

FOOTHILL-DE ANZA 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, 2006, through June 30, 2009



JOHN CHIANG
California State Controller

September 2012



JOHN CHIANG
California State Controller

September 25, 2012

Joan Barram, President
Board of Trustees
Foothill-De Anza Community College District
12345 El Monte Road
Los Altos, CA 94022

Dear Ms. Barram:

The State Controller's Office audited the costs claimed by the Foothill-De Anza 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, 2006, through June 30, 2009.

The district claimed \$3,245,233 (\$3,265,233 less a \$20,000 penalty for filing late claims) for the mandated program. Our audit disclosed that \$1,686,289 is allowable and \$1,558,944 is unallowable. The costs are unallowable primarily because the district overstated salaries, benefits, and services and supplies; overstated indirect costs; understated authorized health service fees; and understated offsetting savings/reimbursements. The State paid the district \$1,652,744. Allowable costs claimed exceed the amount paid by \$33,545.

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 website 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

cc: Linda M. Thor, Ed.D., Chancellor
Foothill-De Anza Community College District
Kevin McElroy, Vice Chancellor
Business Services
Foothill-De Anza Community College District
Bernata Slater, Director, Budget Operations
Foothill-De Anza Community College District
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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 audited the costs claimed by the Foothill-De Anza 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, 2006, through June 30, 2009.

The district claimed \$3,245,233 (\$3,265,233 less a \$20,000 penalty for filing late claims) for the mandated program. Our audit disclosed that \$1,686,289 is allowable and \$1,558,944 is unallowable. The costs are unallowable primarily because the district overstated salaries, benefits, and services and supplies; overstated indirect costs; understated authorized health service fees; and understated offsetting savings/reimbursements. The State paid the district \$1,652,744. Allowable costs claimed exceed the amount paid by \$33,545.

Background

Chapter 1, Statutes of 1984, 2nd Extraordinary Session 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. The 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, 2006, through June 30, 2009.

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.

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, the Foothill-De Anza Community College District claimed \$3,245,233 (\$3,265,233 less a \$20,000 penalty for filing late claims) for costs of the Health Fee Elimination Program. Our audit disclosed that \$1,686,289 is allowable and \$1,558,944 is unallowable.

For the FY 2006-07 claim, the State made no payment to the district. Our audit disclosed that \$311,642 is allowable. The State will pay that amount, contingent upon available appropriations.

For the FY 2007-08 claim, the State paid the district \$86,141. Our audit disclosed that \$657,368 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$571,227, contingent upon available appropriations.

For the FY 2008-09 claim, the State paid the district \$1,566,603. Our audit disclosed that \$717,279 is allowable. The State will offset \$849,324 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

**Views of
Responsible
Official**

We issued a draft audit report on August 16, 2012. Kevin McElroy, Vice-Chancellor, Business Services, responded by letter dated August 31, 2012 (Attachment), agreeing with Findings 3, 5, 6, and 7, and disagreeing with Findings 1, 2, and 4.

Restricted Use

This report is solely for the information and use of the Foothill-De Anza 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 25, 2012

**Schedule 1—
Summary of Program Costs
July 1, 2006, through June 30, 2009**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2006, through June 30, 2007</u>				
Direct costs:				
Salaries and benefits	\$ 1,138,859	\$ 1,138,859	\$ —	
Services and supplies	422,138	414,144	(7,994)	Finding 2
Understated direct costs	(65,679)	—	65,679	Finding 3
Total direct costs	1,495,318	1,553,003	57,685	
Indirect costs	589,903	585,327	(4,576)	Finding 4
Total direct and indirect costs	2,085,221	2,138,330	53,109	
Less authorized health service fees	(1,523,111)	(1,739,352)	(216,241)	Finding 6
Less offsetting savings/reimbursements	(32,775)	(77,336)	(44,561)	Finding 7
Less late filing penalty	(10,000)	(10,000)	—	
Total program costs	<u>\$ 519,335</u>	311,642	<u>\$ (207,693)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 311,642</u>		
<u>July 1, 2007, through June 30, 2008</u>				
Direct costs:				
Salaries and benefits	\$ 1,393,113	\$ 1,393,119	\$ 6	Finding 1
Services and supplies	659,338	614,312	(45,026)	Finding 2
Understated direct costs	(28,000)	—	28,000	Finding 3
Total direct costs	2,024,451	2,007,431	(17,020)	
Indirect costs	857,558	635,959	(221,599)	Finding 4
Total direct and indirect costs	2,882,009	2,643,390	(238,619)	
Less authorized health service fees	(1,708,627)	(1,919,918)	(211,291)	Finding 6
Less offsetting savings/reimbursements	(4,087)	(56,104)	(52,017)	Finding 7
Less late filing penalty	(10,000)	(10,000)	—	
Total program costs	<u>\$ 1,159,295</u>	657,368	<u>\$ (501,927)</u>	
Less amount paid by the State		(86,141)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 571,227</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2008, through June 30, 2009</u>				
Direct costs:				
Salaries and benefits	\$ 1,849,080	\$ 1,627,327	\$ (221,753)	Finding 1
Services and supplies	686,871	593,177	(93,694)	Finding 2
Understated direct costs	<u>(21,684)</u>	<u>—</u>	<u>21,684</u>	Finding 3
Total direct costs	2,514,267	2,220,504	(293,763)	
Indirect costs	<u>1,065,044</u>	<u>776,398</u>	<u>(288,646)</u>	Finding 4
Total direct and indirect costs	3,579,311	2,996,902	(582,409)	
Less authorized health service fees	(2,008,621)	(2,173,052)	(164,431)	Findings 5, 6
Less offsetting savings/reimbursements	<u>(4,087)</u>	<u>(106,571)</u>	<u>(102,484)</u>	Finding 7
Total program costs	<u>\$ 1,566,603</u>	717,279	<u>\$ (849,324)</u>	
Less amount paid by the State		<u>(1,566,603)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (849,324)</u>		
<u>Summary: July 1, 2006, through June 30, 2009</u>				
Direct costs:				
Salaries and benefits	\$ 4,381,052	\$ 4,159,305	\$ (221,747)	
Services and supplies	1,768,347	1,621,633	(146,714)	
Understated direct costs	<u>(115,363)</u>	<u>—</u>	<u>115,363</u>	
Total direct costs	6,034,036	5,780,938	(253,098)	
Indirect costs	<u>2,512,505</u>	<u>1,997,684</u>	<u>(514,821)</u>	
Total direct and indirect costs	8,546,541	7,778,622	(767,919)	
Less authorized health service fees	(5,240,359)	(5,832,322)	(591,963)	
Less offsetting savings/reimbursements	(40,949)	(240,011)	(199,062)	
Less late filing penalty	<u>(20,000)</u>	<u>(20,000)</u>	<u>—</u>	
Total program costs	<u>\$ 3,245,233</u>	1,686,289	<u>\$(1,558,944)</u>	
Less amount paid by the State		<u>(1,652,744)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 33,545</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Unallowable salaries
and benefits**

