SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT

Audit Report

HEALTH FEE ELIMINATION PROGRAM

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

July 1, 2002, through June 30, 2007

JOHN CHIANG
California State Controller

September 2009

JOHN CHIANG
California State Controller

September 23, 2009

Karen Schwarz, President
Board of Trustees
San Mateo County Community College District
3401 CSM Drive
San Mateo, CA 94402

Dear Ms. Schwarz:

The State Controller's Office audited the costs claimed by San Mateo County Community College District for 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, 2002, through June 30, 2007.

The district claimed $1,633,580 ($1,644,580 less an $11,000 penalty for filing late claims) for the mandated program. Our audit disclosed that $851,646 is allowable and $781,934 is unallowable. The costs are unallowable because the district claimed unallowable services and supplies, overstated indirect costs, understated authorized health service fees, and understated offsetting savings/reimbursements. The State paid the district $307,148. Allowable costs claimed exceed the amount paid by $544,498.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). 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 the CSM's Web site at www.csm.ca.gov/docs/IRCForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk:vb

cc: Ron Galatolo, Chancellor
San Mateo County Community College District
Jim Keller, Executive Vice-Chancellor
San Mateo County Community College District
Raymond Chow, Controller
San Mateo County Community College District
Kuldeep Kaur, Specialist
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Contents

Audit Report

Summary 1

Background 1

Objective, Scope, and Methodology 2

Conclusion 2

Views of Responsible Official 3

Restricted Use 3

Schedule 1—Summary of Program Costs 4

Findings and Recommendations 6

Attachment—District's Response to Draft Audit Report

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by San Mateo County Community College District for 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, 2002, through June 30, 2007.

The district claimed $1,633,580 ($1,644,580 less an $11,000 penalty for filing late claims) for the mandated program. Our audit disclosed that $851,646 is allowable and $781,934 is unallowable. The costs are unallowable because the district claimed unallowable services and supplies, overstated indirect costs, understated authorized health service fees, and understated offsetting savings/reimbursements. The State paid the district $307,148. Allowable costs claimed exceed the amount paid by $544,498.

Background

Chapter 1, Statutes of 1984, 2nd Extraordinary Session (E.S.) repealed Education Code section 72246 which authorized community college districts to charge a health fee for providing health supervision and services, providing medical and hospitalization services, and operating 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 for FY 1987-88 and for each fiscal year thereafter.

On November 20, 1986, the Commission on State Mandates (CSM) determined that Chapter 1, Statutes of 1984, 2nd Extraordinary Session 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 for FY 1984-85 and for 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, the CSM 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 for each fiscal year thereafter.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. CSM adopted parameters and guidelines on August 27, 1987, and amended them on May 25, 1989. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist school districts in claiming mandated program 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, 2002, through June 30, 2007.

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 this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 generally accepted government auditing standards. Based on its consultant's recommendation, 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, San Mateo County Community College District claimed $1,633,580 ($1,644,580 less an $11,000 penalty for filing late claims) for costs of the Health Fee Elimination Program. Our audit disclosed that $851,646 is allowable and $781,934 is unallowable.

For the FY 2002-03 claim, the State paid the district $307,148. Our audit disclosed that $135,226 is allowable. The State will offset $171,922 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

For the FY 2003-04 through FY 2006-07 claims, the State made no payment to the district. Our audit disclosed that $716,420 is allowable. The State will pay that amount, contingent upon available appropriations.

Views of Responsible Official

We issued a draft audit report on July 22, 2009. Jim Keller, Executive Vice-Chancellor, responded by letter dated August 7, 2009 (Attachment), disagreeing with the audit results. This final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of San Mateo County 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

September 23, 2009

Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2007

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 2002, through June 30, 2003				
Direct costs:				
Salaries	$ 519,427	$ 519,427	$ —	
Benefits	103,896	103,896	—	
Services and supplies	41,381	41,381	—	
Total direct costs	664,704	664,704	—	
Indirect costs	199,411	186,997	(12,414)	Finding 2
Total direct and indirect costs	864,115	851,701	(12,414)	
Less authorized health service fees	(522,839)	(714,435)	(191,596)	Findings 3, 4
Less offsetting savings/reimbursements	—	(1,040)	(1,040)	Finding 5
Less late filing penalty	(1,000)	(1,000)	—	
Total program costs	$ 340,276	135,226	$ (205,050)	
Less amount paid by the State		(307,148)		
Allowable costs claimed in excess of (less than) amount paid		$ (171,922)		
July 1, 2003, through June 30, 2004				
Direct costs:				
Salaries	$ 445,234	$ 445,234	$ —	
Benefits	101,340	101,340	—	
Services and supplies	29,612	27,857	(1,755)	Finding 1
Total direct costs	576,186	574,431	(1,755)	
Indirect costs	172,856	163,972	(8,884)	Finding 2
Total direct and indirect costs	749,042	738,403	(10,639)	
Less authorized health service fees	(515,832)	(590,862)	(75,030)	Findings 3, 4
Less offsetting savings/reimbursements	—	(11,931)	(11,931)	Finding 5
Total program costs	$ 233,210	135,610	$ (97,600)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 135,610		
July 1, 2004, through June 30, 2005				
Direct costs:				
Salaries	$ 439,929	$ 439,929	$ —	
Benefits	103,247	103,247	—	
Services and supplies	67,491	66,413	(1,078)	Finding 1
Total direct costs	610,667	609,589	(1,078)	
Indirect costs	183,201	178,305	(4,896)	Finding 2
Total direct and indirect costs	793,868	787,894	(5,974)	
Less authorized health service fees	(479,422)	(585,142)	(105,720)	Finding 4
Less offsetting savings/reimbursements	—	(23,454)	(23,454)	Finding 5
Total program costs	$ 314,446	179,298	$ (135,148)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 179,298		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference[1]
July 1, 2005, through June 30, 2006				
Direct costs:				
Salaries	$ 522,997	$ 522,997	$ —	
Benefits	109,667	109,667	—	
Services and supplies	98,378	76,154	(22,224)	Finding 1
Total direct costs	731,042	708,818	(22,224)	
Indirect costs	219,313	224,554	5,241	Finding 2
Total direct and indirect costs	950,355	933,372	(16,983)	
Less authorized health service fees	(589,400)	(696,603)	(107,203)	Finding 4
Less offsetting savings/reimbursements	—	(19,497)	(19,497)	Finding 5
Less late filing penalty	(10,000)	(10,000)	—	
Total program costs	$ 350,955	207,272	$ (143,683)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 207,272		
July 1, 2006, through June 30, 2007				
Direct costs:				
Salaries	$ 628,774	$ 628,774	$ —	
Benefits	116,430	116,430	—	
Services and supplies	122,521	86,290	(36,231)	Finding 1
Total direct costs	867,725	831,494	(36,231)	
Indirect costs	260,318	280,380	20,062	Finding 2
Total direct and indirect costs	1,128,043	1,111,874	(16,169)	
Less authorized health service fees	(733,350)	(899,184)	(165,834)	Finding 4
Less offsetting savings/reimbursements	—	(18,450)	(18,450)	Finding 5
Total program costs	$ 394,693	194,240	$ (200,453)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 194,240		
Summary: July 1, 2002, through June 30, 2007				
Direct costs:				
Salaries	$ 2,556,361	$ 2,556,361	$ —	
Benefits	534,580	534,580	—	
Services and supplies	359,383	298,095	(61,288)	
Total direct costs	3,450,324	3,389,036	(61,288)	
Indirect costs	1,035,099	1,034,208	(891)	
Total direct and indirect costs	4,485,423	4,423,244	(62,179)	
Less authorized health service fees	(2,840,843)	(3,486,226)	(645,383)	
Less offsetting savings/reimbursements	—	(74,372)	(74,372)	
Less late filing penalty	(11,000)	(11,000)	—	
Total program costs	$ 1,633,580	851,646	$ (781,934)	
Less amount paid by the State		(307,148)		
Allowable costs claimed in excess of (less than) amount paid		$ 544,498		

