

# SIERRA JOINT COMMUNITY COLLEGE DISTRICT

Audit Report

## HEALTH FEE ELIMINATION PROGRAM

Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session,  
and Chapter 1118, Statutes of 1987

*July 1, 2001, through June 30, 2004*



STEVE WESTLY  
California State Controller

November 2006



**STEVE WESTLY**  
**California State Controller**

November 15, 2006

Leo E. Chavez, Ed. D.  
Superintendent/President  
Sierra Joint Community College District  
5000 Rocklin Road  
Rocklin, CA 95677

Dear Dr. Chavez:

The State Controller's Office audited the costs claimed by Sierra Joint Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2001, through June 30, 2004.

The district claimed \$578,368 for the mandated program. Our audit disclosed that \$17,522 is allowable and \$560,846 is unallowable. The unallowable costs occurred because the district claimed unsupported direct costs, overstated indirect costs, and understated offsetting revenues. The State paid the district \$390,069. The amount paid exceeds allowable costs claimed by \$372,547.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site, at [www.csm.ca.gov](http://www.csm.ca.gov) (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov).

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD**  
Chief, Division of Audits

JVB/wm:vb

cc: Joyce Lopes

Director of Finance

Sierra Joint Community College District

Lawrence Lee, Director

Risk, Feasibility & Loss Control

Sierra Joint Community College District

Wende Rehwald

Health Service Coordinator

Sierra Joint Community College District

Marty Rubio, Specialist

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California Community Colleges Chancellor's Office

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Education Systems Unit

Department of Finance

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by Sierra Joint Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2001, through June 30, 2004. The last day of fieldwork was June 20, 2006.

The district claimed \$578,368 for the mandated program. Our audit disclosed that \$17,522 is allowable and \$560,846 is unallowable. The unallowable costs occurred because the district claimed unsupported direct costs, overstated indirect costs, and understated offsetting revenues. The State paid the district \$390,069. The amount paid exceeds allowable costs claimed by \$372,547.

## Background

Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session (E.S.), repealed *Education Code* Section 72246 which had authorized community college districts to charge a health fee to provide health supervision and services, and medical and hospitalization services, and to operate student health centers. This statute also required that health services for which a community college district charged a fee during fiscal year (FY) 1983-84 had to be maintained at that level in FY 1984-85 and every year thereafter. The provisions of this statute would automatically sunset on December 31, 1987, reinstating the community college districts' authority to charge a health service fee as specified.

Chapter 1118, Statutes of 1987, amended *Education Code* Section 72246 (subsequently renumbered as Section 76355 by Chapter 8, Statutes of 1993). The law requires any community college district that provided health services in FY 1986-87 to maintain health services at the level provided during that year in FY 1987-88 and each fiscal year thereafter.

On November 20, 1986, the Commission on State Mandates (COSM) determined that Chapter 1, Statutes of 1984, 2<sup>nd</sup> E.S., imposed a "new program" upon community college districts by requiring specified community college districts that provided health services in FY 1983-84 to maintain health services at the level provided during that year in FY 1984-85 and each fiscal year thereafter. This maintenance-of-effort requirement applied to all community college districts that levied a health service fee in FY 1983-84.

On April 27, 1989, COSM determined that Chapter 1118, Statutes of 1987, amended this maintenance-of-effort requirement to apply to all community college districts that provided health services in FY 1986-87, requiring them to maintain that level in FY 1987-88 and each fiscal year thereafter.

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

**Objective,  
Scope, and  
Methodology**

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Health Fee Elimination Program for the period of July 1, 2001, through June 30, 2004.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

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

We asked the district's representative to submit a written representation letter regarding the district's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Government Auditing Standards*. However, the district declined our request.

**Conclusion**

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

For the audit period, Sierra Joint Community College District claimed \$578,368 for costs of the Health Fee Elimination Program. Our audit disclosed that \$17,522 is allowable and \$560,846 is unallowable.

For fiscal year (FY) 2001-02, the State paid the district \$180,817. Our audit disclosed that \$15,713 is allowable. The district should return \$165,104 to the State.

For FY 2002-03, the State paid the district \$209,252. Our audit disclosed that \$1,809 is allowable. The district should return \$207,443 to the State.

