the legislatively mandated Health Fee Elimination Program for the period of July 1, 2003, through June 30, 2007. The SCO issued its final report on August 28, 2009 (**Exhibit D**).

The district submitted reimbursement claims totaling \$884,825 (\$885,825 less a \$1,000 penalty for filing a late claim)—\$216,844 for FY 2003-04, \$306,966 for FY 2004-05 (\$307,966 less a \$1,000 penalty for filing a late claim), \$252,878 for FY 2005-06, and \$108,137 for FY 2006-07 (**Exhibit K**). Subsequently, the SCO performed an audit for the period of July 1, 2003, through June 30, 2007, and determined that \$674,212 is unallowable. The costs are unallowable because the district overstated its indirect cost rates, understated authorized health service fees, and overstated offsetting savings/reimbursements. The district contests audit adjustments related to overstated indirect cost rates and understated authorized health service fees. The district also contests the reported amount paid by the State for FY 2006-07 and alleges that the SCO initiated its audit of FY 2003-04 after the applicable statute of limitations. The following table summarizes the audit results:

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>July 1, 2003, through June 30, 2004</u>			
Direct costs:			
Salaries and benefits	\$ 401,476	\$ 401,476	\$ —
Services and supplies	61,701	61,701	—
Total direct costs	463,177	463,177	—
Indirect costs	143,446	79,944	(63,502)
Total direct and indirect costs	606,623	543,121	(63,502)
Less authorized health fees	(365,650)	(518,256)	(152,606)
Subtotal	240,973	24,865	(216,108)
Less offsetting savings/reimbursements	(24,129)	(24,129)	—
Total program costs	<u>\$ 216,844</u>	736	<u>\$ (216,108)</u>
Less amount paid by the State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 736</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Direct costs:			
Salaries and benefits	\$ 416,298	\$ 416,298	\$ —
Services and supplies	54,998	54,998	—
Total direct costs	471,296	471,296	—
Indirect costs	165,990	160,193	(5,797)

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>July 1, 2004, through June 30, 2005 (continued)</u>			
Total direct and indirect costs	637,286	631,489	(5,797)
Less authorized health fees	<u>(301,410)</u>	<u>(472,680)</u>	<u>(171,270)</u>
Subtotal	335,876	158,809	(177,067)
Less offsetting savings/reimbursements	<u>(27,910)</u>	<u>(24,568)</u>	<u>3,342</u>
Subtotal	307,966	134,241	(173,725)
Less late filing penalty	<u>(1,000)</u>	<u>(1,000)</u>	<u>—</u>
Total program costs	<u>\$ 306,966</u>	133,241	<u>\$ (173,725)</u>
Less amount paid by the State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 133,241</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Direct costs:			
Salaries and benefits	\$ 450,337	\$ 450,337	\$ —
Services and supplies	<u>64,383</u>	<u>64,383</u>	<u>—</u>
Total direct costs	514,720	514,720	—
Indirect costs	<u>180,255</u>	<u>164,144</u>	<u>(16,111)</u>
Total direct and indirect costs	694,975	678,864	(16,111)
Less authorized health fees	<u>(417,078)</u>	<u>(580,230)</u>	<u>(163,152)</u>
Subtotal	277,897	98,634	(179,263)
Less offsetting savings/reimbursements	<u>(25,019)</u>	<u>(21,998)</u>	<u>3,021</u>
Total program costs	<u>\$ 252,878</u>	76,636	<u>\$ (176,242)</u>
Less amount paid by the State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 76,636</u>	
<u>July 1, 2006, through June 30, 2007</u>			
Direct costs:			
Salaries and benefits	\$ 469,417	\$ 469,417	\$ —
Services and supplies	<u>67,152</u>	<u>67,152</u>	<u>—</u>
Total direct costs	536,569	536,569	—
Indirect costs	<u>171,702</u>	<u>170,146</u>	<u>(1,556)</u>
Total direct and indirect costs	708,271	706,715	(1,556)
Less authorized health fees	<u>(580,536)</u>	<u>(792,825)</u>	<u>(212,289)</u>
Subtotal	127,735	(86,110)	(213,845)
Less offsetting savings/reimbursements	<u>(19,598)</u>	<u>(19,598)</u>	<u>—</u>
Subtotal	108,137	(105,708)	(213,845)
Adjustment to eliminate negative balance	—	105,708	105,708
Total program costs	<u>\$ 108,137</u>	—	<u>\$ (108,137)</u>
Less amount paid by the State ¹		<u>(161,112)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (161,112)</u>	

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
Summary: July 1, 2003, through June 30, 2007			
Direct costs:			
Salaries and benefits	\$ 1,737,528	\$ 1,737,528	\$ —
Services and supplies	248,234	248,234	—
Total direct costs	1,985,762	1,985,762	—
Indirect costs	661,393	574,427	(86,966)
Total direct and indirect costs	2,647,155	2,560,189	(86,966)
Less authorized health fees	(1,664,674)	(2,363,991)	(699,317)
Subtotal	982,481	196,198	(786,283)
Less offsetting savings/reimbursements	(96,656)	(90,293)	6,363
Subtotal	885,825	105,905	(779,920)
Less late filing penalty	(1,000)	(1,000)	—
Adjustment to eliminate negative balance	—	105,708	105,708
Total program costs	\$ 884,825	210,613	\$ (674,212)
Less amount paid by the State ¹		(161,112)	
Allowable costs claimed in excess of (less than) amount paid		\$ 49,501	

¹ Payment information current as of March 24, 2011.

I. HEALTH FEE ELIMINATION PROGRAM CRITERIA

Parameters and Guidelines – May 25, 1989

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

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.

Section VII 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.

Section VIII 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(a) [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 2004 claiming instructions provide indirect cost claiming instructions for FY 2003-04 (**Tab 3**). The December 2005 claiming instructions provide indirect cost claiming instructions for FY 2004-05 (**Tab 4**). The December 2005 indirect cost claiming instructions are substantially similar to the version extant for FY 2005-06 and FY 2006-07. The September 2003 Health Fee Elimination Program claiming instructions (**Exhibit C**) are substantially similar to the version extant for each fiscal year during the audit period.

II. DISTRICT OVERSTATED ITS INDIRECT COST RATES CLAIMED

Issue

For FY 2003-04, the district claimed indirect costs based on an indirect cost rate prepared using the principles of Title 2, *Code of Federal Regulations*, Part 220 (Office of Management and Budget Circular A-21). However, the district did not obtain federal approval for this rate. For FY 2004-05, FY 2005-06, and FY 2006-07, the district claimed indirect costs using the SCO's FAM-29C methodology. However, the district did not allocate direct and indirect costs as specified in the SCO's claiming instructions. The district also failed to use current-year costs to calculate all of its indirect cost rates for the audit period.

SCO Analysis:

The parameters and guidelines state, "Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions."

For FY 2003-04, the SCO's claiming instructions (**Tab 3**) state:

A community college has the option of using a *federally approved rate* [emphasis added], utilizing the cost accounting principles from Office of Management and Budget Circular A-21 "Cost Principles for Educational Institutions," or the Controller's methodology [FAM-29C]. . . .

For FY 2004-05 forward, the SCO's claiming instructions (**Tab 4**) state:

A CCD may claim indirect costs using the Controller's methodology (FAM-29C) . . . *If specifically allowed by a mandated program's P's & G's* [emphasis added], 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.

District's Response

Capital Costs and Depreciation Expense

The exclusion of the capital costs is the major source of difference in the claimed and audited rate for FY 2003-04. The Controller's policy was not to include capital costs in the calculation for these fiscal years. However, the audit report has not cited a source in support of that policy.

The auditor's substitution of depreciation expense from the CPA financial statements for the capital costs used in the District calculations for FY 2004-05 through FY 2006-07 is a source of minor differences. The audit report has not stated a basis for now including depreciation costs when these costs have not been included before.

Classification of Indirect Costs

The District's classification of costs as either direct or indirect follow the CCFS-311. The audit utilized a different classification which is described in the claiming instructions . . . Neither the audit report nor the claiming instructions state a basis for departing from the state mandated CCFS-311 classification of direct and indirect costs.

Prior Year CCFS-311

...The audit used the current year CCFS-311 for the calculation of the indirect cost rates. 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. While the audit report is correct that "there are no mandate-related authoritative criteria" supporting the District's method, there is also none that supports the Controller's insistence that the current year CCFS-311 report must be used.

As a practical matter, the CCFS-311 for the current year is often not available at the time that the mandate reimbursement claims are due. Therefore, the District must determine the indirect cost rates based on the prior year CCFS-311. The audit report asserts that, due to deadlines for reporting found in state regulations, "[t]he district had the information on hand or could have obtained it from its external auditors before submitting its claims for reimbursement." This assertion has no basis in fact, and the Controller has provided no evidence that the annual CPA financial reports were actually completed and available to use prior to the deadline for filing each annual reimbursement claim. In which case, it is more reasonable to rely on prior year financial data that has been thoroughly reviewed and validated, than to demand data from external auditors who have not completed their reviews or issued financial reports. The Controller has not demonstrated that using the prior year CCFS-311 report produces an indirect cost rate that is substantially different from that produced by current year data. . . .

The audit report asserts that the Controller's use of the current year CCFS-311 is supported by the parameters and guidelines requirement to claim only *actual costs*. To the contrary, the parameters and guidelines do not specify any particular method of calculating indirect costs, nor do they require any particular source be used for the data used in the computation. The Controller's claiming instructions are also silent as to whether the prior or current year CCFS-311 should be used in the FAM-29C methodology. Further, the application of the indirect cost rate to program costs cannot be considered "actual costs" since the indirect cost rate is only a reasonable representation established pursuant to generally accepted accounting principles of operating costs not otherwise specific to program delivery. . . .

...note that federally approved indirect cost rates, which were accepted by the Controller prior to FY 2004-05 for this program, 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 removed from the last fiscal year in which the federal rate is used. Therefore, there is no for the Controller's unilateral policy that indirect cost rates must only be developed using data from the current fiscal year.

Parameters and Guidelines

...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 parameters and guidelines for the Health Fee Elimination mandate state that "[I]ndirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions (Emphasis added)." 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 specified by the Controller. The Controller asserts that because the parameters and guidelines specifically reference 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 to be enforced by 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 "E") 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."

The audit report states that the interpretation that indirect costs may be calculated using any reasonable method is "invalid" because it "would allow districts to claim indirect costs in whatever manner they choose." The self-evident irony is that the Controller's policy "chooses" to require use of the current year CCFS-311 for the FAM-29C, then "chooses" to deviate from the CCFS-311 in the matter of classification of indirect costs, and then "chooses" to exclude capital costs one year and include depreciation costs in another . . . There is no evidence that the Controller's FAM-29C method is more accurate or reasonable than other methods for calculating indirect costs, and the audit report provides no support for this recommendation that only this method should be used.

Legal Standard: Excessive or Unreasonable

...Section 17558.5 requires the district to file a reimbursement claim for actual mandate-related costs . . . that citation is not relevant to indirect cost calculations. Section 17561, subdivision (d)(2), allows the SCO to audit the district's records to identify excess or unreasonable costs. The audit report does not assert the District's rates are excessive or unreasonable, and could not since the audited differences are only a few percentage points.

...Section 12410 . . . is not specific to the audit of mandate reimbursement claims. The only applicable audit standard for mandate reimbursement claims is found in Government Code Section 17561(d)(2). The fact that Section 17561(d)(2) specifies its own audit standard . . . implies that the general Section 12410 . . . does not control here . . . Further, the audit report has not asserted or demonstrated that, if Section 12410 was the applicable standard, the audit adjustments were made in accordance with this standard. . . .

The audit report states generally that the audit was conducted in accordance with generally accepted government auditing standards. The audit report asserts that “the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.” To the contrary, the audit report does not explain how the District’s method is unreasonable, but instead merely substitutes the Controller’s policy preferences. Notwithstanding, the GAO audit guide utilized by the Controller specifically pertains to audits of federal funds . . . Further, the GAO audit guide has not been adopted pursuant to any state agency rulemaking nor is it included as a standard in the parameters and guidelines so the claimants could not be on legal notice of the audit guide requirements. . . .

SCO’s Comment

Capital Costs and Depreciation Expense

The SCO does not audit by “policy.” The SCO conducted its audit and reported audit adjustments in accordance with the program’s parameters and guidelines and the SCO’s claiming instructions. The audit report clearly identifies the criteria that support the audit adjustment.

The parameters and guidelines state, “Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions.” If the district believes that the parameters and guidelines are deficient, it should request that they be amended pursuant to Government Code section 17557, subdivision (d). However, any such amendment would not apply to this audit period.

For 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 P’s and G’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.

If the district believes that the SCO’s claiming instructions are deficient, it should request that the Commission review the claiming instructions pursuant to Title 2, *California Code of Regulations* (CCR), Section 1186. However, any such review would not apply to this audit period.

Classification of Indirect Costs

The district states:

The District’s classification of costs as either direct or indirect followed the CCFS-311 . . . Neither the audit report nor the claiming instructions state a basis for departing from the state mandated CCFS-311 classification of direct and indirect costs.

The CCFS-311 does not identify costs as direct or indirect for calculating indirect cost rates. Furthermore, the California Community Colleges Chancellor's Office (CCCCO) has not issued any guidance for indirect cost rate proposals. Title 2, CCR, Section 1185, subdivision (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 presented no evidence supporting its reference to "the state mandated CCFS-311 classification of direct and indirect costs."

Prior Year CCFS-311

The district states, "While the audit report is correct that 'there are no mandate-related authoritative criteria' supporting the District's method, there is also none that supports the Controller's insistence that the current year CCFS-311 report must be used." We concur with the District's admission that no mandate-related authoritative criteria support its indirect cost rate methodology. However, we disagree that none support the SCO's method. The parameters and guidelines state that indirect costs may be claimed in accordance with the SCO's claiming instructions. The claiming instructions, along with Government Code section 17560 and the parameters and guidelines, require the district to report actual costs. An indirect cost rate that is calculated from a prior year's costs does not represent actual costs of the current fiscal year.

