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January 12, 2015

RECEIVED
January 12, 2015
*Commission on
State Mandates*

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

Dear Ms. Halsey:

RE: CSM 05-4206-I-10
Foothill-De Anza Community College District
Fiscal Years: 1999-00, 2000-01, and 2001-02
Incorrect Reduction Claim
Health Fee Elimination

I have received the Commission Draft Proposed Decision (DPD) dated December 22, 2014, for the above-referenced incorrect reduction claim, to which I respond on behalf of the District.

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

The District asserted in its incorrect reduction claim filed September 9, 2005, that the first two years of the three claim years audited, fiscal years 1999-00 and 2000-01, were beyond the statute of limitations to complete the audit when the Controller issued its audit report on March 10, 2004. The Commission concludes that the audit was both timely initiated and timely completed.

Chronology of Annual Claim Action Dates

January 5, 2001	FY 1999-00 claim filed by the District
December 21, 2001	FY 2000-01 claim filed by the District
March 12, 2003	Entrance conference conducted
December 31, 2003	Statute of limitations expires for FY 1999-00 and FY2000-01
March 10, 2004	Controller's final audit report issued

Based on the annual claim filing dates, these two fiscal years are subject to the statute of limitations language established by Statutes of 1995, Chapter 945, Section 13, operative July 1, 1996:

(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.

1. Audit Initiation

The District concurs that the audit of the FY 1999-00 and FY 2000-01 annual claims was commenced before the expiration of the statute of limitations to commence an audit. The audit entrance conference of March 12, 2003, precedes the expiration of the date to commence the audit of December 31, 2003.

2. Audit Completion

It is uncontested here that an audit is complete only when the final audit report is issued. The District asserts that the FY 1999-00 annual claim (filed January 5, 2001) and the FY 2000-01 annual claim (filed December 21, 2001) were beyond the statute of limitations for completion of the audit (December 31, 2003) when the Controller completed its audit on March 10, 2004. The Commission (DPD, 23) concluded that the 1995 version of Section 17558.5 "does not require the Controller to 'complete' the audit within any specified period of time." The Commission (DPD, 26, 27) instead relies upon common law remedies:

Although the statute in effect at the time the reimbursement claims were filed did not expressly fix the time for which an audit must be completed, the Controller was still required under common law to complete the audit within a reasonable period of time. Under appropriate circumstances, the defense of laches may operate to bar a claim by a public agency if there is evidence of unreasonable delay by the agency and resulting prejudice to the claimant.⁷⁸ . . . The audit was completed less than one year after it was started and, under the facts of this case, within a reasonable period of time.

Footnote 78 references the *Cedar-Sinai Medical Center* decision, for the proposal that claimants should or could rely upon the defense of laches. This is a misapplication of a decision in a civil matter with equity jurisdiction. The citation does not indicate whether the relevant state agency completed the audit within its three-year statute of limitations, or whether it was so required to do so. This footnote also references *Steen V. City of Los Angeles*, another civil matter, for the unnecessary proposal that a quasi-

adjudicative local government agency, with unknown statutory or regulatory jurisdiction, can apply laches. However, the Commission is a state agency with a specific statute of limitations to apply and need not rely on laches, even if the Commission had such common law jurisdiction.

The Commission seems to be asserting that the Controller was required under common law to complete the audit within a reasonable period of time without regard to the positive law of the legislature's statute of limitations. Reliance on the reasonableness of the actual length of the audit period process would mean in practice that the determination of a reasonable audit completion date would become a question of fact for every audit, which is contrary to the concept of a *statute* of limitations. What objective standards are available for this determination?

The Commission's reliance on the equitable concept of laches is troublesome. Cases in law are governed by statutes of limitations, which are laws that determine how long a person has to file a lawsuit before the right to sue expires. Laches is the equitable equivalent of statutes of limitations. However, unlike statutes of limitations, laches leaves it up to the adjudicator to determine, based on the unique facts of the case, whether a plaintiff has waited too long to seek relief. Here there is no issue as to whether the District has been tardy in seeking relief. The incorrect reduction claim, the statutory form of relief from an audit, was timely-filed according to the statute.

Laches is a defense to a proceeding in which a plaintiff seeks equitable relief. Cases in equity are distinguished from cases at law by the type of remedy, or judicial relief, sought by the plaintiff. Generally, law cases involve a problem that can be solved by the payment of monetary damages. Equity cases involve remedies directed by the court against a party. An incorrect reduction claim is explicitly a matter of money due the claimant. The District is not seeking an injunction, where the court orders a party to do or not to do something; declaratory relief, where the court declares the rights of the two parties to a controversy; or an accounting, where the court orders a detailed written statement of money owed, paid, and held.

The Commission has not indicated that it has jurisdiction for equitable remedies. Therefore a Commission finding that there is no evidence of an unreasonable delay in the completion of the audit is without jurisdiction or consequence and simply irrelevant. Or, if the Commission is suggesting that claimant resort to the courts for an equitable remedy on the issue of statute of limitations, that is contrary to fact that the Government Code establishes primary jurisdiction to the Commission for audit disputes, that is, the incorrect reduction claim process.

The adjudication of the audit completion date should end with the 1995 version of Section 17558.5. There is no objective basis or evidence in the record to conclude that the period of time allowed to *complete* an audit is contingent on the notice provision as to when the audit can *commence*. The cases cited by the Commission speak to the

issue of *commencing* an audit and the extension of that time by future changes to the statute of limitations. These are not relevant to the issue of the *completion* of the audit. The Commission cites no cases contradicting the practical and inevitable requirement that completion is measured by the date of the audit report.

If, as the Commission asserts, that the 1995 version establishes no statutory time limit to complete a timely commenced audit, Section 17558.5 becomes absurd. Once timely commenced, audits could remain unfinished for years either by intent or neglect and the audit findings revised at any time. Thus, the claimant's document retention requirements would become open-ended and eventually punitive. Statutes of limitations are not intended to be open-ended; they are intended to be finite, that is, a period of time measured from an unalterable event, and in the case of the 1995 version of the code, it is the filing date of the annual claim.

PART B. STAFF TIME DOCUMENTATION Audit Finding 1

The audit disallowed salaries and benefits totaling \$2,303,224 and related indirect costs of \$840,216 for the three fiscal years. The stated basis for adjustments was that the District was unable to support costs or provide evidence that the employees performed mandate-related activities.

