

# **SANTA MONICA COMMUNITY COLLEGE DISTRICT**

Audit Report

## **HEALTH FEE ELIMINATION PROGRAM**

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

*July 1, 2001, through June 30, 2003*



**STEVE WESTLY**  
California State Controller

March 2006



**STEVE WESTLY**  
California State Controller

March 17, 2006

Thomas J. Donner, Ed.D.  
Interim Superintendent/President  
Santa Monica Community College District  
1900 Pico Boulevard  
Santa Monica, CA 90405

Dear Dr. Donner:

The State Controller's Office audited the costs claimed by the Santa Monica Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2001, through June 30, 2003.

The district claimed \$364,407 for the mandated program. Our audit disclosed that the entire amount is unallowable, because the district claimed unallowable costs and understated revenue. The State paid the district \$31,295, which the district should return.

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

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

Sincerely,

*Original Signed By:*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

JVB/ams

cc: Chris Bonvenuto  
Accounting Manager  
Santa Monica Community College District  
Cheryl Miller  
SixTen and Associates  
Marty Rubio, Specialist  
Fiscal Accountability Section  
California Community Colleges Chancellor's Office  
Jeannie Oropeza, Program Budget Manager  
Education Systems Unit  
Department of Finance

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by the Santa Monica Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2001, through June 30, 2003. The last day of fieldwork was September 22, 2005.

The district claimed \$364,407 for the mandated program. Our audit disclosed that the entire amount is unallowable, because the district claimed unallowable costs and understated revenue. The State paid the district \$31,295. The district should return the total amount to the State.

## Background

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

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

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

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

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

**Objective,  
Scope, and  
Methodology**

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Health Fee Elimination Program for the period of July 1, 2001, through June 30, 2003.

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

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

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

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

**Conclusion**

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

For the audit period, the Santa Monica Community College District claimed \$364,407 for costs of the Health Fee Elimination Program. Our audit disclosed that the entire amount is unallowable.

For FY 2001-02, the State paid the district \$31,295. Our audit disclosed that all of the costs claimed are unallowable. The district should return the entire amount to the State.

For FY 2002-03, the district received no payment.

**Views of  
Responsible  
Official**

We issued a draft audit report on December 9, 2005. Thomas J. Donner, Ed.D., Interim Superintendent/President, responded by letter dated January 4, 2006 (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 the Santa Monica Community College District, the Los Angeles County Office of Education, the California Department of Education, the California Community Colleges Chancellor's Office, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original Signed By:*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

**Schedule 1—  
Summary of Program Costs  
July 1, 2001, through June 30, 2003**

| Cost Elements  | Actual Costs<br>Claimed | Allowable<br>per Audit | Audit<br>Adjustment | Reference <sup>1</sup> |
|--|-------------------------|------------------------|---------------------|------------------------|
| <b><u>July 1, 2001, through June 30, 2002</u></b>            |                         |                        |                     |                        |
| Health services costs:                                       |                         |                        |                     |                        |
| Salaries and benefits  | \$ 443,354              | \$ 443,354             | \$ —                |                        |
| Services and supplies  | 67,963                  | 67,963                 | —                   |                        |
| Indirect costs   | 166,485                 | 95,872                 | (70,613)            | Finding 1              |
| Total health services costs                                  | 677,802                 | 607,189                | (70,613)            |                        |
| Less cost of services in excess of FY 1986-87 services       | —                       | —                      | —                   |                        |
| Subtotal   | 677,802                 | 607,189                | —                   |                        |
| Less authorized health fees                                  | (479,007)               | (750,759)              | (271,752)           | Finding 2              |
| Subtotal   | 198,795                 | (143,570)              | (342,365)           |                        |
| Adjustment to eliminate negative balance                     | —                       | 143,570                | 143,570             |                        |
| Total  | <u>\$ 198,795</u>       | —                      | <u>\$ (198,795)</u> |                        |
| Less amount paid by the State                                |                         | (31,295)               |                     |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ (31,295)</u>     |                     |                        |
| <b><u>July 1, 2002, through June 30, 2003</u></b>            |                         |                        |                     |                        |
| Health services costs:                                       |                         |                        |                     |                        |
| Salaries and benefits  | \$ 483,656              | \$ 483,656             | \$ —                |                        |
| Services and supplies  | 10,856                  | 10,856                 | —                   |                        |
| Indirect costs   | 165,612                 | 89,259                 | (76,353)            | Finding 1              |
| Total health services costs                                  | 660,124                 | 583,771                | (76,353)            |                        |
| Less cost of services in excess of FY 1986-87 services       | —                       | —                      | —                   |                        |
| Subtotal   | 660,124                 | 583,771                | (76,353)            |                        |
| Less authorized health fees                                  | (494,512)               | (761,004)              | (266,492)           | Finding 2              |
| Subtotal   | 165,612                 | (177,233)              | (342,845)           |                        |
| Adjustment to eliminate negative balance                     | —                       | 177,233                | 177,233             |                        |
| Total  | <u>\$ 165,612</u>       | —                      | <u>\$ (165,612)</u> |                        |
| Less amount paid by the State                                |                         | —                      |                     |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ —</u>            |                     |                        |