For FY 2003-04, the State made no payment to the district. Our audit disclosed that all of the costs claimed are unallowable.

**Views of  
Responsible  
Official**

We issued a draft audit report on August 30, 2006. Joyce Lopes, Director of Finance, responded by letter dated September 12, 2006 (Attachment), disagreeing with the audit results. This final audit reports includes the district's response.

## **Restricted Use**

This report is solely for the information and use of Sierra Joint Community College District, the California Community Colleges Chancellor's Office, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

**JEFFREY V. BROWNFIELD**  
Chief, Division of Audits

**Schedule 1—  
Summary of Program Costs  
July 1, 2001, through June 30, 2004**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2001, through June 30, 2002</u>				
Salaries and benefits	\$ 265,550	\$ 265,550	\$ —	
Services and supplies	<u>127,205</u>	<u>127,205</u>	<u>—</u>	
Subtotal	392,755	392,755	—	
Less costs of services that exceed services provided in FY 1986-87 base year	<u>(5,000)</u>	<u>(5,000)</u>	<u>—</u>	
Total direct costs	387,755	387,755	—	
Indirect costs	<u>133,350</u>	<u>71,542</u>	<u>(61,808)</u>	Finding 2
Total direct and indirect costs	521,105	459,297	(61,808)	
Less authorized health service fees	(340,288)	(424,239)	(83,951)	Finding 3
Less offsetting savings/reimbursements	<u>—</u>	<u>(19,345)</u>	<u>(19,345)</u>	Finding 4
Total program costs	<u>\$ 180,817</u>	15,713	<u>\$ (165,104)</u>	
Less amount paid by the State		<u>(180,817)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (165,104)</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Salaries and benefits	\$ 358,656	\$ 295,433	\$ (63,223)	Finding 1
Services and supplies	<u>78,904</u>	<u>78,904</u>	<u>—</u>	
Subtotal	437,560	374,337	(63,223)	
Less costs of services that exceed services provided in FY 1986-87 base year	<u>(5,000)</u>	<u>(5,000)</u>	<u>—</u>	
Total direct costs	432,560	369,337	(63,223)	
Indirect costs	<u>151,396</u>	<u>77,782</u>	<u>(73,614)</u>	Findings 1, 2
Total direct and indirect costs	583,956	447,119	(136,837)	
Less authorized health service fees	(349,349)	(426,705)	(77,356)	Finding 3
Less offsetting savings/reimbursements	<u>(25,355)</u>	<u>(18,605)</u>	<u>6,750</u>	Finding 4
Total program costs	<u>\$ 209,252</u>	1,809	<u>\$ (207,443)</u>	
Less amount paid by the State		<u>(209,252)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (207,443)</u>		

**Schedule 1 (continued)**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<b><u>July 1, 2003, through June 30, 2004</u></b>				
Salaries and benefits	\$ 295,729	\$ 243,004	\$ (52,725)	Finding 1
Services and supplies	76,986	76,986	—	
Subtotal	372,715	319,990	(52,275)	
Less costs of services that exceed services provided in FY 1986-87 base year	(5,000)	(5,000)	—	
Total direct costs	367,715	314,990	(52,725)	
Indirect costs	143,960	69,802	(74,158)	Findings 1, 2
Total direct and indirect costs	511,675	384,792	(126,883)	
Less authorized health service fees	(294,961)	(390,246)	(95,285)	Finding 3
Less offsetting savings/reimbursements	(28,415)	(21,457)	6,958	Finding 4
Adjust for health fees that exceed health program expenditures	—	26,911	26,911	
Total program costs	<u>\$ 188,299</u>	—	<u>\$ (188,299)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		
<b><u>Summary: July 1, 2001, through June 30, 2004</u></b>				
Salaries and benefits	\$ 919,935	\$ 803,987	\$ (115,948)	Finding 1
Services and supplies	283,095	283,095	—	
Subtotal	1,203,030	1,087,082	(115,948)	
Less costs of services that exceed services provided in FY 1986-87 base year	(15,000)	(15,000)	—	
Total direct costs	1,188,030	1,072,082	(115,948)	
Indirect costs	428,706	219,126	(209,580)	Findings 1, 2
Total direct and indirect costs	1,616,736	1,291,208	(325,528)	
Less authorized health service fees	(984,598)	(1,241,190)	(256,592)	Finding 3
Less offsetting savings/reimbursements	(53,770)	(59,407)	(5,637)	Finding 4
Adjust for health fees that exceed health program expenditures	—	26,911	26,911	
Total program costs	<u>\$ 578,368</u>	17,522	<u>\$ (560,846)</u>	
Less amount paid by the State		(390,069)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (372,547)</u>		

<sup>1</sup> See the Findings and Recommendations section.