1. Psychological Counseling Costs-15% allocation

Pursuant to Title 5, CCR, Section 54702, the following activities may be included in the student health services program for which the fee is charged:

(b) Mental Health Services

- (1) crisis management
- (2) short-term psychological counseling
- (3) alcohol/drug counseling
- (4) eating disorders counseling
- (5) stress management
- (6) suicide prevention
- (7) sexual harassment/assault recovery counseling program
- (8) mental health assessments

It is uncontroverted that some portion of the districtwide counseling staff time relates to these services. The issue is how much time and whether the time was supported by documentation. The audit disallowed the claimed 15% allocation of districtwide counseling costs to the student health services program as unsupported, either by time logs or time studies. During the course of the audit, the District provided documentation showing the counselors were providing personal issues counseling services at both colleges of the District. The audit did not find the costs unreasonable or unnecessary,

just not sufficiently documented, in this case, by a time study. The Commission finds (DPD, 30) that the reduction of costs for counseling is correct because the information provided by the District to the auditor is not available in the record before the Commission and the District did not comply with the supporting documentation requirements which require a documented time-study.

The District agrees that there is no time study based on counseling staff time for the audit period. The audit was conducted after those claims were filed and it was not possible to conduct such a study retroactively. However, note that time studies were performed for the subsequent fiscal years after this audit period and provided for the second and third audit periods and accepted by the Controller as representative of the relevant mandate effort. These subsequent time studies could have been applied by the Controller retroactively to this audit period by revising the first audit, but were not. The District, which complied with the time study documentation requirements prospectively, could not amend the prior year claims (there is a one-year period to amend), and cannot now compel either the Controller or Commission to apply them retroactively, even though retroactive application has been accepted practice for other mandate programs (e.g., Behavioral Intervention Plans).

2. Other Employee Costs

The audit eliminated a \$517,566 of the salaries and benefit costs for other counselors, general assistants, secretaries, clerks, custodians, and other employees, asserting that the District was unable to support the claimed costs with time logs or time studies. The amounts for each employee is provided in a spreadsheet located at Tab 4 of the Controller's March 10, 2008, rebuttal to the incorrect reduction claim. The Commission concludes (DPD, 31) that the reduction of costs claimed for these employees is correct as a matter of law and is not arbitrary, capricious, or entirely lacking in evidentiary support, for the following reasons:

- The parameters and guidelines require claimants to identify the employees and their classifications, provide a description of the mandated functions performed by each employee, and the actual number of hours devoted to each function. The reimbursement claims do not identify this information; they only identify total program costs.
- While the Controller's spreadsheet provides a listing of some of claimant's employees and their titles, which indicates that claimant provided additional information to the Controller during the audit, there is no evidence in the record describing the mandated functions performed by each employee or the actual number of hours devoted to each function.
- There is no evidence that claimant provided source documentation to the Controller to show that the costs claimed for these other employees are valid and

relate to the mandated program. Thus, the claimant did not comply with the requirements in the parameters and guidelines in claiming these costs for salary and benefits, and has not rebutted the findings of the Controller.

The Commission concludes that the District both failed to support its claimed costs and failed to rebut the Controller's presumption that these costs were not related to the mandate. No separate findings were provided in the audit report for these numerous disallowances and the District therefore was unable to provide detail in the incorrect reduction claim. The spreadsheet located at Tab 4 of the Controller's March 10, 2008, rebuttal provided the list of excluded employees, but merely noted that no supporting documentation was provided. As the District stated in its response dated July 9, 2009, to the Controller's March 10, 2008, rebuttal to the incorrect reduction claim:

According to the Mr. Spano's response (Tab 2; p. 5), "[t]he audit report clearly states the basis for the amounts disallowed." However, simply stating that the amount is unsupported does not give the District notice of *which* costs are being disallowed. The District has no basis to judge if the final adjustment amount in the audit report, which is the binding document that provides a basis for audit adjustments, is proper because there is no detail to support the lump sum.

Further, the Controller's assertion (Tab 2; p. 5) that the required detail was provided via email on October 23, 2003, only highlights the need for this information in the audit report. The schedules attached to Mr. Spano's response (Tab 4) only provide information for \$517,566.18 in disallowed salaries for the audit period. This is less than one-quarter of the total amount found unallowable in the final audit report.

Since the audit report and subsequent Controller evidence does not state the employee tasks disallowed or the specific basis for the amounts disallowed, the propriety of these adjustments could not be determined. Regarding the first Commission rationale, the supporting documentation, if documentation sufficient to satisfy the auditor was not available twelve years ago when the audit was conducted, it is unlikely to be available now. As to the issue of rebuttal, the Controller did not provide the District then, or the Commission now, any evidence in support of the mere proposition that the costs were unrelated to the mandate, which is merely a supposition, but it shifts the burden of proving the opposite to the claimant. What is it about some of the disallowed job titles (one of which, Coordinator-Student Health Services, is self-evident as to type of duties) that requires additional support? The District did not have sufficient information to satisfy the auditor during the audit and the circumstances have not since changed.

PART C. SERVICES AND SUPPLIES Audit Finding 2

The audit disallowed \$434,624 in claimed services and supplies direct costs for all three fiscal years. The audit report states that \$293,785 is attributable to "unallowable program costs" and \$140,839 is due to "no support for cost allocation." Other than indicating the total unallowable direct program costs of \$293,785, and total unsupported direct costs of \$140,839, the only additional information provided by the audit report is as follows:

Unallowable program costs included a bad debt reserve for uncollected student health fees, a Health Fees Reserve account claimed in error, and various expenditures unrelated to health services required under the mandate. In addition, the district was unable to support the allocation of counseling costs (district account numbers 1-41248 and 1-42248, totaling \$50,312) and student accident insurance costs (\$90,527) to the mandate program. The student accident insurance policy included unallowable sports accident coverage.