[1] See the Finding and Recommendation section.

Findings and Recommendations

FINDING 1—
Unallowable services and supplies

The district claimed unallowable services and supplies totaling $61,288. The district claimed $7,976 to purchase food for exhibitors who participated in health fairs, to rent a popcorn cart, and to purchase various promotional items (mood lamps, curling ribbons, tattoo bracelets, etc.). In addition, the district claimed $53,312 that it identified as a bad debt expense. The bad debt expense is related to uncollectible student health fees.

The following table summarizes the audit adjustment:

	Fiscal Year				
	2003-04	2004-05	2005-06	2006-07	Total
Services and supplies	$ (1,755)	$ (1,078)	$ (22,224)	$ (36,231)	$ (61,288)

The program's parameters and guidelines state that all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Government Code section 17514 defines "mandated costs" as any increased costs that the district is *required* to incur. Government Code section 17561 states that the Controller may reduce any excessive or unreasonable claim. Food and promotional item expenditures are not required to maintain health services at the level that the district provided during fiscal year (FY) 1986-87.

The parameters and guidelines require that districts deduct authorized health service fees from health service expenditures claimed. Actual health service fees collected, along with uncollectible health service fees, are not relevant to the district's mandated cost claim.

Recommendation

We recommend that the district claim only those services and supplies supported by its accounting records and required to maintain health services at the level provided in FY 1986-87.

District's Response

Health Fair Expenses

The Controller asserts that costs incurred by the District to purchase food for health fair exhibitors, promotional items, and to rent a popcorn cart are unallowable costs because these are not expenditures the District is required to make in order to maintain the base-year level of health services.

The draft audit report cites Government Code Section 17514 as a reason to disallow the health fair costs as not required. This conclusion directly contradicts the parameters and guidelines which include health fairs as reimbursable activities in Section V. Since the Commission has determined that health fair activities are reimbursable, then they are necessary, which invalidates the Controller's reliance upon Section 17514.

The draft audit report cites Government Code Section 17561 which allows the Controller to audit and reduce any excessive or unreasonable claims. Since the parameters and guidelines allow reimbursement for the health fair activities, the costs associated with the activity cannot be unreasonable per se. The draft audit report concludes that the claimed health fair costs are "not required," thus any health fair cost would be ostensibly excessive. The conclusion is subjective because the Controller has not cited a published standard for the type and scope of allowable health fair activity costs. The audit report makes no factual claims to support the adjustment on the grounds that the claimed costs were excessive. Absent a fact-based finding that the popcorn, for example, was too expensive, or some similar finding, there is no basis for the adjustment on the grounds that the claimed costs were excessive. Because there is no question that the health fair activity is appropriate, and no evidence that the costs were excessive, the adjustment should be withdrawn.

Bad Debt Expense

The draft audit report states that the $53,312 of uncollectible student health fees is not allowable but does not cite a specific code section or portion of the parameters and guidelines in support of this conclusion.

As a matter of generally accepted accounting principles, the District reported its gross student health service fee income as revenue and also its uncollected amounts, an appropriate application of accrual accounting. In the alternative, the District could have reported its student health service income net of uncollectible amounts, but the net effect to the general ledger is the same. Since it is the Controller's policy to offset the total collectible student health services fee against total student health services program costs, the bad debt expense should be allowed since the "collectible" fees make no allowance for fees not actually collected, which is a violation of generally accepted accounting principles.

SCO's Comment

Our finding and recommendation are unchanged. Our comments are as follows.

Health Fair Expenses

The district concludes that we contradicted the parameters and guidelines by citing Government Code section 17514. We disagree. The district did not recognize the correlation between Government Code sections 17514 and 17561. Although the parameters and guidelines identify health fairs as a reimbursable activity, the district essentially asserts that any related expense is reimbursable, regardless of necessity or reasonableness.

The parameters and guidelines identify the reimbursable activity of health talks/fairs for the purpose of providing information on sexually transmitted diseases, drugs, AIDS, child abuse, birth control/family planning, and smoking cessation. The district is not required to purchase exhibitors' food, rent popcorn carts, or purchase promotional items to

complete the activity of providing health information to those who inquire. Therefore, these are not costs the district is *required* to incur (Government Code section 17514), nor are the costs reasonable (Government Code section 17561).

Bad Debt Expense

The district states that the finding does not cite specific criteria. We believe the district's position is incorrect. Our finding cites Government Code section 17514. Bad debt expense is not a cost that the district is *required* to incur.

The district relates generally accepted accounting principles to reimbursable mandated costs. We disagree. The applicable health fee revenue accounting principles are irrelevant to mandated cost reimbursement. The parameters and guidelines require districts to deduct authorized health service fees from allowable mandate-related costs.