# Findings and Recommendations

## FINDING 1— Unsupported salary and benefit costs

The district claimed unsupported salary and benefit costs totaling \$115,948 for the audit period. The related indirect costs total \$42,770.

For fiscal year (FY) 2002-03 and FY 2003-04, the district claimed estimated time spent by academic counselors on personal counseling issues. The district calculated an average salary cost for 19 counselors and claimed 5% of the average cost for each counselor. The district also claimed related benefit costs for FY 2002-03. The district did not provide time logs or a documented time study to support the 5% allocation to health services. In addition, the district did not support the average salary cost or provide documentation that shows that the counselors performed mandate-related activities. The district offered to provide counselors' duty statements to evidence time allocated for personal counseling. However, pre-determined time allocations do not represent actual costs.

*Parameters and Guidelines* states that districts should support claimed costs with 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.

*Parameters and Guidelines* also states that all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs.

The following table summarizes the audit adjustment.

	Fiscal Year		Total
	2002-03	2003-04	
Salary and benefit costs	\$ (63,223)	\$ (52,725)	\$ (115,948)
Indirect costs	(22,128)	(20,642)	(42,770)
Audit adjustment	<u>\$ (85,351)</u>	<u>\$ (73,367)</u>	<u>\$ (158,718)</u>

### Recommendation

We recommend that the district maintain documentation that supports salary and benefit costs claimed. The district should maintain records that document actual time spent on mandate-related activities and maintain a documented time study when the district claims an average number of hours.

### District's Response

The draft report eliminates the costs claimed for academic counselors. . . .

These adjustments are not enforceable. There is no requirement in the parameters and guidelines for the claimant to maintain "time logs" of

services provided in order to claim reimbursement. In addition, the Controller has never published time-study standards which comply with the Administrative Procedure Act and therefore cannot enforce these audit “standards” without prior notice to claimants.

Regarding the scope of the counselors’ activities, the personal counseling sessions are within the scope of the activities listed in Title 5 as those for which a student health services fee utilized.

#### SCO’s Comment

Our finding and recommendation are unchanged. The district did not provide any documentation to support actual time spent or activities performed. Furthermore, the district did not provide any time study documentation.

*Parameters and Guidelines* states, “Actual costs for one fiscal year should be included in each claim.” *Parameters and Guidelines* also states that all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs.

In addition, *Parameters and Guidelines* states that districts should support salary and benefit costs claimed by specifying the actual number of hours devoted to each mandated function. Time logs are an example of a valid source document to support salary and benefit costs claimed. *Parameters and Guidelines* also allows districts to claim the average number of hours devoted to each function if supported by a documented time study. However, *Parameters and Guidelines* does not require the SCO to publish time study standards.

#### **FINDING 2— Overstated indirect cost rates claimed**

The district overstated its indirect cost rates, and thus overstated indirect costs by \$166,810 for the audit period.

The district developed indirect cost rate proposals (ICRPs) based on an Office of Management and Budget (OMB) Circular A-21 methodology. However, the district did not obtain federal approval for its ICRPs. Therefore, we calculated indirect cost rates using the alternative methodology (FAM-29C) allowed by the SCO’s claiming instructions. The calculated FAM-29C indirect cost rates did not support the rates claimed. The following table summarizes the claimed and allowable indirect cost rates.

	Fiscal Year		
	2001-02	2002-03	2003-04
Allowable indirect cost rate	18.45%	21.06%	22.16%
Less claimed indirect cost rate	(34.39)%	(35.00)%	(39.15)%
Unsupported indirect cost rate	<u>(15.94)%</u>	<u>(13.94)%</u>	<u>(16.99)%</u>

The following table summarizes the audit adjustment, based on the unsupported indirect cost rates.

