

WEST VALLEY–MISSION 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, 2000, through June 30, 2003



STEVE WESTLY
California State Controller

April 2005



STEVE WESTLY
California State Controller

April 8, 2005

Mr. Stan Arterberry
Chief Executive Officer and Chancellor
West Valley–Mission Community College District
14000 Fruitvale Avenue
Saratoga, CA 95070

Dear Mr. Arterberry:

The State Controller's Office audited the claims filed by West Valley–Mission Community College District for costs of 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, 2000, through June 30, 2003.

The district claimed \$882,307 for the mandated program. Our audit disclosed that \$498,653 is allowable and \$383,654 is unallowable. The unallowable costs occurred primarily because the district overstated its indirect cost rates, understated authorized health service fees, and claimed unallowable costs. The State paid the district \$167,555. The State will pay allowable costs claimed that exceed the amount paid, totaling \$331,098, contingent upon available appropriations.

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 (Guidebook link), and obtain IRC forms by telephone at (916) 323-3562 or by e-mail at 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:

VINCENT P. BROWN
Chief Operating Officer

VPB:JVB/kmm

cc: (see page 2)

cc: John Hendrickson
Interim Vice Chancellor
West Valley–Mission Community College District
Patricia Minicucci
Accounting Manager
West Valley–Mission Community College District
William A. Doyle, Associate
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Audit Report

Summary

The State Controller's Office (SCO) audited the claims filed by West Valley–Mission Community College District for costs of 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, 2000 through June 30, 2003. The last day of fieldwork was January 11, 2005.

The district claimed \$882,307 for the mandated program. Our audit disclosed that \$498,653 is allowable and \$383,654 is unallowable. The unallowable costs occurred primarily because the district overstated its indirect cost rates, understated authorized health service fees, and claimed unallowable costs. The State paid the district \$167,555. The State will pay allowable costs claimed that exceed the amount paid, totaling \$331,098, contingent upon available appropriations.

Background

Education Code Section 72246 (repealed by Chapter 1, Statutes of 1984, 2nd Extraordinary Session (E.S.)) authorizes community college districts to charge a health fee for providing health supervision and services, direct and indirect medical and hospitalization services, and operation of 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.

Education Code Section 72246 (amended by Chapter 1118, Statutes of 1987) 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, 2nd E.S., imposed a "new program" upon community college districts by requiring any community college district that provided health services for which it was authorized to charge a fee pursuant to former *Education Code* Section 72246 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 applies to all community college districts that levied a health service fee in FY 1983-84, regardless of the extent to which the health service fees collected offset the actual costs of providing health services at the FY 1983-84 level.

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

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

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Health Fee Elimination Program for the period of July 1, 2000, through June 30, 2003.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, not funded by another source, and 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* Section 17558.5. 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, West Valley–Mission Community College District claimed \$882,307 for Health Fee Elimination Program costs. Our audit disclosed that \$498,653 is allowable and \$383,654 is unallowable.

For FY 2000-01, the State paid the district \$92,353. Our audit disclosed that \$181,002 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$88,649, contingent upon available appropriations.

For FY 2001-02, the State paid the district \$75,202. Our audit disclosed that \$133,793 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$58,591, contingent upon available appropriations.

For FY 2002-03, the State made no payment to the district. Our audit disclosed that \$183,858 is allowable, which the State will pay contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft audit report on February 18, 2005. John Hendrickson, Interim Vice Chancellor–Administrative Services, responded by letter dated March 2, 2005 (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 West Valley–Mission Community College District, the California Community Colleges Chancellor’s Office, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original Signed By:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