The district states, "It is the Controller's policy to offset the total collectible student health services fee against total student health services program costs. . . ." There is no such "policy." We base our audit finding on the parameters and guidelines and applicable statutory requirements.

In addition, the district asserts a violation of generally accepted accounting principles because the required authorized health service fee deduction does not consider uncollected fees. The district did not cite a specific accounting principle or acknowledge a distinction between accounting principles and reimbursable mandated costs. Neither statutory language nor the parameters and guidelines include any provision to deduct "uncollectible" fees from authorized health service fees.

The district is authorized to assess health service fees. The district failed to collect the authorized revenues. However, this does not relieve it from its responsibility to offset those fees from its mandated program claims, nor does it permit the district to claim bad debt expense.

FINDING 2—Overstated indirect costs

The district misstated indirect costs for each fiscal year, resulting in overstated indirect costs by $891 for the audit period.

The district claimed indirect costs based on a federally approved rate of 30%. The district overstated FY 2002-03 and FY 2003-04 costs because it incorrectly applied the indirect cost rate to total direct costs. The district's federal approval letter states that the approved direct cost base is salaries and benefits only.

For FY 2004-05, FY 2005-06, and FY 2006-07, the parameters and guidelines and the SCO's claiming instructions do not allow the district to use a federally approved rate. We calculated allowable indirect cost rates based on the FAM-29C methodology that the parameters and guidelines and the SCO's claiming instructions allow. We applied the allowable indirect cost rates to allowable direct costs according to the SCO's claiming instructions.

The following table summarizes the audit adjustment:

	Fiscal Year					
	2002-03	2003-04	2004-05	2005-06	2006-07	Total
Allowable salaries and benefits	$ 623,323	$ 546,574	$ —	$ —	$ —	
Allowable direct costs	—	—	609,589	708,818	831,494	
Allowable indirect cost rate	× 30.00%	× 30.00%	× 29.25%	× 31.68%	× 33.72%	
Allowable indirect costs	186,997	163,972	178,305	224,554	280,380	
Less indirect costs claimed	(199,411)	(172,856)	(183,201)	(219,313)	(260,318)	
Audit adjustment	$ (12,414)	$ (8,884)	$ (4,896)	$ 5,241	$ 20,062	$ (891)

The program's parameters and guidelines state:

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

For FY 2002-03 and FY 2003-04, the SCO's claiming instructions state:

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

For FY 2004-05 forward, the SCO's claiming instructions state:

> A CCD [community college district] may claim indirect costs using the Controller's methodology (FAM-29C). . . . If specifically allowed by a mandated program's [parameters and guidelines], a district may alternately choose to claim indirect costs using either (1) a federally approved rate prepared in accordance with Office of Management and Budget (OMB) Circular A-21, *Cost Principles for Educational Institutions*; or (2) a flat 7% rate.

Recommendation

We recommend that the district claim Health Fee Elimination Program indirect costs based on indirect cost rates computed in accordance with the SCO's FAM-29C methodology.

District's Response

Allocation Basis (FY 2002-03 and FY 2003-04)

Although the draft audit report did not disallow the federal indirect cost rate of 30% for the first two fiscal years, the audit does change the total amount of direct costs to which the rate is applied . . . The draft audit report concludes that since the federal rate was calculated using salary and benefits only, that the rate can be applied to salary and benefits only. There is no such limitation in the parameters and guidelines or the claiming instructions, nor does the draft audit report cite a basis for this restriction of the application of the indirect cost rate.

Federal Method Disallowed (FY 2004-05, FY 2005-06, and FY 2006-07)

The Controller asserts that a federally approved rate is not an allowable indirect cost rate methodology for the remaining three fiscal years that are the subject of this audit. According to the draft audit report, "[f]or FY 2004-05, FY 2005-06, and FY 2006-07, the parameters and

> guidelines and the SCO's claiming instructions do not allow the district to use a federally approved rate." Instead, the draft audit report substitutes a rate calculated using the FAM-29C methodology.
>
> The substituted methodology is unnecessary because no particular indirect cost rate methodology is required by law. The draft audit report asserts that indirect cost rates should be calculated according to the Controller's claiming instructions. The parameters and guidelines state that "[i]ndirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." (Emphasis added). The Controller misconstrues the plain language of the parameters and guidelines. "May" is not "shall"; the parameters and guidelines do not *require* that indirect costs be claimed in the manner described by the Controller.
>
> In prior years, federally approved indirect cost rates have been accepted by the Controller. The draft audit report contains no explanation as to why suddenly federally approved rates are no longer permissible. There is absolutely no basis in law for the Controller to make this change in policy. There was no amendment to the parameters and guidelines. It appears that the Controller simply decided to stop accepting federally approved rates, after years of accepting them, with absolutely no justification or opportunity for public comment. This is contrary to the Administrative Procedure Act.

SCO's Comment

Allocation Basis (FY 2002-03 and FY 2003-04)

The district implies that it may apply the rate to whatever base it chooses. The district draws a distinction between federal approval of the rate itself versus federal approval of the allocation base. There is no such distinction. The federal approval letter defines both the rate and the applicable base; they are inseparable.

Federal Method Disallowed (FY 2004-05, FY 2005-06, and FY 2006-07)

The district is contesting an audit adjustment in its favor for these fiscal years. Nevertheless, the district misconstrues the language of the parameters and guidelines. Using the district's interpretation, districts would be allowed to claim indirect costs in whatever manner they choose.

"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.

For FY 2004-05 forward, the SCO's claiming instructions state:

> A CCD may claim indirect costs using the Controller's methodology (FAM-29C), or if specifically allowed by a mandated cost program's P's & G's [parameters and guidelines], a district may choose to claim indirect costs using either (1) a federally approved rate prepared in accordance with the Office of Management and Budget (OMB) Circular A-21, *Cost Principles for Educational Institutions*; or (2) a flat 7% rate.

The Health Fee Elimination Program's parameters and guidelines do not specifically allow a federally approved rate. Therefore, the district must prepare its indirect cost rates using the SCO's FAM-29C methodology.

Neither this district nor any other district requested that the Commission on State Mandates review the SCO's claiming instructions pursuant to Title 2, California Code of Regulations (CCR), section 1186 (i.e., the district did not exercise its right for public comment). Furthermore, 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."

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 be applicable to this audit period.