As was the case for audit Finding 1, the lack of specific detail of amounts adjusted made it difficult to determine the propriety of the adjustments when the incorrect reduction claim was submitted on September 13, 2005. It was not until the Controller's March 10, 2008, rebuttal (at "Tab 4") to the incorrect reduction claim that an audit work paper for the specific disallowance was made part of the record:

<u>Expenditure</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>Total</u>
15% Counseling applied	\$16,513	\$14,100	\$19,699	\$50,312
Accident Insurance	\$30,527	\$30,000	\$30,000	\$90,527
<i>Planned Parenthood</i>	\$23,250			\$23,250
Health Fees Reserve		\$194,435		\$194,435
Uncollected Health Fees		\$52,690	\$19,151	\$71,841
Nutritionist speech luncheon			\$ 777	\$ 777
Speaker fee			\$ 5,000	\$ 5,000
<i>Emergency Vehicle</i>			\$15,997	\$15,997
Instructor Training			\$10,358	\$10,358
Contraceptive Conference Fee			\$ 931	\$ 931
Evaluation of operations			\$ 3,360	\$ 3,360
Refreshments 160 people	\$1,280			\$ 1,280
Gum, mints, etc.			\$ 157	\$ 157
Key tags			\$2,858	\$ 2,858
Key tags			<u>\$2,787</u>	<u>\$ 2,787</u>
03/10/08 Totals	\$71,570	\$291,225	\$111,075	\$473,870
Audit Finding 2	\$48,320	\$291,225	\$95,079	\$434,624
<i>Difference</i>	\$23,250	\$ 0	\$15,996	\$39,246

1.	<u>15% Counseling</u>	\$16,513	\$14,100	\$19,699	\$50,312
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The March 10, 2008, Controller's work paper states that there is no support for this expenditure. The Commission disallowed these counseling costs for lack of a time study. The District agrees that there is no time study based on staff time for the counseling claimed during the audit period.

2.	<u>Accident Insurance</u>	\$30,527	\$30,000	\$30,000	\$90,527
	Account 5050	\$6,090	\$6,000	\$6,000	\$18,090
	Account 5050	\$24,437	\$24,000	\$24,000	\$72,437

The March 10, 2008, Controller's work paper states that these expenses relate to the sports accident portion of the student health insurance and is not reimbursable. These amounts were payments to the Andreini & Company. The District concurs that Education Code section 76355, subdivision (d), prohibits reimbursement of athletic insurance, which was characterized here as "sports accident" insurance. Based on the November 23, 1998, District risk management internal memo (found at Tab 6, of the March 10, 2008, Controller's response) and other documents, the Commission (DPD, 39) concludes that the \$30,527 for FY 1999-00 is reimbursable and supported by documentation. However, there being no similar documentation for the other two fiscal years, the Commission finds those reductions correct. The District believes that, based on how the amounts are consistently accounted for in all three years and the consistent amounts themselves, it would be reasonable for the auditor to infer the amounts for the other two years are also for student accident insurance.

3.	<u>Planned Parenthood</u>	\$23,250		\$23,250
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The March 10, 2008, Controller's work paper states that the auditors could not trace the amounts to invoices or evidence of payment. However, this amount is not included as an adjustment in the audit report. Either the referenced supporting documentation was obtained after the work paper was prepared or the expenditure was accepted based on the general ledger information, that is, on its face, the subject matter is related to the mandate program. Since it appears that this amount was not ultimately included in the adjustment, no further action is required.

4.	<u>Bad Debt Reserve</u>			\$266,274
	Health Fee Reserve	\$194,435		\$194,435
	Uncollected Health Fees	\$52,690	\$19,151	\$71,841

The Commission (DPD, 33) refers to these two types of costs as a "bad debt reserve" and concludes that: "[t]he formation of a bad debt reserve fund and a health fee reserve fund are not activities or costs identified in the parameters and guidelines as eligible for reimbursement."

HEALTH FEES RESERVE: The March 10, 2008, Controller's work paper states the "Health Fees Reserve" amount is "project year expenditures . . . claimed in error." This actually appears to be "projected" expenses for the year, based on similar accounting entries in other fiscal years, that should have been cleared from the account when actual costs were incurred and recorded. The audit adjustment is necessary for mandate cost accounting purposes.

UNCOLLECTED HEALTH FEES: The March 10, 2008, Controller's work paper states that "uncollected health fees are not reimbursable." The *Clovis* court decision "Health Fee Rule" (discussed in Part E below), decided after these annual claims were filed and after the audit report was issued, makes uncollected student health service fees, or bad debt reserves, irrelevant for cost reporting purposes, although they are still relevant for general accounting purposes. The audit adjustment is necessary for mandate cost accounting purposes.

5.	<u>Nutritionist speech/luncheon</u>	\$ 5,777	\$ 5,777
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This amount consists of a \$5,000 speaker fee paid to the American Program Bureau, Inc., for a speaker on nutrition and what appears to be payment to the Foothill College Café to cater the luncheon. The March 10, 2008, Controller's work paper states there is no evidence that the speech was health services related.

The parameters and guidelines neither exclude consultants as an allowable method of implementing the mandate, nor do they exclude training activities from reimbursement. Title 5, California Code of Regulations, Section 54708, allows the following costs for the student health services program that is funded by the student health services fees:

- (a) Costs incurred in the planning, supervision, and evaluation of student health programs and services;
- (b) Administrative salaries (below the level of assistant dean or its equivalent);
- (c) Cost of instructional materials for health education;
- (d) Consultants directly involved in the student health service programs;
- (e) Rental and lease of space for the conduct of student health programs and services;
- (f) Cost of equipment and medical supplies;
- (g) Salaries of student health personnel directly involved in the delivery of student health services (including fringe benefits);
- (h) Student health and/or hospitalization insurance;
- (i) Travel with student health services funds is limited to student health personnel and only for student health related activities.

Since Title 5, Section 54708, subdivision (d), states that consultant costs are a permitted use of the student health service fee funded program, the issue becomes whether the cost is reasonable. The audit report makes no factual claim to support the

adjustment on the grounds that the claimed costs were unnecessary or excessive. On its face, the subject matter of nutrition is health services related, and within the scope of "Health Talks or Fairs" which is specifically included in the parameters and guidelines as a reimbursable activity and there should be no need for further inquiry. The Controller did not find that the food service costs that appear to be connected with attendance at the speech to be unreasonable or unnecessary, just as a matter of opinion, not reimbursable. The adjustments are without objective merit on the issue being related to health services.

