



JOHN CHIANG
California State Controller

November 26, 2014

RECEIVED
November 26, 2014
*Commission on
State Mandates*

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

Re: **Incorrect Reduction Claim (IRC)**
Health Fee Elimination, 09-4206-I-22
Education Code Section 76355
Statutes 1984, Chapter 1, 2nd E.S.; Statutes 1987, Chapter 1118
Fiscal Years 2003-2004, 2004-2005, and 2005-2006
Long Beach 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 fee 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*.

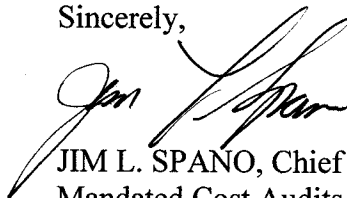
Heather Halsey, Executive Director

November 26, 2014

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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, sweeping initial "J".

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

JLS/sk

8649

Attachment

**RESPONSE BY THE STATE CONTROLLER’S OFFICE (SCO)
TO THE INCORRECT REDUCTION CLAIM (IRC) BY
LONG BEACH COMMUNITY COLLEGE DISTRICT
Health Fee Elimination Program**

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Commission on State Mandates Staff Analysis, Proposed Parameters and Guidelines (May 1989).....	Tab 4
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References to Exhibits relate to the District’s IRC filed on September 25, 2009:	
• Exhibit A-PDF page 23	
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Tab 1

1 **OFFICE OF THE STATE CONTROLLER**

2 300 Capitol Mall, Suite 1850
3 Sacramento, CA 94250
4 Telephone No.: (916) 445-6854

5 BEFORE THE
6 COMMISSION ON STATE MANDATES
7 STATE OF CALIFORNIA

8
9 INCORRECT REDUCTION CLAIM ON:

No.: CSM 09-4206-I-22

10 *Health Fee Elimination Program*

AFFIDAVIT OF BUREAU CHIEF

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

13 LONG BEACH COMMUNITY
14 COLLEGE DISTRICT, Claimant

15
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 Long
23 Beach 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.

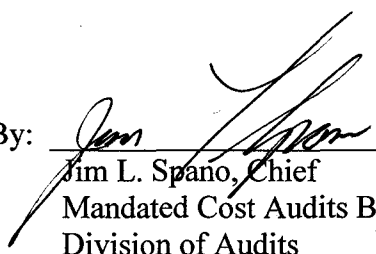
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7) A review of the claims for fiscal year (FY) 2003-04, FY 2004-05, and FY 2005-06 commenced on October 16, 2008, and ended on April 8, 2009.

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: November 26, 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
LONG BEACH COMMUNITY COLLEGE DISTRICT
For Fiscal Year (FY) 2003-04, FY 2004-05, and FY 2005-06**

**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 Long Beach Community College District final on September 25, 2009. 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, 2006. The SCO issued its final report on June 26, 2009 (**Exhibit D**).

The district submitted reimbursement claims totaling \$ 869,534 as follows:

- FY 2003-04—\$267,154 (**Exhibit H**)
- FY 2004-05—\$305,960 (**Exhibit H**)
- FY 2005-06—\$296,420 (**Exhibit H**)

Subsequently, the SCO performed an audit of those claims. The SCO audit disclosed that \$192,807 is allowable and \$676,727 is unallowable. The total unallowable is comprised of \$74,504 in overstated indirect costs reported in fiscal year (FY) 2003-04, \$639,989 in understated authorized health service fees during the audit period, and a \$37,766 correcting entry to eliminate a negative balance in FY 2005-06. The following table summarizes the audit results:

Cost Element	Actual Costs Claimed	Allowable per Audit	Audit Adjustments
<u>July 1, 2003, through June 2004</u>			
Direct costs:			
Salaries and benefits	\$ 365,310	\$ 365,310	\$ —
Services and supplies	94,308	94,308	—
Total direct costs	459,618	459,618	—
Indirect costs	152,639	78,135	(74,504)
Total direct and indirect costs	612,257	537,753	(74,504)
Less authorized health fees	(344,231)	(486,684)	(142,453)
Subtotal	268,026	51,069	(216,957)
Less offsetting savings/reimbursements	(872)	(872)	—
Less late filing penalty	—	—	—
Total program costs	<u>\$ 267,154</u>	50,197	<u>\$ (216,957)</u>
Less amount paid by State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 50,197</u>	