The district claimed unallowable salaries and benefits totaling \$221,747.

In fiscal year (FY) 2008-09, the district claimed 100% of counselors’ salaries and benefits for De Anza College’s Matriculation Division. The district conducted a time study during October 2008 to identify actual mandate-related counseling costs. The district’s time study showed that 8.47% of De Anza College’s counseling costs were mandate-related.

The following table shows the calculation of allowable counseling costs and the resulting audit adjustment based on the October 2008 time study results:

	<u>Fiscal Year 2008-09</u>
De Anza College counselors’ salaries and benefits	\$ 243,156
Mandate-related percentage from October 2008 time study	× 8.47%
Allowable counseling-related salaries and benefits	<u>20,595</u>
Less: counseling-related salaries and benefits claimed	<u>(243,156)</u>
Audit adjustment	<u>\$ (222,561)</u>

The district also understated claimed costs because it did not claim mandate-related costs totaling \$814 that it identified in De Anza College’s health services account (account number 152264).

The following table summarizes the audit adjustment for salaries and benefits:

	<u>Fiscal Year</u>		
	<u>2007-08</u>	<u>2008-09</u>	<u>Total</u>
Salaries and benefits:			
Overstated counseling costs	\$ —	\$ (222,561)	\$ (222,561)
Understated costs	<u>6</u>	<u>808</u>	<u>814</u>
Audit adjustment	<u>\$ 6</u>	<u>\$ (221,753)</u>	<u>\$ (221,747)</u>

The program’s parameters and guidelines state that actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities.

For salaries and benefits specifically, the parameters and guidelines direct claimants to:

- 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.

Recommendation

We recommend that the district claim only those mandate-related costs that its accounting records support.

Mandate-related counseling is not a task repetitive in nature. As a result, a time study of less than one year does not reasonably show the validity of claimed costs. On January 13, 2011, we notified the district that it must maintain actual time records to support all mandate-related counseling activities for FY 2011-12. Thereafter, the district may apply the time study results for two subsequent fiscal years, provided there are no significant changes in either (1) the requirements of the mandated program activity; or (2) the process and procedure used to accomplish the activity. Alternatively, the district may continue to maintain actual time records that support all mandate-related counseling activities in subsequent fiscal years.

District's Response

The district agreed with the audit finding but disagreed with the recommendation. The district's response is summarized below:

The District does not concur with the Controller's recent change in opinion, since the previous audit of this District on this mandate, that the scope of counseling costs claimed for student health services are now not "repetitive in nature". . . .

The process and procedure to implement the mandated program has remained, and will probably remain unchanged. . . . At the exit conference, the audit manager concurred that the cost of implementation to be measured is the *time spent* by counselors on this subject matter as a *percentage* of the several counselors' workday. Therefore, an entire fiscal year of actual time is not necessary because a study of shorter representative periods can adequately provide the needed representative percentage of time spent daily on mental health issues. Whether the subjects discussed are "repetitive" or not, is not relevant to the percentage of time spent each day.

SCO's Comment

The finding and recommendation are unchanged. Mandate-related counseling is not a task repetitive in nature. The SCO's position has not changed since our previous audit of this district's Health Fee Elimination Program.

However, we did conclude since the previous audit that a time study of less than one year for non-repetitive tasks does not reasonably show the validity of claimed costs. The parameters and guidelines state, "The average number of hours devoted to each function may be claimed if supported by a documented time study." However, the parameters and guidelines also require the district to claim actual costs. The parameters and guidelines state, "Actual costs must be traceable and supported by source documents *that show the validity of such costs* [emphasis added], when they were incurred, and their relationship to the reimbursable activities."

We agree that the mandated costs are measurable based on the amount of time spent performing mandate-related activities as a percentage of total time worked. However, we disagree that a time study of less than one year can reasonably identify actual mandated costs.

The district states, “Whether the subjects discussed are ‘repetitive’ or not, is not relevant to the percentage of time spent each day.” We agree that the subjects discussed are irrelevant to measuring mandate-related costs. What *is* relevant is that the time spent from day to day, and counselor to counselor, is not repetitive. The actual time spent will vary based on the number of students who seek services, the type of service requested, and the time required to meet each individual student’s needs.

The period audited is not affected by our conclusion regarding the necessity for a one-year time study. We notified the district on January 13, 2011, that we would require an appropriate time study for the district’s Health Fee Elimination Program claims filed for FY 2011-12 and thereafter.

**FINDING 2—
Overstated and
understated services
and supplies**

The district both overstated and understated allowable services and supplies. For the audit period, the district overstated total services and supplies by \$146,714.