6.	<u>Emergency Response Vehicle</u>	\$15,997	\$15,997
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The March 10, 2008, Controller's work paper states that this is "ambulance services" costs that are not reimbursable. However, this amount is not included as an adjustment in the audit report. This cost of the vehicle, probably similar to a golf cart, is clearly not a commercial ambulance service contemplated by Government Code section 76355, subdivision (d). Since it appears that this amount was not ultimately included in the adjustment, no further action is required.

7.	<u>Instructor Training</u>	\$10,358	\$10,358
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The March 10, 2008, Controller's work paper states that there is no evidence to support the cost of instructor training for De Anza College is health services related. On its face, the expense could qualify as Title 5, Section 54708, subdivision (a) supervision, subdivision (b) administrative salaries, (g) staff salaries, or, subdivision (d) consultant expense. The adjustment is without objective merit and incorrect.

8.	<u>Contraceptive Conference Fee</u>	\$ 931	\$ 931
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The March 10, 2008, Controller's work paper states that there is no support for the payment to Hyatt Hotel for an instructor to attend a Contraceptive Technology Conference. The subject matter of the activity is within the parameters and guidelines list of health service activities. On its face, the expense could qualify as Title 5, Section 54708, subdivision (a) planning, or subdivision (d) consultant, or subdivision (i) travel expense. The adjustment is without objective merit and incorrect.

9.	<u>Evaluation of operations</u>	\$ 3,360	\$ 3,360
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The March 10, 2008, Controller's work paper states that the payment to Sharon Bartels for the evaluation of health center operations is not reimbursable since it was not listed as a base-year activity, which would seem to indicate that it was otherwise a reimbursable activity. Such evaluations are not ongoing student clinical services and rather are administrative activities that occur when needed. The listing of student health services (Controller form HFE-2) pertains to services available, and not necessarily rendered each and every year. The Commission Statement of Decision

adopted January 30, 2014, for San Mateo County CCD and San Bernardino CCD, merged Health Fee Elimination incorrect reduction claims (05-4206-I-04 and 05-4206-I-08), stated (SOD, 32):

The scope of allowable health services costs for this test claim is defined and limited by the so called "maintenance of effort" requirement: community college districts are required by the test claim statute to continue providing health services "at the level provided" during the base year, 1986-87. The parameters and guidelines and claiming instructions provide a long list of services that may be eligible for reimbursement in the claim year to the extent those services were provided in the base year. The analysis below determines that the list is illustrative, not exhaustive, and a too-narrow reading of the "maintenance of effort" requirement is not warranted.

On its face, the expense could qualify as Title 5, Section 54708, subdivision (a) evaluation or subdivision (d) consulting expense. The adjustment is without objective merit and incorrect.

10. <u>Promotional Items</u>		\$7,082
Refreshments 160 people	\$1,280	\$1,280
Gum, mints, etc.	\$ 157	\$ 157
Key tags	\$2,858	\$2,858
Key tags	\$2,787	\$2,787

The March 10, 2008, Controller's work paper states that these expenses are not within the scope of the parameters and guidelines, but does not cite a reason, just a conclusion. The Commission (DPD, 34) concludes that these reductions are correct because "refreshments, sunflower seeds, chewing gum, breath mints, key tags, and lunch are not a direct cost of the mandate to provide health services to students and, thus, these costs go beyond the scope of the mandated program and are not reimbursable."

These costs were incurred for promotional activities within the scope of "Health Talks or Fairs" activities specifically included in the parameters and guidelines as a reimbursable activity in Section V. Further, Title 5, Section 54702, (d), (1), includes "health education and promotion" as an activity that may be included in the student health services program for which the fee is charged. Since the Commission and Board of Governors have determined that health fair and promotional activities are reimbursable, and since the District provided health fairs in the base-year 1986-87, then the health fairs must be continued pursuant to Education Code Section 76355. Because there is no legal question that the health fair and health promotion activities are appropriate, and no assertion or evidence that the costs were excessive, the adjustment should not be approved by the Commission.

PART D. APPLICATION OF AN INDIRECT COST RATE

Audit Finding 3

The Controller's claiming instructions provide two options for calculating indirect costs, the OMB Circular A-21 or the state's methodology in FAM-29C. The Controller reduced and replaced the indirect cost rate claimed because the District did not obtain federal approval of its proposed indirect cost rate and that the rate was not developed based on the costs incurred in the fiscal years within the audit period, but instead on the costs incurred in fiscal year 1998-1999. The Controller recalculated indirect costs using the FAM 29-C method. The difference between the original claimed rate of 36.48% for all three years under the OMB A-21 method, and the FAM 29-C rates of 15.23% for 1999-2000, 15.72% for 2000-2001, and 17.3% for 2001-2002, result in a total reduction of \$442,402, when applied to the direct costs remaining after the reductions from the previous two findings.

The threshold Commission conclusion is that claimants must comply with the Controller's claiming instructions and that the Controller's use of its own instructions and forms to recalculate the indirect cost rates was not arbitrary and correct as a matter of law. The District asserts that the Controller's claiming instructions are not alone enforceable as a matter of law as they are not regulations nor were they adopted pursuant to the administrative rulemaking process required to enforce agency manuals and instructions, as did the *Clovis Court*.¹ The Controller has never asserted that its claiming instructions are alone legally enforceable. Therefore, any documentation

¹ From the Clovis Appellate Court Decision (4):

"Once the Commission determines that a state mandate exists, it adopts regulatory "[P]arameters and [G]uidelines" (P&G's) to govern the state-mandated reimbursement. (§ 17557.) The Controller, in turn, then issues nonregulatory "[C]laiming [I]nstructions" for each Commission-determined mandate; these instructions must derive from the Commission's test claim decision and its adopted P&G's. (§ 17558.) Claiming Instructions may be specific to a particular mandated program, or general to all such programs." Emphasis added.

From the Clovis Appellate Court Decision (15):

"Given these substantive differences between the Commission's pre-May 27, 2004 SDC P&G's and the Controller's CSDR, we conclude that the CSDR implemented, interpreted or made specific the following laws enforced or administered by the Controller: the Commission's pre-May 27, 2004 P&G's for the SDC Program (§ 17558 [the Commission submits regulatory P&G's to the Controller, who in turn issues nonregulatory Claiming Instructions based thereon]; and the Controller's statutory authority to audit state-mandated reimbursement claims (§ 17561, subd. (d)(2))." Emphasis added.

standards or cost accounting formulas published in the claiming instructions, to be enforceable, must derive from another source. However, there are no cost accounting standards for calculating the indirect cost rate for the Health Fee Elimination mandate published anywhere except the Controller's claiming instructions.