The district states:

As a practical matter, the CCFS-311 for the current year is often not available at the time that the mandate reimbursement claims are due. Therefore, the District must determine the indirect cost rates based on the prior year CCFS-311. The audit report asserts that, due to deadlines for reporting found in state regulations, "[t]he district had the information on hand or could have obtained it from its external auditors before submitting its claims for reimbursement." This assertion has no basis in fact, and the Controller has provided no evidence that the annual CPA financial reports were actually completed and available to use prior to the deadline for filing each annual reimbursement claim.

We disagree. For FY 2003-04 through FY 2005-06, mandated program claims were due the SCO on January 15 of the subsequent fiscal year. FY 2006-07 claims were due the SCO on February 15, 2008. Title 5, CCR, section 58305, subdivision (d), states, "On or before the 10th day of October, each district shall submit a copy of its adopted annual financial and budget report to the Chancellor." The following table shows the dates that the district submitted its CCFS-311 reports to the CCCCCO:

Fiscal Year	Date CCFS-311 Report Submitted to CCCCCO
2003-04	February 7, 2005 ²
2004-05	October 17, 2005
2005-06	October 16, 2006
2006-07	October 15, 2007

² The district's FY 2003-04 CCFS-311 was dated, and thus available to the district, on October 28, 2004; however, the district failed to submit the report to the CCCCCO until February 7, 2005.

Title 5, CCR, Section 59106, requires the district to file its annual audit report with the CCCCCO “not later than December 31st.” The following table shows the dates of the district’s annual independent auditor’s reports:

<u>Fiscal Year</u>	<u>Date of Independent Auditor’s Report</u>
2004-05	December 5, 2005
2005-06	November 17, 2006
2006-07	December 21, 2007

The FY 2003-04 report was unavailable from the CCCCCO; however, the district did not provide evidence showing that the report was not available before the mandated program claim due date. The dates of the district’s CCFS-311 reports and independent auditor’s reports show that the district had current year information available to calculate indirect cost rates before the mandated program claim due dates.

The district states, “The Controller has not demonstrated that using the prior year CCFS-311 reports produces an indirect cost rate that is substantially different from that produced by current year data, or that it is somehow excessive or unreasonable.” It is not incumbent upon the SCO to demonstrate that prior year data “produces an indirect cost rate that is substantially different.” Instead, it is incumbent on the district to claim actual costs, based on indirect cost rates calculated using current year costs. Government Code section 17561, subdivision (d)(2)(B) states that the SCO may reduce any claim that it determines is excessive or unreasonable. “Reasonable” is defined as logical and equitable.³ As such, “unreasonable” equates to illogical and inequitable. Reasonable mandate-related indirect costs for the current year result from an indirect cost rate that is calculated using the district’s current year direct and indirect costs.

The district states:

The audit report asserts that the Controller’s use of the current year CCFS-311 is supported by the parameters and guidelines requirement to claim only *actual costs*. To the contrary, the parameters and guidelines do not specify any particular method of calculating indirect costs, nor do they require any particular source be used for the data used in the computation. The Controller’s claiming instructions are also silent as to whether the prior or current year CCFS-311 should be used in the FAM-29C methodology.

The parameters and guidelines, Section IV, Period of Reimbursement, states, “*Actual costs* [emphasis added] for one fiscal year should be included in each claim.” Contrary to the district’s comment, the parameters and guidelines *do* specify a particular method of calculating indirect costs. The parameters and guidelines specify that indirect costs “may be claimed in the manner described by the State Controller in his claiming instructions.” The claiming instructions identify a specific methodology to calculate indirect cost rates.

The district also states, “...the application of the indirect cost rate to program costs cannot be considered “actual costs” since the indirect cost rate is only a reasonable representation established pursuant to generally accepted accounting principles of operating costs not otherwise specific to program delivery. . . .” The district infers that *any* indirect cost rate applied to program costs cannot be considered “actual costs.” By extension, the district implies that it may claim indirect costs based

³ Dictionary.com unabridged, based on the Random House Dictionary, © Random House Inc., 2011.

on an indirect cost rate calculated in any manner that the district chooses. We disagree. Government Code section 17560 requires the district to “file an annual reimbursement claim that details the *costs actually incurred for that fiscal year* [emphasis added].” “Costs actually incurred” includes both direct and indirect costs. For indirect costs to be costs incurred “for that fiscal year,” the indirect cost rate must be calculated based on the district’s current year costs.

The district asserts that the composition of federally approved rates is somehow relevant in determining the validity of the SCO’s conclusions regarding indirect cost rates calculated in accordance with the SCO’s FAM-29C methodology. We disagree. Our conclusion is consistent with Government Code section 17560, which requires the district to claim costs actually incurred for the current fiscal year.

Parameters and Guidelines

The district states:

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.

We disagree. Government Code section 17564, subdivision (b), states “Claims for direct *and indirect costs* filed pursuant to Section 17561 shall be filed *in the manner prescribed in the parameters and guidelines* [emphasis added]. . . .” The parameters and guidelines are clear and unambiguous. They state, “Indirect costs may be claimed *in the manner described by the State Controller in his claiming instructions* [emphasis added].” The parameters and guidelines specifically identify the claiming instructions as authoritative criteria for indirect costs. The phrase “may be claimed” simply permits the district to claim indirect costs. However, if the district chooses to claim indirect costs, then the parameters and guidelines require that it comply with the SCO’s claiming instructions. If the district believes that the program’s parameters and guidelines are deficient, it should initiate a request to amend the parameters and guidelines pursuant to Government Code section 17557, subdivision (d). However, any such amendment would not apply to this audit period.

The district states that it “claimed these indirect costs ‘in the manner’ described by the Controller.” The district did *not* claim indirect costs in accordance with the SCO’s claiming instructions. For FY 2003-04, the district claimed indirect costs based on an indirect cost rate calculated using the principles of Title 2, *Code of Federal Regulations*, Part 220 (Office of Management and Budget Circular A-21). Contrary to the claiming instructions, the district did not obtain federal approval of this rate. For FY 2004-05, FY 2005-06, and FY 2006-07, the district calculated its indirect cost rates using the SCO’s FAM-29C methodology; however, the district did not allocate direct and indirect costs according to the claiming instructions.

The district states:

The Controller’s interpretation of Section VI of the parameters and guidelines would, in essence, subject claimants to underground rulemaking. . . The Controller’s claiming instructions are unilaterally created and modified without public notice or comment. . . .

We disagree. Title 2, CCR, Section 1186, allows districts to request that the Commission review the SCO’s claiming instructions. Section 1186, subdivisions (e) through (h), provides districts an opportunity for public comment during the review process. Neither this district nor any other district requested that the Commission review the SCO’s claiming instructions (i.e., the district failed to exercise its right for public comment). The district may not now request a review of the claiming instructions applicable to the audit period. Title 2, CCR, section 1186, subdivision (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 further states, "The Commission would violate the Administrative Procedure Act if it held that the Controller's claiming instructions are enforceable as standards or regulations." We disagree. The Commission adopted the parameters and guidelines pursuant to Government Code section 17557. The parameters and guidelines specifically reference the SCO's claiming instructions for claiming indirect costs. Government Code section 17527, subdivision (g) states that in carrying out its duties and responsibilities, the Commission shall have the following powers:

(g) To adopt, promulgate, amend, and rescind rules and regulations, *which shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act* [emphasis added]

The district also references the Foreword section to the SCO's claiming instructions (**Exhibit E**); however, the district quotes the Foreword section out of context. The Foreword section actually states:

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* [emphasis added], these instructions should not be construed in any manner to be statutes, regulations, or standards.

The parameters and guidelines state that claimants may claim indirect costs in accordance with the SCO's claiming instructions. Therefore, the Foreword section does not conflict with our conclusion that the SCO's claiming instructions are authoritative in this instance.

The district states:

...the Controller's policy "chooses" to require use of the current year CCFS-311 for the FAM-29C, then "chooses" to deviate from the CCFS-311 in the matter of the classification of indirect costs, and then "chooses" to exclude capital costs one year and depreciation costs in another The audit report does not explain why claimants should not be allowed to calculate indirect cost rates using any reasonable accounting method . . . the audit report provides no support for this recommendation that only [the FAM-29C] method should be used.

As previously stated, the SCO does not audit by "policy." The current year CCFS-311 is required for the FAM-29C pursuant to Government Code section 17560, which requires the district to report costs actually incurred for the current fiscal year. The district alleges that the SCO "deviated" from some unknown authoritative criteria in allocating direct and indirect costs; however, the district failed to specify the deviations and identify any authoritative criteria. The district references a modification to the claiming instructions; however, this is irrelevant to the validity of the SCO's audit adjustment. The SCO identified audit adjustments based on the criteria within the parameters and guidelines and the SCO's claiming instructions applicable to each fiscal year. The district cannot ignore the claiming instructions simply because it does not agree with the indirect cost rate methodology established.

It is not incumbent upon the SCO to explain in an audit report why other perceived methods for calculating indirect cost rates "should not be allowed." The simple fact is that the existing authoritative criteria require the district to claim indirect costs in accordance with the SCO's FAM-29C methodology. If the district believes that some alternative method is appropriate, it should request that the Commission review the SCO's claiming instructions and/or amend the parameters and guidelines.

Our audit report clearly identifies the criteria for the audit finding recommendation. The parameters and guidelines require districts to claim indirect costs in accordance with the SCO's claiming instructions. For FY 2004-05 forward, the claiming instructions specify that Health Fee Elimination Program claimants must claim indirect costs using the SCO's FAM-29C methodology to calculate indirect cost rates.

Legal Standard: Excessive or Unreasonable

The district believes that statutory language requiring districts to report actual mandate-related costs is somehow "not relevant" to indirect cost calculations. We disagree, for the reasons previously expressed above in the section titled "Prior Year CCFS-311."

The district paraphrases Government Code section 17561, subdivision (d)(2) by identifying language from only subdivision (d)(2)(B). However, subdivision (d)(2)(A)(i) states that the SCO may audit the "records of any local agency or school district *to verify the actual amount of the mandated costs* [emphasis added]." Thus, the SCO's audit authority is not limited to simply identifying excessive or unreasonable costs. In any case, the SCO's audit adjustment does equate to identifying excessive claimed costs. Excessive is defined as "Exceeding what is usual, *proper, necessary* [emphasis added] or normal."⁴ The district claimed excessive costs because its indirect cost rates exceeded the proper amount based on the audited indirect cost rates that the SCO calculated according to the claiming instructions.

The district continues by stating, "The audit report does not assert the District's rates are excessive or unreasonable, *and could not since the audited differences are only a few percentage points* [emphasis added]." The district has no authoritative standing to determine whether rate differences are excessive or unreasonable. Government Code section 17561, subdivision (d)(2)(B) states, "The Controller may reduce any claim that the Controller determines is excessive or unreasonable." Further, that authority is not limited to an evaluation of the difference between claimed and audited *rates*; it includes an evaluation of the difference between claimed and audited *costs*.

The district believes that Government Code section 12410 is somehow not applicable to mandated cost reimbursement claims. We disagree. The section states:

The Controller shall superintend the fiscal concerns of the state. 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 added]. . . .

The district provided no evidence showing that this authority does not extend to mandated program reimbursement claims. We did conclude that the district's claims were neither correct nor legal. Correct is defined as "Conforming to an approved or conventional standard."⁵ Legal is defined as "Conforming to or permitted by law or established rules."⁶ The district claimed indirect cost rates that did not conform to its federal approval for FY 2002-03 and FY 2003-04, and to the SCO's claiming instructions for FY 2004-05, FY 2005-06, and FY 2006-07.

The district states:

The audit report states generally that the audit was conducted in accordance with generally accepted government auditing standards. The audit report asserts that "the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives." To the contrary, the audit report does not explain how the District's method is unreasonable, but instead merely substitutes the Controller's policy preferences.

⁴ Merriam-Webster's Collegiate Dictionary, Tenth Edition © 2001.

⁵ Ibid.

⁶ Ibid.

As previously stated, the SCO does not audit to “policy preferences.” The audit report clearly states that the district did not apply its FY 2002-03 and FY 2003-04 indirect cost rates in accordance with its federal approval. In addition, the district did not calculate its FY 2004-05, FY 2005-06, and FY 2006-07 indirect cost rates in accordance with the parameters and guidelines and the SCO’s claiming instructions.

The district also contests the applicability of generally accepted government auditing standards (GAGAS) (*Government Auditing Standards*, issued by the U.S. Government Accountability Office (GAO), July 2007). The district states, “. . . the GAO auditing guide utilized by the Controller specifically pertains to audits of federal funds. . . .” The district failed to cite language from *Government Auditing Standards* that supports its assertion. *Government Auditing Standards*, section 1.03, “Purpose and Applicability of GAGAS,” states:

The professional standards and guidance contained in this document . . . provide a framework for conducting high quality government audits and attestation engagements with competence, integrity, objectivity, and independence. *These standards are for use by auditors of government entities* [emphasis added]. . . .”

The district states, “. . . the GAO audit guide has not been adopted pursuant to any state agency rulemaking nor is it included as a standard in the parameters and guidelines so the claimants could not be on legal notice of the audit guide requirements.” *Government Auditing Standards* provides a framework with which to conduct audits. Its “requirements” are applicable to auditors, not claimants; therefore, state agency rulemaking is irrelevant. The audit standards have no bearing on how claimants perform mandate-related activities or submit reimbursement claims.

III. DISTRICT UNDERSTATED AUTHORIZED HEALTH SERVICE FEES

Issue

For the audit period, the district understated authorized health service fees by \$699,317. The district believes that it is required to report only actual health service fees received.

