

SAN BERNARDINO COMMUNITY COLLEGE DISTRICT

Audit Report

HEALTH FEE ELIMINATION PROGRAM

Chapter 1, Statutes of 1984,
Second Extraordinary Session;
and Chapter 1118, Statutes of 1987

July 1, 2007, through June 30, 2009



JOHN CHIANG
California State Controller

April 2013



JOHN CHIANG
California State Controller

April 30, 2013

Donald L. Singer, Ph.D., President
Board of Trustees
San Bernardino Community College District
114 S. Del Rosa Drive
San Bernardino, CA 92408

Dear Dr. Singer:

The State Controller's Office audited the costs claimed by the San Bernardino Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, Second Extraordinary Session; and Chapter 1118, Statutes of 1987) for the period of July 1, 2007, through June 30, 2009.

The district claimed \$758,455 for the mandated program. Our audit found that \$272,819 is allowable and \$485,636 is unallowable. The costs are unallowable because the district claimed unallowable services and supplies, claimed unallowable indirect costs, and understated authorized health service fees. The State paid the district \$729,596. The State will offset \$456,777 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

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, CPA
Chief, Division of Audits

JVB/vb

cc: Bruce Baron, Chancellor

San Bernardino Community College District

Charlie Ng, Vice Chancellor of Fiscal Services

San Bernardino Community College District

Penny Ongoco, Director of Fiscal Services

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Audit Report

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the San Bernardino Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, Second Extraordinary Session; and Chapter 1118, Statutes of 1987) for the period of July 1, 2007, through June 30, 2009.

The district claimed \$758,455 for the mandated program. Our audit found that \$272,819 is allowable and \$485,636 is unallowable. The costs are unallowable because the district claimed unallowable services and supplies, claimed unallowable indirect costs, and understated authorized health service fees. The State paid the district \$729,596. The State will offset \$456,777 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

Background

Chapter 1, Statutes of 1984, Second 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, Second Extraordinary Session, imposed a "new program" on 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 the parameters and guidelines on August 27, 1987, and amended them on May 25, 1989 and January 29, 2010. 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, 2007, 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 found 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 San Bernardino Community College District claimed \$758,455 for costs of the Health Fee Elimination Program. Our audit found that \$272,819 is allowable and \$485,636 is unallowable. The State paid the district \$729,596. The State will offset \$456,777 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 March 19, 2013. Bruce Baron, Chancellor, responded by letter dated April 1, 2013 (Attachment). The district disagreed with Findings 1 and 2, and did not dispute Finding 3. This final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of the San Bernardino 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, CPA
Chief, Division of Audits

April 30, 2013

**Schedule 1—
Summary of Program Costs
July 1, 2007, through June 30, 2009**

| Cost Elements | Actual Costs Claimed | Allowable per Audit | Audit Adjustment | Reference ¹ |
|--|-------------------------|------------------------|---------------------|------------------------|
| <u>July 1, 2007, through June 30, 2008</u> | | | | |
| Direct costs: | | | | |
| Salaries and benefits | \$ 535,842 | \$ 535,842 | \$ — | |
| Services and supplies | 122,850 | 108,803 | (14,047) | Finding 1 |
| Total direct costs | 658,692 | 644,645 | (14,047) | |
| Indirect costs | 372,359 | 292,034 | (80,325) | Finding 2 |
| Total direct and indirect costs | 1,031,051 | 936,679 | (94,372) | |
| Less authorized health service fees | (560,408) | (707,953) | (147,545) | Finding 3 |
| Less offsetting savings/reimbursements | (48,101) | (48,101) | — | |
| Total program costs | <u>\$ 422,542</u> | 180,625 | <u>\$ (241,917)</u> | |
| Less amount paid by the State | | (393,683) | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ (213,058)</u> | | |
| <u>July 1, 2008, through June 30, 2009</u> | | | | |
| Direct costs: | | | | |
| Salaries and benefits | \$ 559,202 | \$ 559,202 | \$ — | |
| Services and supplies | 124,715 | 113,806 | (10,909) | Finding 1 |
| Total direct costs | 683,917 | 673,008 | (10,909) | |
| Indirect costs | 386,618 | 292,742 | (93,876) | Finding 2 |
| Total direct and indirect costs | 1,070,535 | 965,750 | (104,785) | |
| Less authorized health service fees | (680,694) | (819,628) | (138,934) | Finding 3 |
| Less offsetting savings/reimbursements | (53,928) | (53,928) | — | |
| Total program costs | <u>\$ 335,913</u> | 92,194 | <u>\$ (243,719)</u> | |
| Less amount paid by the State | | (335,913) | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ (243,719)</u> | | |