**Schedule 1—
Summary of Program Costs
July 1, 2000, through June 30, 2003**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 2000, through June 30, 2001</u>				
Salaries	\$ 381,987	\$ 381,987	\$ —	
Benefits	55,394	55,394	—	
Services and supplies	101,719	87,458	(14,261)	Finding 1
Total direct costs	539,100	524,839	(14,261)	
Indirect costs	206,260	110,794	(95,466)	Findings 1, 2
Total direct and indirect costs	745,360	635,633	(109,727)	
Less authorized health service fees	(451,307)	(449,361)	1,946	Finding 3
Less offsetting savings/reimbursements	—	(5,270)	(5,270)	Finding 4
Total program costs	<u>\$ 294,053</u>	181,002	<u>\$ (113,051)</u>	
Less amount paid by the State		(92,353)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 88,649</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Salaries	\$ 398,039	\$ 398,039	\$ —	
Benefits	61,291	61,291	—	
Services and supplies	96,206	88,959	(7,247)	Finding 1
Total direct costs	555,536	548,289	(7,247)	
Indirect costs	222,159	123,091	(99,068)	Findings 1, 2
Total direct and indirect costs	777,695	671,380	(106,315)	
Less authorized health service fees	(467,520)	(528,213)	(60,693)	Finding 3
Less offsetting savings/reimbursements	—	(9,374)	(9,374)	Finding 4
Total program costs	<u>\$ 310,175</u>	133,793	<u>\$ (176,382)</u>	
Less amount paid by the State		(75,202)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 58,591</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Salaries	\$ 420,240	\$ 420,240	\$ —	
Benefits	85,983	85,983	—	
Services and supplies	97,779	87,628	(10,151)	Finding 1
Total direct costs	604,002	593,851	(10,151)	
Indirect costs	186,999	126,906	(60,093)	Findings 1, 2
Total direct and indirect costs	791,001	720,757	(70,244)	
Less authorized health service fees	(512,922)	(527,520)	(14,598)	Finding 3
Less offsetting savings/reimbursements	—	(9,379)	(9,379)	Finding 4
Total program costs	<u>\$ 278,079</u>	183,858	<u>\$ (94,221)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 183,858</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>Summary: July 1, 2000, through June 30, 2003</u>				
Salaries	\$ 1,200,266	\$ 1,200,266	\$ —	
Benefits	202,668	202,668	—	
Services and supplies	<u>295,704</u>	<u>264,045</u>	<u>(31,659)</u>	Finding 1
Total direct costs	1,698,638	1,666,979	(31,659)	
Indirect costs	<u>615,418</u>	<u>360,791</u>	<u>(254,627)</u>	Findings 1, 2
Total direct and indirect costs	2,314,056	2,027,770	(286,286)	
Less authorized health service fees	(1,431,749)	(1,505,094)	(73,345)	Finding 3
Less offsetting savings/reimbursements	<u>—</u>	<u>(24,023)</u>	<u>(24,023)</u>	Finding 4
Total program costs	<u>\$ 882,307</u>	498,653	<u>\$ (383,654)</u>	
Less amount paid by the State		<u>(167,555)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 331,098</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unallowable services and supplies costs, and related indirect costs claimed

The district claimed unallowable services and supplies costs totaling \$31,659 for the audit period. The related indirect costs are \$11,497. Unallowable costs occurred because the district claimed services and supplies costs that are not reimbursable under the mandated program, costs for services not provided in the FY 1986-87 base year, and costs not supported by source documentation.

Unallowable program costs included general training provided by a consultant, promotional supplies, and various food and refreshment items that are not reimbursable under the mandated program. The district also claimed \$6,034 for Hepatitis B vaccinations. The district's claims did not identify Hepatitis B vaccinations as a service provided in the FY 1986-87 base year, and *Parameters and Guidelines* does not identify Hepatitis B vaccinations as a reimbursable activity. In addition, the district claimed \$2,243 that was not supported by source documentation.