**Schedule 1 (continued)**

| Cost Elements  | Actual Costs<br>Claimed | Allowable<br>per Audit | Audit<br>Adjustment | Reference <sup>1</sup> |
|--|-------------------------|------------------------|---------------------|------------------------|
| <u>Summary: July 1, 2001, through June 30, 2003</u>          |                         |                        |                     |                        |
| Health services costs:                                       |                         |                        |                     |                        |
| Salaries and benefits  | \$ 927,010              | \$ 927,010             | \$ —                |                        |
| Services and supplies  | 78,819                  | 78,819                 | —                   |                        |
| Indirect costs   | <u>332,097</u>          | <u>185,131</u>         | <u>(146,966)</u>    | Finding 1              |
| Total health services costs                                  | 1,337,926               | 1,190,960              | (146,966)           |                        |
| Less cost of services in excess of FY 1986-87 services       | <u>—</u>                | <u>—</u>               | <u>—</u>            |                        |
| Subtotal   | 1,337,926               | 1,190,960              | (146,966)           |                        |
| Less authorized health fees                                  | <u>(973,519)</u>        | <u>(1,511,763)</u>     | <u>(538,244)</u>    | Finding 2              |
| Subtotal   | 364,407                 | (320,803)              | (685,210)           |                        |
| Adjustment to eliminate negative balance                     | <u>—</u>                | <u>320,803</u>         | <u>320,803</u>      |                        |
| Total  | <u>\$ 364,407</u>       | <u>—</u>               | <u>\$ (364,407)</u> |                        |
| Less amount paid by the State                                |                         | <u>(31,295)</u>        |                     |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ (31,295)</u>     |                     |                        |

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

# Findings and Recommendations

**FINDING 1—  
Overstated indirect  
cost rates**

The district overstated its indirect cost rates, and thus overstated its indirect costs by \$146,966 for the audit period.

The district claimed indirect costs based on indirect cost rate proposals (ICRPs) prepared for each fiscal year by an outside consultant. However, the district did not obtain federal approval for its ICRPs. We calculated indirect cost rates using the methodology described in the SCO claiming instructions. Our calculated indirect cost rates did not support the indirect cost rates claimed. The audited and claimed indirect cost rates are summarized as follows.

|                                 | Fiscal Year |          |
|---------------------------------|-------------|----------|
|                                 | 2001-02     | 2002-03  |
| Allowable indirect cost rate    | 18.75%      | 18.05%   |
| Less claimed indirect cost rate | (32.56)%    | (33.49)% |
| Unsupported indirect cost rate  | (13.81)%    | (15.44)% |

Based on these unsupported indirect cost rates, the audit adjustments are summarized below.