Schedule 1 (continued)

| Cost Elements | Actual Costs Claimed | Allowable per Audit | Audit Adjustment | Reference ¹ |
|--|-------------------------|------------------------|---------------------|------------------------|
| <u>Summary: July 1, 2007, through June 30, 2009</u> | | | | |
| Direct costs: | | | | |
| Salaries and benefits | \$ 1,095,044 | \$ 1,095,044 | \$ — | |
| Services and supplies | <u>247,565</u> | <u>222,609</u> | <u>(24,956)</u> | |
| Total direct costs | 1,342,609 | 1,317,653 | (24,956) | |
| Indirect costs | <u>758,977</u> | <u>584,776</u> | <u>(174,201)</u> | |
| Total direct and indirect costs | 2,101,586 | 1,902,429 | (199,157) | |
| Less authorized health service fees | (1,241,102) | (1,527,581) | (286,479) | |
| Less offsetting savings/reimbursements | <u>(102,029)</u> | <u>(102,029)</u> | <u>—</u> | |
| Total program costs | <u>\$ 758,455</u> | 272,819 | <u>\$(485,636)</u> | |
| Less amount paid by the State | | <u>(729,596)</u> | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ (456,777)</u> | | |

¹ See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Unallowable services
and supplies**

The district claimed unallowable services and supplies totaling \$24,956. The costs are unallowable for the following reasons:

- The district claimed unallowable and unsupported services and supplies totaling \$9,527. The district claimed unallowable costs totaling \$5,154 for food, decorations, and various promotional items purchased for student health fairs and block parties (e.g., pens, business card magnets, key chains, stepometers, tape measures, and bandanas). In addition, the district claimed unallowable costs totaling \$362 for gift cards distributed as awards during a health services volleyball tournament. The district also claimed unsupported costs totaling \$4,011.
- The district overstated allowable student insurance costs and claimed unallowable athletic insurance costs. The audit adjustment totals \$15,429.

The district calculated an average percentage of on-campus student claims paid versus total claims paid for fiscal year (FY) 2003-04 through FY 2006-07. The district applied this percentage to total FY 2007-08 and FY 2008-09 student insurance costs to calculate student insurance costs claimed. The total student insurance costs include super catastrophic coverage, which is applicable only to intercollegiate athletes.

We calculated an allowable percentage of on-campus student claims paid versus total claims paid for FY 2007-08 and FY 2008-09. To calculate allowable student insurance costs for each fiscal year, we applied the allowable percentage to the basic coverage premium. We also allowed the catastrophic coverage premium costs.

The following table shows the calculation of the allowable percentage of on-campus student claims paid:

| | (A) | (B) | (C) |
|------------|--------------------------|----------------------|--|
| | On-Campus Paid Claims | Total Paid Claims | Allowable Percentage ((A) ÷ (B)) |
| FY 2007-08 | \$ 8,539 | \$ 49,705 | 17.18% |
| FY 2008-09 | 32,366 | 132,319 | 24.46% |