The district overstated claimed costs for the following reasons:

- The district inadvertently claimed projected costs (projected-to-date [PTD]) rather than actual costs (year-to-date [YTD]) for Foothill College’s health services equipment account (account 211267). As a result, the district overstated services and supplies by \$86,516.
- The district claimed unallowable costs totaling \$58,722. The district claimed costs for team building training provided by a consultant. The district also claimed costs for various promotional items (i.e., t-shirts, pens, buttons, pedometers, and rock climbing wall rental) and food provided to volunteers at the health center and health fairs.

The parameters and guidelines do not identify training as a reimbursable activity. In addition, Government Code section 17514 states that “costs mandated by the state” means any increased cost that the district is *required* to incur. The costs for promotional items and food are not costs that the district is required to incur to maintain health services at the level provided in the FY 1986-87 base year.

- The district overstated FY 2008-09 student insurance costs by \$2,880. The district did not provide documentation showing how it calculated mandate-related costs from the total premium amount for that fiscal year. The total premium amount included costs related to athletic insurance. However, Education Code section 76355, subdivision (d)(2), states that authorized expenditures shall not include athletic insurance.

For FY 2006-07 and FY 2007-08, the district provided documentation from its insurance company that identified the mandate-related costs. The documentation provided for those fiscal years identified mandate-related costs totaling 25% of the total premium amount. Therefore, we allowed 25% of the total premium amount for FY 2008-09.

- The district did not provide any supporting documentation for claimed costs totaling \$14,043.

The district understated claimed costs because it did not claim mandate-related costs totaling \$15,447 that it identified in De Anza College’s health services account (account number 152264).

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	2006-07	2007-08	2008-09	
Services and supplies:				
Overstated equipment costs (account 211267)	\$ —	\$ (5,307)	\$ (81,209)	\$ (86,516)
Training, promotional items, and food	(4,963)	(34,297)	(19,462)	(58,722)
Student insurance	—	—	(2,880)	(2,880)
Unsupported costs	(4,903)	(6,640)	(2,500)	(14,043)
Understated costs (account 152264)	1,872	1,218	12,357	15,447
Audit adjustment	<u>\$ (7,994)</u>	<u>\$ (45,026)</u>	<u>\$ (93,694)</u>	<u>\$ (146,714)</u>

The parameters and guidelines state:

Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheet, invoices, and receipts.

The parameters and guidelines also state, “Only expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials which have been consumed or expended specifically for the purpose of this mandate.”

Recommendation

We recommend that the district claim only those mandate-related services and supplies that its accounting records and source documents support.

District's Response

The district disagreed with the audit adjustments related to training, promotional items, and food, totaling \$58,722, and unsupported costs, totaling \$14,043. The district agreed with the remaining audit adjustments. The district's response is summarized below for the contested items:

Promotional Materials

The District does not concur. . . . that the costs incurred by the District to purchase food for health fair volunteers, promotional items, and equipment rental costs are unallowable costs. . . . 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 activity. . . . Since the Commission and Board of Governors have determined that health fair and promotional activities are reimbursable, and since the District provided health fairs in the base year 1986-87, then the health fairs must be continued pursuant to Education Code Section 76355.

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. . . .

Consulting Costs

The District does not concur with the audit report's assertion. . . . The parameters and guidelines neither exclude consultants as an allowable method of implementing the mandate, nor do they exclude training activities from reimbursement. . . .

Since [Title 5, California Code of Regulations, Section 54708] states that consultants are a permitted use of the student health service fee funded program, the issue becomes whether the cost is reasonable and if the service is related to the program. The draft audit report concludes that the consultant costs are "not required," thus any consultant 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 consulting costs. The audit report makes no factual claim to support the adjustment on the grounds that the claimed costs were unnecessary or excessive. . . .

Unsupported Costs

The District does not concur with the audit report's conclusion that these costs are unallowable due to lack of supporting documentation. The amounts for which the audit report found "no support" include payments to vendors such as Office Depot, Pharmedix, and SHC Reference Laboratory, all of which appear to be of the nature and type applicable to providing student health services within the scope of the parameters and guidelines and Title 5. The audit report does not assert that the costs are unnecessary or unreasonable, only that some type of documentary evidence is missing based on the auditor's expectations of what is appropriate documentation.

However, the documentation standards cited in the audit report appear to derive from the parameters and guidelines as amended January 29, 2010, which is after the fiscal years that are the subject of this audit. The previous version of the parameters and guidelines, as amended May 25, 1989, extant for the fiscal years that are the subject of the audit, make no specific enumeration of documentation types, but merely state the need for “source documents and/or worksheets that show evidence of the validity of such costs. . . .”

SCO’s Comment

The finding and recommendation are unchanged. Our comments to each contested issue are as follows:

Promotional Materials

The district opines that our conclusion contradicts the parameters and guidelines. We disagree. Government Code section 17561 states that the SCO may reduce any excessive or unreasonable claim. There is a direct 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 food and promotional items, nor is it required to rent a rock climbing wall (the “equipment rental costs” referenced by the district), to complete the activity of providing health information to those who inquire. Therefore, these are not costs that the district is *required* to incur (Government Code section 17514), nor are the costs reasonable (Government Code section 17561).

Consulting Costs

The district claimed \$10,000 for training provided by two consultants. The parameters and guidelines do not identify training as a reimbursable activity. It is irrelevant whether the training was provided by consultants or district staff. The audit report reference to Government Code section 17514 is applicable to the unallowable health fair promotional items.

Unsupported Costs

The unallowable costs do not result from an “auditor’s expectations of what is appropriate documentation.” The parameters and guidelines state:

Actual costs must be traceable and supported by *source documents* [emphasis added] that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. . . . Source documents may include, but are not limited to. . . . *invoices and receipts* [emphasis added].

The district did not provide any source documents to support the claimed costs. Therefore, the district did not document the validity of the claimed costs or provide adequate evidence that a cost was even incurred.

In addition, the district incorrectly concludes that the parameters and guidelines dated May 25, 1989, are applicable to the audit period. The parameters and guidelines dated January 29, 2010, specifically state, “This amendment is effective beginning with the claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.”