<u>Cost Element</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u>
<u>July 1, 2004, through June 2005</u>			
Direct costs:			
Salaries and benefits	\$ 341,421	\$ 341,421	\$ —
Services and supplies	97,746	97,746	—
Total direct costs	439,167	439,167	—
Indirect costs	141,983	141,983	—
Total direct and indirect costs	581,150	581,150	—
Less authorized health fees	(274,352)	(437,702)	(163,350)
Subtotal	306,798	143,448	(163,350)
Less offsetting savings/reimbursements	(838)	(838)	—
Less late filing penalty	—	—	—
Total program costs	<u>\$ 305,960</u>	142,610	<u>\$ (163,350)</u>
Less amount paid by State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 142,610</u>	
<u>July 1, 2005 through June 2006</u>			
Direct costs:			
Salaries and benefits	\$ 346,620	\$ 346,620	\$ —
Services and supplies	104,892	104,892	—
Total direct costs	451,512	451,512	—
Indirect costs	152,882	152,882	—
Total direct and indirect costs	604,394	604,394	—
Less authorized health fees	(305,891)	(640,077)	(334,186)
Subtotal	298,503	(35,683)	(334,186)
Less offsetting savings/reimbursements	(1,083)	(1,083)	—
Less late filing penalty	(1,000)	(1,000)	—
Adjustment to eliminate negative balance	—	37,766	37,766
Total program costs	<u>\$ 296,420</u>	—	<u>\$ (296,420)</u>
Less amount paid by State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>Summary: July 1, 2003, through June 30, 2006</u>			
Direct costs:			
Salaries and benefits	\$ 1,053,351	\$ 1,053,351	\$ —
Services and supplies	296,946	296,946	—
Total direct costs	1,350,297	1,350,297	—
Indirect costs	447,504	373,000	(74,504)
Total direct and indirect costs	1,797,801	1,723,297	(74,504)
Less authorized health fees	(924,474)	(1,564,463)	(639,989)

Cost Element	Actual Costs Claimed	Allowable per Audit	Audit Adjustments
<u>Summary: July 1, 2003, through June 2006 (continued)</u>			
Subtotal	873,327	158,834	(714,493)
Less offsetting savings/reimbursements	(2,793)	(2,793)	—
Less late filing penalty	(1,000)	(1,000)	—
Adjustment to eliminate negative balance	—	37,766	37,766
Total program costs	<u>\$ 869,534</u>	192,807	<u>\$ (676,727)</u>
Less amount paid by State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 192,807</u>	

¹ Payment information current as of June 14, 2010.

The district believes that its claimed indirect costs rates are appropriate and that it reported the correct amount of health fee revenues. In addition, the district believes that the SCO was not authorized to audit the district's FY 2003-04 claim.

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

Parameters and Guidelines

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

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

V. REIMBURSABLE COSTS

A. Scope of Mandate

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

B. Reimbursable Activities

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

The parameters and guidelines (amended May 25, 1989) provide 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.

The parameters and guidelines (amended May 25, 1989) define 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.

The parameters and guidelines (amended May 25, 1989) define offsetting savings and other reimbursements as follows:

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

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

SCO Claiming Instructions and Filing Instructions

The SCO annually issues claiming instructions, which contain filing instructions for mandated cost programs. The September 2004 claiming instructions provide indirect cost claiming instructions for FY 2003-04. Section 8 of the instructions (**Tab 3**) states, "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,' the Controller's methodology outlined in the following paragraphs [FAM-29C or a 7% indirect cost rate]."

II. DISTRICT OVERSTATED ITS INDIRECT COST RATE CLAIMED

Issue

For FY 2003-04, the district claimed indirect costs based on indirect cost rate that it calculated 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 its indirect cost rate proposals (ICRPs).

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 CCD [community college district] may claim indirect costs using the Controller's methodology (FAM-29C) . . . If specially allowed by a mandated program's P's & G's [parameters and guidelines], a district may alternatively 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 calculated indirect cost rates using the Form FAM-29C methodology described in the SCO claiming instructions. The Form FAM-29C methodology did not support the rates that the district claimed.