The following table shows the calculation of allowable student insurance costs and the resulting audit adjustment for student insurance:

| | Fiscal Year | | Total |
|-------------------------------------|-------------|------------|-------------|
| | 2007-08 | 2008-09 | |
| Student insurance: | | | |
| Basic premium costs | \$ 63,720 | \$ 63,720 | |
| Allowable percentage | × 17.18% | × 24.46% | |
| Allowable basic premium costs | 10,947 | 15,586 | \$ 26,533 |
| Catastrophic premium costs | 3,172 | 3,172 | 6,344 |
| Allowable student insurance costs | 14,119 | 18,758 | 32,877 |
| Claimed costs | (24,153) | (24,153) | (48,306) |
| Audit adjustment, student insurance | \$ (10,034) | \$ (5,395) | \$ (15,429) |

The following table summarizes the audit adjustment for services and supplies:

| | Fiscal Year | | Total |
|-----------------------------------|-------------|-------------|-------------|
| | 2007-08 | 2008-09 | |
| Services and supplies: | | | |
| Student insurance costs | \$ (10,034) | \$ (5,395) | \$ (15,429) |
| Unallowable and unsupported costs | (4,013) | (5,514) | (9,527) |
| Audit adjustment | \$ (14,047) | \$ (10,909) | \$ (24,956) |

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 . . .”

Education Code section 76355, subdivision (d)(2), states that authorized expenditures shall not include athletic insurance.

Government Code section 17514 defines “costs mandated by the state” as any increased costs that the district is required to incur. In addition, Government Code section 17561, subdivision (d)(2)(B), states that the Controller may reduce any excessive or unreasonable claim. Food and promotional item expenditures are not required to maintain health services at the level that the district provided during the fiscal year (FY) 1986-87 base year.

Recommendation

We recommend that the district claim only those services and supplies that are supported by its accounting records and source documents, allowable under the mandated program, and required to maintain health services at the level provided in FY 1986-87.

District’s Response

Health Fair Expenses

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. . . . Since the Commission on State Mandates determined that health fair activities are reimbursable, then they are necessary, which invalidates the Controller’s reliance upon Section 17514.

The draft audit report also cites Government Code Section 17561 which allows the Controller to audit and reduce any excessive or unreasonable claims. Since the parameters and guidelines allow reimbursement for health fair activities, the costs associated with the activity cannot be unreasonable per se. However, 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 items purchased were too expensive or some similar finding, there is no basis for the adjustment on the grounds that the claimed costs were excessive.

Unsupported Costs

. . . except for the SBVC Sun Room expense of \$485 (that by its timing and description appears to be related to the health fair program), the remaining three items are of the type and nature usually incurred by health centers in the normal provision of medical services. . . . Disallowing these obviously reimbursable costs due to some inflexible documentation audit standard seems extreme.

For the purpose of economy of effort, I suggest the \$485 be included in the health fair issue and the other three expenses be reinstated.

Athletic Insurance

The District concurs that insurance costs for the athletics program are not reimbursable. . . . the auditor’s allocation of the portion of insurance premiums applicable to the athletics program is satisfactory.

SCO’s Comment

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

Health Fair Expenses

The district believes that our audit adjustment 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 allow health fairs, the district essentially asserts that any related expense is reimbursable, regardless of necessity or reasonableness.

The parameters and guidelines identify the reimbursable activities 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, decorations, promotional items, or gift cards 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).

Unsupported Costs

The unallowable costs do not result from an “inflexible documentation audit standard.” Our audit criteria are the parameters and guidelines, which 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]. . . .

All documents [emphasis added] used to support reimbursable activities. . . . must be retained during the period subject to audit.

A description of the type and nature of an alleged expense is not acceptable documentation. An expenditure ledger entry does not provide documentation that an expense was actually incurred; therefore, the costs are not “obviously reimbursable.” The district did not provide source documentation to validate the unallowable costs. It is irrelevant whether other expenses are appropriately supported with source documentation.

The district suggests that the \$485 SBVC Sun Room audit adjustment be “included in the health fair issue.” We disagree. The district did not provide source documentation for the alleged expense. As a result, we are unable to determine whether the expense is related to health fair activities and whether it is a reasonable expense that the district was required to incur.

Athletic Insurance

The district agreed with the audit adjustment.