**FINDING 3—
Understated direct
costs claimed**

The district understated allowable direct costs by \$115,363. The district incorrectly reduced direct costs claimed by the amount of interfund transfers identified in object code 7310.

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	2006-07	2007-08	2008-09	
Understated direct costs:				
Audit adjustment	\$ 65,679	\$ 28,000	\$ 21,684	\$ 115,363

The parameters and guidelines state:

Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities.

Recommendation

We recommend that the district claim all mandate-related costs that its accounting records and source documents support.

District’s Response

The district agreed with the finding.

**FINDING 4—
Overstated indirect
costs**

The district overstated indirect costs by \$514,821.

The district claimed indirect costs based on indirect cost rates that it prepared using the SCO’s FAM-29C methodology. The FAM-29C methodology uses actual cost data that the district reports to the California Community Colleges Chancellor’s Office (CCCCO) in its Annual Financial and Budget Report (CCFS-311).

The district did not prepare its FAM-29C indirect cost rates in accordance with the SCO’s claiming instructions. The district did not allocate direct and indirect costs correctly. In addition, the district calculated its indirect cost rates using a base of total direct costs. However, the claiming instructions direct districts to use a base of salaries and benefits for FY 2007-08 and FY 2008-09. Also, the district did not calculate an indirect cost rate for FY 2008-09; instead, the district claimed costs by using the same indirect cost rate used for FY 2007-08.

We calculated each fiscal year's allowable indirect cost rate using the SCO's FAM-29C methodology and the corresponding CCFS-311 report. For FY 2006-07, we applied the allowable rate to the corresponding allowable direct costs. For FY 2007-08 and FY 2008-09, we applied the allowable rates to allowable salaries and benefits only.

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	2006-07	2007-08	2008-09	
Allowable direct costs	\$ 1,553,003	\$ —	\$ —	
Allowable salaries and benefits	—	1,393,119	1,627,327	
Allowable indirect cost rate	× 37.69%	× 45.65%	× 47.71%	
Allowable indirect costs	585,327	635,959	776,398	
Indirect costs claimed	(589,903)	(857,558)	(1,065,044)	
Audit adjustment	\$ (4,576)	\$ (221,599)	\$ (288,646)	\$ (514,821)

The parameters and guidelines state, "Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions." For FY 2006-07, the SCO's claiming instructions specify that the direct cost base is comprised of total direct costs. For FY 2007-08 forward, the SCO's claiming instructions specify that the direct cost base is comprised of only salaries and benefits.

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

The District does not concur with the audit report conclusions or adjustments. . . .

The parameters and guidelines for the Health Fee Elimination program (as last amended on May 25, 1989), which are the legally enforceable standards for claiming costs, state: "Indirect costs *may be claimed* in the manner described by the Controller in his claiming instructions." (Emphasis added) Therefore, the parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller. Since the Controller's claiming instructions were never adopted as rules or regulations, they 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 17561(d)(2)).

The District used the same FAM-29C method as the audit to calculate indirect cost rates. Since the claimed rates are within a few percentage points of the audited rates, it is unlikely that there is any basis to conclude that the claimed rates are unreasonable or excessive. These small differences mostly result from what necessary documentation is available at the time of claim preparation versus documentation available at the time of audit. The magnitude of the dollar amount differences (\$514,821) results from the application of the audited rates to the audited "allowable costs," that is, after all previous direct cost audit reductions.

The first difference is that the District indirect cost rates were calculated based on the *prior year* CCFS-311. . . . The District's use of prior year data is consistent over the years, avoids the need to file late claims, and yields reasonable and representative rates.

Second, the audit utilizes the *current year* audited financial statement depreciation expense. The annual CPA financial statement depreciation information required for the FAM-29C calculation is rarely available when the claim is prepared. . . .

Third, another significant source of variance is that commencing FY 2007-08, the Controller retroactively switched from using all direct costs to only using salary and benefits for this calculation. . . .

Other minor sources in variance may result in a difference of opinion as to which accounts are overhead or direct program costs when calculating the indirect cost rate. . . . [T]hese choices are a matter of professional opinion which has not been specifically contradicted by the audit report. . . .

SCO's Comment

We revised the finding to clarify that the district did not calculate an indirect cost rate for FY 2008-09. The recommendation is unchanged. We disagree with the district's general assertion that the indirect cost rates may be calculated based on "professional opinion." The parameters and guidelines and the SCO's claiming instructions specify one allowable indirect cost rate calculation for Health Fee Elimination Program claims, which is the SCO's FAM-29C methodology. Our comments on the remainder of the district's response are as follows:

Parameters and Guidelines

The parameters and guidelines dated May 25, 1989, are irrelevant to the audit period. The parameters and guidelines dated January 29, 2010, specifically state, "This amendment is effective beginning with the claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement." In any case, the claim preparation instructions are consistent between the two versions for indirect costs.

We disagree with the district's interpretation of the parameters and guidelines. The phrase "may be claimed" 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.

Audit Authority

The district asserts that Government Code section 17561, subdivision (d)(2), which allows the SCO to reduce any claim that it determines is excessive or unreasonable, is "the only mandated cost audit standard in statute." We disagree. Government Code section 17561, subdivision (d)(2), allows the SCO to audit the district's records to verify actual

mandate-related costs *and* reduce any claim that the SCO determines is excessive or unreasonable. In addition, Government Code section 12410 states, “The Controller shall audit *all* claims against the state, and may audit the disbursement of any state money for correctness, legality, and for sufficient provisions of law for payment.”

Claimed Versus Audited Rates

The district states that it used “the same FAM-29C method as the audit.” We disagree. The district did not allocate direct and indirect costs in accordance with the SCO’s claiming instructions. In addition, the district used its FY 2007-08 indirect cost rate for both FY 2007-08 and FY 2008-09.

The district also compared the claimed and audited indirect cost rates. However, such a comparison is erroneous because (1) the district used a different direct cost base for FY 2007-08, and (2) the district did not calculate an indirect cost rate for FY 2008-09.