FINDING 3—Miscellaneous revenue incorrectly reported as authorized health service fees

The district incorrectly reported miscellaneous health service fund revenue totaling $49,088 as authorized health service fees. This amount included gifts/donations, other local income, and incoming transfers. The district's other local income is attributable to additional fees that the district charges for various health services that it provides. The incoming transfer amounts are transfers between the district's general fund and its health services fund to cover any health services fund deficits. These transfers do not represent additional revenue to the district.

The following table summarizes the audit adjustment and the adjusted authorized health service fees claimed:

	Fiscal Year		
	2002-03	2003-04	Total
Gifts/donations (Account No. 8821)	$ —	$ 700	$ 700
Other local income (Account No. 8890)	1,040	11,231	12,271
Incoming transfers (Account No. 8980)	4,506	31,611	36,117
Audit adjustment	5,546	43,542	$ 49,088
Authorized health service fees claimed	(522,839)	(515,832)	
Adjusted authorized health service fees claimed	$ (517,293)	$ (472,290)	

The parameters and guidelines state:

> Reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

The SCO's claiming instructions direct claimants to separately report authorized health service fees and other reimbursements. Except for incoming transfers, we recognized these revenues in our audit adjustment for understated offsetting savings/reimbursements in Finding 5.

Recommendation

We recommend that the district properly claim revenue as offsetting savings/reimbursements when the revenue is unrelated to the authorized student health fee.

District's Response

> The District concurs that the gifts and other local income can be removed from the total amount of student health service fees received and reported on the claim form as offsetting savings or reimbursements which is accomplished by the adjustments described in Finding 5. The District also concurs that the other item in this finding, the Account number 8980 interfund transfers, is not offsetting program income.

SCO's Comment

Our finding and recommendation are unchanged.

FINDING 4—Understated authorized health service fees

The district understated authorized health service fees by $694,471. The district understated these fees because it reported actual receipts rather than authorized fees. In addition, the district did not charge the health services fee to all eligible students. The district voluntarily excluded high school students concurrently enrolled in 11 units or less and students registered only for telecourses, off-campus classes, or weekend classes.

Mandated costs do not include costs that are reimbursable from authorized fees. 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 the Commission on State Mandates 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.

For the period July 1, 2002, through December 31, 2005, Education Code section 76355, subdivision (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. Effective January 1, 2006, only Education Code section 76355, subdivisions (c)(1) and (2) are applicable.

The California Community Colleges Chancellor's Office (CCCCO) identified the fees authorized by Education Code section 76355, subdivision (a). For FY 2002-03 and FY 2003-04, the authorized fees were $12 per semester and $9 per summer session. For FY 2004-05, the authorized fees were $13 per semester and $10 per summer session. For FY 2005-06, the authorized fees were $14 per semester and $11 per summer session. For FY 2006-07, the authorized fees were $15 per semester and $12 per summer session.

We obtained student enrollment and Board of Governors Grant (BOGG) recipient data from the CCCCO. The CCCCO identified enrollment and BOGG recipient data from its management information system (MIS) based on student data that the district reported. CCCCO identified the district's enrollment based on CCCCO's MIS data element STD7, codes A through G. CCCCO eliminated any duplicate students based on their social security numbers. From the district enrollment, CCCCO identified the number of BOGG recipients based on MIS data element SF21, all codes with first letter of B or F. The district does not have an apprenticeship program and it did not identify any students that it excluded from the health service fee pursuant to Education Code section 76355, subdivision (c)(1).

The following table shows the authorized health service fee calculation and audit adjustment:

	Summer Session	Fall Semester	Spring Semester	Total
Fiscal Year 2002-03				
Number of enrolled students	16,756	28,383	28,602	
Less number of BOGG recipients	(2,341)	(4,026)	(4,234)	
Subtotal	14,415	24,357	24,368	
Authorized health fee rate	× $(9)	× $(12)	× $(12)	
Authorized health service fees	$(129,735)	$(292,284)	$(292,416)	$(714,435)
Less adjusted authorized health service fees claimed (Finding 3)				517,293
Audit adjustment, FY 2002-03				(197,142)
Fiscal Year 2003-04				
Number of enrolled students	13,003	26,667	26,537	
Less number of BOGG recipients	(2,205)	(5,906)	(6,158)	
Subtotal	10,798	20,761	20,379	
Authorized health fee rate	× $(9)	× $(12)	× $(12)	
Authorized health service fees	$ (97,182)	$(249,132)	$(244,548)	(590,862)
Less adjusted authorized health service fees claimed (Finding 3)				472,290
Audit adjustment, FY 2003-04				(118,572)
Fiscal Year 2004-05				
Number of enrolled students	12,937	24,493	26,165	
Less number of BOGG recipients	(3,035)	(6,527)	(6,737)	
Subtotal	9,902	17,966	19,428	
Authorized health fee rate	× $(10)	× $(13)	× $(13)	
Authorized health service fees	$ (99,020)	$(233,558)	$(252,564)	(585,142)
Less authorized health service fees claimed				479,422
Audit adjustment, FY 2004-05				(105,720)
Fiscal Year 2005-06				
Number of enrolled students	13,210	24,339	24,815	
Less number of BOGG recipients	(3,407)	(7,099)	—	
Subtotal	9,803	17,240	24,815	
Authorized health fee rate	× $ (11)	× $ (14)	× $ (14)	
Authorized health service fees	$(107,833)	$(241,360)	$(347,410)	(696,603)
Less authorized health service fees claimed				589,400
Audit adjustment, FY 2005-06				(107,203)

	Summer Session	Fall Semester	Spring Semester	Total
Fiscal Year 2006-07				
Number of enrolled students	12,512	24,672	25,264	
Authorized health fee rate	× $ (12)	× $ (15)	× $ (15)	
Authorized health service fees	$ (150,144)	$ (370,080)	$ (378,960)	(899,184)
Less authorized health service fees claimed				733,350
Audit adjustment, FY 2006-07				(165,834)
Total audit adjustment				$ (694,471)

Recommendation

We recommend that the district deduct authorized health service fees from mandate-related costs claimed. To properly calculate authorized health service fees, we recommend that the district identify the number of enrolled students based on CCCCO data element STD7, codes A through G. The district should eliminate duplicate entries for students who attend more than one district college. In addition, we recommend that the district maintain documentation that identifies the number of students excluded from the health service fee based on Education Code section 76355, subdivision (c)(1). If the district denies health services to any portion of its student population, it should maintain contemporaneous documentation of a district policy that excludes those students from receiving health services and documentation identifying the number of students excluded.