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Unallowable program costs	\$ (12,018)	\$ (6,317)	\$ (5,047)	\$ (23,382)
Hepatitis B vaccinations	—	(930)	(5,104)	(6,034)
Unsupported costs	(2,243)	—	—	(2,243)
Total costs	(14,261)	(7,247)	(10,151)	(31,659)
Related indirect costs	(5,456)	(2,898)	(3,143)	(11,497)
Audit adjustment	<u>\$ (19,717)</u>	<u>(10,145)</u>	<u>\$ (13,294)</u>	<u>\$ (43,156)</u>

Parameters and Guidelines states that only expenditures which can be identified as a direct cost of the mandate can be claimed, and all costs claimed must be traceable to source documents that show evidence of the validity of such costs. *Parameters and Guidelines* does not identify training as a reimbursable activity. In addition, *Government Code* Section 17514 states that “costs mandated by the state” means any increased costs which a school district is required to incur. The unallowable program costs are not necessary to meet the mandated program requirements. Furthermore, *Parameters and Guidelines* states that the district may claim only services provided in FY 1986-87.

Recommendation

We recommend the district claim only services and supplies costs that can be identified as direct costs of, and reimbursable under, the mandated program. The district should ensure that costs claimed are traceable to source documents that show evidence of the validity of such costs. We also recommend the district claim costs only for health services identified in *Parameters and Guidelines* and provided by the district during FY 1986-87.

District's Response

The State Controller's draft audit report concludes that claimed costs of various consultant, promotional supplies, food and refreshment items are "unrelated to health services required under the mandated program." As a preliminary matter, the State Controller misstates the law, there are no specific student health services required for each college district. There is a requirement to continue the level of services provided in Fiscal Year 1986-87, but there are no required types of services.

A. Consultant Costs

The cost of a consultant to provide leadership and problem solving skills to student health center staff was claimed in each of the three fiscal years. This State Controller has not indicated the legal or factual basis for disallowing such costs. Indeed, it is likely that many state agencies provide similar training to improve the performance of their staff, that is, it is a usual and reasonable expense for government agencies.

B. Promotional Supplies, Food and Refreshments

... The State Controller's Form HFE 2.1, on page 1 of 3, lists a category of services called "Health Talks or Fairs, Information." The promotional items were distributed to the student public to encourage participation at events of this type and promotes the services available at the student health centers. The State Controller has not indicated the legal or factual basis for disallowing such costs.

C. Hepatitis B Vaccines

... The State Controller's draft audit report concludes that since the Hepatitis B vaccinations, specifically, were not identified as a service available at the college health center in FY 1986-87, and not listed in the parameters and guidelines, the costs are not reimbursable. The District's [*sic*] Form HFE 2.1 submitted for each fiscal year accurately reflects that immunization *services* were available in FY 1986-87. . . .

Hepatitis B vaccinations are just a part of the whole scope of *services* which may comprise immunization services. The State Controller, as the audit agency proposing the adjustment, has the burden of proving the factual and legal basis for its adjustments. The State Controller provides no legal basis to conclude that the absence or inclusion of one type of immunization constitutes a different level of *service* from year to year. It would therefore appear that this finding is based upon the wrong standard for review.

SCO's Comment

We edited the audit finding and recommendation to delete the reference to "health services required under the mandated program" and to clarify the recommendation. The audit adjustment is unchanged. The district did not respond to the issue of unsupported costs.

A. Consultant Costs

Parameters and Guidelines does 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 a school district is required to incur. The training costs are not required to maintain health services at the level provided in FY 1986-87. Furthermore, *Government Code* Section 17561 states that the Controller may reduce any claim that the Controller determines is excessive or unreasonable.

B. Promotional Supplies, Food, and Refreshments

The district referenced a reimbursable activity in which districts provide information on health issues such as sexually transmitted diseases, drugs, AIDS, child abuse, birth control, and smoking cessation, and maintain a library of videos and cassettes on these subjects. While the district may choose to offer refreshments and promotional items such as key chains, pens, coolers, and tee shirts, these costs are not required to maintain health services at the level provided in FY 1986-87.