The district concluded that “it is unlikely that there is any basis to conclude that the claimed rates are unreasonable or excessive.” The district also concluded that the audit adjustment amount results primarily from audit adjustments to allowable direct costs rather than the audit adjustments to the claimed indirect cost rates. We disagree. The unallowable direct costs account for only \$108,891 of the \$514,821 total audit adjustment for indirect costs, as shown in the following table:

	Fiscal Year			Total
	2006-07	2007-08	2008-09	
Audit adjustment, direct costs:				
Finding 1	\$ —	\$ 6	\$ (221,753)	\$ (221,747)
Finding 2	(7,994)	(45,026)	(93,694)	(146,714)
Finding 3	65,679	28,000	21,684	115,363
Total audit adjustment, direct costs	57,685	(17,020)	(293,763)	\$ (253,098)
Indirect cost rate claimed	× 39.45%	× 42.36%	× 42.36%	
Indirect cost audit adjustment attributable to unallowable direct costs	\$ 22,757	\$ (7,210)	\$ (124,438)	\$ (108,891)

CCFS-311

The district states that indirect cost rate differences occurred because the district calculated its indirect cost rates “based on the *prior year* CCFS-311.” We disagree. The district calculated its FY 2006-07 indirect cost rate based on the FY 2006-07 CCFS-311 report. In addition, the district calculated its FY 2007-08 indirect cost rate based on the FY 2007-08 CCFS-311 report. The district did not calculate an indirect cost rate for FY 2008-09.

Even though the district did not use prior-year CCFS-311 data, the district believes that doing so would be justified because using prior year data “avoids the need to file late claims.” We disagree. Government Code section 17560 states that the district’s claim is due by February 15 following the fiscal year in which costs are incurred. However, Title 2,

California Code of Regulations, section 58305, subdivision (d), requires the district to submit its CCFS-311 report to the CCCCO by October 10 following the fiscal year in which costs are incurred. Therefore, the district’s CCFS-311 report is available well before the district is required to submit its mandated cost claims.

Depreciation Expense

The district believes that it should also be allowed to use prior year depreciation expense to calculate current year indirect cost rates. The district states that current year depreciation expense, obtained from the district’s annual financial statements, “is rarely available when the claim is prepared.” We disagree. “When the claim is prepared” is a vague, meaningless time period. The district’s FY 2006-07, FY 2007-08, and FY 2008-09 financial statements were dated November 9, 2007, November 3, 2008, and November 30, 2009, respectively. Therefore, the current year depreciation expense data was available well before the mandate cost claim due dates for the audit period.

Direct Cost Base

The district states that the SCO “retroactively” revised the allowable direct cost base used to calculate and apply indirect cost rates. We disagree. The SCO revised the FAM-29C direct cost base effective with FY 2007-08 claims. The SCO notified claimants of the applicable direct cost base in its FY 2007-08 claiming instructions. Therefore, there was no “retroactive” application.

**FINDING 5—
Offsetting savings/
reimbursements
incorrectly reported
as authorized health
service fees**

The district incorrectly reported offsetting savings/reimbursements totaling \$20,689 as authorized health service fees. The offsetting savings/reimbursements included revenue received for vaccinations. We identified those revenues as understated offsetting savings/reimbursements in Finding 7.

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

	Fiscal Year 2008-09
Audit adjustment (other fees – account 211264, object code 0893)	\$ 20,689
Authorized health service fees claimed	(2,008,621)
Adjusted authorized health service fees claimed	<u>\$ (1,987,932)</u>

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.

The SCO’s claiming instructions direct claimants to report authorized health service fees and other reimbursements separately.

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 agreed with the finding.

**FINDING 6—
Understated
authorized health
service fees**

The district understated authorized health service fees by \$612,652. The district understated these fees because it reported actual receipts rather than authorized fees. We noted that the district did not charge all students the authorized fee amount for the 2006 summer session.

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.

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; or (2) are attending a community college under an approved apprenticeship training program.

The CCCCCO identified the fees authorized by Education Code section 76355, subdivision (a). The following table summarizes the authorized fees:

<u>Fiscal Year</u>	<u>Authorized Health Fee Rate Per Quarter and Summer Session</u>
2006-07	\$12
2007-08	\$13
2008-09	\$14

For each school term, the district reported student enrollment and apprenticeship program enrollee data to the CCCCCO. Based on the student data that the district reported, the CCCCCO identified enrollment and apprenticeship program enrollee data from its management information system (MIS). The CCCCCO identified the district's enrollment based on its MIS data element STD7, codes A through G. The CCCCCO eliminated any duplicate students based on their Social Security numbers. From the district enrollment, the CCCCCO identified the number of apprenticeship program enrollees based on its data element SB23,

code 1. CCCCO data element and code definitions are available at <http://www.cccco.edu/SystemOffice/Divisions/TechResearchInfo/MIS/DED/tabid/266/Default.aspx>. The district 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 resulting audit adjustment:

	Period				Total
	Summer Session	Fall Quarter	Winter Quarter	Spring Quarter	
<u>Fiscal Year 2006-07</u>					
Number of enrolled students	29,205	43,622	39,357	37,195	
Less number of apprenticeship program enrollees	(89)	(2,045)	(2,029)	(270)	
Subtotal	29,116	41,577	37,328	36,925	
Authorized health service fee rate	× \$(12)	× \$(12)	× \$(12)	× \$(12)	
Authorized health service fees	<u>\$ (349,392)</u>	<u>\$ (498,924)</u>	<u>\$ (447,936)</u>	<u>\$ (443,100)</u>	\$ (1,739,352)
Less authorized health service fees claimed					<u>1,523,111</u>
Audit adjustment, FY 2006-07					<u>(216,241)</u>
<u>Fiscal Year 2007-08</u>					
Number of enrolled students	29,746	44,719	40,257	38,127	
Less number of apprenticeship program enrollees	(228)	(2,251)	(2,430)	(254)	
Subtotal	29,518	42,468	37,827	37,873	
Authorized health service fee rate	× \$(13)	× \$(13)	× \$(13)	× \$(13)	
Authorized health service fees	<u>\$ (383,734)</u>	<u>\$ (552,084)</u>	<u>\$ (491,751)</u>	<u>\$ (492,349)</u>	(1,919,918)
Less authorized health service fees claimed					<u>1,708,627</u>
Audit adjustment, FY 2007-08					<u>(211,291)</u>
<u>Fiscal Year 2008-09</u>					
Number of enrolled students	32,155	46,523	41,621	40,535	
Less number of apprenticeship program enrollees	(195)	(2,230)	(2,512)	(679)	
Subtotal	31,960	44,293	39,109	39,856	
Authorized health service fee rate	× \$(14)	× \$(14)	× \$(14)	× \$(14)	
Authorized health service fees	<u>\$ (447,440)</u>	<u>\$ (620,102)</u>	<u>\$ (547,526)</u>	<u>\$ (557,984)</u>	(2,173,052)
Less adjusted authorized health service fees claimed (Finding 5)					<u>1,987,932</u>
Audit adjustment, FY 2008-09					<u>(185,120)</u>
Total audit adjustment					<u>\$ (612,652)</u>

Recommendation

We recommend that the district:

- Deduct authorized health service fees from mandate-related costs claimed. To calculate authorized health service fees properly, we recommend that the district identify the number of enrolled students based on CCCCO data element STD7, codes A through G.

- Identify the number of apprenticeship program enrollees based on data elements SB23, code 1, and STD7, codes A through G.
- Eliminate duplicate entries for students who attend more than one college within 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).
- Charge students the authorized fee amount for each school term.

District’s Response

The district agreed with the finding.

**FINDING 7—
Understated offsetting
savings/
reimbursements**

The district understated offsetting savings/reimbursements by \$199,062.

The district’s claims did not include offsetting savings/reimbursements for revenue received for various health services that the district provided. The district’s records identify other local revenue and other fees totaling \$149,463 and \$25,078, respectively.

The district’s claims included offsetting savings/reimbursements for revenue received attributable to Medi-Cal Administrative Activities (MAA). However, the district’s records show that it overstated actual MAA revenue for FY 2007-08 and understated actual MAA revenue for FY 2008-09.

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	2006-07	2007-08	2008-09	
Other local revenue (account 152264, object code 0895)	\$ (44,561)	\$ (47,834)	\$ (57,068)	\$ (149,463)
Other fees (account 211264, object code 0893)	—	(4,389)	(20,689)	(25,078)
Medi-Cal administrative activities revenue	(32,775)	(3,881)	(28,814)	(65,470)
Total offsetting savings/reimbursements	(77,336)	(56,104)	(106,571)	(240,011)
Less offsetting savings/reimbursements claimed	32,775	4,087	4,087	40,949
Audit adjustment	<u>\$ (44,561)</u>	<u>\$ (52,017)</u>	<u>\$ (102,484)</u>	<u>\$ (199,062)</u>

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 agreed with the finding.

**OTHER ISSUE—
Public records
request**

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

District's Response

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 all audit findings.

SCO's Comment

The SCO provided the district the requested records by separate letter dated September 18, 2012.

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



**FOOTHILL-DE ANZA
Community College District**

**12345 El Monte Road
Los Altos Hills, CA 94022**

August 31, 2012

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 ex.
Health Fee Elimination Reimbursement Claims
Fiscal Years: 2006-07, 2007-08, and 2008-09

Dear Mr. Spano:

This letter is the response of the Foothill-De Anza Community College District to the draft audit report for the above-referenced program and fiscal years transmitted by the letter from Jeffrey Brownfield, Chief, Division of Audits, State Controller's Office, dated August 16, 2012, and received by the District on August 20, 2012.

Finding 1 - Unallowable salaries and benefits

A. De Anza College FY 2008-09 Counseling Costs

AUDIT FINDING: In fiscal year (FY) 2008-09, the district claimed 100% of counselors' salaries and benefits for De Anza College's Matriculation Division. The district conducted a time study during October 2008 to identify actual mandate-related counseling costs. The district's time study showed that 8.47% of De Anza College's counseling costs were mandate-related.

DISTRICT RESPONSE: The District agrees with this finding at this time.

B. De Anza College FY 2008-09 Account # 152264

AUDIT FINDING: The district also understated claimed costs because it did not claim mandate-related costs totaling \$814 that it identified in De Anza College's health services account (account number 152264).

DISTRICT RESPONSE: The District agrees with this finding at this time.

C. Counseling Costs-Time Study

AUDIT FINDING: Mandate-related counseling is not a task repetitive in nature. As a result, a time study of less than one year does not reasonably show the validity of claimed costs. On January 13, 2011, we notified the district that it must maintain actual time records to support all mandate-related counseling activities for FY 2011-12. Thereafter, the district may apply the time study results for two subsequent fiscal years, provided there are no significant changes in either (1) the requirements of the mandated program activity; or (2) the process and procedure used to accomplish the activity. Alternatively, the district may continue to maintain actual time records that support all mandate-related counseling activities in subsequent fiscal years.

DISTRICT RESPONSE: The District does not concur with the Controller's recent change in opinion, since the previous audit of this District on this mandate, that the scope of counseling costs claimed for student health services are now not "repetitive in nature."

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

(b) Mental Health Services

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

The process and procedure to implement the mandated program has remained, and will probably remain unchanged, at this District or any other community college district since the Title 5 section was adopted: students meet with counselors to discuss their issues. At the exit conference, the audit manager concurred that the cost of implementation to be measured is the *time spent* by counselors on this subject matter as a *percentage* of the several counselors' workday. Therefore, an entire fiscal year of actual time is not necessary because a study of shorter representative periods can adequately provide the needed representative percentage of time spent daily on mental health issues. Whether the subjects discussed are "repetitive" or not, is not relevant to the percentage of time spent each day.