	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Allowable direct costs claimed	\$ 387,755	\$ 369,337	\$ 314,990	
Unsupported indirect cost rates	×(15.94)%	×(13.94)%	×(16.99)%	
Audit adjustment	<u>\$ (61,808)</u>	<u>\$ (51,486)</u>	<u>\$ (53,516)</u>	<u>\$ (166,810)</u>

*Parameters and Guidelines* states that districts may claim indirect costs in the manner described in the SCO's claiming instructions. The SCO's claiming instructions (revised September 2001) state that districts must obtain federal approval for an ICRP prepared in accordance with Office of Management and Budget (OMB) Circular A-21. Alternatively, the SCO's claiming instructions allow districts to compute an indirect cost rate using Form FAM-29C, which is based on total expenditures that districts report in the *California Community Colleges Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)*.

### Recommendation

We recommend that the district claim indirect costs based on indirect cost rates computed in accordance with the SCO's claiming instructions. The district must obtain federal approval when it prepares ICRPs in accordance with OMB Circular A-21. Alternatively, the district should prepare its ICRPs using SCO's Form FAM-29C.

### District's Response

The Controller asserts that the indirect cost method used by the District was inappropriate since it was not a cost study specifically approved by the federal government. The parameters and guidelines for Health Fee Elimination (as last amended on May 25, 1989) state that "Indirect costs *may be claimed* in the manner described by the Controller in his claiming instructions." The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller.

The Controller's claiming instructions state that for claiming indirect costs, college districts have the option of using a federally approved rate from the Office of Management and Budget Circular A-21, a rate calculated using form FAM-29C, or a 7% indirect cost rate. The Controller claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the Controller to show that the indirect cost rate used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d)(2)). If the Controller wishes to enforce audit standards for mandated cost reimbursement, the Controller should comply with the Administrative Procedure Act.

Since the Controller has stated no legal basis to disallow the indirect cost rate calculation method used by the District, and has not shown a factual basis to reject the rates as unreasonable or excessive, the adjustments should be withdrawn.

### SCO's Comment

Our finding and recommendation are unchanged.

*Parameters and Guidelines* states, "Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions." The district misinterprets the phrase "may be claimed" by concluding that compliance with the claiming instructions is voluntary. The district's assertion is not valid, since it would allow districts to claim indirect costs in whatever manner they choose. Instead, "may be claimed" simply permits the district to claim indirect costs. However, if the district chooses to claim indirect costs, then the district must comply with the SCO's claiming instructions.

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

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

(Note: *Parameters and Guidelines* provides a third option, a 7% flat rate.)

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

The district contends "The burden is on the Controller to show that the indirect cost rate used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute. . . ." *Government Code* Section 17558.5 requires the district to file a reimbursement claim for actual mandate-related costs. *Government Code* Section 17561(d)(2) allows the SCO to audit the district's records to verify actual mandate-related costs and reduce any claim that the SCO determines is excessive or unreasonable. In addition, *Government Code* Section 12410 states, "The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for

sufficient provisions of law for payment.” Therefore, the district’s contention is without merit.

Nevertheless, the SCO did in fact conclude that the district’s indirect cost rates were excessive. “Excessive” is defined as “exceeding what is usual, proper, necessary, or normal. . . . Excessive implies an amount or degree too great to be reasonable or acceptable. . . . [Emphasis added.]”<sup>1</sup> The district did not obtain federal approval of its ICRPs. The SCO calculated indirect cost rates using the alternate methodology identified in the SCO’s claiming instructions. The alternate methodology indirect cost rates did not support the rates that the district claimed; thus, the rates claimed were excessive.

<sup>1</sup> Merriam-Webster’s Collegiate Dictionary, Tenth Edition, © 2001.

**FINDING 3—  
Understated authorized  
health service fees**

The district understated authorized health service fees by \$256,592 for the audit period. The district reported actual fees collected rather than authorized fees.

For FY 2001-02, the district reported health service fees based on a district Health Fees Report, which identified student count and fees collected by location and semester. The Health Fees Report did not reconcile to total health service fee revenue shown in the district’s Financial Summary Report. For FY 2002-03 and FY 2003-04, the district reported actual health service fee revenue as shown in its Financial Summary Reports.