SCO Analysis:

Statutory provisions and the parameters and guidelines require districts to deduct authorized health fees from costs claimed. For the period of July 1, 2003, through December 31, 2005, Education Code section 76355, subdivision (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 January 1, 2006, only Education Code section 76355, subdivisions (c)(1) and (2) are applicable. The following table summarizes the authorized fee per student:

Fiscal Year	Authorized Health Fee Rate	
	Fall and Spring Semesters	Summer Session
2003-04	\$12	\$9
2004-05	\$13	\$10
2005-06	\$14	\$11
2006-07	\$15	\$12

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 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.

District's Response

The audit report concludes that the District understated offsetting revenue by \$699,317 for the audit period for two reasons. First, because the District only offset student health service fees that were actually collected, rather than those that were merely authorized [footnote excluded]. Second, because the District did not include student health service fees collectible from students enrolled at the Compton Community Educational Center (Compton Center) for FY 2006-07. . . .

STUDENT HEALTH SERVICE FEES COLLECTIBLE

This adjustment is due to the fact that the District reported actual student health service fees that it collected rather than "authorized" student health service fees that could have been collected. . . .

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 . . ." (emphasis added) 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). . . .

. . . the State Chancellor's office merely informs . . . that the Implicit Price Deflator has increased and that the districts may increase their student health service fee if the district so chooses . . . 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. No state agency was granted that authority by the Education Code, and no state agency has exercised rulemaking authority to establish mandatory fee amounts. . . .

The Controller is somehow extrapolating the authorized rate as the legal basis for requiring the collection of the fee and reporting of the total fees collectible on the annual claims as an offset to program costs. The audit report does not provide a statutory basis for the reporting of total collectible fees. The authority to levy a fee is not a mandate to report total collectible fees as an offset to program costs. There has been no rulemaking or compliance with the Administrative Procedure Act by an "authorizing" state agency.

Claiming Instructions

The audit report asserts that "[t]he district failed to follow specific SCO claiming instructions" . . . the Controller's claiming instructions are not enforceable because they are unilaterally adopted by the Controller and do not comply with the Administrative Procedures Act . Therefore, they cannot be the basis of an audit finding. The District complied with the parameters and guidelines for the Health Fee Elimination mandate when it properly reported revenue actually received from student health service fees.

Parameters and Guidelines

The audit report states that "[t]he district incorrectly interprets the parameters and guidelines requirement regarding authorized health service fees." 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. This shall include the amount of [student fees] as authorized by Education Code Section 72246(a) [footnote excluded].

In order for the district to “experience” these “offsetting savings” the district must actually have collected these fees. Student fees actually collected must be used to offset costs, but not student 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. . . .

The audit report claims 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 Controller considers it significant that no district objected (by allowing adoption of the parameters and guidelines on consent) to the proposed Department of Finance language and Chancellor’s concurrence.

The fact that the Commission *staff* and the California Community College Chancellors Office *staff* may have at one time in the process agreed with the Department of Finance’s interpretation does not negate the fact that the Commission adopted parameters and guidelines that *did not* include the additional language. 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.

Government Code Section 17514

The audit report 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 authority to charge a fee, any nexus of fee revenue to increased costs, nor any language which describes the legal effect of fees collected. The audit report states that “[t]he district ignores the direct correlation that if it has authority to collect fees to collect fees [*sic*] attributable to health service expenses, then is [*sic*] not required to *incur* a cost.” This again ignores the fact that Section 76355 makes charging a fee discretionary, and that fees are revenues and not avoided increased costs.

Government Code Section 17556

. . . The audit report continues to rely upon an incorrect interpretation of Education Code Section 17556(d) [*sic*], 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 subsequent 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 the audit report 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 Health Fee Elimination mandate, decided by the Commission, found that the fee authority is not sufficient to fully fund the mandate. Thus, *County of Fresno* is not applicable because the subject matter 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. The court 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).

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. . . .

COMPTON CENTER

The audit report asserts that health services fee revenues were understated by \$84,135 for FY 2006-07 because the district excluded Compton Center students from the calculation of the authorized health service fees collectible. This statement is factually inaccurate because the District claimed fees actually collected, and did not calculate "authorized" fees for this annual reimbursement claim. Further, the District does not have the authority to charge these students a health service fee . . . The plain language of Education Code Section 76355(a)(1) states that community college districts may charge a fee in the amounts specified "*for health supervision and services*" (emphasis added). No health services are provided to Compton Center students. Therefore, the District cannot collect a fee *for health supervision or services*.

Chapter 50, Statutes of 2006 (AB 316)-Enabling Legislation-Exhibit G

The audit report asserts that the Compton Center students are students of El Camino Community College District . . . and "[t]herefore they are subject to the same fees as other El Camino CCD students." The audit report further states that "[I]t is irrelevant [whether or not?] that the Compton CCD provided a student health service program in FY 1986-87 or provides one currently, or that the Compton CCD governing board, which had its authority suspended by the same law, required a health fee." However, this assertion neglects the legislative intent and purpose behind the partnership between El Camino CCD and Compton CCD, as described in the enabling legislation. This partnership . . . is a temporary measure intended to provide uninterrupted education to current Compton CCD students. . . .

. . . Compton CCD was not operating a health services program at the time AB 318 was passed, and therefore the students could not have been in danger of losing access to one. The stated intent of the legislature was to provide continuation of education and services to these students, not to mandate the provision of new services by the El Camino CCD as the partner district.

The legislature also outlined, in Section 2(a) of AB 318, the support services it expected to be supplied by the partner district . . . There was no mention of health or similar services.

The audit report primarily relies on Education Code Section 74292(j)(2) . . . for the proposition that Compton Center students are "considered" students of El Camino CCD. A reasonable interpretation of subsection (j)(2) is that it too was an expression of the intent stated in AB 318 to maintain the availability [of] educational opportunities and financial aid and not to provide them additional services available at the partner district. . . .

Memorandum of Understanding-Exhibit "H"

The audit report relies on the Memorandum of Understanding (MOU) . . . for the proposition that the District has agreed to provide Compton Center students with ". . . related student support services." It then concludes . . . that the El Camino College health center is included in "related student support services." However, this conclusion is contrary to the enabling legislation . . . There is no evidence that AB 318 was intended to do anything but preserve the educational opportunities and support services already available for Compton CCD students . . . No health services were available at Compton CCD, and thus the phrase "related student support services" in the MOU cannot include student health services.

Finally, the audit report concludes that under the MOU entered into on July 1, 2008 . . . “the El Camino CCD is required to collect health fees. The health fees can be used only to offset health services costs . . . As the health center is located at El Camino Campus, the fees would go to El Camino CCD. . . .” This would be in direct violation of the MOU, which requires that all fees collected from Compton Center students must be used solely for their benefit. . . .

Chancellor’s Student Fee Handbook-Exhibit “I”

The audit report relies on the Chancellor’s October 31, 2006, Student Fee Handbook (Legal Opinion M 06-11) to support its assertion that the District has the authority to charge a student health services fee to Compton Center students. The Chancellor’s legal opinion is not binding on community college districts or the Commission . . . The Chancellor’s legal opinion may be considered, but it should be given little weight because it does not provide a legal basis for the conclusion in question and the passage relied upon by the Controller appears contrary to the plain language of the statute.

Compton Center Student Handbook and Planner-Exhibit “J”

The Compton Student Handbook states that the student health service fee is optional . . . There is nothing in the Compton handbook that transforms Compton CCD students into El Camino students for purposes of the student health service fee collection.

Generally Accepted Accounting Principles

The audit report states that “[g]enerally accepted accounting principles are not controlling criteria in identifying authorized health fee revenues attributable to the Health Fee Elimination mandated program.” This does not address the issue raised in the response to the draft report that it is inappropriate for the Controller to offset revenues never collected to costs never incurred.

SCO’s Comment

Student Health Services Fees Collectible

The district infers that the audit report identifies authorized student health service fees “that could have been collected.” We disagree; the audit report identifies, and the district is required to deduct, authorized student health service fees from mandate-related costs. The *collection* of authorized health service fees is irrelevant. The district also opines that the audit report’s finding and recommendation regarding the CCCCCO enrollment data, students to be charged, and the amounts to charge students are “not relevant.” We disagree. The CCCCCO enrollment data (which, in fact, is the *district’s* data that it submitted to the CCCCCO) is directly relevant in calculating the number of students subject to the authorized health service fee. The audit report does not identify “students to be charged” or “the amounts to charge students,” because the district may choose to charge any student any amount that it wishes. Instead, the audit report identifies the students that the district is *authorized* to charge and the fee amount that the district is *authorized* to charge those students.

Education Code Section 76355

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 specifies that mandated costs are increased costs that the district is *required* to incur. If the district voluntarily excludes students from the authorized fee or charges students a fee that is less than the authorized amount, it does incur increased costs. However, the district was not required to incur those costs, because it voluntarily charged less than the total authorized by statute. Therefore, those increased costs fail to meet the definition of mandated costs.

We agree that the CCCCCO informs districts of the current health services fee amount authorized by statute. Our report does not state or imply that any fee amount or fee increase is mandatory. Therefore, discussions of state agency authority, rulemaking, and the Administrative Procedure Act are irrelevant.

The district states, "The authority to levy a fee is not a mandate to report total collectible fees as an offset to program costs." We disagree. As a side note, the term "collectible fees" as presented is erroneous and therefore irrelevant; it does not equate to authorized fees. For the Health Fee Elimination Program, the relevant increased costs are those costs that the district incurs to provide the same health services that the district provided in FY 1986-87. However, the *mandated* costs are those increased costs that the district is *required* to incur. To the extent that the district has statutory authority to assess health services fees, it is not required to incur any increased costs from providing health services. For mandated cost claims, it is irrelevant whether the district fails to assess or collect the authorized fees.

Claiming Instructions

The district quotes an SCO comment that responded to a statement in the district's response to the draft audit report. The SCO comment simply discloses that the district did not prepare its claims in accordance with the claiming instructions. The finding itself does not identify the claiming instructions as the "basis" of the audit finding. Therefore, the district's assertion that the SCO's claiming instructions are "unenforceable" is irrelevant to the audit issue. However, the district also asserts that it complied with the parameters and guidelines. We disagree; we discuss the parameters and guidelines in the following section.

Parameters and Guidelines

We disagree with the district's interpretation of the parameters and guidelines' requirement regarding authorized health service fees. The Commission clearly recognized the *availability* of another funding source by including the fees as offsetting savings in the parameters and guidelines. The Commission's staff analysis of May 25, 1989 (Tab 5), states the following regarding the proposed parameters and guidelines amendments that the Commission 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 [emphasis added].

Thus, it is clear that the Commission intended 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. It appears that the district attempts to minimize the relevance of the CCCCCO's concurrence by incorrectly stating that CCCCCO "staff" concurred. The CCCCCO's letter (Tab 5) was signed by the Chancellor of the California Community Colleges. In addition, the Commission staff's and CCCCCO's concurrence with the Department of Finance's position did not occur "at one time in the process." The Commission staff concurred in its

final staff analysis presented when the Commission amended the parameters and guidelines on May 25, 1989 (Tab 5). Similarly, the CCCCCO's concurrence is its final position of record, as incorporated in the proposed parameters and guidelines amendments presented to the Commission on May 25, 1989 (Tab 5).

The district concludes that the Commission "declined" to add the sentence proposed by the DOF. We disagree. The Commission did not revise the proposed parameters and guidelines amendments further, because the Commission's staff concluded that DOF's proposed language did not substantively change the scope of staff's proposed language. The Commission, DOF, and CCCCCO all agreed with the intent to offset authorized health service fees. As noted above, the Commission staff analysis *agreed* with the DOF proposed language. Commission staff concluded that it was unnecessary to revise the proposed parameters and guidelines, as the proposed language did "not substantively change the scope of Item VIII." The Commission's meeting minutes of May 25, 1989 (Tab 6), show that the Commission adopted the proposed parameters and guidelines on consent (i.e., the Commission concurred with its staff's analysis). The Health Fee Elimination Program amended parameters and guidelines were Item 6 on the meeting agenda. The meeting minutes state, "There being no discussion or appearances on Items 2, 3, 4, 5, 6, 7, 10, and 12, Member Buenrostro *moved adoption of the staff recommendation on these items* [emphasis added] on the consent calendar . . . The motion carried." Therefore, no community college districts objected and there was no change to the Commission's interpretation regarding authorized health service fees.

Government Code Section 17514

We disagree with the district's interpretation of Government Code section 17514 and its interrelation with Education Code section 76355. For the Health Fee Elimination Program, the relevant increased costs are those costs that the district incurs to provide the same health services that it provided in FY 1986-87. However, pursuant to Government Code section 17514, the *mandated* costs are those increased costs that the district is *required* to incur. To the extent that the district has statutory authority to assess health services fees, as provided by Education Code section 76355, it is not required to incur any increased costs from providing health services. The discretionary nature of the health services fees is irrelevant to the simple fact that because those fees are authorized and available, the district is not *required* to incur increased costs for the Health Fee Elimination Program.

Government Code Section 17556

The district's response erroneously refers to "Education Code Section 17556," rather than Government Code section 17556. The district believes that Government Code section 17556, subdivision (d), applies only when the fee authority is sufficient to offset the "entire" mandated costs. We disagree. The Commission recognized that the Health Fee Elimination Program's costs are not uniform among 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" costs of other districts. Education Code section 76355 (formerly section 72246) established a uniform health service fee assessment for students statewide. Therefore, the Commission adopted parameters and guidelines that clearly recognize an available funding source by identifying the health service fees as offsetting reimbursements. The SCO did not "substitute its judgment for that of the Commission through the audit process." To the extent that districts have authority to charge a fee, they are not required to incur a mandated cost, as defined by Government Code section 17514. We agree that the Commission found state-mandated costs for this program through the test claim process; however, the state-mandated costs found are those that are not otherwise reimbursable by authorized fees or other offsetting savings and reimbursements.