Finding 2 - Overstated and understated services and supplies

A. PTD vs. Actual Costs

AUDIT FINDING: The district inadvertently claimed projected costs (projected-to-date [PTD]) rather than actual costs (year-to-date [YTD]) for Foothill College's health services equipment account (account 211267). As a result, the district overstated services and supplies by \$86,516.

DISTRICT RESPONSE: The District agrees with this finding at this time.

B. Promotional Materials and Consultant Costs

AUDIT FINDING: The district claimed unallowable costs totaling \$58,722. The district claimed costs for team building training provided by a consultant. The district also claimed costs for various promotional items (i.e., t-shirts, pens, buttons, pedometers, and rock climbing wall rental) and food provided to volunteers at the health center and health fairs. The costs for promotional items and food are not costs that the district is required to incur to maintain health services at the level provided in the FY 1986-87 base year.

1. Promotional Materials

DISTRICT RESPONSE: The District does not concur with the audit report's assertion that the costs incurred by the District to purchase food for health fair volunteers, promotional items, and equipment rental costs 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 activity in Section V, and Title 5, Section 54702, (d), (1) that includes "health education and promotion" as an activity that may be included in the student health services program for which the fee is charged. Since the Commission and Board of Governors have determined that health fair and promotional activities are reimbursable, and since the District provided health fairs in the base-year 1986-87, then the health fairs must be continued pursuant to Education Code Section 76355.

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 promotional items were 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 legal question that the health fair and health promotion activities are appropriate, and no factual evidence that the costs were excessive, the adjustment should be withdrawn.

2. Consulting Costs

DISTRICT RESPONSE: The District does not concur with the audit report's assertion that the cost to obtain assistance from consultants for team building and coaching are not expenditures the District is required to make in order to maintain the base-year level of health services. The parameters and guidelines neither exclude consultants as an allowable method of implementing the mandate, nor do they exclude training activities from reimbursement.

Pursuant to Title 5, California Code of Regulations, Section 54708, the following costs may be included in the student health services program that is funded by the student health services fees:

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

Since Title 5 states that consultant costs are a permitted use of the student health service fee funded program, the issue becomes whether the cost is reasonable and if the service is related to the program. The draft audit report concludes that the consultant costs are "not required," thus any consultant 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 consulting costs. The audit report makes no factual claim to support the adjustment on the grounds that the claimed costs were unnecessary or excessive. Absent a fact-based finding that the subject matter of the consulting services was not related to the student health services program there is no basis for the adjustment. The adjustment should be withdrawn.

C. Student Insurance Costs

AUDIT FINDING: The district overstated FY 2008-09 student insurance costs by \$2,880. The district did not provide documentation showing how it calculated mandate-related costs from the total premium amount for that fiscal year. The total premium amount included costs related to athletic insurance. However, Education Code section 76355, subdivision (d)(2), states that authorized expenditures shall not include athletic insurance. For FY 2006-07 and FY 2007-08, the district provided documentation from its insurance company that identified the mandate-related costs. The documentation provided for those fiscal years identified mandate-related costs totaling 25% of the total premium amount. Therefore, we allowed 25% of the total premium amount for FY 2008-09.

DISTRICT RESPONSE: The District agrees with this finding at this time.

D. Unsupported Costs

AUDIT FINDING: The district did not provide any supporting documentation for claimed costs totaling \$14,043.

DISTRICT RESPONSE: The District does not concur with the audit report's conclusion that these costs are unallowable due to lack of supporting documentation. The amounts for which the audit report found "no support" include payments to vendors such as Office Depot, Pharmedix, and SHC Reference Laboratory, all of which appear to be of the nature and type applicable to providing student health services within the scope of the parameters and guidelines and Title 5. The audit report does not assert that the costs are unnecessary or unreasonable, only that some type of documentary evidence is missing based on the auditor's expectations of what is appropriate documentation.

However, the documentation standards cited in the audit report appear to derive from the parameters and guidelines as amended January 29, 2010, which is after the fiscal years that are the subject of this audit. The previous version of the parameters and guidelines, as amended May 25, 1989, extant for the fiscal years that are the subject of the audit, makes no specific enumeration of documentation types, but merely state the need for "source documents and/or worksheets that show evidence of the validity of such costs." These costs were incurred and properly reported in the financial accounting reports of the District in the usual course of business. The adjustment should be withdrawn.

E. De Anza College Account 152264

AUDIT FINDING: The district understated claimed costs because it did not claim mandate-related costs totaling \$15,447 that it identified in De Anza College's health services account (account number 152264).

DISTRICT RESPONSE: The District agrees with this finding at this time.

Finding 3 - Understated direct costs claimed

AUDIT FINDING: The district understated allowable direct costs by \$115,363. The district incorrectly reduced direct costs claimed by the amount of interfund transfers identified in object code 7310.

DISTRICT RESPONSE: The District agrees with this finding at this time.

Finding 4 - Overstated indirect costs

AUDIT FINDING: The district overstated indirect costs by \$514,821. The district claimed indirect costs based on indirect cost rates that it prepared using the SCO's FAM-29C methodology. The FAM-29C methodology uses actual cost data that the district reports to the California Community Colleges Chancellor's Office (CCCCO) in its Annual Financial and Budget Report (CCFS-311).

The district did not prepare its FAM-29C indirect cost rates in accordance with the SCO's claiming instructions. The district did not allocate direct and indirect costs correctly. In addition, the district calculated its indirect cost rates using a base of total direct costs. However, the claiming instructions direct districts to use a base of salaries and benefits for FY 2007-08 and FY 2008-09.

DISTRICT RESPONSE: The District does not concur with the audit report conclusions or adjustments.