District's Response

The Controller asserts that the District overstated its indirect costs by \$74,504 for fiscal year 2003-04 because the District's indirect cost rate was not federally approved.

Parameters and Guidelines

No particular indirect cost rate calculation is required by law. The Controller insists that the rate be calculated according to the claiming instructions. The parameters and guidelines state that "[i]ndirect costs *may be claimed* in the manner described by the Controller in his claiming instructions." The District claimed these indirect costs "in the manner" described by the Controller. The correct forms were used and the claimed amounts were entered at the correct locations. Further, "may" is not "shall;" the parameters and guidelines do not *require* that indirect costs be claimed in the manner described by the Controller. In the audit report, the Controller asserts that because 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 at the direction of the Commission. The Controller's claiming instructions are unilaterally created and modified without public notice or comment. The Commission would violate the Administrative Procedure Act if it held that the Controller's claiming instructions are enforceable as standards or regulations. In fact, until 2005, the Controller regularly included a "forward" in the Mandated Cost Manual for Community Colleges (September 30, 2003 version attached as Exhibit "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."

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. . . .

Prior Year CCFS-311

The audit used the most recent CCFS-311 information available for the calculation of the indirect cost rate. The District used the prior year CCFS-311. The CCFS-311 is prepared based on annual costs from the prior fiscal year for use in the current budget year. While the audit report is correct that there is "no-mandate-related authoritative criteria" supporting the District's method, there is also none that supports the Controller's method. As a practical matter, the CCFS-311 for the current year is often not available at the time that mandate reimbursement claims are due. Therefore, the District is unable to rely on that data and must determine its indirect cost rates based on the prior year CCFS-311.

The audit report asserts that the Controller's use of the most recent CCFS-311 is supported by the need to claim only actual costs. However, this is inconsistent with the parameters and guidelines and the Controller's claiming instructions. 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, while not enforceable, are also silent to whether the prior or current year CCFS-311 should be used in the FAM-29C methodology. Additionally, the claiming instructions for some programs accept the use of a federally approved rate or a flat 7% rate, which has not relationship at all to actual indirect costs incurred.

As a practical example of the baselessness of the Controller's position on prior year CCFS-311 reports, note that federally approved indirect cost rates are approved for periods of two to four years. This mean 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. The longstanding practice of the Controller prior to FY 2004-05 had been to accept federally approved rates. The audit report provides no explanation as to why using data from prior years to calculate indirect cost rates is acceptable for federally approved rates but not acceptable for rates derived under its FAM29-C (sic) method.

EXCESSIVE OR UNREASONABLE

The Controller did not conclude that the District's FY 2003-04 indirect cost rate was excessive. The Controller is authorized to reduce a claim only if it determines the claim to be excessive or unreasonable. Here, the District has computed its indirect cost rates using the CCFS-311 report, and the Controller has disallowed it without a determination of whether the product of the District's calculation is excessive, unreasonable, or inconsistent with cost accounting principles.

The Controller has the burden to show that the indirect cost rate used by the District is excessive or unreasonable, pursuant to Government Code Section 17561(d)(2). The audit report never asserts that the indirect cost rate claimed was excessive, only that it was not federally approved, and the auditors decided to recalculate the rate using their own preferred method.

Neither state law nor the parameters and guidelines make compliance with the Controller's claiming instructions a condition of reimbursement. The District has followed the parameters and guidelines. The burden of proof is on the Controller to prove that the product of the District's calculation is unreasonable, not to recalculate the rate according to its unenforceable ministerial preferences.

SCO's Comment

Parameters and Guidelines

The district states, "No particular indirect cost rate calculation is required by law." The district infers that it may calculate an indirect cost rate in any manner that it chooses. We disagree with the district's interpretation of the parameters and guidelines. 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. The district prepared its FY 2003-04 indirect cost rates using Title 2, *Code of Federal Regulations*, Part 220 (Office of Management and Budget (OMB) Circular A-21). However, the district did not obtain federal approval of that rate.

The district believes that the SCO incorrectly interprets the parameters and guidelines. We disagree. 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]. In this case, the parameters and guidelines specifically identify the claiming instructions as authoritative criteria for indirect costs. The district also 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 on State Mandates (Commission) review the SCO's claiming instructions. Section 1186, subdivision (e) through (h) provides districts an opportunity for public comment during the review period. Neither this district nor any other district requested that the Commission review the SCO's claiming instructions (i.e., the district did not exercise its right for public comments). 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.