The district believes that the audit report's reliance on two court cases is "misplaced." We disagree. *County of Fresno v. State of California* (1991) 53 Cal. 3d 482 (which is also referenced by *Connell v. Santa Margarita Water District* (1997) 59 Cal. App. 4th 382) states, in part:

Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments... Specifically, it was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues. Thus, although its language broadly declares that the "state shall provide a subvention of funds to Reimburse . . . local government for the costs [of a state-mandated new] program or higher level of service," read in its textual and historical context section 6 of article XIII B requires subvention only when the costs in question can be recovered solely from tax revenues.

In view of the foregoing analysis, the question of the facial constitutionality of section 17556(d) under article XIII B, section 6, can be readily resolved. As noted, the statute provides that "The commission shall not find costs mandated by the state ... if, after a hearing, the commission finds that" the local government "has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service." *Considered within its context, the section effectively construes the term "costs" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes [emphasis added].* Such a construction is altogether sound. As the discussion makes clear, *the Constitution requires reimbursement only for those expenses that are recoverable solely from taxes [emphasis added]. . . .*

Thus, mandated costs exclude expenses that are recoverable from sources other than taxes—in this case, the authority to assess health service fees.

Compton Center

We disagree that the report is "factually inaccurate." The report correctly states that the district understated *authorized* health service fees by \$699,317 during the audit period. This includes the \$84,135 attributable to Compton Center students.

The district states that it "does not have the authority to charge these students a health services fee. . . ." The district's comment conflicts with its own actions. The district clearly recognizes, and is currently exercising, its statutory authority to collect the authorized student health services fee from Compton Center students, while still operating under the terms of AB 318. The district's Web site, as of March 24, 2011 (**Tab 7**), identifies the fees applicable to the district's Spring 2011 term. Regarding health fees, it states: "*All students enrolled in classes held on campus, either at El Camino College or Compton Center, are required to pay the health fee [emphasis added].*"

Education Code section 76355, subdivision (a)(1), actually states that the district may charge students a fee "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 district infers that Compton Center students are somehow a separate group of students for health fee purposes. They are not separate. Education Code section 74292, subdivision (j)(2), expressly states that Compton Center students "shall be considered students of the partner district;" in this case, El Camino Community College District (El Camino CCD).

Chapter 50, Statutes of 2006 (AB 318)

The legislative intent for uninterrupted education is commendable; however, it is irrelevant to El Camino CCD's authority to charge all students a health services fee. All comments related to Compton Community College District (Compton CCD) are irrelevant, because the Compton Center students were El Camino CCD students during FY 2006-07. It is irrelevant that Compton CCD was not operating a health center before AB 318 was effective. Contrary to the district's comment, including former Compton CCD students in the calculation of authorized health service fees does *not* "mandate the provision of new services" by El Camino CCD, because El Camino CCD previously provided health services.

Chapter 50, Statutes of 2006, Section 2(a), merely summarizes one part of the Legislature's findings and declarations; its contents are not part of the Education Code. Therefore, the district cannot presume that the Legislature's intent was to exclude health services simply because this particular section did not mention "health or similar services." The Education Code sections that Chapter 50, Statutes of 2006, added or amended do not specifically exclude Compton Center students from health service fees authorized by Education Code section 76355.

Regarding Education Code section 74292, subdivision (j)(2), the district alleges that a "reasonable interpretation" is that the section is an expression of legislative intent to "maintain the availability [of] educational opportunities and financial aid." We disagree. Education Code section 74292, subdivision (j)(2) is not "an expression of legislative intent" and a "reasonable interpretation" is not required. The statutory language specifically states that Compton Center students shall be considered students of the partner district (El Camino CCD).

The district also states that Education Code section 74292, subdivision (j)(2) "requires that Compton Center students are able to receive credit for their completed coursework *at El Camino CCD . . . and receive financial assistance channeled through El Camino CCD* [emphasis added]." We disagree; Chapter 50, Statutes of 2006, does not reference El Camino CCD at all; instead, the legislation includes only a generic reference to the "partner district." If the district wishes to speculate on "reasonable interpretations," a reasonable interpretation in this case might be that the legislation did not specifically mention health services because the "partner district" was not identified at the time that the legislation was chaptered. In any case, a reasonable interpretation is not required. The plain, unambiguous statutory language states, "Students enrolling in classes provided by the partner district pursuant to this section *shall be considered students of the partner district* [emphasis added]." Chapter 50, Statutes of 2006, did not exclude Compton Center students from receiving health services through El Camino CCD. Therefore, Education Code section 76355 authorizes El Camino CCD to charge those students a health services fee.

Memorandum of Understanding (MOU)—August 24, 2006

We disagree with the district's interpretation of the MOU. The district states that the phrase "related student support services" cannot include student health services. The district provided no evidence to support its assertion, other than its interpretation of legislative intent. In fact, the opposite must be true. Education Code section 74292, subdivision (j)(2) expressly states that Compton Center students "shall be considered students of the partner district;" in this case, El Camino CCD. Education Code section 76355, subdivision (d)(2), states that authorized health fee expenditures "shall not include . . . any other expense that is not available *to all students* [emphasis added]." Therefore, to file a valid Health Fee Elimination Program mandated cost claim, El Camino CCD must provide health services to Compton Center students.

Memorandum of Understanding—July 1, 2008

We agree that the audit report incorrectly states that El Camino CCD is “required” to collect health fees; the correct statement is that El Camino CCD is “authorized” to collect health fees. However, we disagree that the MOU (Tab 8) “has no conclusive effect on this issue.” While the district executed the MOU subsequent to FY 2006-07, it executed the MOU pursuant to the same statutory provisions that existed for FY 2006-07. In this MOU, the district specifically recognized its authority to charge Compton Center students a health services fee. It is clear that the same authority existed for FY 2006-07.

We also disagree that collecting health fees from Compton Center students in any way violates the MOU. The MOU, section 11, subdivision (A), specifically states:

11. As authorized by the Education Code, El Camino *shall* collect fees as follows:

- A. Non-resident tuition fees, material fees, *health fees . . . which shall be set by El Camino upon the recommendation of Compton* [emphasis added].

If the district collected health service fees from Compton Center students, as it was authorized to do, those fees would be used for the benefit of Compton Center students by providing those students access to health services.

Chancellor’s Student Fee Handbook—Legal Opinion M 06-11

The district believes that it is somehow relevant that it does not provide health services at Compton Center’s physical location. In response, we referenced the CCCCCO’s legal opinion. The legal opinion concludes that the students’ physical proximity to the district’s health services is irrelevant to the district’s authority to assess a health services fee. It cites the plain, unambiguous language of Education Code section 76355, which authorizes the district to collect a health services fee from all students, except those specifically excluded by subdivision (c). There is no exclusion that addresses a student’s physical proximity to the district’s health services.

The district asserts that the CCCCCO’s legal opinion “should be given little weight.” We disagree. “The standard for judicial review of an agency interpretation of law is the independent judgment of the court, *giving deference to the determination of the agency* [emphasis added] appropriate to the circumstances of the agency action.”⁷ Therefore, the district cannot simply discount the CCCCCO’s legal opinion. Further, the district overlooks the settled rules of statutory interpretation:

In exercising our independent judgment, we rely upon settled rules of statutory construction. “Statutes are to be interpreted in accordance with their apparent purpose. . . .” (*Kaiser Foundation Health Plan, Inc. v. Lifeguard, Inc.* (1993) 18 Cal.App.4th 1753, 1762.) First and foremost, we look for that purpose in the actual language of the statute. (*Mercer v. Department of Motor Vehicles* (1991) 53 Cal.3d 753, 763.) If the meaning is without ambiguity, doubt, or uncertainty, then the language controls. (*Security Pacific National Bank v. Wozab* (1990) 51 Cal.3d 991, 998). . . .⁸

⁷ *Santa Clara Valley Transportation Authority v. Rea* (American Federation of State, County, and Municipal Employees) (2006) 140 Cal.App.4th 1303, 1314.

⁸ *In re Marriage of Campbell* (2006) 136 Cal.App.4th 502, 506.

The CCCCCO's legal opinion is an affirmation of statutory language that is without ambiguity, doubt, or uncertainty. Education Code section 76355 states:

76355. (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.
- (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).
- (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. . . .⁹

Education Code section 76355 does not state or imply that a student health center must be in proximity to all students enrolled in the district. In addition, it does not exempt any students from the fee other than those specified in subdivisions (c)(1) and (c)(2) (and subdivision (c)(3) for the period July 1, 2003, through December 31, 2005).

Compton Center Student Handbook and Planner

The simple fact that the Compton Center handbook identifies the health services fee as an optional charge infers that the district acknowledges its authority to charge Compton Center students the health services fee. The fact that the district designated the fee as optional is irrelevant; the district had statutory *authority* to charge students the health services fee. It is also irrelevant that the Compton Center handbook includes nothing "that transforms Compton CCD students into El Camino students for purposes of the student health services fee collection." The Compton Center handbook is not authoritative criteria in that respect. Education Code section 74292, subdivision (j)(2) expressly states that Compton Center students "shall be considered students of the partner district;" in this case, El Camino CCD. Education Code section 76355 authorizes El Camino CCD to charge all students a health services fee, except those specifically excluded by subdivision (c). To submit a valid Health Fee Elimination Program mandated cost claim, Education Code section 76355, subdivision (d)(2) requires El Camino CCD to make health services available to all students (which includes Compton Center students).

⁹ Education Code section 76355, subdivision (c)(3) was applicable for the period July 1, 2003, through December 31, 2005. Subdivision (c)(3) stated, "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."

Generally Accepted Accounting Principles

The district references "matching principles" for revenues and expenses under generally accepted accounting principles. This is irrelevant to the calculation of authorized health services fees applicable to Health Fee Elimination Program mandated cost claims. As discussed previously, the district is authorized to collect the health services fee from all students, except those specifically excluded by statutory provisions. Therefore, the district must deduct the authorized fee amount from its mandated cost claims.

IV. AMOUNTS PAID BY THE STATE

Issue

For each fiscal year, the audit report identifies the amount previously paid by the State. The district believes that the reported amount paid is incorrect for FY 2006-07.

SCO Analysis:

Our final audit report indicated that the State had paid the district \$108,137 for FY 2006-07.

District's Response

. . . The payment received from the state is an integral part of the calculation of amounts due the claimant or state as a result of the audit. The audit changed the amounts paid for some of the annual claims without a finding in the audit report. . . .

SCO's Comment

The payment information identified in the audit report (**Exhibit D**) is incorrect. The amount paid by the State for FY 2006-07 is \$161,112, as reflected in summary section of this Incorrect Reduction Claim. However, the payment amount has no effect on the Commission's adjudication of the audit adjustments.

V. STATUTE OF LIMITATIONS

Issue

Our audit scope included FY 2003-04 through FY 2006-07. The district believes that FY 2003-04 was not subject to audit at the time that the SCO initiated its audit.

SCO Analysis:

The district submitted its FY 2003-04 claim on January 7, 2005. Government Code section 17558.5, subdivision (a), 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]. . . .

As of April 12, 2011, the district had not received a payment on its FY 2003-04 claim. Therefore, the time for the SCO to initiate an audit had not commenced to run as of September 11, 2008, the date on which the SCO initiated the audit.

District's Response

Statute of Limitations

. . . The District alleges that the audit commenced after the time limitation for audit of the FY 2003-04 annual claim had passed. The District's FY 2003-04 claim was mailed to the Controller on January 7, 2005. . . . The entrance conference date for this audit was September 11, 2008, which is after the three-year period (January 7, 2008) to commence the audit had expired. . . . The audit report asserts that initiation of the audit was otherwise timely because there had been no payment for the FY 2003-04 annual claim. (The audit report indicates a payment of \$736, but does not indicate when it was paid.) However, the clause in Government Code Section 17558.5 that delays the commencement of the time for the Controller to audit to the date of initial payment is void because it is impermissibly vague.

Applicable Time Limitation for Audit

Prior to January 1, 1994, no statute specifically 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:

- (a) 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 four 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.

Thus, there are two standards. A funded claim is "subject to audit" for four years after the end of the calendar year in which the claim was filed. An unfunded claim must have its audit initiated within four years of first payment.

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

- (a) 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.

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

- (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 ~~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.

The amendment is pertinent because this is the first time that the factual issue of the date the audit is "initiated" is introduced for mandate programs for which funds are appropriated. This amendment also means that it is impossible for the claimant to know when the statute of limitations will expire at the time the claim is filed, which is contrary to the purpose of a statute of limitations. It allows the Controller's own unilateral delay, or failure to make payments from funds appropriated for the purpose of paying the claims, to control the tolling of the statute of limitations, which is also contrary to the purpose of a statute of limitations.

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

- (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. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

The annual reimbursement claim for FY 2003-04 is subject to this version of Section 17558.5, which retains the same limitations period as the prior version, but also adds the requirement that an audit must be completed within two years of its commencement.

Vagueness

The version of Section 17558.5 applicable to the FY 2003-04 annual reimbursement claim provides that the time limitation for audit "shall commence to run from the date of initial payment" if no payment is made. However, this provision is void because it is impermissibly vague. At the time a claim is filed, the claimant has no way of knowing when payment will be made or how long the records applicable to that claim must be maintained. The current backlog in mandate payments, which continues to grow every year, could potentially require claimants to maintain detailed supporting documentation for decades. Additionally, it is possible for the Controller to unilaterally extend the audit period by withholding payment or directing appropriated funds only to those claims that have already been audited.

Therefore, the only specific and enforceable time limitation to commence an audit is three years from the date the claim was filed, and the annual reimbursement claim for FY 2003-04 was past this time period when the audit was commenced on September 11, 2008. . . .