C. Hepatitis B Vaccines

Parameters and Guidelines identifies the reimbursable activities under the mandated program. Under the category of immunizations, *Parameters and Guidelines* does not identify “immunization services” as a reimbursable activity. Instead, *Parameters and Guidelines* identifies the following specific reimbursable activities: providing immunizations for diphtheria/tetanus, measles/rubella, and influenza, and providing immunization information. *Parameters and Guidelines* does not identify hepatitis B vaccinations as a reimbursable activity. In addition, the district’s Form HFE 2.1 does not indicate that “immunization services” were available during each fiscal year. Instead, Form HFE 2.1 identifies the same reimbursable activities included in *Parameters and Guidelines*.

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

The district overstated its indirect cost rates, thus overstating indirect costs by \$243,130 for the audit period.

For each fiscal year, the district claimed indirect costs based on an indirect cost rate proposal (ICRP) prepared using the previous fiscal year’s costs. However, the district did not obtain federal approval of its ICRPs. We used the alternate methodology allowed by the SCO claiming instructions to calculate allowable indirect cost rates. The allowable indirect cost rates do not support the claimed rates. The following table summarizes the allowable and claimed indirect cost rates:

	Fiscal Year		
	2000-01	2001-02	2002-03
Allowable indirect cost rate	21.11%	22.45%	21.37%
Less claimed indirect cost rate	(38.26)%	(39.99)%	(30.96)%
Unsupported indirect cost rate	<u>(17.15)%</u>	<u>(17.54)%</u>	<u>(9.59)%</u>

The following table summarizes the audit adjustment that results from the unsupported indirect cost rates:

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Allowable direct costs claimed	\$ 524,839	\$ 548,289	\$ 593,851	
Unsupported indirect cost rate	×(17.15)%	×(17.54)%	×(9.59)%	
Audit adjustment	<u>\$ (90,010)</u>	<u>\$ (96,170)</u>	<u>\$ (56,950)</u>	<u>\$(243,130)</u>

Parameters and Guidelines allows community college districts to claim indirect costs according to the SCO claiming instructions. The SCO claiming instructions require that districts obtain federal approval of ICRPs prepared according to Office of Management and Budget (OMB) Circular A-21. Alternatively, districts may use form FAM-29C to compute indirect cost rates. Form FAM-29C uses total expenditures reported on the *California Community Colleges Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)*.

Recommendation

We recommend the district use the SCO claiming instructions to calculate indirect cost rates. The district should obtain federal approval when it prepares ICRPs using OMB Circular A-21. Alternatively, the district should use Form FAM-29C to prepare ICRPs.

District's Response

The State 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, which is one of the several choices allowed by the parameters and guidelines. The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the State Controller.

The State Controller's claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the State Controller to show, either factually or as a matter of law, that the indirect cost rate method 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 State Controller wishes to enforce audit standards for mandated cost reimbursement, the State Controller should comply with the Administrative Procedures Act.

SCO's Comment

Our finding and recommendation remain unchanged. As verified by the district's response, the district's indirect cost rate proposals were not federally approved. *Parameters and Guidelines* requires that districts claim indirect costs in the manner described by the State Controller's claiming instructions. Because *Parameters and Guidelines* specifically references the claiming instructions, the claiming instructions thereby become authoritative criteria.

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

The district understated authorized health service fees by \$73,345 for the audit period.