Finally, the district states:

Neither State law or 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 state that claimants may claim indirect costs in the manner described in the SCO's claiming instructions.

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 method." We support the district's conclusion that no mandate-related authoritative criteria support its 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 17558.5 and the parameters and guidelines, require the district to report actual costs. For each fiscal year, "actual costs" are costs of the current fiscal year, not costs from a prior fiscal year.

The district infers that this is "inconsistent" with the parameters and guidelines and the SCO's claiming instructions. However, the district then states, "The parameters and guidelines do not specify any particular method of calculating indirect costs. . . . The Controller's claiming instructions . . . are also silent. . . ." Using the district's points, there can be no inconsistency if the parameters and guidelines and the claiming instructions are silent. In any case, Government Code section 17560, subdivision (a), states "A local agency or school district may . . . file an annual reimbursement claim that details the costs *actually incurred for that fiscal year* [emphasis added]." The district includes additional comments regarding federally approved rates and flat rates; those comments are irrelevant to this Incorrect Reduction Claim. The Health Fee Elimination Program's parameters and guidelines and the SCO's claiming instructions allow claimants to use only the FAM-29C methodology to claim indirect costs.

The district also states, "As a practical matter, the CCFS-311 for the current year is often not available at the time the mandate reimbursement claims are due." We disagree. For the audit period, mandated program claims were due the SCO on January 15 following the fiscal year in which the costs were incurred (the due date was subsequently amended to February 15). 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 budget report to the Chancellor." Therefore, the district's CCFS-311 is available well before it must submit its mandated cost claims.

EXCESSIVE OR UNREASONABLE

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

In any case, the SCO did conclude that the district's claim was excessive. Excessive is defined as "Exceeding what is usual, *proper, necessary*, [emphasis added] or normal."¹ The district's indirect cost rate exceeded the proper amount based on the audited indirect cost rate that the SCO calculated according to the claiming instructions.

Further, pursuant to Government Code section 12410, we concluded that the district's claim was neither correct nor legal. Correct is defined as "Conforming to an approved or conventional standard."² Legal is defined as "Conforming to or permitted by law or established rules."³ The district claimed an indirect cost rate that did not conform to the SCO's claiming instructions.

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." However, the district did *not* follow the parameters and guidelines. The parameters and guidelines state, "Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions." The district did not comply with the claiming instructions applicable to each fiscal year during the audit period.

¹ Merriam-Webster's Collegiate Dictionary, Tenth Edition, © 2001.

² Ibid.

³ Ibid.

III. DISTRICT UNDERSTATED AUTHORIZED HEALTH FEES

Issue

For the audit period, the district understated authorized health service fees by \$639,989. The district believes that it is required to report only actual health service fees received.

SCO Analysis:

The program's parameters and guidelines require a district to deduct authorized health services 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 students who: (1) depend exclusively on prayer for healing; (2) are attending a community college under an approved apprenticeship training program; (3) demonstrate financial need. Effective January 1, 2006, Education Code section 76355, subdivision (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

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 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 \$639,989 for the audit period because it claimed student health service fees that were actually collected, rather than those that were “authorized as specified in the Controller’s claiming instructions. However, as previously discussed, the Controller’s claiming instructions are not enforceable because they are unilaterally adopted by the Controller and do not comply with the Administrative Procedure 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.

The audit report states that it used data from the California Community Colleges Chancellor’s Office to calculate health service fees authorized for each of the fiscal years, without explanation as to how this data, which is “extracted” from data reported by the District, is more reliable or relevant than the District’s own records. However, this issue is not determinative of the outcome since the proper offset for health service fee revenue is calculated by fees actually received in accordance with the parameters and guidelines.

Parameters and Guidelines

The parameters and guidelines, which control reimbursement under the Health Fee Elimination mandate, state:

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

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

In order for the District to “experience” these “offsetting savings” the District must actually have collected these fees. Note that the student health fees are named as a potential source of the reimbursement *received* in the preceding sentence. The use of the term “any offsetting savings” further illustrates the permissive nature of the fees. Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not. Thus, the Controller’s conclusion is based on an illogical interpretation of the parameters and guidelines.