<u>Fiscal Year Claim</u>	<u>Claimed Rate</u>	<u>Source of Claimed Rate</u>	<u>Audited Rate</u>
FY 2006-07	39.45%	FAM -29C/FY 2006-07 CCFS-311	37.69%
FY 2007-08	42.36%	FAM -29C/FY 2007-08 CCFS-311	45.65%
FY 2008-09	42.36%	FAM -29C/FY 2007-08 CCFS-311	47.71%

The parameters and guidelines for the Health Fee Elimination program (as last amended on May 25, 1989), which are the legally enforceable standards for claiming costs, state: "Indirect costs *may be claimed* in the manner described by the Controller in his claiming instructions." (Emphasis added) Therefore, the parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller. Since the Controller's claiming instructions were never adopted as rules or regulations, they 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)).

The District used the same FAM-29C method as the audit to calculate the indirect cost rates. Since the claimed rates are within a few percentage points of the audited rates, it is unlikely that there is any basis to conclude that the claimed rates are unreasonable or excessive. These small

differences mostly result from what necessary source documentation is available at the time of claim preparation versus documentation available at the time of audit. The magnitude of the dollar amount differences (\$514,821) results from the application of the audited rates to the audited "allowable costs," that is, after all previous direct cost audit reductions.

The first difference is that the District indirect cost rates were calculated based on the *prior year* CCFS-311. This is the same necessary source used by the Controller for the FAM-29C, except that the Controller uses the *current year* 311. The District's use of prior year data is consistent over the years, avoids the need to file late claims, and yields reasonable and representative rates.

Second, the audit utilizes the *current year* audited financial statement depreciation expense. The annual CPA financial statement depreciation information required for the FAM-29C calculation is rarely available when the claim is prepared, so it is consistent to use prior year CCFS-311 data and prior year depreciation cost data. The audit benefits from the fact that the current year CCFS-311 and depreciation expense is always available at the time of the audit, several years after the claim is due and submitted.

Third, another significant source of variance is that commencing FY 2007-08, the Controller retroactively switched from using all direct costs to only using salary and benefits for this calculation, which accounts for the slight increase in the rates, but a significant decrease in ultimate costs. The District changed to this method effective FY 2009-10.

Other minor sources in variance may result in a difference of opinion as to which accounts are overhead or direct program costs when calculating the indirect cost rate. Because the claiming instructions and the FAM-29C are not law, and no regulatory guidance is otherwise provided, these choices are a matter of professional opinion which has not been specifically contradicted by the audit report.

Since the draft audit report 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. The District has also objected to this type of finding in the two previous audits of this mandate. The District also understands that this is an issue of statewide interest and is the subject of many incorrect reduction claims pending before the Commission on State Mandates. The District will comply prospectively with the decision of Commission on this issue when the Commission makes its determination.

Finding 5 - Offsetting savings/reimbursements incorrectly reported as authorized health service fees

AUDIT FINDING: The district incorrectly reported offsetting savings/reimbursements totaling \$20,689 as authorized health service fees. The offsetting savings/ reimbursements included revenue received for vaccinations. We identified those revenues as understated offsetting savings/reimbursements in Finding 7.

DISTRICT RESPONSE: The District agrees with this finding at this time.

Finding 6 - Understated authorized health service fees

AUDIT FINDING: The district understated authorized health service fees by \$612,652. The district understated these fees because it reported actual receipts rather than authorized fees. We noted that the district did not charge all students the authorized fee amount for the 2006 summer session.

DISTRICT RESPONSE: The District agrees with this finding at this time. This legal issue of actual revenue versus collectible "authorized" fees persists from prior District audits. It was the subject of ongoing statewide litigation. However, the *Clovis* Appellate Court decision in September 2010 (after the annual claims which are the subject of this audit were filed) determined that it was and is appropriate for the Controller to calculate the collectible student health service fees by imputing the highest fee chargeable to all nonexempt students, full or part-time, and at all instruction locations, without regard to the scope of services actually available at remote locations. This District does not dispute this finding of law and will comply when preparing future annual claims.

The other source of the adjustment was the factual matter of the student enrollment statistics. The Controller utilized the Chancellor's Office MIS data rather than reported District data. This issue was also the subject of an ongoing statewide dispute. However, on October 27, 2011, the Commission on State Mandates decided seven Health Fee Elimination incorrect reduction claims on this issue and determined that, in the absence of claimant evidence to the contrary, the Chancellor's MIS data is the preferred source of enrollment statistics. This District does not dispute this administrative law finding and will comply when preparing future annual claims.

FINDING 7- Understated offsetting savings/reimbursements

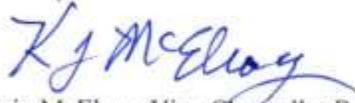
AUDIT FINDING: The district understated offsetting savings/reimbursements by \$199,062. The district's claims did not include offsetting savings/reimbursements for revenue received for various health services that the district provided. The district's records identify other local revenue and other fees totaling \$149,463 and \$25,078, respectively. The district's claims included offsetting savings/reimbursements for revenue received attributable to Medi-Cal Administrative Activities (MAA). However, the district's records show that it overstated actual MAA revenue for FY 2007-08 and understated actual MAA revenue for FY 2008-09.

DISTRICT RESPONSE: The District agrees with this finding at this time. This is a continuing problem for community college districts. These revenues were properly reported in the accounting records of the District. However, for purposes of the annual reimbursement claim, but not routine financial accounting, districts must offset these revenues against the student health center program general ledger costs if the labor and materials to implement those programs are located in the student health center cost account. On the other hand, if the cost of those other programs, e.g., Medi-Cal is in an account separate from the student health center, then the Medi-Cal revenues should not be offset. The District will later confirm that the audit report properly matched revenues and costs consistent with this principle. If the matching was done properly, then the reclassifications are appropriate.

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 all audit findings. Government Code section 6253, subdivision (c), requires the state agency that is the subject of the request, within 10 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,



Kevin McElroy, Vice-Chancellor Business Services
Foothill-De Anza Community College District

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