For FY 2000-01, the district overstated authorized health service fees by overstating the number of enrolled students authorized to pay health fees. For FY 2001-02 and FY 2002-03, the district understated authorized health service fees because it claimed actual fees collected rather than authorized health service fees. We calculated allowable authorized health service fees using (1) student enrollment data provided by the district's Institutional Research Office, and (2) Board of Governors Grant (BOGG) fee exemptions provided by the California Community Colleges Chancellor's Office. The following table shows the calculation of authorized health service fees:

	Semester			Total
	Summer	Fall	Spring	
<u>Fiscal Year 2000-01</u>				
Student enrollment	10,167	20,177	20,605	
Less allowable health fee exemptions	(1,631)	(3,142)	(2,997)	
Subtotal	8,536	17,035	17,608	
Authorized student health fee	× \$ (8)	× \$ (11)	× \$ (11)	
Authorized health service fees, FY 2000-01	<u>\$ (68,288)</u>	<u>\$ (187,385)</u>	<u>\$ (193,688)</u>	<u>\$ (449,361)</u>
<u>Fiscal Year 2001-02</u>				
Student enrollment	9,612	21,658	22,347	
Less allowable health fee exemptions	(1,207)	(3,131)	(3,160)	
Subtotal	8,405	18,527	19,187	
Authorized student health fee	× \$ (9)	× \$ (12)	× \$ (12)	
Authorized health service fees, FY 2001-02	<u>\$ (75,645)</u>	<u>\$ (222,324)</u>	<u>\$ (230,244)</u>	<u>\$ (528,213)</u>
<u>Fiscal Year 2002-03</u>				
Student enrollment	9,440	22,228	22,394	
Less allowable health fee exemptions	(1,392)	(3,226)	(3,472)	
Subtotal	8,048	19,002	18,922	
Authorized student health fee	× \$ (9)	× \$ (12)	× \$ (12)	
Authorized health service fees, FY 2002-03	<u>\$ (72,432)</u>	<u>\$ (228,024)</u>	<u>\$ (227,064)</u>	<u>\$ (527,520)</u>

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Claimed health fee revenues	\$ 451,307	\$ 467,520	\$ 512,922	\$ 1,431,749
Less authorized health service fees	(449,361)	(528,213)	(527,520)	(1,505,094)
Audit adjustment	<u>\$ 1,946</u>	<u>(60,693)</u>	<u>\$ (14,598)</u>	<u>\$ (73,345)</u>

Parameters and Guidelines states that health fees authorized by the *Education Code* must be deducted from costs claimed. *Education Code* Section 76355(c) states that health fees are authorized for all students except those who: (1) depend exclusively on prayer for healing; (2) are attending a community college under an approved apprenticeship training program; or (3) demonstrate financial need. (Effective with the Summer 2001 session, *Education Code* Section 76355(a) authorized a \$1.00 increase to health service fees.)

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

Recommendation

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

District’s Response

The District reported the actual student health services income received for Fiscal Years 2001-02 and 2002-03, rather than utilize an estimate generated by artificial calculation suggested by the parameters and guidelines. The State Controller alleges that claimants must compute the total student health fees collectible based on the highest “authorized” rate. The State Controller does not provide the factual basis for the calculation of the “authorized” rate, nor provide any reference to the “authorizing” source, not the legal right of any state entity to “authorize” student health services rates absent rulemaking or compliance with the Administrative Procedures Act by the “authorizing” state agency.

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)

The State 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)¹.” 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.

The State Controller also misconstrues the legal meaning of Government Code Section 17556, which prohibits the Commission on State Mandates from approving test claims when the local government agency has authority to charge a fee sufficient to fund the cost of the mandate. The Commission determined that the mandate was a new program or increased level of service. Even the source of the mandate, Education Code Section 76355, at subdivision (e), allows for the possibility that the “cost to maintain that level of service” will exceed the statutory limit for student health fees.

As a final defect, the State Controller does not demonstrate how reporting actual student health services revenues received fails to comply with the law, and indeed, why it is not more accurate for cost accounting purposes that [*sic*] an estimate determined by the fee calculation.

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

SCO’s Response

Our finding and recommendation remain unchanged. The district did not respond to the finding that it overstated authorized health service fees for FY 2000-01.

We agree that community college districts may choose not to levy a health service fee. However, *Education Code* Section 76355 provides 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, 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.