Regardless of the lack of legal sources for the indirect cost rate calculation, the Commission asserts (DPD, 41):

The reference in the parameters and guidelines to the SCO's claiming instructions necessarily includes the general provisions of the School Mandated Cost Manual (and later the Mandated Cost Manual for Community Colleges), and the manual provides ample notice to claimants as to how they may properly claim indirect costs. Claimant's assertion that "[n]either State law or the parameters and guidelines made compliance with the SCO's claiming instructions a condition of reimbursement" is therefore not correct. The parameters and guidelines, which were duly adopted at a Commission hearing, require compliance with the claiming instructions.

The District agrees that the parameters and guidelines have the force of law, but that it does not extend by mere reference to the general or specific claiming instructions for Health Fee Elimination. Neither the Commission nor the Controller has ever adopted the Controller's claiming instructions pursuant the process required by the regulations relevant to the Commission or the Administrative Procedure Act relevant to the Controller, nor has the Commission ever before stated that parameters and guidelines are subordinate to the Controller's claiming instructions. The Controller's use of the FAM-29C method for audit purposes is a standard of general application without appropriate state agency rulemaking and is therefore unenforceable (Government Code Section 11340.5). The formula is not an exempt audit guideline (Government Code Section 11340.9(e)). State agencies are prohibited from enforcing underground regulations. If a state agency issues, enforces, or attempts to enforce a rule without following the Administrative Procedure Act, when it is required to, the rule is called an "underground regulation." Further, the audit adjustment is a financial penalty against the District, and since the adjustment is based on an underground regulation, the formula cannot be used for the audit adjustment (Government Code Section 11425.50).

Somehow the "assistance" provided by the claiming instructions has become a requirement even though the parameters and guidelines use the word "may." The Commission now has concluded that the contents of the claiming instructions are as a matter of law derivative of the authority of the parameters and guidelines. Assuming for argument that this leap can be made, would that derivative authority continue for any changes made to the claiming instructions after the adoption of the 1989 parameters and guidelines, that is, an open-ended commitment of the Commission's authority to the Controller who can make changes without reference to the Commission process? Is this derivative authority limited to Health Fee Elimination or applicable to all

mandates?

Note that the Health Fee Elimination parameters and guidelines were amended on January 29, 2010. However, the indirect cost rate language remained the same:

3. Allowable Overhead Cost

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

The Commission has had numerous opportunities to clarify its intent and language regarding the indirect cost rate calculation methods and resolve or avoid the delegation and derivation issue. For example, and by contrast, the parameters and guidelines language for the new college mandate Cal Grants, adopted on the same date as the January 29, 2010, amendment for Health Fee Elimination, has the needed specific and comprehensive language:

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

This language in the parameters and guidelines for Cal Grants makes the Controller's guidance on the suggested three choices of indirect cost calculation methods legally enforceable. The Commission properly adopted this language within the scope of their regulatory discretion and has utilized it in new program college mandate parameters and guidelines since at least 2002. However, this language has never been adopted by the Commission for Health Fee Elimination.

In the absence of legally enforceable claiming instructions, rules or methods, or standards or specific language in the parameters and guidelines for the indirect cost rate calculation, the remaining standard is Government Code section 17561. No particular indirect cost rate calculation method is required by law. Government Code section 17561(d)(2) requires the Controller to pay claims, provided that the Controller may audit the records of any school district to verify the actual amount of the mandated costs, and may reduce any claim that the Controller determines is excessive or unreasonable. The Controller is authorized to reduce a claim if the Controller determines the claim to be excessive or unreasonable. Here, the District computed indirect cost rates utilizing cost accounting principles from the Office of Management and Budget Circular A-21, and the Controller has disallowed the rates without a determination of whether the product of the District's calculation is excessive, unreasonable, or inconsistent with cost accounting principles.

There is no rebuttable presumption for this mandate that the Controller's methods are per se the only reasonable method. The Controller made no determination as to whether the method used by the District was reasonable or not, but merely substituted the Controller's method for the method used by the Districts. The substitution of the Controller's method is an arbitrary choice of the auditor, not a "finding" enforceable either by fact or law. In order to move forward with the adjustment, the burden of proof is on the Controller to prove that the District's calculation is unreasonable. Indeed, federally "approved" rates which the Controller will accept without further action, are "negotiated" rates calculated by the district and submitted for approval, indicating that the process is not an exact science, but a determination of the relevance and reasonableness of the cost allocation assumptions made for the method used. Further, the approved rates are used for several fiscal years. Neither the Commission nor the Controller can assume that the Controller's calculation methods are intrinsically more accurate and the Commission cannot shift that burden or create the presumption to the contrary where none is present in law.

PART E. UNDERSTATED OFFSETTING REVENUES

Audit Finding 4

The amount of student health services fees collectible reduces the total reimbursable costs. The Controller decreased the collectible amount by \$1,109,627, which would have increased the reimbursable cost by that amount except that in this audit even the reduced collectible fee amount still exceeds the audited reimbursable direct and indirect costs that resulted from the previous findings in the amount of \$1,252,033. In other words, this adjustment did not change the reimbursable costs. However, if any of the previous findings are changed by the Commission or a court upon appeal, the total amount of the reimbursable costs could change. Therefore, the offset has to be properly calculated, which is a proper subject for the Commission incorrect reduction claim process.

Because the decrease in offsetting savings from the audit adjustment did not reduce

the total reimbursable costs, the Commission (DPD, 44) rejects jurisdiction of this issue. This is contrary to the Commission's (DPD, 43) own citation of the relevant law:

The plain language of section 17551, which directs the Commission to hear IRCs in the first instance, applies only to claims that are reduced. Government Code section 17551 provides that the Commission "shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district..." pursuant to an audit.

The amount of *payment* to the District will be based on the total allowable direct and indirect cost reduced by the total offsetting student health services fees collectible. The Commission cannot deny jurisdiction of one-half of this formula for the single reason that the audited revenue offset is less than the claimed offset. Nor is there any statutory support for denying jurisdiction of any single issue that increases reimbursement. The net effect of this audit finding when added to the audited reimbursable direct and indirect costs does not exceed the claimed amount.