SCO's Comment

The district discusses statutory language effective prior to January 1, 2005; however, that language is irrelevant to the claims that are the subject of this Incorrect Reduction Claim.

Regarding relevant statutory language, the district states, "...the clause in Government Code Section 17558.5 that delays the commencement of the time for the Controller to audit to the date of initial payment is void because it is impermissibly vague." We disagree. The district has no authority to adjudicate statutory language. The district provided no evidence to validate its assertion, as required by Title 2, CCR, section 1185. The SCO initiated its audit within the period allowed by Government Code section 17558.5, subdivision (a).

The district also states, "At the time a claim is filed, the claimant has no way of knowing when payment will be made or how long the records applicable to that claim must be maintained. . . ." This is irrelevant to the SCO's statutory time to initiate an audit of the district's claims. If the district believes that current statutory language is unreasonable, it should pursue revisions through its elected representatives.

The district also states, "...it is possible for the Controller to unilaterally extend the audit period by withholding payment or directing appropriated funds only to those claims that have already been audited." The district's allegation contradicts statutory language. Government Code section 17567 prohibits the SCO from directing funds to selected claims. It states:

In the event that the amount appropriated for reimbursement purposes pursuant to Section 17561 is not sufficient to pay all of the claims approved by the Controller, *the Controller shall prorate claims in proportion to the dollar amount of approved claims timely filed and on hand at the time of proration* [emphasis added]. . . .

In addition, Government Code section 17561, subdivision (d), prohibits the SCO from delaying payment. It states:

The Controller shall pay any eligible claim pursuant to this section by October 15 or 60 days after the date the appropriation for the claim is effective, whichever is later. . . .

By parenthetical note, the district states "The audit report indicates a payment of \$736. . . ." The district is incorrect. The audit report (**Exhibit D**) indicates that the district received no payment for FY 2003-04.

VI. CONCLUSION

The State Controller's Office audited El Camino 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, 2003, through June 30, 2007. The district claimed unallowable costs totaling \$674,212. The costs are unallowable because the district overstated its indirect cost rates, understated authorized health service fees, and overstated offsetting savings/reimbursements.

In conclusion, the Commission should find that: (1) The SCO initiated its audit of the district's FY 2003-04 claim within the period permitted by Government Code section 17558.5, subdivision (a); (2) the SCO correctly reduced the district's FY 2003-04 claim by \$216,108; (3) the SCO correctly reduced the district's FY 2004-05 claim by \$173,725; (4) the SCO correctly reduced the district's FY 2005-06 claim by \$176,242; and (5) the SCO correctly reduced the district's FY 2006-07 claim by \$108,137.

VII. 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 December 2, 2014, at Sacramento, California, by:



Jim L. Sprio, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office

Tab 3

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 Parameters and Guidelines 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 Parameters and Guidelines 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 Parameters and Guidelines 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 Parameters and Guidelines 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 miles 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 community 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.

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 community 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						
Student 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	72,465	962,756
Custodial Services	6530	1,227,668	33,677	1,193,991	83,579	1,110,412
Grounds Maintenance and Repairs	6550	596,257	70,807	525,450	36,782	488,668
Utilities	6570	1,236,305	0	1,236,305	86,541	1,149,764
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	\$1,397,917	\$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 and Economic Development	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 and Co-curricular 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						
Contract Education	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	\$1,397,917	\$30,212,067	
(06) Indirect Cost Rate: (Total Indirect Cost/Total Direct Cost)				4.63%			
(07) Notes							
(a) Mandated Cost activities designated as direct costs per claim instructions.							
(b) 7% of Operation and Maintenance of Plant costs are shown as indirect in accordance with claiming instructions.							

Tab 4

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 P's & G's for the particular mandate. Equipment rentals used solely for the mandate is 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 pro rata 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 P's & G's specify them as allowable. If they are allowable, the parameters and guidelines 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 pro rata 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 P's & G's 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 miles 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. To be allowable, a cost must be allocable to a particular cost objective. Indirect costs must be distributed to benefiting cost objectives on bases which produce an equitable result related to the benefits derived by the mandate.

A CCD may claim indirect costs using the Controller's methodology (FAM-29C) outlined in the following paragraphs. If specifically allowed by a mandated program's P's & G's, 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.

The SCO developed FAM-29C to be consistent with OMB Circular A-21, cost accounting principles as they apply to mandated cost programs. The objective is to determine an equitable rate to allocate administrative support to personnel who performed the mandated cost activities. The FAM-29C methodology uses a direct cost base comprised of salary and benefit costs and operating expenses. Form FAM-29C provides a consistent indirect cost rate methodology for all CCD's mandated cost programs.

FAM-29C uses total expenditures that districts report in their *California Community Colleges Annual Financial and Budget Report* (CCFS-311), Expenditures by Activity for the General Fund – Combined. The computation excludes Capital Outlay and Other Outgo in accordance with OMB Circular A-21. The indirect cost rate computation includes any depreciation or use allowance applicable to district buildings and equipment. Districts calculate depreciation or use allowance costs separately from the CCFS-311 report and should calculate them in accordance with OMB Circular A-21.

OMB Circular A-21, Section C.4, states that cost is allocable to a particular cost objective in accordance with the relative benefits received. Also, Section E.2.b. states that the overall objective of the cost allocation process is to distribute indirect costs to the institution's major functions in proportions reasonably consistent with their use of the institution's resources. In addition, Section E.2.c. notes that where certain items or categories of expense relate to less than all functions, such expenses should be set aside for selective allocation.

OMB Circular A-21, Section H, describes a simplified method for indirect cost rate calculations. However, Section H.1.b. states that the simplified method should not be used where it produces results that appear inequitable. As previously noted, FAM-29C strives to equitably allocate administrative support costs to personnel that perform mandated cost activities claimed by CCD. For example, library costs and department administration expenses, normally classified fully or partly as indirect costs in OMB Circular A-21, are instead classified as direct costs for FAM-29C. These costs do not benefit mandated cost activities. In summary, FAM-29C indirect costs include Operation and Maintenance of Plant; Planning, Policy Making, and Coordination; General Institutional Support Services (excluding Community Relations); and depreciation or use allowance. Community Relations includes fundraising costs, which are unallowable under OMB Circular A-21. If the district claims any costs from these indirect accounts as a direct mandate-related costs, the same costs should be reclassified as direct on FAM-29C.

Table 4 presents an example of the FAM-29C methodology.

Table 4: Indirect Cost Rate for Community Colleges

MANDATED COST INDIRECT COST RATE FOR COMMUNITY COLLEGE DISTRICTS					FORM FAM 29-C	
(1) Claimant			(02) Period of Claim			
Activity	EDP	Total Costs Per CCFS-311	Less: Capital Outlay and Other Outgo	FAM 29-C Adjusted Total	Indirect	Direct
Instructional Activities	599	\$ 51,792,408	\$ (230,904)	\$ 51,561,504		\$ 51,561,504
Instruct. Admin. & Instruct. Governance	6000	6,882,034	(216,518)	6,665,516		6,665,516
Instructional Support Services	6100	4,155,095	(9,348)	4,145,747		4,145,747
Admissions and Records	6200	2,104,543	(3,824)	2,100,719		2,100,719
Student Counseling and Guidance	6300	4,570,658	(1,605)	4,569,053		4,569,053
Other Student Services	6400	5,426,510	(41,046)	5,385,464		5,385,464
Operation and Maintenance of Plant	6500	8,528,585	(111,743)	8,416,842	8,416,842	-
Planning, Policy Making, and Coordination	6600	5,015,333	(23,660)	4,991,673	4,991,673	-
General Institutional Support Services	6700			-		-
Community Relations	6710	885,089	(6,091)	878,998		878,998
Fiscal Operations	6720	1,891,424	(40,854)	1,850,570	1,850,570	-
Human Resources Management	6730	1,378,288	(25,899)	1,352,389	1,352,389	-
Non-instructional Staff Retirees' Benefits and Retirement Incentives	6740	1,011,060		1,011,060	1,011,060	-
Staff Development	6750	108,655	(8,782)	99,873	99,873	-
Staff Diversity	6760	30,125		30,125	30,125	-
Logistical Services	6770	2,790,091	(244,746)	2,545,345	2,545,345	-
Management Information Systems	6780	2,595,214	(496,861)	2,098,353	2,098,353	-
Other General Institutional Support Services	6790	33,155	(4,435)	28,720	28,720	-
Community Services and Economic Development	6800	340,014		340,014		340,014
Ancillary Services	6900	1,148,730	(296)	1,148,434		1,148,434
Auxiliary Operations	7000			-		-
Depreciation or Use Allowance - Building				-	2,620,741	
Depreciation or Use Allowance - Equipment				-	1,706,396	
				-		
Totals		<u>\$100,687,011</u>	<u>\$ (1,466,612)</u>	<u>\$ 99,220,399</u>	<u>\$26,752,087</u>	<u>\$ 76,795,449</u>
					(A)	(B)
Indirect Cost Rate (A)/(B)					<u>34.84%</u>	

Tab 5

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 1987, ~~1984~~ ~~1987~~ ~~1988~~
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~~ ~~fees~~ 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. REIMBURSEMENTABLE COSTS

A. Scope of Mandate

Eligible community college districts shall be reimbursed for the costs of providing a health services program ~~without the authority to levy a fee~~. Only services provided ~~for fee~~ 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
- Bandaids
- 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. *//EYIqTbYd/cYAtWAnTs/day/cYAtW/cOsTs/Wnder one/of/two/alternatives//KX/Vee/amount/previously/collected/per student/and/employment/count//of/VZY/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/

Y/ Fees/Collected/In/The/1983-84/Fiscal/Year/To/Support/The/Health/Services/Program/

Z/ Total/Number/of/Students/Under/Item/VI/B/Y//Through/4/above//Using/This/Alternative//The/Total/Amount/Claimed/Would/Be/Item/VI/B/Y//Multiplied/By/Item/VI/B/Z//With/The/Total/Amount/Reimbursed/Increased/By/The/Applicable/Implicit/Rate/Offset/

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

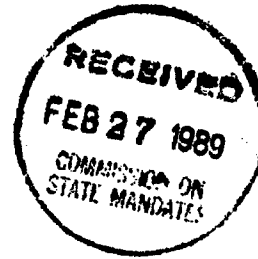
Telephone No.

CALIFORNIA COMMUNITY COLLEGES

107 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 MERTEES
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

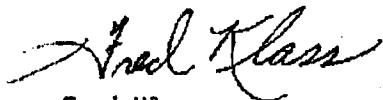
Proposed Amendments to Parameters and Guidelines for Claim No. CSM-4206 -- Chapter 1, Statutes of 1984, 2nd E.S. and Chapter 1118, Statutes of 1987 -- Health Fee Elimination

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, Stat' Controller's Office
Pat Ryan, Chancel 's Office, Community College
Juliet Musso, Legislative Analyst's Office
Richard Frank, Attorney General

LR:1988-2

GOVERNOR'S OFFICE

GEORGE DEUKMEJIAN, Governor



CALIFORNIA COMMUNITY COLLEGES

1200 NINTH STREET
 SACRAMENTO, CALIFORNIA 95814
 (916) 445-8752 445-1163

April 3, 1989



Mr. Robert W. Eich
 Executive Director
 Commission on State Mandates
 1000 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 118, 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.

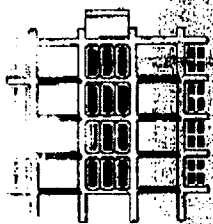
If you have any questions, please call Glen Beatie at 3-8137.

Sincerely,

Glenn Haas, Assistant Chief
 Division of Accounting

GH/GB:dvl

SC81822



HR/60

RIO HONDO COMMUNITY COLLEGE DISTRICT
3600 Workman Mill Road • Whittier, CA 90808 • Phone (213) 692-0921



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

Tab 6

MINUTES

COMMISSION ON STATE MANDATES

May 25, 1989

10:00 a.m.

State Capitol, Room 437
Sacramento, California

Present were: Chairperson Russell Gould, Chief Deputy Director, Department of Finance; Fred R. Buenrostro, Representative of the State Treasurer; D. Robert Shuman, Representative of the State Controller; Robert Martinez, Director, Office of Planning and Research; and Robert C. Creighton, Public Member.

There being a quorum present, Chairperson Gould called the meeting to order at 10:02 a.m.

Item 1 Minutes

Chairperson Gould asked if there were any corrections or additions to the minutes of the Commission's hearing of April 27, 1989. There were no corrections or additions.

The minutes were adopted without objection.

Consent Calendar

The following items were on the Commission's consent agenda:

- Item 2 Proposed Statement of Decision
Chapter 406, Statutes of 1988
Special Election - Bridges
- Item 3 Proposed Statement of Decision
Chapter 583, Statutes of 1985
Infectious Waste Enforcement
- Item 4 Proposed Statement of Decision
Chapter 980, Statutes of 1984
Court Audits
- Item 5 Proposed Statement of Decision
Chapter 1286, Statutes of 1985
Homeless Mentally Ill

Minutes
Hearing of May 25, 1989
Page 2

- Item 6 Proposed Parameters and Guidelines Amendment
Chapter 1, Statutes of 1984, 2nd E.S.
Chapter 1118, Statutes of 1987
Health Fee Elimination
- Item 7 Proposed Parameters and Guidelines Amendment
Chapter 8, Statutes of 1988
Democratic Presidential Delegates
- Item 10 Proposed Statewide Cost Estimate
Chapter 498, Statutes of 1983
Education Code Section 48260.5
Notification of Truancy
- Item 12 Proposed Statewide Cost Estimate
Chapter 1226, Statutes of 1984
Chapter 1526, Statutes of 1985
Investment Reports

There being no discussion or appearances on Items 2, 3, 4, 5, 6, 7, 10, and 12, Member Buenrostro moved adoption of the staff recommendation on these items on the consent calendar. Member Martinez seconded the motion. The vote on the motion was unanimous. The motion carried.