**FINDING 2—
Unallowable indirect costs**

The district claimed unallowable indirect costs totaling \$174,201. The district’s indirect cost rate calculations and claimed costs did not comply with the SCO’s claiming instructions for the following reasons:

- The district calculated its FY 2007-08 indirect cost rate using a base of total direct costs. However, the claiming instructions direct districts to use a base of salaries and benefits only.
- The district did not calculate an indirect cost rate for FY 2008-09. The district claimed FY 2008-09 indirect costs by using the indirect cost rate calculated from FY 2007-08 actual costs.
- The district incorrectly calculated indirect costs claimed by applying its indirect cost rate to total direct costs rather than salaries and benefits.
- The district did not allocate direct and indirect costs as specified in the claiming instructions.
- The district reported an incorrect amount for depreciation expense in its FY 2007-08 indirect cost rate calculation.

The following table summarizes the audit adjustment:

| | Fiscal Year | | Total |
|---------------------------------|--------------------|--------------------|---------------------|
| | 2007-08 | 2008-09 | |
| Allowable salaries and benefits | \$ 535,842 | \$ 559,202 | |
| Allowable indirect cost rate | × 54.50% | × 52.35% | |
| Allowable indirect costs | 292,034 | 292,742 | |
| Indirect costs claimed | (372,359) | (386,618) | |
| Audit adjustment | <u>\$ (80,325)</u> | <u>\$ (93,876)</u> | <u>\$ (174,201)</u> |

The parameters and guidelines state, “Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions.”

The SCO’s claiming instructions state, “A CCD [community college district] may claim indirect costs using the Controller’s methodology (FAM-29C). . . The methodology used in form FAM-29C is a direct cost base comprised of salary and benefit costs. . .”

Recommendation

We recommend that the district claim indirect costs using indirect cost rates calculated and applied in accordance with the SCO’s FAM-29C methodology specified in the SCO’s claiming instructions.

District’s Response

The draft audit report states that the District did not comply with the claiming instructions for several reasons:

- *The district calculated its FY 2007-08 indirect cost rate using a base of total direct costs. However, the claiming instructions direct districts to use a base of salaries and benefits only.*

This was a retroactive policy change by the Controller. . . .

- *The district did not calculate an indirect cost rate for FY 2008-09. . . .*

Completed data was not available at the time the FY 2008-09 claim was prepared, so the District used the prior year rate. . . .

- *The district incorrectly calculated indirect costs claimed by applying its indirect cost rate to total direct costs rather than salaries and benefits.*

This was a retroactive policy change by the Controller. . . .

- *The district did not allocate direct and indirect costs as specified in the claiming instructions.*

The District historically disagrees with some of the Controller's overhead allocation choices.

- *The district reported an incorrect amount for depreciation expense in its FY 2007-08 indirect cost rate calculation.*

The source of this difference is unknown.

Indirect Cost Rate-Reported and Audited

The overall difference in the reported and audited rates is less than a 10% change (e.g., 5.6%) each year and is not significant considering all of the variables involved. However, the Controller's claiming instructions were never adopted as rules or regulations and have no force of law, so adjustments based on the claiming instructions as "rules" are not enforceable.

The parameters and guidelines for the Health Fee Elimination program (as amended on May 25, 1989), which are the legally enforceable standards for claiming costs, state that: "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. Instead, the burden is on the Controller to show that the indirect cost method or allocations used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d)(2)) (*sic*). If the Controller wishes to enforce different audit standards for mandated cost reimbursement, the Controller should comply with the Administrative Procedure Act. . . .