FINDING 4— Understated offsetting savings/ reimbursements

The district understated offsetting savings/reimbursements by \$24,023 for the audit period (\$5,270 for FY 2000-01, \$9,374 for FY 2001-02, and \$9,379 for FY 2002-03).

The district collected fees for specific health services it provided to students. These fees were in addition to health service fees authorized by *Education Code* Section 76355(a). For West Valley College, the district recorded these miscellaneous revenues in Fund 121 (Health Services) but did not claim these revenues as offsetting reimbursements in FY 2000-01

and FY 2001-02. For Mission College, the district recorded health service miscellaneous revenues and associated expenses in Fund 102 for FY 2000-01, and in Fund 100 for FY 2001-02 and FY 2002-03. The district did not claim either the miscellaneous revenues or expenses for Mission College. We determined that the revenues and expenses were mandate-related; therefore, the difference of revenues exceeding expenses should also be reported as an offsetting reimbursement.

Parameters and Guidelines states that any offsetting savings the claimant experiences as a direct result of the mandated program must be deducted from costs claimed.

Recommendation

We recommend the district reduce costs claimed by any health service fees collected that are in addition to health service fees authorized by *Education Code* Section 76355(a).

District's Response

The district did not respond to this finding.

SCO's Comment

The finding and recommendation remain unchanged.

OTHER ISSUE— Statute of limitations

The district's response included comments regarding our authority to audit costs claimed for FY 2000-01 and FY 2001-02. The district's response and SCO's comment are as follows.

District's Response

The District's Fiscal Year 2000-01 claim was mailed to the State Controller on December 27, 2001. The District's Fiscal Year 2001-02 claim was mailed to the State Controller on December 24, 2002. The draft audit report is dated February 18, 2005. According to *Government Code* Section 17558.5, these claims were subject to audit no later than December 31, 2003, and December 31, 2004, respectively. The audit was not completed by this date. Therefore, the proposed audit adjustments for Fiscal Year 2001-02 are barred by the statute of limitations set forth in *Government Code* Section 17558.5.

SCO's Comment

Our audit scope remains unchanged. *Government Code* Section 17558.5(a), effective July 1, 1996, states that a district's reimbursement claim is subject to audit no later than two years after the end of the calendar year in which the claim is filed or last amended. The district filed its FY 2000-01 claim on January 2, 2002, and filed its FY 2001-02 claim on December 24, 2002. We initiated the audit by conducting an entrance conference with the district on February 2, 2004, within the statute of limitations. For the audit period, there was no statutory language defining when the SCO must issue an audit report.

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



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March 2, 2005

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: 2000-01, 2001-02 and 2002-03

Dear Mr. Spano:

This letter is the response of the West Valley-Mission Community College District to the letter to Chancellor Stan Arterberry from Vincent P. Brown, Chief Operating Officer, State Controller's Office, dated February 18, 2005, and received by the District on February 25, 2005, which enclosed a draft copy of the State Controller's Office audit report of the District's Health Fee Elimination claims for the period of July 1, 2000 through June 30, 2003.

Statute of Limitations

The District's Fiscal Year 2000-01 claim was mailed to the State Controller on December 27, 2001. The District's Fiscal Year 2001-02 claim was mailed to the State Controller on December 24, 2002. The draft audit report is dated February 18, 2005. According to Government Code Section 17558.5, these claims were subject to audit no later than December 31, 2003, and December 31, 2004, respectively. The audit was not completed by this date. Therefore, the proposed audit adjustments for Fiscal Year 2001-02 are barred by the statute of limitations set forth in Government Code Section 17558.5.

Finding 1 - Unallowable Services and Supplies costs, and Related Indirect Costs Claimed

The State Controller's draft audit report concludes that claimed costs of various consultant, promotional supplies, food and refreshment items are "unrelated to health services required under the mandated program." As a preliminary matter, the State Controller misstates the law, there are no specific student health services required for

each college district. There is a requirement to continue the level of services provided in Fiscal Year 1986-87, but there are no required types of services.