|                                | Fiscal Year |             | Total        |
|--------------------------------|-------------|-------------|--------------|
|                                | 2001-02     | 2002-03     |              |
| Claimed direct costs           | \$ 511,317  | \$ 494,512  |              |
| Unsupported indirect cost rate | ×(13.81)%   | ×(15.44)%   |              |
| Audit adjustment               | \$ (70,613) | \$ (76,353) | \$ (146,966) |

*Parameters and Guidelines* states that indirect costs may be claimed in the manner described in the SCO claiming instructions. The SCO claiming instructions prescribes the SCO’s methodology (FAM-29C), a federally approved rate prepared in accordance with Office of Management and Budget (OMB) Circular A-21, or a flat rate (the most conservative rate). Form FAM-29C uses total expenditures reported on the California Community College Annual Financial and Budget Report, Expenditures by Activity (CCFS-311).

Recommendation

We recommend that the district implement procedures to ensure that claimed indirect costs are based on indirect cost rates computed in accordance with the SCO claiming instructions, and that it monitors staff adherence to its procedures. The district should obtain federal approval for ICRPs prepared in accordance with OMB Circular A-21. Alternately, the district should use form FAM-29C to prepare ICRPs based on the methodology allowed in the SCO claiming instructions.

District's Response

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

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

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

SCO's Comment

The fiscal effect of the finding and recommendation remains unchanged.

*Parameters and Guidelines* states that indirect costs may be claimed in the manner described in the SCO's claiming instructions. Therefore, the specific directions for the indirect cost rate calculation in the claiming instructions are an extension of *Parameters and Guidelines*. The SCO's claiming instructions state that community colleges have the option of using a federally approved rate, prepared in accordance with OMB Circular A-21, the SCO's alternate methodology, using Form FAM-29C, or a flat 7% rate. In this case, the district chose to use indirect cost rates not approved by a federal agency, which is not an option provided by the SCO's claiming instructions.

**FINDING 2—  
Understated authorized  
health fee revenues  
claimed**

The district understated authorized health fee revenue by \$538,244 for the audit period.

The district reduced claimed costs by actual rather than authorized health fee revenues. Therefore, we recalculated the authorized health fee revenues by multiplying student enrollment by term, net of allowable health fee exemption, by the authorized student health fee. We obtained student enrollment information from the "enrollment census" data run and student waiver information from the list of "BOGG used" data run.

A summary of our adjustment to authorized health fee revenues is as follows.

|  | <u>Fall</u>      | <u>Winter</u>    | <u>Spring</u>    | <u>Summer</u>    | <u>Total</u>     |
|--|------------------|------------------|------------------|------------------|------------------|
| <u>FY 2001-02</u>                      |                  |                  |                  |                  |                  |
| Student enrollment                     | 29,476           | 13,164           | 29,390           | 15,484           |                  |
| Less allowable health fee exemptions   | <u>(6,374)</u>   | <u>(4,288)</u>   | <u>(6,137)</u>   | <u>(2,749)</u>   |                  |
| Subtotal                               | 23,102           | 8,876            | 23,253           | 12,735           |                  |
| Authorized student health fee          | <u>×\$12.00</u>  | <u>× \$ 9.00</u> | <u>×\$12.00</u>  | <u>× \$ 9.00</u> |                  |
| Audited authorized health fee revenues | <u>\$277,224</u> | <u>\$ 79,884</u> | <u>\$279,036</u> | <u>\$114,615</u> | \$750,759        |
| Claimed authorized health fee revenues |                  |                  |                  |                  | <u>(479,007)</u> |
| Audit adjustment, FY 2001-02           |                  |                  |                  |                  | <u>271,752</u>   |
| <u>FY 2002-03</u>                      |                  |                  |                  |                  |                  |
| Student enrollment                     | 29,803           | 13,199           | 28,219           | 16,781           |                  |
| Less allowable health fee exemptions   | <u>(6,343)</u>   | <u>(3,255)</u>   | <u>(6,076)</u>   | <u>(2,973)</u>   |                  |
| Subtotal                               | 23,460           | 9,944            | 22,143           | 13,808           |                  |
| Authorized student health fee          | <u>×\$12.00</u>  | <u>× \$ 9.00</u> | <u>×\$12.00</u>  | <u>× \$ 9.00</u> |                  |
| Audited authorized health fee revenues | <u>\$281,520</u> | <u>\$ 89,496</u> | <u>\$265,716</u> | <u>\$124,272</u> | 761,004          |
| Claimed authorized health fee revenues |                  |                  |                  |                  | <u>(494,512)</u> |
| Audit adjustment, FY 2002-03           |                  |                  |                  |                  | <u>266,492</u>   |
| Total                                  |                  |                  |                  |                  | <u>\$538,244</u> |