The following items were continued:

- Item 13 Proposed Statewide Cost Estimate
Chapter 1335, Statutes of 1986
Trial Court Delay Reduction Act
- Item 16 Test Claim
Chapter 841, Statutes of 1982
Patients' Rights Advocates
- Item 17 Test Claim
Chapter 921, Statutes of 1987
Countywide Tax Rates

The next item to be heard by the Commission was:

- Item 8 Proposed Parameters and Guidelines Amendment
Chapter 961, Statutes of 1975
Collective Bargaining

The party requesting the proposed amendment, Fountain Valley School District, did not appear at the hearing. Carol Miller, appearing on behalf of the Education Mandated Cost Network, stated that the Network was interested in the issue of reimbursing a school district for the time the district Superintendent spent in, or preparing for, collective bargaining issues.

The Commission then discussed the issue of reimbursing the Superintendent's time as a direct cost to the mandated program or as an indirect cost as required by the federal publications OASC-10, and Federal Management Circular 74-4. Upon conclusion of this discussion, the Commission, staff, and Ms. Miller, agreed that the Commission could deny this proposed amendment by the Fountain Valley School District, and Ms. Miller could assist another district in an attempt to amend the parameters and guidelines to allow reimbursement of the Superintendent's cost relative to collective bargaining matters.

Member Creighton then inquired on the issue of holding collective bargaining sessions outside of normal working hours and the number of teachers the parameters and guidelines reimburse for participating in collective bargaining sessions. Ms. Miller stated that because of the classroom disruption that can result from the use of a substitute teacher, bargaining sessions are sometimes held outside of normal work hours for practical reasons. Ms. Miller also stated that the parameters and guidelines permit reimbursement for five substitute teachers.

Member Martinez moved and Member Buenrostro seconded a motion to adopt the staff recommendation to deny the proposed amendments to the parameters and guidelines. The roll call vote on the motion was unanimous. The motion carried.

Item 9 Proposed Statewide Cost Estimate
Chapter 498, Statutes of 1983
Education Code Section 51225.3
Graduation Requirements

Carol Miller appeared on behalf of the claimant, Santa Barbara Unified School District, Jim Apps and Don Enderton appeared on behalf of the Department of Finance, and Rick Knott appeared on behalf of the San Diego Unified School District.

Carol Miller began the discussion on this matter by stating her objection to the Department of Finance raising issues that were already argued in the parameters and guidelines hearings for this mandate. Based on this objection, Ms. Miller requested that the Commission adopt staff's recommendation and allow the Controller's Office to handle any audit exceptions.

Jim Apps stated that because school districts did not report funds that have been received by them, then the data reported in the survey is suspect. Therefore, the Department of Finance is not convinced that the cost estimate based on the data received by the schools is legitimate.

Discussion continued on the validity of the cost estimate and on the figures presented to the Commission for its consideration.

Member Creighton then made a motion to adopt staff's recommendation. Member Shuman seconded the motion. The vote on the motion was: Member Buenrostro, no; Member Creighton, aye; Member Martinez, no; Member Shuman, aye; and Chairperson Gould, no. The motion failed.

Minutes
 Hearing of May 25, 1989
 Page 4

Chairperson Gould made an alternative motion that staff, the Department of Finance, and the school districts, conduct a pre-hearing conference and agree on an estimate to be presented to the Commission at a future hearing. Member Buenrostro seconded the motion. The roll call vote on the motion was unanimous. The motion carried.

Item 11 Statewide Cost Estimate
 Chapter 815, Statutes of 1979
 Chapter 1327, Statutes of 1984
 Chapter 757, Statutes of 1985
Short-Doyle Case Management

Pamela Stone, representing the County of Fresno, stated that the county was in agreement with the staff proposed statewide cost estimate of \$20,000,000 for the 1985-86 through 1989-90 fiscal years, and was opposed to the reduction of the costs estimate being proposed by the Department of Mental Health's late filing.

Lynn Whetstone, representing the Department of Mental Health, stated that the Department agrees with the methodology used by Commission staff to develop the cost estimate, however, the Department questioned the manner in which Commission staff extrapolated its survey figures into a statewide estimate. Ms. Whetstone stated that due to the reasons stated in its late filing, the Department believes that the cost estimate be reduced to \$17,280,000.

Member Shuman moved, and Member Martinez seconded a motion to adopt the staff proposed statewide cost estimate of \$20,000,000 for the 1985-86 through 1989-90 fiscal years. The roll call vote on the motion was unanimous. The motion carried.

Item 14 State Mandates Apportionment System
 Request for Review of Base Year Entitlement
 Chapter 1242, Statutes of 1977
Senior Citizens' Property Tax Postponement

Leslie Hobson appeared on behalf of the claimant, County of Placer, and stated agreement with the staff analysis.

There were no other appearances and no further discussion.

Member Creighton moved approval of the staff recommendation. Member Shuman seconded the motion. The roll call vote was unanimous. The motion carried.

Item 15 Test Claim
 Chapter 670, Statutes of 1987
Assigned Judges

Vicki Najdak and Pamela Stone appeared on behalf of the claimant, County of Fresno. Beth Mullen appeared on behalf of the Administrative Office of

the Courts. Jim Apps appeared on behalf of the Department of Finance. Allan Burdick appeared on behalf of the County Supervisors Association of California. Pamela Stone restated the claimant's position that the revenue losses due to this statute were actually increased costs because Fresno is now required to compensate its part-time justice court judges for work performed for another county while on assignment. Beth Mullen stated her opposition to this interpretation because Fresno's part-time justice court judge cannot be assigned elsewhere until all work required to be performed for Fresno has been completed; therefore, Fresno is only required to compensate the judge for its own work.

There followed discussion by the parties and the Commission regarding the applicability of the Supreme Court's decisions in County of Los Angeles and Lucia Mar. Chairperson Gould asked Commission Counsel Gary Hori whether this statute imposed a new program and higher level of service as contemplated by these two decisions. Mr. Hori stated that it did meet the definition of new program and higher level of service as contemplated by the Supreme Court.

Member Creighton moved to adopt the staff recommendation to find a mandate on counties whose part-time justice court judge is assigned within the home county. Member Shuman seconded the motion. The roll call vote was unanimous. The motion carried.

Item 18 Test Claim
Chapter 1247, Statutes of 1977
Chapter 797, Statutes of 1980
Chapter 1373, Statutes of 1980
Public Law 99-372
Attorney's Fees - Special Education

Chairperson Gould recused himself from the hearing on this item.

Clayton Parker, representing the Newport-Mesa Unified School District, submitted a late filing on the test claim rebutting the staff analysis. Member Creighton stated that he had not had an opportunity to review the late filing and inquired on whether the claim should be heard at this hearing. Staff informed Member Creighton and Member Buenrostro that in reviewing the filing before this item was called, the filing appeared to be summary of the claimant's position on the staff analysis, and that there appeared to be no reason to continue the item.

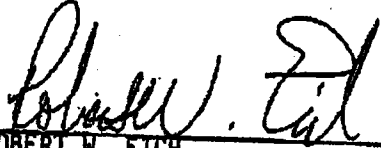
Mr. Parker stated that Commission staff had misstated the events that resulted in the claimant having to pay attorneys' fees to a pupil's guardians, and because of case law, courts do not have any discretion in awarding attorney's fees. Mr. Parker stated that because state legislation has codified the federal Education of the Handicapped Act, school districts are subject to the provisions of Public Law 94-142 and Public Law 99-372. Member Buenrostro then inquired whether staff was comfortable with discussing the issue of a state executive order incorporating federal law.

Minutes
Hearing of May 25, 1989
Page 6

Staff informed the Commission that it was not comfortable discussing this issue, and further noted that it appeared that Mr. Parker was basing his reasoning for finding P.L. 99-372 to be a state mandated program, on the Board of Control's finding that Chapter 1247, Statutes of 1977, and Chapter 797, Statutes of 1980, were a state mandated program. Staff noted that Board of Control's finding is currently the subject of the litigation in Huff v. Commission on State Mandates (Sacramento County Superior Court Case No. 352295).

Member Creighton moved and Member Martinez seconded a motion to continue this item and have legal counsel and staff review the arguments presented by Mr. Parker. The vote on the motion was unanimous. The motion carried.

With no further items on the agenda, Chairperson Gould adjourned the hearing at 11:45 a.m.


ROBERT W. EICH
Executive Director

RWE:GLH:cm:0224g

Tab 7



EL CAMINO COLLEGE

SEARCH: [FIND](#)

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ADMISSIONS
FUTURE STUDENTS
CURRENT STUDENTS
FINANCIAL AID & SCHOLARSHIPS
COMMUNITY & VISITORS
TO APPLY - START HERE



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- [Enrollment Verification](#)
- [FAQ'S](#)
- [Fees, Tuition & Refunds](#)
- [Financial Aid/Scholarships](#)
- [Grading Policies](#)
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- [Search for Classes](#)
- [Veteran Services](#)

Home Page » Admissions » fees

FEES, TUITION, & REFUNDS

California residents pay only \$26 per unit for classes!

STUDENT FEES

	Winter/Spring 2011
Enrollment Fee The enrollment fee is state mandated. Students concurrently enrolled in high school are not required to pay the enrollment fee. Fee Payment Methods	\$26 per unit Click here for enrollment fee information
Health Fee All students enrolled in classes held on campus, either at El Camino College or Compton Center, are required to pay the health fee.*	\$17 Click here for health fee information
Associated Student Body Card (Optional) The optional fee for the ASB Card funds student activities and services.	\$10 Click here for ASB and photo i.d. information
Instructional Materials Fee Certain courses require a nominal fee for materials provided to students during the course of the semester. Please refer to Schedule of Classes	Amount specific to course (may vary) To determine if an instructional materials fee is required and the amount, refer to the listing of courses in the Schedule of Classes
Parking Fee (Optional) Daily permits are available at the yellow permit dispenser machines \$2.00 per day	Automobiles: \$35 - Fall/Spring \$20 - Summer/Winter Motorcycles: \$20 - Fall/Spring Click here for more parking fee information
Transcript/Verification Fee	First Two Copies - No Charge (in any combination with Verification/Transcript) Additional Copies - \$5 each Emergency Requests (request in person only) - \$8 each
Returned Check Fee Students are assessed a processing fee if his/her check is returned to the college for nonpayment regardless of the reason.	\$20 processing fee

NONRESIDENT STUDENT FEES

Application Fee Citizens and residents of foreign countries are required to pay an application fee.	\$50 (non-refundable)
Non-Resident Tuition Students who have lived in California less than a year (prior to the first day of instruction) and those who hold certain non-immigrant visas that preclude them from establishing California residency must pay out-of-state tuition and the enrollment fee.	\$211 per unit plus \$26 per unit Click here for non-resident tuition informatio

FEE REFUNDS

Enrollment Fee Refunds:

To receive a refund, students must drop classes through the online system. While the system is available, classes may be dropped via the Web; otherwise classes must be dropped in person at the Student Activities Center or cashier's office, according to the following schedule:

Length of class:

Tab 8

**AGREEMENT BETWEEN THE
EL CAMINO COMMUNITY COLLEGE DISTRICT AND THE
COMPTON COMMUNITY COLLEGE DISTRICT**

This Agreement is made and entered into on the 1st day of July, 2008, by and between the El Camino Community College District (hereinafter referred to as "El Camino"), acting by and through its governing board, and the Compton Community College District (hereinafter referred to as "Compton" or the "District"), acting by and through the Special Trustee appointed by the Chancellor of the California Community Colleges to serve in the place of Compton's governing board. In consideration of the mutual commitments contained herein, the parties agree as follows:

1. This Agreement, and the parties' implementation of it, is intended to provide a set of binding mutual understandings to achieve the following goals:
 - A. Provide the students and residents of Compton with access to accredited community college programs and services that address their educational needs and contribute to the overall welfare and development of the community;
 - B. Specify the various rights and responsibilities of each party in providing those programs and services;
 - C. Create the conditions under which Compton will have a genuine opportunity to establish a newly accredited college as an autonomous institution* ;
 - D. Build effective, mutually respectful relationships between and among the faculty, staff and administrators of El Camino and Compton; and
 - E. Simultaneously, safeguard El Camino's accreditation.
2. All programs and services of the Center (as defined in Sections 4 and following, below) provided under this Agreement shall be offered exclusively by El Camino and during the term of this Agreement Compton shall not engage in any activity that requires status as an accredited institution. Compton shall also refrain from engaging in any activity that would pose a demonstrable risk to El Camino's accreditation and shall abandon the use of the term "Compton College" to refer to Compton or in connection with any activities undertaken by Compton.

* Obtaining accreditation for the Center will be a multi-year process. Based on the *Eligibility, Candidacy and Initial Accreditation Manual* published by the Accrediting Commission for Community and Junior Colleges, the parties have outlined the steps required to gain accreditation and an anticipated time frame. The outline is appended to this Agreement as Attachment A, for information purposes only.

3. At least annually El Camino shall prepare a report for submission to the Special Trustee summarizing progress towards obtaining accreditation for the Center, the remaining steps required to gain accreditation and a current anticipated time frame for the Center's accreditation.