A. Consultant Costs

The cost of a consultant to provide leadership and problem solving skills to student health services staff was claimed in each of the three fiscal years. This State Controller has not indicated the legal or factual basis for disallowing such costs. Indeed, it is likely that many state agencies provide similar training to improve the performance of their staff, that is, it is a usual and reasonable expense for government agencies.

B. Promotional Supplies, Food and Refreshments

The cost of various promotional items was claimed in each of the three fiscal years. The State Controller's Form HFE 2.1, on page 1 of 3, lists a category of services called "Health Talks or Fairs, Information." The promotional items were distributed to the student public to encourage participation at events of this type and promotes the services available at the student health centers. The State Controller has not indicated the legal or factual basis for disallowing such costs.

C. Hepatitis B Vaccines

The cost of Hepatitis B vaccines was claimed in Fiscal Years 2001-02 and 2002-03. The State Controller's draft audit report concludes that since the Hepatitis B vaccinations, specifically, were not identified as a service available at the college health center in FY 1986-87, and not listed in the parameters and guidelines, the costs are not reimbursable. The Districts's Form HFE 2.1 submitted for each fiscal year accurately reflects that immunizations *services* were available in FY1986-87.

The parameters and guidelines state at Part III Eligible Claimants:

"Community college districts which provided health services in 1986-87 fiscal year and continue to provide the same services as a result of the mandate are eligible to claim reimbursement of those costs."

Education Code section 76355, subdivision (e), states:

"Any community college district that provided health services in the 1986-87 fiscal year shall maintain health services, at the level provided during the 1986-87 fiscal year, and each fiscal year thereafter."

Hepatitis B vaccinations are just a part of the whole scope of *services* which may comprise immunization services. The State Controller, as the audit agency proposing

the adjustment, has the burden of proving the factual and legal basis for its adjustments. The State Controller provides no legal basis to conclude that the absence or inclusion of one type of immunization constitutes a different level of *service* from year to year. It would therefore appear that this finding is based upon the wrong standard for review.

Finding 2 - Overstated Indirect Cost Rates Claimed

The State 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, which is one of the several choices allowed by the parameters and guidelines. The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the State Controller.

The State Controller's claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the State Controller to show, either factually or as a matter of law, that the indirect cost rate method 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 State Controller wishes to enforce audit standards for mandated cost reimbursement, the State Controller should comply with the Administrative Procedures Act.

Finding 3 - Understated Authorized Health Services Fees

The District reported the actual student health services income received for Fiscal Years 2001-02 and 2002-03, rather than utilize an estimate generated by the artificial calculation suggested by the parameters and guidelines. The State Controller alleges that claimants must compute the total student health fees collectible based on the highest "authorized" rate. The State 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 Procedures Act by the "authorizing" state agency.

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)

The State 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)¹." 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.

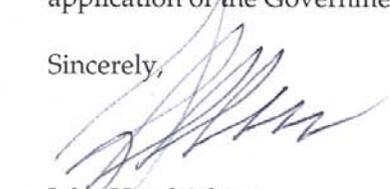
The State Controller also misconstrues the legal meaning of Government Code Section 17556, which prohibits the Commission on State Mandates from approving test claims when the local government agency has authority to charge a fee sufficient to fund the cost of the mandate. The Commission determined that the mandate was a new program or increased level of service. Even the source of the mandate, Education Code Section 76355, at subdivision (e), allows for the possibility that the "cost to maintain that level of service" will exceed the statutory limit for the student health fees.

As a final defect, the State Controller does not demonstrate how reporting actual student health services revenues received fails to comply with the law, and indeed, why it is not more accurate for cost accounting purposes that an estimate determined by the fee calculation.

○ ○ ○

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,



John Hendrickson
Interim Vice Chancellor
Administrative Services
West Valley-Mission Community College District

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

**State Controller's Office
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