*Parameters and Guidelines* states that health fees authorized by the *Education Code* must be deducted from costs claimed. *Education Code* Section 7635(c) states that health fees are authorized from all students except those students who: (1) depend exclusively on prayer for healing; (2) are attending a community college under an approved apprenticeship training program; or (3) demonstrate financial need.

Also, *Government Code* Section 17514 states that “costs mandated by the State” means any increased costs which a 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 COSM shall not find costs mandated by the State if the district has the authority to levy fees to pay for the mandated program or increased level of services.

Recommendation

We recommend that the district implement procedures to ensure that allowable health services program costs are offset by the amount of health service fee revenue authorized by the *Education Code*, and that it monitors staff adherence to its procedures.

## District's Response

The District reported actual student health service revenues as a reduction of student health service costs. The Controller instead calculated "authorized health fee revenues," that is, the student fees collectible based on the highest student health service fee chargeable, rather the fee actually charged the student, or the fees actually collected.

### "Authorized" Fee Amount

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

### Education Code Section 76355

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

### Parameters and Guidelines

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

### Government Code Section 17514

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

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

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

#### Government Code Section 17556

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

“The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if after a hearing, the commission finds that: . . . (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. . . .”

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

#### SCO’s Comment

The finding and recommendation remain unchanged.

We agree that community college districts may choose not to levy a health service fee. However, *Education Code* Section 76355 gives districts the authority to levy a health service fee. The authorized fees are specified in *Education Code* Section 76355(c), as identified in the finding. *Government Code* Section 17556 states that the Commission on State Mandates (COSM) shall not find costs mandated by the State as defined in *Government Code* Section 17514 if the district has authority to levy fees to pay for the mandated program or increased level of service. For this mandated program, the COSM concluded that districts have authority to levy a health service fee; thus, the adopted *Parameters and Guidelines* identifies authorized health service fees as offsetting reimbursements. Health services costs recoverable through an authorized fee are not costs the district is required to incur; therefore, the related health services costs are not mandated costs as defined by *Government Code* Section 17514.

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

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January 4, 2006

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

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

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

Dear Mr. Spano:

This letter is the response of the Santa Monica Community College District to the letter from Jeffrey V. Brownfield, Chief, Division of Audits, dated December 19, 2005, and received by the District on December 23, 2005, which enclosed a draft copy of the State Controller's Office audit report of our Health Fee Elimination claims for the period of July 1, 2001 through June 30, 2003.

Finding 1 - Overstated indirect cost rates

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

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

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

#### Finding 2 - Understated authorized health fees revenues claimed

The District reported actual student health service revenues as a reduction of student health service costs. The Controller instead calculated "authorized health fee revenues," that is, the student fees collectible based on the highest student health service fee chargeable, rather the fee actually charged the student, or the fees actually collected.

#### "Authorized" Fee Amount

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

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#### Parameters and Guidelines

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

#### Government Code Section 17514

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

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

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

Government Code Section 17556

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

“The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if after a hearing, the commission finds that: . . . (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. . . .”

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

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

Sincerely,



Thomas J. Donner, Interim Superintendent/President  
Santa Monica Community College District

CC : Keith Peterson  
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