District's Response

"Authorized" Fee Amount

The draft audit report asserts that claimants must compute the total student health service fees collectible based on the highest "authorized" rate. The draft audit report does not provide the statutory basis for the calculation of the "authorized" rate, nor the source of the legal right of any state entity to "authorize" student health service fee amounts absent rulemaking or compliance with the Administrative Procedure Act by the "authorizing" state agency. The letter from the State Chancellor referenced in the draft audit report merely informs the local districts that the Implicit Price Deflator has increased sufficiently that the districts may increase their student health service fee if the district so chooses. The State Chancellor is not authorized by statute to direct the local districts to increase the student health service fee.

Education Code Section 76355

Education Code Section 76355, subdivision (a)(1), states that "[t]he governing board of a district maintaining a community college *may require* community college students to pay a fee . . . for health supervision and services. . . ." (Emphasis added). There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states:

> *If*, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. *The governing board may decide whether the fee shall be mandatory or optional*. (Emphasis added).

Government Code Section 17514

The draft audit report relies upon Government Code Section 17514 for the conclusion that "[t]o the extent that community college districts can charge a fee, they are not required to incur a cost." First, charging a fee has no relationship to whether costs are incurred to provide the student health services program. . . .

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 that describes the legal effect of fees collected.

Government Code Section 17556

The draft audit report relies upon Government Code Section 17556 for the conclusion that "the Commission on State Mandates 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 draft audit report misrepresents the law. Government Code Section 17556 prohibits the Commission from finding costs subject to reimbursement, that is, approving a test claim activity for reimbursement, where the authority exists 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.

Parameters and Guidelines

The parameters and guidelines, as last amended on May 25, 1989, state, in relevant part: "*Any* offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. . . . This shall include the amount of [student fees] as authorized by Education Code Section 72246(a)." Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not, because uncollected fees are "offsetting savings" that were not "experienced."

SCO's Comment

Our finding and recommendation are unchanged. Our comments are as follows:

"Authorized" Fee Amount

The district states, "The draft audit report does not provide the statutory basis for the calculation of the "authorized" rate, nor the source of the legal right of any state entity to "authorize" student health service fee amounts. . . ." The audit finding specifies Education Code section 76355, subdivision (a), as the statutory basis to calculate authorized health service fees. Our report does not state or infer that any state agency "authorizes" the health service fee amount.

The district also states, "The State Chancellor is not authorized by statute to direct the local districts to increase the student health service fee." We agree that the CCCCO is not authorized to direct districts to increase fees. Our finding states that the CCCCO *identified* the fees authorized by Education Code section 76355, subdivision (a).

Education Code Section 76355

We agree that community college districts may choose not to levy a health service fee or to levy a fee less than the authorized amount. Regardless of the district's decision to levy or not levy the authorized health service fee, Education Code section 76355, subdivision (a), provides districts the *authority* to levy the fee.

Government Code Section 17514

Government Code section 17514 states, "'Costs mandated by the state' means any increased costs which a local agency or school district is *required* [emphasis added] to incur. . . ." If the district has authority to collect fees attributable to health service expenses, then it is not *required* to incur a cost. Therefore, mandated costs do not include those health service expenses that may be paid by authorized fees.

Government Code Section 17556

The district presents an argument that the statutory language applies only when the fee authority is sufficient to offset the "entire" mandated costs. We believe the district's argument is invalid. The CSM recognized that the Health Fee Elimination Program's costs are not uniform among districts. Districts provided different levels of service in FY 1986-87 (the "base year"). Furthermore, districts provided these services at varying costs. As a result, the fee authority may be sufficient to pay for some districts' mandated program costs, while it is insufficient to pay the "entire" costs of other districts. Meanwhile, Education Code section 76355 (formerly section 72246) established a uniform health service fee assessment for students statewide. Therefore, the CSM 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.

Two court cases addressed the issue of fee authority.[1] 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.

[1] *County of Fresno v. California* (1991) 53 Cal. 3d 482; *Connell v. Santa Margarita* (1997) 59 Cal. App. 4th 382.

Parameters and Guidelines

The CSM recognized the *availability* of another funding source by including the fees as offsetting savings in the parameters and guidelines. The CSM's staff analysis of May 25, 1989, states the following regarding the proposed parameters and guidelines amendments that the CSM 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.

The CSM intended that claimants deduct authorized health service fees from mandate-reimbursable costs claimed. Furthermore, the staff analysis included an attached letter from the CCCCO dated April 3, 1989. In that letter, the CCCCO concurred with the DOF and the CSM regarding authorized health service fees.

The CSM did not revise the proposed parameters and guidelines amendments further, since the CSM's staff concluded that DOF's proposed language did not substantively change the scope of staff's proposed language. The CSM's meeting minutes of May 25, 1989, show that the CSM adopted the proposed parameters and guidelines on consent, with no additional discussion. Therefore, no community college districts objected and there was no change to the CSM's interpretation regarding authorized health service fees.

FINDING 5—
Understated offsetting savings/reimbursements

The district understated offsetting savings/reimbursements by $74,372. The district did not report offsetting savings/reimbursements for gifts/donations and other local income that its accounting records documented. The district recognized other local income because it charged students a separate fee for various health services that it provided.

The following table summarizes the audit adjustment:

	Fiscal Year					
	2002-03	2003-04	2004-05	2005-06	2006-07	Total
Gifts/donations (Account No. 8821)	$ —	$ (700)	$ (5,500)	$ —	$ (500)	$ (6,700)
Other local income (Account No. 8890)	(1,040)	(11,231)	(17,954)	(19,497)	(17,950)	(67,672)
Audit adjustment	$ (1,040)	$ (11,931)	$ (23,454)	$ (19,497)	$ (18,450)	$ (74,372)

The parameters and guidelines state:

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

Recommendation

We recommend that the district report all offsetting savings/ reimbursements on its mandated cost claims.

District's Response

> The District concurs with these adjustments to classify the gifts and other local income as offsetting savings or reimbursements for purposes of claim reporting.

SCO's Comment

Our finding and recommendation remain unchanged.

FINDING 6—Inaccurate reporting and insufficient documentation of health services provided

The district did not properly report health services provided and did not maintain sufficient documentation of health services provided. Our prior audit did not inform the district of these deficiencies; therefore, this audit report does not identify any unallowable costs attributable to these issues.