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 fact that the Commission staff and the California Community College Chancellors Office 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. It would be nonsensical if the Commission held that every proposal that is discussed was somehow implied in the adopted document, because the proposals of the various parties are often contradictory. Therefore, it is evident that the Commission intends the language of the parameters and guidelines to be construed as written, and only those savings that are *experienced* are to be deducted.

Education Code Section 17556 (sic)

The Controller continues to rely on Education Code Section 17556(d), while neglecting its context and omitting a crucial clause. Section 17556(d) does specify that the Commission on State Mandates shall not find costs mandated by the state if the local agency has the authority to levy fees, but only if those fees are "*sufficient to pay for the mandated program*" (emphasis added). Section 17556 pertains specifically to the Commission's determination on a test claim, and does not concern the development of parameters and guidelines of 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.3rd 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 finding costs mandated by the state.

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 it concerns the activity of approving or denying a test claim and has no bearing on the annual claim reimbursement process.

Similarly, although a test claim had been approved and parameters and guidelines were adopted, the court in *Connell* focused its determination on whether the initial approval of the test claim had been proper. It did not evaluate the parameters and guidelines or the reimbursement process because it found that the initial approval of the test claim had been in violation of Section 17556(d).

SCO's Comment

We disagree with the district's inference that the disallowance was based on the Controller's claiming instructions. Our audit report clearly identifies Government Code sections 17514 and 17556 as the basis for our audit adjustments.

The district states:

The audit report states that it used data from the California Community College Chancellor's Office [CCCCO] to calculate health service fees authorized. . . without explanation as to how this data, which is "extracted" from data reported by the District, is more reliable or relevant than the District's own records

The district's comment is invalid. The district distinguishes between data received from the CCCCCO versus "the District's own records." It is the same data. The SCO receives the student enrollment and Board of Government Grant (BOGG) recipient data from the CCCCCO; this data is extracted directly from data that the district submitted to the CCCCCO.

The CCCCCO has not informed us that the data was unreliable. As of report's date, the district has not provided any evidence that the enrollment numbers from the CCCCCO are incorrect.

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 parameters and guidelines. The Commission's staff analysis of May 25, 1989 (**Tab 4**), 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.

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, as the Commission's staff concluded that DOF's proposed language did not substantively change the scope of the 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. The 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 5**) 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 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 between districts. Districts provided different levels of service in FY 1986-87 (the "base year"). Furthermore, districts provided these services at varying costs. As a result, the fee authority may be sufficient to pay for some districts' mandated program costs, while it is insufficient for 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. To the extent that districts have authority to charge a fee, they are not required to incur a 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 fund 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.

IV. STATUTE OF LIMITATIONS

Issue

The audit scope included FY 2003-04 through FY 2005-06. The district believes that FY 2003-04 were not subject to audit at the time the SCO initiated its audit.

District's Response

December 13, 2004	FY 2003-04 claim filed by the District
December 13, 2007	FY 2003-04 statute of limitations for audit expires
October 16, 2008	Audit entrance conference for all fiscal years

This was not an audit finding. The District asserts that the audit of the FY 2003-04 annual reimbursement claim commenced after the time limitation for audit had passed. No payment was made to the District for this claim. However, the clause in Government Code Section 17558.8 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 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.

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 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. 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 annual reimbursement claim for FY 2003-04 is subject to the three-year statute of limitations established by Chapter 1128, Statutes of 2002 which requires the audit to be "initiated" within three years of the date the actual claim is filed.

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 ~~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.

This amendment has no effect on the FY 2003-04 annual reimbursement claim because it was effective after the date that claim was filed.

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....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 October 16, 2008. All adjustments to this fiscal year are void and should be withdrawn.

SCO's Comment

The district discusses statutory language effective prior to January 1, 2003; 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. 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 to support its assertion that existing statutory language is “void.”

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 proration [emphasis added]. . . .

In addition, Government Code section 17561, subdivision (d), prohibits the SCO from withholding 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. . . .

The SCO initiated its audit within the period allowed by Government Code section 17558.5, subdivision (a), which states:

A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. *However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim* [emphasis added].