We calculated authorized health service fees using student enrollment data that the district reported to the California Community Colleges Chancellor’s Office and health service fee waivers that were supported by the district’s records.

The following table shows the authorized health service fee calculation.

	Semester			Total
	Summer	Fall	Spring	
<u>Fiscal Year 2001-02</u>				
Student enrollment subject to health service fee	5,291	15,096	16,289	
Authorized health service fee	× \$ (9)	× \$(12)	× \$(12)	
Authorized health service fees, FY 2001-02	<u>\$ (47,619)</u>	<u>\$ (181,152)</u>	<u>\$ (195,468)</u>	<u>\$ (424,239)</u>
<u>Fiscal Year 2002-03</u>				
Student enrollment subject to health service fee	5,993	16,063	15,001	
Authorized health service fee	× \$ (9)	× \$(12)	× \$(12)	
Authorized health service fees, FY 2002-03	<u>\$ (53,937)</u>	<u>\$ (192,756)</u>	<u>\$ (180,012)</u>	<u>\$ (426,705)</u>
<u>Fiscal Year 2003-04</u>				
Student enrollment subject to health service fee	5,434	14,071	14,374	
Authorized health service fee	× \$ (9)	× \$(12)	× \$(12)	
Authorized health service fees, FY 2003-04	<u>\$ (48,906)</u>	<u>\$ (168,852)</u>	<u>\$ (172,488)</u>	<u>\$ (390,246)</u>

The following table summarizes the audit adjustment based on the authorized health service fees calculated.

	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Authorized health service fees	\$ (424,239)	\$ (426,705)	\$ (390,246)	\$(1,241,190)
Less claimed health service fees	340,288	349,349	294,961	984,598
Audit adjustment	\$ (83,951)	\$ (77,356)	\$ (95,285)	\$ (256,592)

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

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

Recommendation

We recommend that the district offset allowable health services program costs by the amount of health service fees authorized by the *Education Code*. The district should maintain records that support the calculated authorized health service fees and that identify actual student enrollment and students who are exempt from health fees by *Education Code* Section 76355(c).

District’s Response

The District reported actual health services fees collected from students. The Controller calculated the student fees collectible based on the highest student health service fee chargeable, rather the fee actually charged and collected from the student. . . .

STUDENT HEALTH SERVICES FEE AMOUNT

“Authorized” Fee Amount

The Controller alleges that claimants must compute the total student health fees collectible based on the highest “authorized” rate. The Controller does not provide the factual basis for the calculation of the “authorized” rate, nor provide any reference to the “authorizing” source, nor the legal right of any state entity to “authorize” student health services rates absent rulemaking or compliance with the Administrative Procedure Act by the “authorizing” state agency.

Education Code Section 76355

Education Code Section 76355, subdivision (a), states that “The governing board of a district maintaining a community college *may require* community college students to pay a fee . . . for health supervision and services . . .” There is no requirement that community

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

#### Parameters and Guidelines

The Controller asserts that the parameters and guidelines require that health fees authorized by the Education Code must be deducted from the costs claimed. This is a misstatement of the parameters and guidelines. The parameters and guidelines, as last amended on May 25, 1989, state that “Any offsetting savings . . . must be deducted from the costs claimed. . . . This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)<sup>2</sup>.” Therefore, while student fees actually collected are properly used to offset costs, student fees that could have been collected, but were not, are not an offset.

#### Government Code Section 17514

The Controller relies upon Government Code Section 17514 for the conclusion that “[t]o the extent community college districts can charge a fee, they are not required to incur a cost. . . .”

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

#### Government Code Section 17556

The Controller relies upon Government Code Section 17556 for the conclusion that the “COSM shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service. . . .”

The Controller misrepresents the law. Government Code Section 17556 prohibits the Commission on State Mandates from finding costs subject to reimbursement, that is approving a test claim activity for reimbursement, where the authority to levy fees in an amount sufficient to offset the entire mandated costs. Here, the Commission has already approved the test claim and made a finding of a new program or higher level of service for which the claimants do not have the ability to levy a fee in an amount sufficient to offset the entire mandated costs.