The Commission has determined in previous incorrect reduction claims for the Health Fee Elimination mandate program that the correct calculation and application of offsetting revenue from student health service fees has been resolved by the *Clovis* decision. The District agrees that claimants and state agencies are bound to apply the *Clovis* Health Fee Rule as decided law and that this extends to retroactive fiscal years still within the Commission's or Controller's jurisdiction. On October 27, 2011, the Commission adopted a consolidated statement of decision for seven Health Fee Elimination incorrect reduction claims establishing that the proper application of the Health Fee Rule involves two factual elements: the number of exempt students and the specific enrollment statistics for each semester. That decision approved the Controller's use of specific Community College Chancellor's MIS data to obtain these student amounts. That approved method is stated in the more recent HFE audits as:

FINDING— Understated authorized health service fees

We obtained student enrollment data from the CCCCCO. The CCCCCO identified enrollment data from its management information system (MIS) based on student data that the district reported. CCCCCO identified the district's enrollment based on its MIS data element STD7, codes A through G. CCCCCO eliminated any duplicate students based on their Social Security numbers. *Cited from the October 19, 2012 HFE Audit Report for State Center CCD. Available at the Controller's web site.*

For this audit, completed March 10, 2004, well before the October 27, 2011, Commission decision, the source of the enrollment statistics used by the auditor was

different:

FINDING 4— Understated authorized health fee revenues claimed

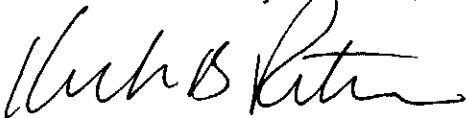
The district's Institutional Research Office provided student enrollment data for each fiscal year within the audit period. Enrollment data provided disclosed differences between reported and actual gross student enrollment. In addition, Board of Governors Grant (BOGG waiver) data disclosed material differences between actual and reported health fee exemptions. District representatives stated that enrollment data originally reported was overstated based on errors in extracting enrollment data. District representatives were unable to explain the difference between actual and reported health fee exemptions.

The auditor prepared two different calculations of the student health service fees collectible and the District prepared at least two calculations of the fees collectible, once for the claims as submitted and once after the draft audit report was issued. Which is to say, there are at least four different calculations of this artificial construct, ostensibly from the same data sources, none of which agree. Therefore, to properly implement the Health Fee Rule, it will be necessary for the Controller to utilize the statistics approved by the October 27, 2011, decision. Until then, the Commission's ultimate conclusion that the adjustments here are not arbitrary or lacking in evidentiary support is unfounded.

CERTIFICATION

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

Executed on January 12, 2015, at Sacramento, California, by



Keith B. Petersen, President
SixTen & Associates

Service by Commission Electronic Drop Box

**FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT
HEALTH FEE ELIMINATION PROGRAM
ANALYSIS OF SALARIES – FY 1999/2000**

ACCOUNT CODE	EMPLOYEE	TITLE	UNALLOWED COSTS	EXPLANATION
1-41266	Gregorio, Gertrudes	Dean, Adaptive Learning Div	2,030.96	No support for partially claimed salary
1-41266	Pla-Richard, Melanie	Counselor	11,949.27	No support for partially claimed salary
2-11264	Lopez, Cindy Renee	Student Assistant	1,138.75	No support for partially claimed salary
2-11264	Uachaikul, Piyachai	General Assistant IV	608.00	No support that employee is health services related
2-11264	Walton, Gloria	General Assistant III	1,095.82	No support for partially claimed salary
2-11265	Pla-Richard, Melanie	Counselor	26,522.48	No support for partially claimed salary
2-12264	Bushnell, William G	Counselor	2,290.41	No support for partially claimed salary
2-12264	Christiansen, Jean M	Counselor	9,232.19	No support for partially claimed salary
2-12264	Chua, Paul P	Assistant IV	1,697.84	No support that employee is health services related
2-12264	Clem, Robert M	Counselor	5,644.51	No support for partially claimed salary
2-12264	Coleman, David	Counselor	5,799.59	No support for partially claimed salary
2-12264	Coleman, Judy C	Counselor	8,221.99	No support for partially claimed salary
2-12264	Cortez, Alicia	Counselor	4,724.74	No support for partially claimed salary
2-12264	Forotan, Safoura Asal	Clerk IV	5,286.00	No support that employee is health services related; no support for partially claimed salary
2-12264	Fung, Donna I	Counselor	9,048.86	No support for partially claimed salary
2-12264	Harper, Lauri M	Counselor	9,355.29	No support for partially claimed salary
2-12264	Hughes, Melinda	Athletic Counselor (?)	1,581.63	No support for partially claimed salary
2-12264	Huynh, Ky-Duyen Le	Counselor	5,401.52	No support for partially claimed salary
2-12264	Johnson, Elise L	Counselor	5,718.23	No support for partially claimed salary
2-12264	Mendioroz, Selia	N/A per auditee	335.00	No support for partially claimed salary
2-12264	Mix, Violet G	Educational Services Provider	730.00	No support for partially claimed salary
2-12264	Moreno, Victoria A	Counselor	263.44	No support for partially claimed salary
2-12264	Raff, Margo I	Counselor	8,243.88	No support for partially claimed salary
2-12264	Sink, Paula G	Secretary	6,832.20	No support for partially claimed salary
2-12264	Torres, Laurel Marita	Counselor	6,824.13	No support for partially claimed salary
2-12264	Winters, Marion	Counselor	8,282.20	No support for partially claimed salary
2-12264	Woodward, Cheryl S	Counselor	7,982.20	No support for partially claimed salary
2-12264	Zulaica, Lisa Marie	?	33,776.35	No support that employee is health services related
UNALLOWED SALARIES FOR FY 1999/2000			\$ 190,617.48	Total salaries allowed for FY 1999/2000: \$ 332,003.57

**FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT
HEALTH FEE ELIMINATION PROGRAM
ANALYSIS OF SALARIES -- FY 2000/01**