For its FY 2003-04 claim, the district has not received a payment. The SCO initiated its audit on October 16, 2008. Therefore, the SCO met the requirements of Government Code section 17558.5, subdivision (a).

VII. CONCLUSION

The State Controller's Office audited the Long Beach 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, 2006. The district claimed \$869,534 (\$870,534 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$192,807 is allowable and \$676,727 is unallowable. The unallowable costs occurred primarily because the district claimed ineligible costs and understated authorized health service fees.

The district overstated its indirect cost rates, thus overstating its indirect costs by \$74,504 for FY 2003-04. The district did not obtain federal approval of its indirect cost rate proposal prepared using OMB Circular A-21 methodology. Additionally, the district used expenditures from the prior year's CCFS-311 to prepare the indirect cost rate in that fiscal year. The SCO calculated the indirect cost rate based on the FAM-29C methodology that the parameters and guidelines and the SCO's claiming instructions allow; this rate did not support the rate claimed.

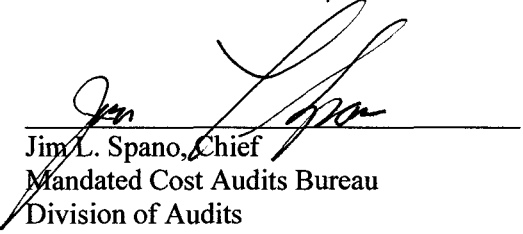
Further, the district understated authorized health fees by \$639,989 for the audit period. The district reported actual revenue received rather than health fees the district was authorized to collect.

In conclusion, the Commission on State Mandates should find that: (1) the SCO initiated its audit of FY 2003-04 within the timeframe provided by Government Code section 17558.5, subdivision (a); (2) the SCO correctly reduced the district's FY 2003-04 claim by \$216,957; (3) the SCO correctly reduced the district's FY 2004-05 claim by \$163,350; and (4) the SCO correctly reduced the district's FY 2005-06 claim by \$296,420.

VIII. CERTIFICATION

I hereby certify by my signature below that the statements made in this document are true and correct of my own knowledge, or, as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on November 26, 2014, at Sacramento, California, by:



Jim L. Spano, 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

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 ~~11/2/87~~ ~~11/2/87~~
Health Fee Elimination

I. SUMMARY OF MANDATE

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

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

II. COMMISSION ON STATE MANDATES' DECISION

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

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

III. ELIGIBLE CLAIMANTS

Community college districts which provided health services ~~for~~ ~~in~~ 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 the~~ in 1986-87 fiscal year may be claimed.

B. Reimbursable Activities

For each eligible claimant, the following cost items are reimbursable to the extent they were provided by the community college district in fiscal year ~~1983-84~~ 1986-87:

ACCIDENT REPORTS

APPOINTMENTS

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

ASSESSMENT, INTERVENTION & COUNSELING

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

EXAMINATIONS (Minor Illnesses)

Recheck Minor Injury

HEALTH TALKS OR FAIRS - INFORMATION

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

FIRST AID (Major Emergencies)

FIRST AID (Minor Emergencies)

FIRST AID KITS (Filled)

IMMUNIZATIONS

Diphtheria/Tetanus
Measles/Rubella
Influenza
Information

INSURANCE

On Campus Accident
Voluntary
Insurance Inquiry/Claim Administration

LABORATORY TESTS DONE
Inquiry/Interpretation
Pap Smears

PHYSICALS
Employees
Students
Athletes

MEDICATIONS (dispensed OTC for misc. illnesses)
Antacids
Antidiarrhial
Antihistamines
Aspirin, Tylenol, etc.
Skin rash preparations
Misc.
Eye drops
Ear drops
Toothache - Oil cloves
Stingkill
Midol - Menstrual Cramps

PARKING CARDS/ELEVATOR KEYS
Tokens
Return card/key
Parking inquiry
Elevator passes
Temporary handicapped parking permits

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

TESTS
Blood Pressure
Hearing
Tuberculosis
Reading
Information
Vision
Glucometer
Urinalysis
Hemoglobin
E.K.G.
Strep A testing
P.G. testing
Monospot
Hemacult
Misc.