SCO's Comment

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

- The district states that the requirements to (1) use salaries and benefits as the FY 2007-08 direct cost base and (2) calculate allowable indirect costs by applying the indirect cost rate to mandate-related salaries and benefits resulted from a “retroactive policy change.” We disagree. The SCO’s FY 2007-08 claiming instructions identify the correct direct cost base as salaries and benefits. There was no retroactive application of the specified direct cost base.
- The district states that it did not calculate a FY 2008-09 indirect cost rate because “completed data was not available at the time the FY 2008-09 claim was prepared.” We disagree. The phrase “the time the FY 2008-09 claim was prepared” is vague and not relevant. Pursuant to Government Code section 17560, the district’s FY 2008-09 claim was originally due the SCO on February 15, 2010. The district’s independent auditors published the district’s FY 2008-09 single audit report on December 24, 2009. The district submitted its Annual Financial and Budget Report (CCFS-311) to the California Community Colleges Chancellor’s Office on September 25, 2009. Therefore, the source documents needed to calculate the district’s FY 2008-09 indirect cost rate were available well before the due date for the mandated cost claim.
- The district states that it did not comply with the SCO claiming instructions when allocating costs as direct or indirect because “the district historically disagrees with some of the Controller’s overhead allocation choices.” However, the district failed to identify those items with which it disagrees and the reason for its disagreement. Therefore, we are unable to address the district’s disagreement.
- The district did not dispute that it used an incorrect amount for depreciation expense in its FY 2007-08 indirect cost rate calculation.
- The district identified the claimed and audited indirect cost rates and opined that the difference between the rates for each fiscal year “is not significant considering all of the variables involved.” We disagree. Further, we noted that the district:
 - Provided no specificity regarding its reference to “all of the variables involved.” There are no variables involved in calculating an indirect cost rate in accordance with the SCO’s claiming instructions.
 - Incorrectly identified the FY 2008-09 indirect cost rate claimed as 56.93%. The correct indirect cost rate claimed is 56.53%.

- Failed to disclose that it calculated the claimed indirect cost rates using a direct cost base of total direct costs. We calculated the audited indirect cost rates using a direct cost base of salaries and benefits. Therefore, the claimed and audited rates are not homogeneous for comparison.
- The district cites parameters and guidelines dated May 25, 1989, which do not apply to the audit period. The parameters and guidelines amended January 29, 2010, are effective for FY 2005-06 forward. 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 claims indirect costs, then the parameters and guidelines require that it comply with the SCO’s claiming instructions.
- 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.”

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

The district understated authorized health service fees by \$286,479. The district understated these fees because it reported actual receipts rather than authorized fees. However, the district also understated its actual receipts because it did not report health service fee revenue totaling \$132,086 that it separately identified as “accident fees.” In addition, we noted that the district did not charge all students the full authorized fee amount for the 2007 summer session and fall semester, and the 2008 summer session. For each school term, the district also waived or reduced the health fee for various specified students.

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.

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 California Community Colleges Chancellor's Office (CCCCO) identified the fees authorized by Education Code section 76355, subdivision (a). The following table summarizes the authorized fees:

| Fiscal Year | Authorized Health Fee Rate | |
|-------------|----------------------------|---------------------------|
| | Summer Session | Fall and Spring Semesters |
| 2007-08 | \$13 | \$16 |
| 2008-09 | \$14 | \$17 |

We obtained the applicable student enrollment data from the CCCCCO. The CCCCCO identified enrollment data from its Management Information System (MIS) based on student data that the district reported. The CCCCCO identified the district's enrollment based on MIS data element STD7, codes A through G. The CCCCCO eliminated any duplicate students based on their social security numbers. CCCCCO data element and code definitions are available at <http://extranet.cccco.edu/Divisions/TechResearchInfoSys/MIS/DED.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 audit adjustment:

| | Term | | | Total |
|---|---------------------|---------------------|---------------------|---------------------|
| | Summer Session | Fall Semester | Spring Semester | |
| <u>Fiscal Year 2007-08</u> | | | | |
| Number of enrolled students | 8,085 | 18,300 | 19,378 | |
| Authorized health fee rate | × \$(13) | × \$(16) | × \$(16) | |
| Authorized health service fees | <u>\$ (105,105)</u> | <u>\$ (292,800)</u> | <u>\$ (310,048)</u> | \$ (707,953) |
| Less authorized health service fees claimed | | | | <u>560,408</u> |
| Audit adjustment, FY 2007-08 | | | | <u>(147,545)</u> |
| <u>Fiscal Year 2008-09</u> | | | | |
| Number of enrolled students | 9,087 | 19,944 | 20,786 | |
| Authorized health fee rate | × \$(14) | × \$(17) | × \$(17) | |
| Authorized health service fees | <u>\$ (127,218)</u> | <u>\$ (339,048)</u> | <u>\$ (353,362)</u> | (819,628) |
| Authorized health service fees claimed | | | | <u>680,694</u> |
| Audit adjustment, FY 2008-09 | | | | <u>(138,934)</u> |
| Total audit adjustment | | | | <u>\$ (286,479)</u> |

Recommendation

We recommend that the district:

- Deduct authorized health service fees from mandate-related costs claimed. To properly calculate authorized health service fees, we recommend that the district identify the number of enrolled students based on MIS data element STD7, codes A through G.
- Eliminate duplicate entries for students who attend more than one college within the district.

- Waive the health service fee only for those students specified in Education Code section 76355, subdivision (c).
- 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 did not dispute the audit 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 Finding 1 (regarding student health fair expenditures) and Finding 2 (indirect cost rate calculation standards).

SCO's Comment

The SCO provided the district the requested records by separate letter dated April 4, 2013.

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 1, 2013

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

Re: Chapter 1, Statutes of 1984, 2nd E. S.
Chapter 1118, Statutes of 1987
Health Fee Elimination Program
Fiscal Years: 2007-08 and 2008-09
San Bernardino Community College District

Dear Mr. Spano:

This letter is the response of the San Bernardino Community College District to the draft audit report for the above referenced program and fiscal years transmitted by the letter from Jeffrey V. Brownfield, Chief, Division of Audits, State Controller's Office, dated March 19, 2013.

Finding 1 - Unallowable services and supplies

The draft audit report concludes that the District claimed \$24,956 in unallowable services and supplies. This adjustment includes three categories of disallowed costs.

| | | |
|-----------------------------|---------|-------|
| <u>Health Fair Expenses</u> | \$5,154 | \$362 |
|-----------------------------|---------|-------|

The draft audit asserts that \$5,154 incurred by the District to purchase food and promotional items and \$362 for awards for the student health fair are unallowable costs because these are not expenditures the District is required to make in order to maintain the base-year level of health services.

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

The draft audit report also cites Government Code Section 17561 which allows the Controller to audit and reduce any excessive or unreasonable claims. Since the parameters and guidelines allow reimbursement for the health fair activities, the costs associated with the activity cannot be unreasonable per se. However, 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 items purchased 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 question that the health fair activity is appropriate, and no evidence that the costs were excessive, the adjustments should be withdrawn.

"Unsupported Costs " \$4,011

The total amount identified for this part for the adjustment is comprised of four items:

| | |
|-----------------------|---------------|
| SBVC Sun Room | \$ 485 |
| McClure, PhD, Faith | \$2,800 |
| Westcliff Medical Lab | \$ 586 |
| AllScripts | <u>\$ 140</u> |
| Total | \$4,011 |

The first impression from this adjustment is that the District documentation retention process in general, must be excellent considering that there are only four items without "support," especially since these expenses were paid four to five years ago. The second impression is that, except for the SBVC Sun Room expense of \$485 (that by its timing and description appears to be related to the health fair program), the remaining three items are of the type and nature usually incurred by health centers in the normal provision of medical services. Indeed, other payments to these or similar vendors may have been reviewed and allowed by the auditor. Disallowing these obviously reimbursable costs due to some inflexible documentation audit standard seems extreme.

For purposes of economy of effort, I suggest the \$485 be included in the health fair issue, and the other three expenses be reinstated.

Athletic Insurance \$15,429

The District concurs that insurance costs for the athletics program are not reimbursable. In the absence of more precise information regarding the assignment of risks among several fiscal years, the auditor's allocation of the portion of the insurance premiums applicable to the athletics program is satisfactory.