ACCOUNT CODE	EMPLOYEE	TITLE	UNALLOWED COSTS	EXPLANATION
1-41266	Pla-Richard, Melanie	Counselor	12,771.38	No support for partially claimed salary
2-11264	Benavides, Enequina M	Custodian I	67.98	No support for partially claimed salary; no support that employee is health services related
2-11264	Buxton, Paul C	Custodian III	141.07	No support for partially claimed salary; no support that employee is health services related
2-11264	Capristo, Francisca M	Custodian I	96.44	No support for partially claimed salary; no support that employee is health services related
2-11264	Karilhafo, Natasha	General Assistant III	3,620.00	No support that employee is health services related
2-11264	Oliveira, Ana M	Custodian II	179.28	No support for partially claimed salary; no support that employee is health services related
2-11264	Vela, Israel	Custodian II	120.71	No support for partially claimed salary; no support that employee is health services related
2-11265	Pla-Richard, Melanie	Counselor	28,347.15	No support for partially claimed salary
2-12264	Christiansen, Jean M	Counselor	9,795.97	No support for partially claimed salary
2-12264	Clem, Robert M	Counselor	6,338.21	No support for partially claimed salary
2-12264	Coleman, David	Counselor	2,135.29	No support for partially claimed salary
2-12264	Coleman, Judy C	Counselor	8,745.90	No support for partially claimed salary
2-12264	Cortez, Alicia	Counselor	5,943.63	No support for partially claimed salary
2-12264	Forotan, Safoura Asal	Clerk IV	4,659.00	No support for partially claimed salary; no support that employee is health services related
2-12264	Foy, Ruth A	Coordinator-Student Hlth Svcs	8,686.70	No support for partially claimed salary
2-12264	Fung, Donna I	Counselor	9,567.35	No support for partially claimed salary
2-12264	Haririfar, Mojgan	Educational Services Provider	280.00	No support that employee is health services related
2-12264	Harper, Lauri M	Counselor	9,919.06	No support for partially claimed salary
2-12264	Hughes, Melinda	Counselor	5,851.71	No support for partially claimed salary
2-12264	Huynh, Ky-Duyen Le	Counselor	6,338.15	No support for partially claimed salary
2-12264	Lomax, Charles	Counselor	9,901.54	No support for partially claimed salary
2-12264	Mix, Violet G	Educational Services Provider	120.00	No support for partially claimed salary
2-12264	Raff, Margo I	Counselor	8,790.90	No support for partially claimed salary
2-12264	Sink, Paula G	Secretary	11,294.99	No support for partially claimed salary
2-12264	Torres, Laurel Marita	Counselor	7,563.04	No support for partially claimed salary
2-12264	Tulane, Gina Ann	Specialist I	1,301.07	No support that employee is health services related
2-12264	Winters, Marion	Counselor	9,046.03	No support for partially claimed salary
UNALLOWED SALARIES FOR FY 2000/01			\$ 171,622.55	Total salaries allowed for FY 2000/01: \$ 377,717.19

**FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT
HEALTH FEE ELIMINATION PROGRAM
ANALYSIS OF SALARIES -- FY 2001/02**

ACCOUNT CODE	EMPLOYEE	TITLE	UNALLOWED COSTS	EXPLANATION
1-41070	Benavides, Enedina M	Custodian I	101.85	No support for partially claimed salary; no support that employee is health services related
1-41070	Capristo, Francisca M	Custodian I	104.45	No support for partially claimed salary; no support that employee is health services related
1-41266	DeLeon-Gonzalez, Ana Lili	Clerk IV	1,073.80	No support that employee is health services related
1-41266	Pla-Richard, Melanie	Counselor	13,394.42	No support for partially claimed salary
1-41266	Ramos, Carlos Eduardo	Part-time Faculty	1,073.80	No support that employee is health services related
1-41266	Sanchez, Juan Alberto	Part-time Faculty	613.60	No support that employee is health services related
2-11264	Benavides, Enedina M	Custodian I	301.63	No support for partially claimed salary; no support that employee is health services related
2-11264	Capristo, Francisca M	Custodian I	100.43	No support for partially claimed salary; no support that employee is health services related
2-11264	Jones, Nicole Leanne	General Assistant III / Student Health Educator	191.20	No support for partially claimed salary
2-11264	Lierberman, Micah B	Senior Program Coordinator	240.00	Not reimbursable (district received grant)
2-11264	Mardueno, Hector	Custodian I	203.70	No support for partially claimed salary; no support that employee is health services related
2-11264	Murray, Eugenia Pantely	Educational Services Provider	265.68	No support for partially claimed salary; no support that employee is health services related
2-11265	Pla-Richard, Melanie	Counselor	29,730.03	No support for partially claimed salary
2-12264	Christiansen, Jean M	Counselor	10,223.23	No support for partially claimed salary
2-12264	Clem, Robert M	Counselor	6,903.46	No support for partially claimed salary
2-12264	Coleman, David	Counselor	5,178.57	No support for partially claimed salary
2-12264	Coleman, Judy C	Counselor	9,473.25	No support for partially claimed salary
2-12264	Cortez, Alicia	Counselor	8,905.40	No support for partially claimed salary
2-12264	Fung, Donna I	Counselor	10,012.05	No support for partially claimed salary
2-12264	Haririfar, Moigan	Educational Services Provider	192.50	No support that employee is health services related
2-12264	Hughes, Melinda	Counselor	6,655.10	No support for partially claimed salary
2-12264	Joplin, Natasha W	Counselor	6,903.61	No support for partially claimed salary
2-12264	Lomax, Charles R	Counselor	10,328.96	No support for partially claimed salary
2-12264	Mendioroz, Selia	Educational Services Provider	437.50	No support that employee is health services related
2-12264	Milonas, Faith E	Counselor	6,530.83	No support for partially claimed salary
2-12264	Mix, Violet G	Educational Services Provider	425.00	No support for partially claimed salary
2-12264	Nickel, Donald Turner	Counselor	4,810.68	No support for partially claimed salary
2-12264	Sink, Paula G	Secretary	11,994.98	No support for partially claimed salary
2-12264	Torres, Laurel Marita	Counselor	8,179.53	No support for partially claimed salary
2-12264	Winters, Marion	Counselor	776.91	No support for partially claimed salary

UNALLOWED SALARIES FOR FY 2001/02	\$ 155,326.15	Total salaries allowed for FY 2001/02: \$ 420,663.67
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**FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT
HEALTH FEE ELIMINATION PROGRAM
ANALYSIS OF SERVICES AND SUPPLIES**