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<sup>2</sup> Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

#### SCO’s Comment

Our finding and recommendation are unchanged. *Education Code* Section 76355(a) states:

- (1) The governing board of a district maintaining a community college may require community college students to pay a fee . . . for health supervision and services. . . .
- (2) The governing board of each community college district may increase this fee by the same percentage increase as the Implicit Price Deflator. . . . Whenever that calculation produces an increase of one dollar (\$1) above the existing fee, the fee may be increased by one dollar (\$1).

On March 5, 2001, the California Community Colleges Chancellor's Office (CCCCO) notified districts that, based on the provisions of *Education Code* Section 76355(a), districts may charge a fee of \$12 per semester and \$9 for summer sessions effective with the summer session of 2001.

We agree that community college districts may choose not to levy a health service fee. However, *Education Code* Section 76355(a) provides districts the authority to levy a health services fee. *Government Code* Section 17514 states that "costs mandated by the state" means any increased costs that a school district is required to incur. Furthermore, *Government Code* Section 17556(d) states that the COSM shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service (i.e., to the extent districts have authority to charge a fee, they are not "required" to incur a cost). Two court cases addressed the issue of fee authority.<sup>3</sup> Both cases concluded that "costs" as used in the constitutional provision, exclude "expenses that are recoverable from sources other than taxes." In both cases, the source other than taxes was fee authority.

The district misrepresents the COSM's determination regarding authorized health service fees. The COSM clearly recognized the availability of another funding source by including the fees as offsetting savings in *Parameters and Guidelines*. The COSM's staff analysis of May 25, 1989, states the following regarding the proposed *Parameters and Guidelines* amendments.

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

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

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

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

Thus, it is clear that the COSM 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 COSM regarding authorized health service fees.

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

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

**FINDING 4—  
Understated offsetting  
revenues**

The district understated offsetting revenues in FY 2001-02 and overstated offsetting revenues in FY 2002-03 and FY 2003-04, resulting in net understated revenues totaling \$5,637 for the audit period.

The district reported no offsetting revenues for FY 2001-02. The district's FY 2001-02 Financial Summary Report identified offsetting revenue totaling \$14,156; however, this total included "negative revenue" totaling \$1,748 for vaccinations. The district indicated that the correct vaccination revenue amount totaled \$10,162. In its claim, the district offset vaccination expenses totaling \$6,720; therefore, the net vaccination revenue totaled \$3,442. As a result, allowable offsetting revenue totaled \$19,345 for FY 2001-02.

For FY 2002-03 and FY 2003-04, the district claimed offsetting revenue identified in its Financial Summary Reports. However, the offsetting revenue claimed included revenue applicable to vaccinations. For the audit period, the district deducted vaccination costs because the service exceeded base year services provided. Therefore, the district should have excluded the corresponding revenue from total offsetting revenue claimed.

The following table summarizes the audit adjustment.

	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Allowable offsetting revenue	\$ (19,345)	\$ (18,605)	\$ (21,457)	\$ (59,407)
Less claimed offsetting revenue	—	25,355	28,415	53,770
Audit adjustment	<u>\$ (19,345)</u>	<u>\$ 6,750</u>	<u>\$ 6,958</u>	<u>\$ (5,637)</u>

*Parameters and Guidelines* states:

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim. . . .

**Recommendation**

We recommend that the district report all offsetting revenues attributable to the health services program, excluding any revenues applicable to services provided that exceed base year services.

**District's Comment**

The District is analyzing this finding and may dispute this adjustment at future time.

**SCO's Comment**

Our finding and recommendation are unchanged.

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

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# SIERRA COLLEGE

We facilitate learning, inspire change and build community

September 12<sup>th</sup>, 2006

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

Re: Chapter 1, Statutes of 1984  
Health Fee Elimination  
State Controller's Audit  
Fiscal Years: 2001-02, 2002-03 and 2003-04

Dear Mr. Spano:

This letter is the response of the Sierra Joint Community College District to the letter to Interim President Morgan Lynn, Ed. D., from Jeffrey V. Brownfield, Chief, Division of Audits, State Controller's Office, dated August 30<sup>th</sup>, 2006, and received by the District on September 5<sup>th</sup>, 2006, which enclosed a draft copy of the State Controller's Office audit report of the District's Health Fee Elimination claims for the period of July 1<sup>st</sup>, 2001 through June 30<sup>th</sup>, 2004.