The Center

4. As authorized by Chapter 50 of the Statutes of 2006 (A.B. 318) (and any amendments thereto), El Camino shall maintain the "El Camino Community College District Compton Community Educational Center," also known as the "El Camino College Compton Center," and hereinafter referred to simply as the "Center," on Compton's facilities in Compton, California. The educational program and services offered by El Camino at the Center shall consist of a full range of credit and non-credit offerings, and related student support services, as specifically agreed to by the two parties and from time to time modified as they deem necessary.
5. The Center, and all of its educational programs and services, shall be under the exclusive management and control of El Camino. As used in this agreement, the Center consists of programs and services like the following: All credit and non-credit courses and programs; library and learning resource center services; counseling and matriculation services; admissions and records; financial aid; student life and other student services programs; categorical programs such as EOPS, DSPS, CalWorks, GAIN, and TANF; transfer center services; athletics; international students; relations with schools; and special programs and services such as the Foster/Kinship Care Program.
6. Without implying any limitation on the Center's programs and services, El Camino shall include the following among the programs and services it provides at the Center:
 - A. EOPS, Special Resources Center (DSPS), CalWorks, GAIN, TANF and other categorical programs (as well as federally supported programs like grants to Hispanic-Serving Institutions under Title V of the Higher Education Act) that are separate from and independent of similar programs provided at El Camino's main campus;
 - B. An Associated Student Body organization at the Center that is separate from and independent of the Associated Student Body organization at El Camino's main campus and that assesses and benefits from its own fees; and
 - C. Subject to approval by the Commission on Athletics of the Community College League of California, intercollegiate athletic teams that are separate from and independent of the athletic teams at El Camino's main campus. Unless otherwise agreed to by the parties, the teams shall be designated as the "Compton Tartars."

7. If El Camino currently does not offer programs or services that El Camino or Compton, after consulting with the other through a curriculum and program review process, reasonably determines are appropriate and necessary to meet the educational needs of the students and residents of Compton, El Camino shall promptly undertake all reasonable efforts to adopt appropriate curriculum or services. If El Camino reasonably determines that it cannot adopt appropriate curriculum or services requested by Compton, or that doing so would be impractical or ill-advised, El Camino shall work with Compton to attempt to find an alternative means of providing the programs or services. If any action taken pursuant to this section requires approval from the Accrediting Commission for Community and Junior Colleges (ACCJC) through the substantive change proposal process, Compton will cooperate with El Camino to ensure compliance with that process.
8. The educational program and student support services offered at the Center shall be clearly identified as exclusively programs and services of El Camino, and El Camino shall have full authority over all aspects of the programs and services offered at the Center, including but not limited to, curriculum development and approval, program review, student assessment, student services and institutional planning for the Center. Furthermore, as more fully specified in Sections 14.A, 14.B and 15, below, El Camino shall have authority over faculty and staff qualifications and evaluation of their performance.
9. El Camino and its Academic Senate shall ensure that faculty employed by Compton but assigned to provide educational and support services at the Center are accorded appropriate professional standing in academic and professional matters as they relate to the Center, including but not limited to, curriculum development and approval, program review, student assessment, student services and institutional planning for the Center.
10. El Camino shall comply with all federal requirements to ensure that qualified students enrolled at the Center remain eligible for federal financial assistance.
11. As authorized by the Education Code, El Camino shall collect fees as follows:
 - A. Non-resident tuition fees, materials fees, health fees, Associated Student Body fees, and ASB Student Representation fees, which shall be set by El Camino upon the recommendation of Compton.
 - B. Parking fees and facility use fees, which will be set by Compton.All fees collected by El Camino from students enrolled at the Center, or others who use the Center's facilities or participate in its programs or services, shall be devoted to

supporting programs and services at the Center or remitted to Compton, as the parties may from time to time specify.

12. Compton shall make appropriate District facilities available to El Camino without charge and shall name those facilities the "El Camino College Compton Center."
13. The Chief Operating Administrator of the Center shall be a Provost, who shall be responsible to, and supervised by, the Superintendent/President of El Camino in connection with the proper oversight and administration of the Center. The Provost shall be appointed with the concurrence of the Superintendent/President and the Special Trustee of the Compton Community College District, and may be terminated by the Superintendent/President and the Special Trustee in the manner provided in the Provost's employment contract. While the Provost will report to the Superintendent/President, he or she shall be an employee of Compton and Compton shall retain the discretion to assign additional duties to the Provost, including duties as the Chief Executive Officer of the Compton Community College District. In the event the Provost simultaneously serves as Compton's Chief Executive Officer, he or she shall be responsible to, and supervised by, the Special Trustee only for those aspects of his or her assignment that relate to service as Compton's Chief Executive Officer.
14. El Camino and Compton shall agree upon a staffing plan for the Center that identifies every position, in addition to the position of Provost, that will be needed to provide services at the Center and that specifies which of the positions Compton will fund. The parties shall implement the staffing plan as follows:
 - A. To the extent the parties determine necessary and appropriate, Compton shall propose assignment of its current employees to provide services at the Center pursuant to the staffing plan. Before any individual employee is assigned to provide services at the Center, El Camino, in its sole discretion, shall have the right to review the employee's qualifications and to determine if the assignment is an appropriate one. If El Camino determines that the assignment is appropriate, the employee shall remain an employee of Compton and shall not become an employee of El Camino, but he or she will provide services at the Center under the day-to-day supervision of El Camino. If El Camino determines that the assignment is not appropriate and declines to accept the employee, he or she shall not be assigned to provide services for El Camino at the Center.
 - B. When new employees need to be hired by Compton pursuant to the staffing plan, Compton shall promptly undertake reasonable efforts to recruit qualified employees for those positions using hiring procedures adopted by Compton following consultation with El Camino. Before extending an offer of employment to any individual who will provide services at the Center, Compton shall consult with El Camino to ensure that El Camino has the opportunity to review the

prospective employee's qualifications and to determine if his or her assignment to provide services at the Center under El Camino's day-to-day supervision is appropriate pursuant to El Camino's authority under Section 14.A, above, to approve assignments.

- C. Every Compton employee who is assigned to provide services at the Center shall do so pursuant to Education Code Section 74293. No such employee shall be deemed to be an employee of El Camino nor shall any such employee gain any status with El Camino for any purpose.
15. El Camino, acting through the Provost, shall have the primary right to direct the activities of employees assigned to provide educational and student support services at the Center consistent with Compton's contractual and legal rights and obligations as the employer of those individuals. Using evaluation procedures applicable to Compton employees, El Camino shall also provide employee performance assessments to Compton regarding the services provided by Compton's employees. If El Camino finds that it is necessary to do so, El Camino may reassign a Compton employee back to Compton after providing Compton with a reasonable opportunity to remedy any circumstances that El Camino believes warrants the reassignment.
16. Nothing in this agreement shall be construed to limit El Camino's ability to assign its own employees to oversee activities or to manage the educational and student support services at the Center, or to employ employees of any type or class as otherwise authorized by law as needed to provide oversight of activities or the management of educational and student support services at the Center. Any person who provides services pursuant to this section shall remain an employee of El Camino and shall not be deemed to be an employee of Compton nor shall any such employee gain any status with Compton for any purpose. It is understood by the parties that El Camino will assign its employees to provide services at Compton only if they voluntarily accept the assignment. If they deem it to be appropriate, El Camino and Compton may also enter into inter-jurisdictional agreements with each other to exchange employees needed for an interim period for a specific job classification.
17. Compton shall remain responsible for the salary and benefits of its employees assigned to provide educational and student support services at the Center and El Camino shall remain responsible for the salary and benefits of its employees assigned to provide educational and student support services at the Center. Neither party shall have any responsibility for the salary or benefits of the other party's employees.

Management of Compton District Functions to Support
Compton Operations and the Center

18. Compton and El Camino have determined that it is in their mutual best interests to delegate certain Compton district functions to El Camino with the goal of achieving the following objectives:
 - A. Ensuring effective support for, and close coordination with, the Center;
 - B. Implementing effective policies, procedures and practices that will serve Compton well—both in the present and over time as it resumes internal management of the operations; and
 - C. Ensuring that Compton has trained, capable staff who can provide essential services and who can appropriately revise and improve administrative systems as future needs evolve.
19. To further the objectives listed in the preceding section, the Superintendent/President — acting primarily through the Provost — shall manage the following operations, subject to oversight by the Special Trustee: Accounting services, including accounts receivable, accounts payable, general accounting and maintenance of the general ledger, and cashier services; payroll; human resources; purchasing; auxiliary services, including bookstore and cafeteria operations, grants administration, etc.; facilities maintenance and operations; police and security services; and management information services.
20. El Camino and Compton shall agree upon a staffing plan for the operations listed in Section 19. Based on that plan, Compton, with El Camino's advice and assistance, shall recruit and retain an appropriate administrative and classified workforce to staff the operations.
21. The following operations shall continue to be managed exclusively by Compton:
 - A. Bond-funded construction and other capital improvement projects associated with the facilities in Compton at which the Center is located.
 - B. Business, legal and other administrative functions that relate exclusively to the management of the Compton Community College District.
 - C. Labor relations, provided however, that Compton shall consult with El Camino on matters that are likely to have an effect on the operation of the Center.
 - D. Community and governmental relations that relate primarily to the District and not to the Center, including, but not limited to, organization and operations of the Compton governing board and the office of the Special Trustee.

The parties may agree on other functions or activities that will be managed by Compton; provided, however, that Compton shall not assume any responsibility that requires status as an accredited institution or which, if performed by Compton, would pose a demonstrable risk to El Camino's accreditation.

22. Compton shall resume internal management of the operations delegated to El Camino pursuant to Sections 18 and 19, once the Superintendent/President and the Special Trustee agree that Compton has the capacity to effectively manage and control the function and that the resumption of internal management by Compton is in the best interests of both the Center and the District. That determination will be based primarily on Fiscal Crisis & Management Assistance Team's (FCMAT) review of the District's progress in implementing relevant recommendations made in the Comprehensive Review of April 2007, but also on success of the party's transition plan for District functions delegated to El Camino, a copy of which is appended to this Agreement as Attachment B, for information purposes only. At least annually, the parties shall review the transition plan and make any adjustments to it that they deem are necessary.
23. Unless the parties explicitly agree otherwise on a case-by-case basis, all classified employees assigned to work in the operations managed by El Camino shall report, directly or indirectly, to the Provost, but in any event, all classified employees assigned to work in the operations managed by El Camino shall remain employees of Compton and shall not gain any status with El Camino for any purpose.
24. Nothing in this agreement shall be construed to limit El Camino's ability to assign its own employees to assist in providing services needed in the operations managed by El Camino, or to employ employees of any type or class as otherwise authorized by law as needed to provide oversight of the operations managed by El Camino. Any person who provides services pursuant to this section shall remain an employee of El Camino and shall not be deemed to be an employee of Compton nor shall any such employee gain any status with Compton for any purpose. It is understood by the parties that El Camino will assign its employees to provide services at Compton only if they voluntarily accept the assignment.
25. If they deem it to be appropriate, El Camino and Compton may also enter into inter-jurisdictional agreements with each other to exchange employees needed for an interim period for a specific job classification. Furthermore, as an alternative to delegating management of a district operation to El Camino pursuant to Sections 18 and 19 (and other relevant provisions of this agreement), the parties may agree that El Camino will assume full responsibility for the operation (including staffing, equipment, supplies, etc.) and that it will provide Compton with all relevant services associated with the operation as a service provider. However, any such agreement

shall be approved by the Special Trustee and shall take the form of a written agreement that specifies all of the terms and conditions of the services to be provided by El Camino and the compensation payable to El Camino for those services.

26. Compton shall remain responsible for the salary and benefits of its employees working in operations managed by El Camino and El Camino shall remain responsible for the salary and benefits of its employees working in those operations. Neither party shall have any responsibility for the salary or benefits of the other party's employees.
27. The Special Trustee shall receive regular reports regarding the status of the operations managed by El Camino pursuant to Sections 18 and 19, above, and may request special reports at any time. Furthermore, the Special Trustee may initiate performance or financial audits of the operations at any time.
28. In managing the operations specified in Sections 18 and 19, above, El Camino shall ensure that no funds of Compton are expended or committed without the approval of the Special Trustee or an appropriate Compton official acting under delegated authority from the Special Trustee.

Budget Development

29. El Camino, in consultation with Compton, shall set up an annual budget development procedure that includes a budget development calendar, defines the roles and responsibilities of Compton and El Camino officials involved in the process, and identifies the manner in which appropriate collegial consultation with Compton faculty, staff and students will be conducted. Following that procedure El Camino will develop a unified master budget for the Center, the operations it manages pursuant to Sections 18 and 19, above, and the operations that continue to be managed exclusively by Compton pursuant to Section 21, above. The master budget, which shall be updated annually, shall be based upon enrollment projections and other operational goals agreed upon by the parties and shall consist of:
 - A. an operating budget for the Center for the upcoming fiscal year;
 - B. an operating budget for the operations El Camino manages pursuant to Sections 18 and 19, above, for the upcoming fiscal year;
 - C. an operating budget for the operations that continue to be managed exclusively by Compton pursuant to Section 21, above, for the upcoming fiscal year; and
 - D. a projected budget for the Center for each of the two succeeding fiscal years.

30. Before adopting the master budget, the Special Trustee shall determine if the Superintendent/President concurs with the proposed master budget. If the Superintendent/President concurs, the Special Trustee shall adopt the master budget as specified in the following two sections. If the Superintendent/President does not concur, the Special Trustee shall either modify the master budget as necessary to obtain the Superintendent/President's concurrence, or adopt the budget without the concurrence. In the latter case, El Camino will be deemed to have given notice of termination of this Agreement on the date of the budget's adoption and the termination procedure set forth in Section 42 shall be automatically invoked.
31. Once the Special Trustee adopts the master budget developed pursuant to Section 29, Compton shall, as a first priority, fund the Center's operating budget for the current fiscal year and the current operating budget for the operations El Camino manages pursuant to Sections 18 and 19, above. The current operating budget for the operations El Camino manages shall be incorporated into the annual operating budget approved by Compton and shall be administered as a part of Compton's operations.
32. Once the Special Trustee adopts the master budget developed pursuant to Section 29, El Camino may include the Center's expense budget in the operating budget approved by El Camino's Board and administer it as an integral part of El Camino's operations. In that event, Compton shall reimburse El Camino for all Center expenses included in the budget. In the alternative, El Camino may ask Compton to include the Center's expense budget in the operating budget approved by Compton, in which case the budget shall be administered as a part of Compton's operations. In any event El Camino shall provide fiscal and administrative oversight for the operation of the Center and all matters related to the Center.