FY 1999-2000	Account Code	Object Code(s)	Vendor	Amount Claimed & Unallowed (\$)	Explanation
	1-41248	4000, 5000	Foothill counseling	3,044	No support for claiming 15% of total expenses.
	1-42248	4000, 5000, 6000	De Anza counseling	13,469	No support for claiming 15% of total expenses.
	2-11264	5050	Andreini & Company	6,090	Coverage is for Sports Accident insurance (not authorized expenditure per Ed. Code Sec. 76355(d)).
	2-11264	5214	Planned Parenthood	7,926	Auditors could not trace amounts to invoices and evidence of payment.
	2-11264	5214	Planned Parenthood	8,324	
	2-11264	5214	Planned Parenthood	7,000	
	2-12264	4010	De Anza Food Service	1,280	Refreshments for 160 people @ \$8.00 each; not authorized by mandate.
	2-12264	5050	Andreini & Company	24,437	Coverage is for Sports Accident insurance (not authorized expenditure per Ed. Code Sec. 76355(d)).
		FY 1999-2000 TOTAL	71,570		

FY 2000-01	Account Code	Object Code(s)	Vendor	Amount Claimed & Unallowed (\$)	Explanation
	1-41248	4000, 5000	Foothill counseling	3,237	No support for claiming 15% of total expenses.
	1-42248	4000, 5000, 6000	De Anza counseling	10,863	No support for claiming 15% of total expenses.
	2-11264	5050	Andreini & Company	6,000	Coverage is for Sports Accident insurance (not authorized expenditure per Ed. Code Sec. 76355(d)).
	2-11264	5914	Bad Debt Reserve	21,001	Uncollected health fees are not reimbursable.
	2-12265	4000, 5000, 6000	Health Fees Reserve	194,435	Project year expenditures were claimed in error.
	2-12264	5050	Andreini & Company	24,000	Coverage is for Sports Accident insurance (not authorized expenditure per Ed. Code Sec. 76355(d)).
	2-12264	5914	Bad Debt Reserve	31,699	Uncollected health fees are not reimbursable.
			FY 2000-01 TOTAL	291,225	

**FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT
HEALTH FEE ELIMINATION PROGRAM
ANALYSIS OF SERVICES AND SUPPLIES**

Account Code	Object Code(s)	Vendor	Amount Claimed & Unallowed (\$)	Explanation
1-41248	4000, 5000, 6000	Foothill counseling	2,361	No support for claiming 15% of total expenses.
1-42248	4000, 5000, 6000	De Anza counseling	17,338	No support for claiming 15% of total expenses.
2-11264	4010	Karen Juan	✓ 157	Receipt from Costco indicated purchases for sunflower seeds, chewing gum, and breath mints (non-reimbursable).
2-11264	4010	Peter Hoi-Lun Cheung	✓ 777	Luncheon provided by Foothill Café for nutritionalist speech is not reimbursable.
2-11264	4010	American Program Bureau Inc.	✓ 5,000	No evidence that speech by Naomi Tutu, "Searching For Common Ground," was health services related.
2-11264	5050	Andreini & Company	(6,000)	Coverage is for Sports Accident insurance (not authorized expenditure per Ed. Code Sec. 76355(d)).
2-11264	5214	James Moffitt	✓ 10,358	IPCJ-STD-001 Instructor Training for De Anza College -- no evidence to support cost was health services related
2-11264	5914	Bad Debt Reserve	(6,919)	Uncollected health fees are not reimbursable.
2-11264	6620	Emergency Response Vehicle	✓ 16,997	Ed. Code Sec. 76355(d) specifically lists "ambulance services" as an unauthorized health fee expenditure and thus is not reimbursable.
2-12264	4010	BizGifts	✓ 2,858	Custom-printed key tags with whistle are not reimbursable (under <i>Parameters and Guidelines</i>).
2-12264	4010	Brown & Bigelow	✓ 2,787	Custom-printed key tags with whistle are not reimbursable (under <i>Parameters and Guidelines</i>).
2-12264	4900	Hyatt Hotels	✓ 931	District claimed that Sandra Gonsalces attended a Contraceptive Technology Conference; no support or documentation of conference.
2-12264	5050	Andreini & Company	(24,000)	Coverage is for Sports Accident insurance (not authorized expenditure per Ed. Code Sec. 76355(d)).
2-12264	5214	Sharon Bartels	✓ 3,360	Evaluation of health center operations, activities and programs is not reimbursable (additional service above 1986/87 level).
2-12264	5914	Bad Debt Reserve	(12,232)	Uncollected health fees are not reimbursable.
FY 2001-02 TOTAL			111,075	

FY 2001-02

JV 1/22/04 1B 20



FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT
Risk Management

NOV 25 1998

Date: November 23, 1998
To: Gloria Wu, District Accounting
From: Annette Perez, Risk Management *amp*
Re: Student Accident Premiums

Per our meeting on Thursday, November 19, 1998 in which we discuss the distribution of the premium calculations for the Student Accident Policy. In the meeting, we agreed to distribute the insurance premiums as follows:

- \$36,862.00 to be charged to Foothill Athletics 1417265050. - *Sports Coverage*
- \$6,090.00 to be charged to Foothill Health Office 2112645050. - *Student Accident*
- \$45,644.00 to be charged to De Anza Athletics 1427265050. - *Sports Coverage*
- \$24,437.00 to be charged to De Anza Health Office 2122645050. - *Student Accident*

Please credit their account for the previous charge (see attached check request) and debit them as stated above.

Thank You.

- C: Mike Brandy
- Sue Gatlin
- Jim Keller
- Abel Nunez
- Ron Warnock

T.M.S 6

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 January 13, 2015, I served the:

Claimant Comments

Health Fee Elimination, 05-4206-I-10

Education Code Section 76355

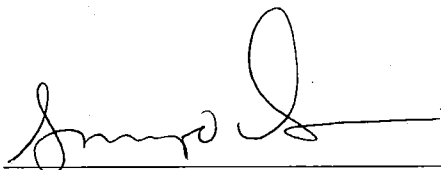
Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118

Fiscal Years 1999-2000, 2000-2001, and 2001-2002

Foothill-De Anza Community College District, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 13, 2015 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: 11/19/14

Claim Number: 05-4206-I-10

Matter: Health Fee Elimination

Claimant: Foothill-De Anza 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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Claimant Representative

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