## **Finding 1 - Unsupported salary and benefit costs**

The draft audit report eliminates the cost claimed for district academic counselors to provide counseling to students on personal issues. The stated reasons for the adjustments are that the district "did not provide time logs or a documented time study" to support the claimed costs, or "provide documentation that shows that the counselors performed mandate-related activities."

These adjustments are not enforceable. There is no requirement in the parameters and guidelines for the claimant to maintain "time logs" of services provided in order to claim reimbursement. In addition, the Controller has never published time-study standards which comply with the Administrative Procedure Act and therefore cannot enforce these audit "standards" without prior notice to claimants.

Regarding the scope of the counselors' activities, the personal counseling sessions are

within the scope of the activities listed in Title 5 as those for which a student health services fee utilized.

### **Finding 2 - Overstated indirect cost rates claimed**

The Controller asserts that the indirect cost method used by the District was inappropriate since it was not a cost study specifically approved by the federal government. The parameters and guidelines for Health Fee Elimination (as last amended on May 25, 1989) state that "Indirect costs *may be claimed* in the manner described by the Controller in his claiming instructions." The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller.

The Controller's claiming instructions state that for claiming indirect costs, college districts have the option of using a federally approved rate from the Office of Management and Budget Circular A-21, a rate calculated using form FAM-29C, or a 7% indirect cost rate. The Controller claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the Controller to show that the indirect cost rate used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d) (2)). If the Controller wishes to enforce audit standards for mandated cost reimbursement, the Controller should comply with the Administrative Procedure Act.

Since the Controller has stated no legal basis to disallow the indirect cost rate calculation method used by the District, and has not shown a factual basis to reject the rates as unreasonable or excessive, the adjustments should be withdrawn.

### **Finding 3 - Understated authorized health fees revenues**

The District reported actual health services fees collected from students. The Controller calculated the student fees collectible based on the highest student health service fee chargeable, rather the fee actually charged and collected from the student. The difference is an adjustment in the amount of \$256,592 which was never received by the district.

#### **STUDENT HEALTH SERVICES FEE AMOUNT**

##### "Authorized" Fee Amount

The Controller alleges that claimants must compute the total student health fees collectible based on the highest "authorized" rate. The Controller does not provide the factual basis for the calculation of the "authorized" rate, nor provide any reference to the "authorizing" source, nor the legal right of any state entity to "authorize" student health services rates absent rulemaking or compliance with the Administrative Procedure Act by the "authorizing" state agency.

Education Code Section 76355

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

Parameters and Guidelines

The Controller asserts that the parameters and guidelines require that health fees authorized by the Education Code must be deducted from the costs claimed. This is a misstatement of the parameters and guidelines. The parameters and guidelines, as last amended on May 25, 1989, state that "Any offsetting savings . . . must be deducted from the costs claimed . . . This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)<sup>1</sup>." Therefore, while student fees actually collected are properly used to offset costs, student fees that could have been collected, but were not, are not an offset.

Government Code Section 17514

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

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

There is nothing in the language of the statute regarding the authority to charge a fee, any nexus of fee revenue to increased cost, nor any language which describes the legal

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

effect of fees collected.

Government Code Section 17556

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

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

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. ..."

The Controller misrepresents the law. Government Code Section 17556 prohibits the Commission on State Mandates from finding costs subject to reimbursement, that is approving a test claim activity for reimbursement, where the authority to levy fees in an amount sufficient to offset the entire mandated costs. Here, the Commission has already approved the test claim and made a finding of a new program or higher level of service for which the claimants do not have the ability to levy a fee in an amount sufficient to offset the entire mandated costs.

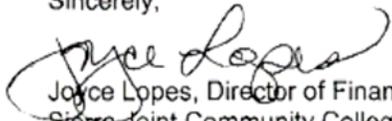
**Finding 4- Understated offsetting revenue**

The District is analyzing this finding and may dispute this adjustment at future time.

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The District requests that the audit report be changed to comply with the appropriate application of the Government Code concerning audits of mandate claims.

Sincerely,



Joyce Lopes, Director of Finance  
Sierra Joint Community College District

cc: Keith Peterson, SixTen and Associates  
Linda Fisher, Sierra College  
Wende Rehwald, Sierra College  
Lawrence Lee, Sierra College

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Division of Audits  
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