The district incorrectly reported the level of health services that it provided on mandated claim form HFE-1.1. The form required the district to report whether it provided health services in the claim year that were less than, the same as, or more than the services that it provided in FY 1986-87. For each fiscal year, the district reported that it provided the same level of services that it provided in FY 1986-87. However, the district's health service records show that the district provided more services than it provided in FY 1986-87. The additional services included physical examinations, pap smears, influenza immunizations, and hepatitis B immunizations. On claim form HFE-2, the district did not report that it provided these services in either FY 1986-87 or during the claim year. In addition, the district did not maintain records to document the actual time that employees spent and applicable materials and supplies costs associated with these additional services.

Also, the district did not sufficiently document actual health services that it provided. The district provided health service records that were inconsistent among colleges and fiscal years. The health service records do not identify actual services consistent with the level of detail included in the parameters and guidelines. The district's records either did not identify the services provided or identified the services provided using general, vague descriptions.

The parameters and guidelines identify reimbursable health services and state that the district will be reimbursed only for those services that it provided in FY 1986-87. They also state that the district must support salary and benefit costs claimed with documentation that shows the mandated functions performed. Furthermore, they state:

> 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. . . .

Recommendation

We recommend that the district:

- Properly report the level of health services provided (i.e., whether the district provided health services in the claim year that are less than, the same as, or more than the services that it provided in FY 1986-87).

- Properly report the specific health services that it provided during the claim year.

- Maintain health service records identifying actual services that it provided in the same manner that the parameters and guidelines and the SCO's claim forms identify health services.

- Maintain records that document the actual time spent and applicable materials and supplies costs associated with health services exceeding the services that it provided in FY 1986-87.

District's Response

> The draft audit report asserts that the District did not properly report or document health services provided. The claiming forms require claimants to report services *available*, not the services actually *provided*, each fiscal year. Education Code Section 76355 requires districts that provided student health services programs in FY 1986-87 to maintain that level of service, that is, the Section requires that all of the same services continue to be offered each subsequent fiscal year. Whether these offered services are actually provided in subsequent years depends on whether a student requires the offered service.
>
> The draft audit report identified the following services as in excess of those available in FY 1986-87: physical examinations, pap smears, influenza immunizations, and Hepatitis B immunizations.
>
> – Physical examinations are not listed in the current or base periods as separate activities. However, to the extent that these services were provided by or available from the District staff, or arranging appointments for such examinations were done by or available from District staff, they would not be new services.
> – Pap smears are gynecological services which were reported in the current and base periods.

– Immunizations, the labor associated with providing the injection, were provided in the base period. The actual vaccine injected may change from year-to-year, for example, Hepatitis B immunizations were not generally provided to the population in FY 1986-87.

No work papers in support of the draft audit assertion of excess services were provided so the District cannot ascertain whether the number of these services were significant enough to warrant continuous cost accounting for these exceptions, if any.

SCO's Comment

Our finding and recommendation are unchanged. The district draws a distinction between "services available," "services provided," and "services offered." Such a distinction is not relevant.

The parameters and guidelines, Section III, Eligible Claimants, states:

> Community college districts which *provided* [emphasis added] health services in 1986-87 fiscal year and continue to *provide* [emphasis added] the same services as a result of this mandate are eligible to claim reimbursement of those costs.

Section V, subdivision A, Scope of Mandate, states:

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

Section V, subdivision B, Reimbursable Activities, states:

> For each eligible claimant, the following cost items are reimbursable to the extent they were *provided* [emphasis added] by the community college district in fiscal year 1986-87.

District Inaccurately Reported Health Services Provided

Claim form HFE-1.1 directs the claimant to "Indicate with a check mark, the level at which health services were provided during the fiscal year of reimbursement in comparison to the 1986/87 fiscal year." The claimant identifies whether it provided less services, the same services, or more services. For the audit period, the district submitted claim form HFE-1.1 indicating that it provided the same services during each fiscal year compared to FY 1986-87.

On claim form HFE-2, the district identified the services that it provided in FY 1986-87. The district did not identify physical examinations, pap smears, influenza immunizations, and hepatitis B immunizations as services that it provided in FY 1986-87. However, the district's health service records show that the district did provide these services during the audit period. Therefore, the district provided more services than it provided in FY 1986-87 and incorrectly completed claim form HFE-1.1.

Regarding the specific excess services provided, our comments are as follows:

Physical Examinations

The district states, "Physical examinations are not listed in the current or base periods as separate activities." It is unclear whether the district is either (1) alleging that claim form HFE-2 does not separately list physical examinations as a health service, or (2) confirming that the district did not provide the service in FY 1986-87 and failed to report that it provided the service during the audit period. The district concludes by stating, "To the extent that these services were provided . . . they would not be new services."

Both the parameters and guidelines and claim form HFE-2 separately list physical examinations as a health service. For the audit period, the district did not identify physical examinations as a service that it provided during FY 1986-87. Clearly, if the district did not provide a service during FY 1986-87, but provided it during the audit period, it is a new service.

Pap Smears

The district states, "Pap smears are gynecological services which were reported in the current and base periods." Both the parameters and guidelines and claim form HFE-2 separately identify pap smears and gynecological services. The district's response confirms that it incorrectly reported services provided.

Immunizations

The parameters and guidelines identify only three eligible immunizations: diphtheria/tetanus, measles/rubella, and influenza. The district states, "Hepatitis B immunizations were not generally provided to the population in FY 1986-87." This is irrelevant. The district provided Hepatitis B vaccinations during the audit period. Therefore, the district failed to report that it provided more services during the audit period than it provided in FY 1986-87. In addition, the district reported that it provided only measles/rubella immunizations both during the audit period and in FY 1986-87. The district failed to report that it provided influenza immunizations during the audit period.

District Did Not Sufficiently Document Health Services Provided

In response to our audit issue of inaccurate reporting, the district states, "No work papers in support of the draft audit assertion of excess services were provided so the District cannot ascertain whether the number of these services were significant enough to warrant continuous cost accounting for these exceptions, if any."

We conducted an audit exit conference on June 4, 2009, and discussed all audit issues with district representatives. The district made no request for audit working papers related to this finding. However, the district's

response confirms that its own records are insufficient for the district to identify how frequently it provided the services in question.