Finding 2 - Unallowable indirect costs

The draft audit report concludes that the District overstated indirect costs by \$174,201 for the two fiscal years included in the audit. The draft audit report states that the District did not comply with the claiming instructions for several reasons:

- *The district calculated its FY 2007-08 indirect cost rate using a base of total direct costs. However, the claiming instructions direct districts to use a base of salaries and benefits only.*

This was a retroactive policy change by the Controller. The District has since then changed to this method.

- *The district did not calculate an indirect cost rate for FY 2008-09. The district claimed FY 2008-09 indirect costs by using the indirect cost rate calculated from FY 2007-08 actual costs.*

Completed data was not available at the time the FY 2008-09 claim was prepared, so the District used the prior year rate. The year-to-year difference in the rates is not material.

- *The district incorrectly calculated indirect costs claimed by applying its indirect cost rate to total direct costs rather than salaries and benefits.*

This was a retroactive policy change by the Controller. The District has since then changed to this method.

- *The district did not allocate direct and indirect costs as specified in the claiming instructions.*

The District historically disagrees with some of the Controller's overhead allocation choices.

- *The district reported an incorrect amount for depreciation expense in its FY 2007-08 indirect cost rate calculation.*

The source of this difference is unknown.

Indirect Cost Rate-Reported and Audited

| <u>Fiscal Year</u> | <u>Claimed</u> | <u>Audited</u> | <u>Difference</u> |
|--------------------|----------------|----------------|-------------------|
| FY 2007-08A | 56.53% | 54.50% | 2.03% |
| FY 2008-09 | 56.93% | 52.35% | 4.58% |

The overall difference in the reported and audited rates is less than a 10% change (e.g., 5.6%) each year and is not significant considering all of the variables involved. However, the Controller's claiming instructions were never adopted as rules or regulations and have no force of law, so adjustments based on the claiming instructions as "rules" are not enforceable.

The parameters and guidelines for the Health Fee Elimination program (as amended on May 25, 1989), which are the legally enforceable standards for claiming costs, state that: "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. Instead, the burden is on the Controller to show that the indirect cost method or

allocations 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 different audit standards for mandated cost reimbursement, the Controller should comply with the Administrative Procedure Act.

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 District's rates as unreasonable or excessive, the adjustment should be withdrawn.

Finding 3 - Understated authorized health service fees

The draft audit report states that "authorized" student health service fee revenues were understated by \$286,479 for the audit period. This adjustment is due to the fact that the District reported the actual student health service fees that it collected rather than "authorized" student health service fees that could have been collected. In addition, the draft audit report states that the reported amount collected did not include "accident fees" in the amount of \$132,086 which are reported in a separate program fund. The auditor calculated "authorized" student health service fee revenues, that is, the student health service fees collectible based on the highest student health service fee chargeable, rather than the full-time or part-time student health service fee actually charged to the student and actually collected. This means that the amounts claimed by the District, with or without the "accident fees," are now irrelevant to the method used for the audit adjustment.

This legal issue of actual revenue versus collectible fees persists from prior District audits. It was the subject of an ongoing statewide dispute. 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 now complies with the court decision. Since the court case also applies retroactively, we also have to accept the Controller's method for these audit years.

The other source of the adjustment was the factual matter of the student enrollment statistics. The Controller utilized the Chancellor's Office MIS 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 which included 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. The District has no such evidence to the contrary at this time. This District does not dispute this administrative law finding and will comply for future annual claims.

OTHER MATTERS

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

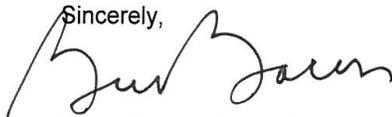
Mr. Jim L. Spano, Chief

April 1, 2013

period to Finding 1 (regarding student health fair expenditures) and Finding 2 (indirect cost rate calculation standards).

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

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Baron". The signature is written in a cursive style with a large initial "B".

Bruce Baron, Chancellor
San Bernardino Community College District

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