MISCELLANEOUS

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

COMMITTEES

- Safety
- Environmental
- Disaster Planning

SAFETY DATA SHEETS

- Central file

X-RAY SERVICES

COMMUNICABLE DISEASE CONTROL

BODY FAT MEASUREMENTS

MINOR SURGERIES

SELF-ESTEEM GROUPS

MENTAL HEALTH CRISIS

AA GROUP

ADULT CHILDREN OF ALCOHOLICS GROUP

WORKSHOPS

- Test Anxiety
- Stress Management
- Communication Skills
- Weight Loss
- Assertiveness Skills

VI. CLAIM PREPARATION

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

A. Description of Activity

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

B. Claiming/Alternatives

Claimed costs should be supported by the following information:

- Alternative/1//Fees/Previously/Collected/In/1983/84/Fiscal/Year/
 1/ Fees/Collected/In/The/1983/84/Fiscal/Year/To/Support/
The/Health/Services/Program/
- 2/ Total/Number/of/Students/Under/Item/VI/B/Y/Through/4/
above//Including/This/Alternative//The/Total/Amount/
Claimed/Will/Be/Item/VI/B/Y//Multiplied/By/Item
VI/B/2//With/The/Total/Amount/Reimbursed/Increased/By
The/Applicable/Topical/Price/Differential/

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 1983-84 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.

CHANCELLOR'S OFFICE

GEORGE DEUKMEIAN, Governor

CALIFORNIA COMMUNITY COLLEGES

1100 N STREET
SACRAMENTO, CALIFORNIA 95814
(916) 445-8752 445-1163



February 22, 1989



Mr. Robert W. Eich
Executive Director
Commission on State Mandates
1130 "K" Street, Suite LL50
Sacramento, CA 95814-3927

Dear Mr. Eich:

As you know, the Commission on August 27, 1987 adopted Parameters and Guidelines for claiming reimbursements of mandated costs related to community college health services. Fees formerly collected by community colleges had been eliminated by Chapter 1, Statutes of 1984, Second Extraordinary Session. Last year's mandate claims bill (AB 2763) included funding to pay all these claims through 1988-89.

The Governor's partial approval of AB 2763 last September included a stipulation that claims for the current year would be paid this fiscal year, but prior-year claims will be paid in equal installments from the next three budget acts. The Governor did not address the fact that the ongoing costs of providing the mandated level of service will continue to exceed the maximum permissible fee of \$7.50 per student per semester.

On behalf of all eligible community college districts, the Chancellor's Office proposes the following changes in the Parameters and Guidelines:

- o Payment of 1988-89 mandated costs in excess of maximum permissible fees. (This amount is payable from AB 2763.)
- o Payment of all prior-year claims in installments over the next three years. (Funds for these payments will be included in the next 3 budget acts.)
- o Payment of future-years mandated costs in excess of the maximum permissible fees. (No funding has yet been provided for these costs.)

Mr. Eich

2

February 22, 1989

If you have any questions regarding this proposal, please contact Patrick Ryan at (916) 445-1163.

Sincerely,

David Mertes

DAVID MERTES
Chancellor

DM:PR:mh

cc: Deborah Fraga-Decker, CSM
Douglas Burris
Joseph Newmyer
Gary Cook

State of California

Memorandum

Date : March 22, 1989

To : Deborah Fraga-Decker
Program Analyst
Commission on State Mandates

From : Department of Finance

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

Pursuant to your request, the Department of Finance has reviewed the proposed amendments to the parameters and guidelines related to community college health services. These amendments, which are requested by the Chancellor's Office, reflect the impact that Chapter 1118/87 has on the original parameters adopted by the Commission for Chapter 1/84 on August 27, 1987. Specifically, Chapter 1118/87:

- (1) requires districts which were providing health services in 1986-87, rather than 1983-84, to continue to provide such services, irrespective of whether or not a fee was charged for the services; and
- (2) allows all districts to again charge a fee of up to \$7.50 per student for the services. In this regard, we would point out that the proposed amendment to "VIII. Offsetting Savings, and Other Reimbursements" could be interpreted to require that, if a district elected not to charge fees it would not have to deduct anything from its claim. We believe that, pursuant to Section 17556 (d) of the Government Code, an amount equal to \$7.50 per student must be deducted whether or not it is actually charged since the district has the authority to levy the fee. We suggest that the following language be added as a second paragraph under "VIII": "If a claimant does not levy the fee authorized by Education Code Section 72246 (a), it shall deduct an amount equal to what it would have received had the fee been levied."