The district had no additional comments regarding insufficient documentation of health services provided. The parameters and guidelines state that only services provided in FY 1986-87 are eligible for reimbursement. They also state that the district must identify the mandated functions performed. We continue to recommend that the district maintain health service records identifying actual services that it provided in the same manner that the parameters and guidelines and the SCO's claim forms identify those services. If the district is unable to validate that it has claimed costs for services that are reimbursable under the mandated program, the SCO will conclude that the entire claim is unallowable.

OTHER ISSUES

The district's response included other comments related to the mandated cost claims. The district's comments and SCO's responses are presented below.

Statute of Limitations

The district's response included comments related to the statute of limitations applicable to the district's FY 2002-03 and FY 2003-04 mandated cost claims. The district's comment and SCO's response are as follows:

District's Comment

> The District's (FY) 2002-03 and FY 2003-04 claims were mailed to the Controller on January 12, 2005. According to Government Code Section 17558.5, the Controller has three years to commence an audit of claims filed after January 1, 2005. The entrance conference date for the audit was September 8, 2008, which is after the three-year period to commence the audit expired. Therefore, the proposed audit adjustments for FY 2002-03 and FY 2003-04 are barred by the statute of limitations set forth in Government Code Section 17558.5.

SCO's Response

Our findings and recommendations are unchanged. The district paraphrased only a portion of 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 2002-03 claim, the district received its initial payment on October 25, 2006. Pursuant to the above statutory language, the SCO had until October 24, 2009, to initiate an audit of this claim. For its FY 2003-04 claim, the district received no payment. Pursuant to the same

statutory language, the SCO's time to initiate an audit has not yet commenced. Therefore, the SCO properly initiated its audit within the statutory time allowed.

Public Records Request

The district's response included a public records request. The district's comment and SCO's response are as follows:

District's Comment

> The District requests that the Controller provide the District any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period to Finding 2 (indirect cost rate calculation standards) and Finding 4 (calculation of the student health services fees offset).

SCO's Comment

The SCO provided the district the requested records by separate letter dated August 24, 2009.

Attachment—
District's Response to
Draft Audit Report

SAN MATEO COUNTY
COMMUNITY COLLEGE DISTRICT

Associate Chancellor

Cañada College, Redwood City
College of San Mateo, San Mateo
Skyline College, San Bruno

August 7, 2009

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

Re: Chapter 1, Statutes of 1984, 2nd E. S.
Chapter 1118, Statutes of 1987
Health Fee Elimination Program
Annual Claim Fiscal Years: 2002-03 through 2006-07
San Mateo County Community College District

Dear Mr. Spano:

This letter is the response of the San Mateo County Community College District to the draft audit report for the above referenced program and fiscal years transmitted by the letter from Jeffrey V. Brownfield, Chief, Division of Audits, State Controller's Office, dated July 22, 2009, and received by the District on July 27, 2009.

Finding 1 - Unallowable services and supplies

The draft audit report concludes that $61,288 of the District's claimed costs are unallowable services and supplies. This adjustment includes $7,976 in unallowable health fair expenses and $53,312 in uncollectible student health fees referred to as bad debt expenses.

Health Fair Expenses

The Controller asserts that costs incurred by the District to purchase food for health fair exhibitors, promotional items, and to rent a popcorn cart are unallowable costs because these are not expenditures the District is required to make in order to maintain the base-year level of health services.

The draft audit report cites Government Code Section 17514 as a reason to disallow the health fair costs as not required. This conclusion directly contradicts the parameters and guidelines which include health fairs as reimbursable activities in Section V. Since the Commission has determined that health fair activities are reimbursable, then they are necessary, which invalidates the Controller's reliance upon Section 17514.

The draft audit report cites Government Code Section 17561 which allows the Controller to audit and reduce any excessive or unreasonable claims. Since the parameters and guidelines allow reimbursement for the health fair activities, the costs associated with the activity cannot be unreasonable per se. The draft audit report concludes that the claimed health fair costs are "not required," thus any health fair cost would be ostensibly excessive. The conclusion is subjective because the Controller has not cited a published standard for the type and scope of allowable health fair activity costs. The audit report makes no factual claims to support the adjustment on the grounds that the claimed costs were excessive. Absent a fact-based finding that the popcorn, for example, was too expensive, or some similar finding, there is no basis for the adjustment on the grounds that the claimed costs were excessive. Because there is no question that the health fair activity is appropriate, and no evidence that the costs were excessive, the adjustment should be withdrawn.

Bad Debt Expense

The draft audit report states that the $53,312 of uncollectible student health fees is not allowable but does not cite a specific code section or portion of the parameters and guidelines in support of this conclusion.

As a matter of generally accepted accounting principles, the District reported its gross student health service fee income as revenue and also its uncollected amounts, an appropriate application of accrual accounting. In the alternative, the District could have reported its student health service income net of uncollectible amounts, but the net effect to the general ledger is the same. Since it is the Controller's policy to offset the total collectible student health services fee against total student health services program costs, the bad debt expense should be allowed since the "collectible" fees make no allowance for fees not actually collected, which is a violation of generally accepted accounting principles.

Finding 2 - Overstated indirect costs

The District utilized a federally approved indirect cost rate of 30% for each of the five years that are the subject of the audit report. The Controller did not adjust this rate for FY 2002-03 and FY 2003-04. For FY 2004-05, FY 2005-06, and FY 2006-07, the draft audit report adjusts the claimed rate by substituting an audited rate calculated according to the Controller's FAM-29C methodology.

Allocation Basis (FY 2002-03 and FY 2003-04)

Although the draft audit report did not disallow the federal indirect cost rate of 30% for the first two fiscal years, the audit does change the total amount of direct costs to which the rate is applied, thus resulting in reductions of $12,414 and $8,884, for FY 2002-03 and FY 2003-04, respectively. The draft audit report concludes that since the federal rate was calculated using salary and benefits only, that the rate can be applied to salary and benefits only. There is no such limitation in the parameters and guidelines or the claiming instructions, nor does the draft audit report cite a basis for this restriction of the application of the indirect cost rate.

Federal Method Disallowed (FY 2004-05, FY 2005-06, and FY 2006-07)

The Controller asserts that a federally approved rate is not an allowable indirect cost rate methodology for the remaining three fiscal years that are the subject of this audit. According to the draft audit report, "[f]or FY 2004-05, FY 2005-06, and FY 2006-07, the parameters and guidelines and the SCO's claiming instructions do not allow the district to use a federally approved rate." Instead, the draft audit report substitutes a rate calculated using the FAM-29C methodology.