Recruitment, Retention, Marketing and Enrollment

33. El Camino acknowledges that Compton has a substantial interest in monitoring enrollment at the Center and ensuring that it continues to grow as vigorously as possible. The parties agree that student enrollment at the Center is an important, quantifiable measure of service to the community, and recognize that the Center's enrollment will ultimately determine Compton's entitlement to State apportionment.
34. El Camino, acting through the Provost, shall prepare annual and long-term recruitment, retention, marketing and enrollment management plans for the Center which shall be presented to the Special Trustee for review and endorsement. The process by which the various plans are developed shall provide for broad participation by Compton faculty and staff and, among other things, shall define:
 - target populations the Center will specialize in serving well;
 - the nature of the programs the Center will need to develop or enhance to adequately meet the needs and expectations of students in those target populations;

- the services the Center will need to be skilled at delivering to ensure that student success is buttressed and students in the target populations are properly supported; and
 - the most effective and compelling messages (and the best means of delivering them) the Center will use to communicate with potential students in the target populations.
35. By April 15 of each academic the Superintendent/President and the Special Trustee shall agree upon an enrollment goal for the Center for the subsequent academic year and, through the budget development process, the funding necessary to achieve that goal.

Miscellaneous

36. By October 1, of each fiscal year, Compton shall remit to El Camino the sum of \$500,000 as an administrative fee for El Camino's services under this Agreement.
37. Compton shall defend and indemnify El Camino, its officers, employees or agents, in connection with any and all claims, actions or lawsuits that arise in any manner from the acts or omissions of Compton, its officers, employees or agents in the performance of this agreement, and El Camino shall defend and indemnify Compton, its officers, employees or agents, in connection with any and all claims, actions or lawsuits that arise in any manner from the acts or omissions of El Camino, its officers, employees or agents in the performance of this agreement. It is expressly understood that in the event of a claim, action, or lawsuit based upon an act or omission of a Compton employee assigned to provide services at the Center under this agreement, the Compton employee shall not be deemed to be an agent of El Camino unless the act or omission giving rise to the claim, action or lawsuit was one required by El Camino or taken at the explicit direction of an El Camino supervisor or manager.
38. During the effective dates of this Agreement, each party shall maintain in effect a policy or policies of insurance issued by one or more insurance companies and/or a memorandum or memoranda of coverage issued by a joint powers authority providing the coverages identified below:
- A. Liability to a third party for bodily injury, sickness, or disease and for physical injury to tangible property and/or for loss of use of tangible property not physically injured that is neither expected nor intended from the standpoint of the insured or of the covered party. The policy limit or limit of liability for such coverage shall be at least \$1,000,000 per occurrence with an aggregate limit of no less than \$5,000,000.
 - B. Liability to a third party for "personal injury" offense(s) as defined by the applicable policy of insurance or memorandum of coverage. The policy limit or

limit of liability for such coverage shall be at least \$1,000,000 per occurrence or claim with an aggregate limit of no less than \$5,000,000.

- C. Liability to a third party for "errors and omissions" as defined by the applicable policy of insurance or memorandum of coverage. The policy limit or limit of liability for such coverage shall be at least \$1,000,000 per occurrence or claim with an aggregate limit of no less than \$5,000,000.
 - D. Automobile Liability with the following limits: Primary Bodily Injury limits of \$1,000,000 per occurrence and Primary Property Damage limits of \$5,000,000 per occurrence or combined single limits of Primary Bodily and Primary Damage of \$10,000,000 per occurrence.
 - E. Workers' Compensation Insurance with the limits established and required by the State of California.
 - F. Employer's Liability with limits of \$5,000,000 per claim.
39. During the effective dates of this Agreement, each party shall cause the other party and its elected and appointed officers, directors, employees and agents to be named as additional insureds under the policy or policies of insurance providing the coverages identified above for claims arising out of actual or alleged acts or omissions on the part of the other party, its elected and appointed officers, employees and agents and/or cause the other party, its officers, employees and agents to be named as a covered party or as an additional covered party under the memorandum or memoranda of coverage providing the coverages identified above for claims arising out of actual or alleged acts or omissions on the part of the other party, its elected and appointed officers, employees and agents. However, this provision shall not apply to the coverage for "errors and omissions."
40. By July 1 of each year, each party shall provide to or cause to be provided to the other party a certificate or certificates of insurance identifying the policy or policies of insurance to which the other party has been named as an additional insured and/or certificate or certificates of coverage or similar document(s) identifying the memorandum or memoranda of coverage to which each party has been named as an additional covered party. Each such policy or memorandum shall state that not less than thirty (30) days' written notice shall be given to the other party prior to cancellation; and, shall waive all rights of subrogation. Each party shall immediately notify the other party in the event of material change in, or failure to renew, each policy or memorandum.
41. This Agreement shall take effect immediately and shall remain in effect until it is terminated. Either party may initiate termination of this Agreement by giving 180 days written notice to the other party, and to the Board of Governors of the California

Community Colleges, of its intent to terminate. No termination pursuant to this section shall take effect until the end of the semester following the expiration of the notice period provided under this section so as to protect students from a mid-term interruption of educational services.

42. Notwithstanding anything in Section 41 to the contrary, in the event El Camino initiates termination of this Agreement by giving notice to Compton and the Board of Governors of its intent to terminate pursuant to the preceding section, the Chancellor of California Community Colleges shall meet with the Superintendent/President of El Camino to determine if the proposed termination by El Camino relates to factors that can be resolved with the Chancellor's assistance. If that is not the case, and if El Camino declines to withdraw its notice of termination within ninety days after it was initially given to Compton and the Board of Governors, the Special Trustee shall immediately act to terminate the agreement pursuant to Education Code Section 74292(1)(2), which explicitly authorizes the Special Trustee to initiate termination of agreements with a partner district. Thereafter, the Special Trustee, the Chancellor and the Board of Governors of the California Community Colleges shall be deemed to have waived any and all rights whatsoever that they may have to require El Camino to continue to provide services as a partner district. This waiver provision is irrevocable and its inclusion in this agreement has been relied upon by El Camino as a material inducement for its willingness to enter into this Agreement.
43. Any notice required to be delivered under this Agreement to the other party must be in writing and shall be effective (i) when personally delivered to the other party or (ii) three business days after deposit in the United States mail, postage fully prepaid and addressed to the respective party as set forth below (or to such other address and to such other persons as the parties may hereafter designate by written notice to the other):

To Compton:

Special Trustee
COMPTON COMMUNITY COLLEGE DISTRICT
1111 E. Artesia Boulevard
Compton, CA 90221

To El Camino:

Superintendent/President

EL CAMINO COLLEGE
16007 Crenshaw Blvd.
Torrance, CA 90506

To the Chancellor and Board of Governors:

Chancellor
CALIFORNIA COMMUNITY COLLEGES
1102 Q Street
Sacramento, CA 95811

44. This Agreement represents the entire understanding between the parties and supersedes all prior agreements, written or oral. This Agreement may be amended or modified only by an agreement in writing signed by both Compton and El Camino.

IN WITNESS WHEREOF, the parties have executed this agreement on, _____, 2008.

COMPTON COMMUNITY COLLEGE DISTRICT

By _____
Peter J. Landsberger
Special Trustee

EL CAMINO COMMUNITY COLLEGE DISTRICT

By _____
Thomas M. Fallo
Superintendent President

I have reviewed this Agreement and assent to its terms. I also confirm that the Special Trustee has the power to sign it and, acting in accordance with the authority I have granted him under the law, to bind the Compton Community College District to the terms set forth in the agreement.

Diane Woodruff
Chancellor, California Community Colleges
Attachment A

Steps to Establish Eligibility for Accreditation

Step 1- Establishing that Criteria for Eligibility have been Met and Applying for Eligibility [2006 through 2010]

Before making a formal application of any kind to the Accrediting Commission for Community and Junior Colleges (ACCJC), an institution like the El Camino College Compton Center that wishes to become a Candidate for Accreditation must first establish its eligibility. Requirements for establishing eligibility include completing an assessment of the Center's relationship to the basic criteria for institutional eligibility and providing the Commission with a description (with relevant evidence) of how the institution meets standards in the following twenty-one areas:

- 1 Authority
- 2 Mission
- 3 Governing Board
- 4 Chief Executive Officer
- 5 Administrative Capacity
- 6 Operational Status
- 7 Degrees
- 8 Educational Programs
- 9 Academic Credit
- 10 Student Learning and Achievement
- 11 General Education
- 12 Academic Freedom
- 13 Faculty
- 14 Student Services
- 15 Admissions
- 16 Information and Learning Resources
- 17 Financial Resources
- 18 Financial Accountability
- 19 Institutional Planning and Evaluation
- 20 Public Information
- 21 Relations with the Accrediting
Commission

El Camino College anticipates that the Center may be able to demonstrate that it does meet the twenty-one basic criteria for institutional eligibility within several years. If that is the case, El Camino will submit an eligibility application and supporting documentation asking for eligibility status for the El Camino Compton Community Educational Center, perhaps as early as 2010.

Step 2 – Candidacy Status [2010 through 2012 or later]

If eligibility is granted, the Center will be able to apply for candidacy status by completing and submitting a Self Study Report using the Standards of Accreditation, the Self Study Manual, and other Commission policies and resources. This report needs to be supported by evidence that must be retained for later review by an accreditation team.

Following submission of the Self Study Report, the Commission will send a team to visit the Center for the purpose of determining if the institution meets the standards, policies and eligibility criteria of the Commission. The Commission may grant the Center candidacy or provide for an extension, deferral, denial, or termination of candidacy. Assuming candidacy is granted, the Center will be expected to remain in compliance with the standards of accreditation during the entire candidacy period, generally a period of at least two years.

Step 3 – Completing the Candidacy Period and Applying for Initial Accreditation [2012 through 2014 or later]

After at least two years as a candidate for accreditation, the Center will next apply for initial accreditation. This is accomplished by submitting a Self Study Report using the Standards of Accreditation, the Self Study Manual, and other Commission policies and resources. This Self Study Report is supported by evidence that the institution continues to meet the Eligibility Requirements as well as the ACCJC's standards and policies. Following submission of the report, a team visits the institution for the purpose of ensuring the institution meets all standards of the Commission. Following the review of the self study and team reports, the Commission will either grant initial accreditation to a new "Compton College," extend the period of candidacy, or deny initial accreditation.

If initial accreditation is granted, the institution begins a six-year cycle of periodic review for reaffirmation of accreditation which has several parts. These include a six-year comprehensive evaluation, a midterm evaluation in the third year, annual reports and annual fiscal reports to the Commission, and other progress and substantive change reports and visits as deemed necessary by the Commission.

Source: Eligibility, Candidacy and Initial Accreditation Manual, a publication of the Accrediting Commission for Community and Junior Colleges, Summer 2006.

Attachment B

Transition Plan for District Functions Delegated to El Camino

The partnership agreement between El Camino and Compton delegates certain Compton district functions to El Camino with the goal of achieving the following objectives:

- Ensuring effective support for, and close coordination with, the Center;
- Implementing effective policies, procedures and practices that will serve Compton well—both in the present and over time as it resumes internal management of the operations; and
- Ensuring that Compton has trained, capable staff who can provide essential services and who can appropriately revise and improve administrative systems as future needs evolve.

The agreement also states that Compton will resume internal management of functions delegated to El Camino once the Superintendent/President and the Special Trustee agree that Compton has the capacity to effectively manage and control the function and that the resumption of internal management by Compton is in the best interests of both the Center and the District. It is anticipated that the transition to full internal management by Compton will take place incrementally over a period of several years as follows:

2007-2008

- Managers will continue to be hired at Compton so that the district can begin to take over direct supervisory responsibilities in more areas.
- As conditions permit, functions will begin to shift back to the campus.

2008-2009

- While some functions may remain at El Camino, Compton will assume full input and supervisory responsibilities in several areas.
- El Camino will continue to have a strong audit/oversight role in assuring that good fiscal and business practices are followed.
- Compton will begin to function with more independence while continuing to apply guidelines and policies that are consistent with those at El Camino.

2009-2010

- Most functions will be administered by Compton, but El Camino will continue to handle functions based on practicality and cost-effectiveness — for example, computer systems and data processing.
- El Camino procedures and policies remain applicable.

2010-2011

- El Camino and Compton develop long-term operational and process oriented agreements regarding administrative services and their support for the Center.
- El Camino provides general oversight and, when appropriate, technical assistance to Compton.

2011 and beyond

- El Camino continues to provide general oversight and, when appropriate, technical assistance to Compton, but management of formerly delegated functions is increasingly independent.
- Exceptions to independent operations will include those areas that are required by regulation (e.g., financial aid) or operational necessity (e.g., data base operations).

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 December 3, 2014, I served the:

State Controller's Office Comments on IRC

Health Fee Elimination, 10-4206-I-33

Education Code Section 76355

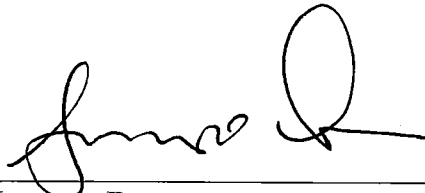
Statutes 1984, 2nd E.S.; Chapter 1; Statutes 1987, Chapter 1118;

Fiscal Years: 2003-2004, 2004-2005, 2005-2006 and 2006-2007

El Camino 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 December 3, 2014 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 12/3/14

Claim Number: 10-4206-I-33

Matter: Health Fee Elimination

Claimant: El Camino 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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