With the amendment described above, we believe the amendments to the parameters and guidelines are appropriate for this mandate and recommend the Commission adopt them at its April 27, 1989, meeting.

Any questions regarding this recommendation should be directed to James M. Apps or Kim Clement of my staff at 324-0043.


Fred Klass
Assistant Program Budget Manager

cc: see second page

cc: Glen Beattie, State Controller's Office
Pat Ryan, Chancellor's Office, Community College
Juliet Musso, Legislative Analyst's Office
Richard Frank, Attorney General

LR:1988-2

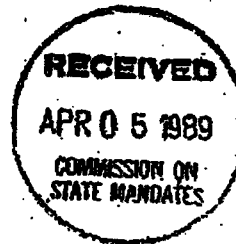
OFFICE

GEORGE DEUKERMAN, Governor

CALIFORNIA COMMUNITY COLLEGES

1201 NINTH STREET
 SACRAMENTO, CALIFORNIA 95814
 916/425-4732 445-1163

April 3, 1989



Mr. Robert W. Eich
 Executive Director
 Commission on State Mandates
 170 K Street, Suite LL50
 Sacramento, CA 95814

Attention: Ms. Deborah Fraga-Decker

Subject: CSM 4206
 Amendments to Parameters and Guidelines
 Chapter 1, Statutes of 1984, 2nd E.S.
 Chapter 118, Statutes of 1987
Health Fee Elimination

Dear Mr. Eich:

In response to your request of March 8, we have reviewed the proposed language changes necessary to amend the existing parameters and guidelines to meet the requirements of Chapter 1118, Statutes of 1987.

The Department of Finance has also provided us a copy of their suggestion to add the following language in part VIII: "If a claimant does not levy the fee authorized by Education Code Section 72246(a), it shall deduct an amount equal to what it would have received had the fee been levied." This office concurs with their suggestion which is consistent with the law and with our request of February 22.

With the additional language suggested by the Department of Finance, the Chancellor's Office recommends approval of the amended parameters and guidelines as drafted for presentation to the Commission on April 27, 1989.

Sincerely,

DAVID MERTEZ
 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.

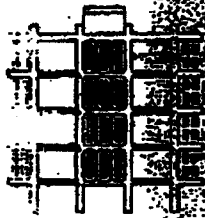
If you have any questions, please call Glen Bestie at 3-8137.

Sincerely,

Glenn Haas, Assistant Chief
Division of Accounting

GH/GB:dvl

SC81822



KRI/EO

RIO HONDO COMMUNITY COLLEGE DISTRICT
3600 Workman Mill Road • Whittier, CA 90608 • Phone (714) 861-2100



March 16, 1989

Ms. Deborah Fraga-Decker
Program Analyst
Commission on State Mandates
1130 K Street, Suite 1150
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 Montes 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: bh

Tab 5

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.

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 Wajdak 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 in 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.

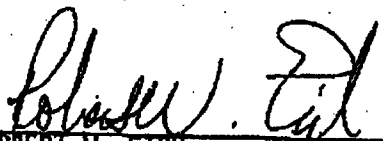
Mr. Parker stated that Commission staff had misstated the events that resulted in the claimant having to pay attorneys' fees to a pupil's guardians, and because of case law, courts do not have any discretion in awarding attorney's fees. Mr. Parker stated that because state legislation has codified the 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.

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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

RNE:GLH:cm:0224g

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 1, 2014, I served the:

SCO Comments

Health Fee Elimination, 09-4206-I-22

Education Code Section 76355

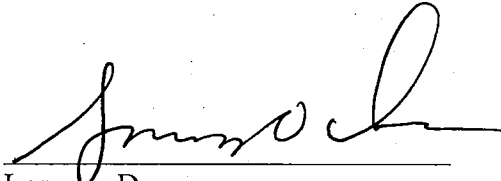
Statutes 1984, 2nd E.S.; Chapter 1; Statutes 1987, Chapter 1118;

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

Long Beach 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 1, 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: 12/1/14

Claim Number: 09-4206-I-22

Matter: Health Fee Elimination

Claimant: Long Beach 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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