The substituted methodology is unnecessary because no particular indirect cost rate methodology is required by law. The draft audit report asserts that indirect cost rates should be calculated according to the Controller's claiming instructions. The parameters and guidelines state that "[i]ndirect costs *may be claimed* in the manner described by the State Controller in his claiming instructions." (Emphasis added). The Controller misconstrues the plain language of the parameters and guidelines. "May" is not "shall"; the parameters and guidelines do not *require* that indirect costs be claimed in the manner described by the Controller.

In prior years, federally approved indirect cost rates have been accepted by the Controller. The draft audit report contains no explanation as to why suddenly federally approved rates are no longer permissible. There is absolutely no basis in law for the Controller to make this change in policy. There was no amendment to the parameters and guidelines. It appears that the Controller simply decided to stop accepting federally approved rates, after years of accepting them, with absolutely no justification or opportunity for public comment. This is contrary to the Administrative Procedure Act.

Finding 3 - Miscellaneous revenue incorrectly reported as authorized health service fees

The District concurs that the gifts and other local income can be removed from the total amount of student health service fees received and reported on the claim form as offsetting savings or reimbursements which is accomplished by the adjustments described in Finding 5. The District also concurs that the other item

in this finding, the Account number 8980 interfund transfers, is not offsetting program income.

Finding 4 - Understated authorized health service fees

The draft audit report states that student health service fee revenue offsets were understated by $694,471 for the audit period. This adjustment is due to the fact that the District reported the actual student health service fees that it collected rather than "authorized" student health service fees that could have been collected. The auditor calculated "authorized" student health service fee revenues, that is, the student health service fees collectible based on the highest student health service fee chargeable, rather than the full-time or part-time student health service fee actually charged to the student and actually collected.

"Authorized" Fee Amount

The draft audit report asserts that claimants must compute the total student health service fees collectible based on the highest "authorized" rate. The draft audit report does not provide the statutory basis for the calculation of the "authorized" rate, nor the source of the legal right of any state entity to "authorize" student health service fee amounts absent rulemaking or compliance with the Administrative Procedure Act by the "authorizing" state agency. The letter from the State Chancellor referenced in the draft audit report merely informs the local districts that the Implicit Price Deflator has increased sufficiently that the districts may increase their student health service fee if the district so chooses. The State Chancellor is not authorized by statute to direct the local districts to increase the student health service fee.

Education Code Section 76355

Education Code Section 76355, subdivision (a)(1), states that "[t]he governing board of a district maintaining a community college *may require* community college students to pay a fee . . . for health supervision and services . . . ." (Emphasis added). There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states:

> *If*, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. *The governing board may decide whether the fee shall be mandatory or optional*. (Emphasis added).

Government Code Section 17514

The draft audit report relies upon Government Code Section 17514 for the conclusion that "[t]o the extent that community college districts can charge a fee,

they are not required to incur a cost." First, charging a fee has no relationship to whether costs are incurred to provide the student health services program. Second, 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 XIIIB 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 that describes the legal effect of fees collected.

Government Code Section 17556

The draft audit report relies upon Government Code Section 17556 for the conclusion that "the Commission on State Mandates 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 Statutes of 2006, Chapter 538, 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 any one of the following: . . .
> (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 draft audit report misrepresents the law. Government Code Section 17556 prohibits the Commission from finding costs subject to reimbursement, that is, approving a test claim activity for reimbursement, where the authority exists 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.

Parameters and Guidelines

The parameters and guidelines, as last amended on May 25, 1989, state, in relevant part: "*Any* offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed . . . . This shall include

the amount of [student fees] as authorized by Education Code Section 72246(a)." Student fees actually collected must be used to offset costs, but not student fees that could have been collected and were not, because uncollected fees are "offsetting savings" that were not "experienced."

The audit report should be changed to comply with the appropriate application of the parameters and guidelines and the Government Code concerning audits of mandate claims.

Finding 5 - Understated offsetting savings/reimbursements

The District concurs with these adjustments to classify the gifts and other local income as offsetting savings or reimbursements for purposes of claim reporting.

Finding 6 - Inaccurate reporting and insufficient documentation of health services provided

The draft audit report asserts that the District did not properly report or document health services provided. The claiming forms require claimants to report services *available*, not the services actually *provided*, each fiscal year. Education Code Section 76355 requires districts that provided student health services programs in FY 1986-87 to maintain that level of service, that is, the Section requires that all of the same services continue to be offered each subsequent fiscal year. Whether these offered services are actually provided in subsequent years depends on whether a student requires the offered service.

The draft audit report identified the following services as in excess of those available in FY 1986-87: physical examinations, pap smears, influenza immunizations, and Hepatitis B immunizations.

- Physical examinations are not listed in the current or base periods as separate activities. However, to the extent that these services were provided by or available from the District staff, or arranging appointments for such examinations were done by or available from District staff, they would not be new services.
- Pap smears are gynecological services which were reported in the current and base periods.
- Immunizations, the labor associated with providing the injection, were provided in the base period. The actual vaccine injected may change from year-to-year, for example, Hepatitis B immunizations were not generally provided to the population in FY 1986-87.

No work papers in support of the draft audit assertion of excess services were provided so the District cannot ascertain whether the number of these services were significant enough to warrant continuous cost accounting for these exceptions, if any.

Statute of Limitations

The District's (FY) 2002-03 and FY 2003-04 claims were mailed to the Controller on January 12, 2005. According to Government Code Section 17558.5, the Controller has three years to commence an audit of claims filed after January 1, 2005. The entrance conference date for the audit was September 8, 2008, which is after the three-year period to commence the audit expired. Therefore, the proposed audit adjustments for FY 2002-03 and FY 2003-04 are barred by the statute of limitations set forth in Government Code Section 17558.5.

The audit report should be changed to exclude findings for the FY 2002-03 and FY 2003-04 annual claims.

Public Records Request

The District requests that the Controller provide the District any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period to Finding 2 (indirect cost rate calculation standards) and Finding 4 (calculation of the student health services fees offset).

Government Code section 6253, subdivision (c), requires the state agency that is the subject of the request, within ten days from receipt of a request for a copy of records, to determine whether the request, in whole or in part, seeks copies of disclosable public records in your possession and promptly notify the requesting party of that determination and the reasons therefore. Also, as required, when so notifying the District, please state the estimated date and time when the records will be made available.

Sincerely,

Jim Keller, Executive Vice-Chancellor
San Mateo County Community College District

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