SixTen and Associates
Mandate Reimbursement Services

KEITH B. PETERSEN, President

San Diego
5252 Balboa Avenue, Suite 900
San Diego, CA 92117
Telephone: (858) 514-8605
Fax: (858) 514-8645
www.sixtenandassociates.com

Sacramento
P.O. Box 340430
Sacramento, CA 95834-0430
Telephone: (916) 419-7093
Fax: (916) 263-9701
E-Mail: kbpsixten@aol.com

RECEIVED
March 01, 2016
Commission on
State Mandates

March 1, 2016

Heather Halsey, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Halsey:

RE: CSM 09-4206-I-24 and 10-4206-I-34
Foothill-De Anza Community College District
Fiscal Years: 2002-03, 2003-04, 2004-05 and 2005-06
Original and Revised Incorrect Reduction Claims
Health Fee Elimination Audit #2

I have received the Commission Draft Proposed Decision (DPD) dated February 10, 2016, for the above-referenced incorrect reduction claims, to which I respond on behalf of the District.

PART A. STATUTE OF LIMITATIONS APPLICABLE TO AUDITS OF ANNUAL REIMBURSEMENT CLAIMS FY 2002-03 and FY 2003-04

The District alleges that the audit of the FY 2002-03 and FY 2003-04 annual reimbursement claims commenced after the time limitation for audit had passed. The Controller (Analysis and Response to the Incorrect Reduction Claims, December 1, 2014. P. 17) states that initiation of the audit was timely because the initial payment for the FY 2002-03 claim did not occur until October 25, 2006. The Commission (DPD, p.17) concludes that the audit was timely commenced.

Claim Action Dates

January 12, 2005	FY 2002-03 and FY 2003-04 claims filed by the District
January 12, 2008	FY 2002-03 and FY 2003-04 statute of limitations to initiate the audit expires based on the date the claims were filed
October 25, 2006	First payment on FY 2002-03

August 25, 2008	Entrance conference letter date (new evidence)
September 11, 2008	Audit entrance conference for all fiscal years
October 25, 2009	FY 2002-03 statute of limitations to initiate the audit expires based on the date of first payment
May 20, 2009	Original final audit report issued
August 18, 2010	Revised audit report issued
August 25, 2010	Two-year statute of limitations to complete the audit expires based on the entrance conference letter date.

1. Relevant Statute of Limitations

Government Code section 17558.5, as amended by Statutes of 2004, Chapter 890, Section 18, operative January 1, 2005:

> (a) A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

2. Audit Initiation Date

The parties in their written submissions have been using the entrance conference date of September 11, 2008, as the date the audit commended. However, the Commission determined on March 27, 2015, (CSM 09-4425-I-17 and CSM 10-4425-I-18, Sierra Joint Community College District, Collective Bargaining) that for purposes of measuring the statute of limitations, the audit commences no later than the date the entrance conference *letter* was sent. The entrance conference letter was not previously on the record here and is now attached. The entrance conference letter date is August 25, 2008, and therefore that is the audit initiation date for the original and revised audit reports.

3. Lapse of the Statute of Limitations to Initiate the Audit

The District asserts that the *enforceable* three-year statute of limitations to commence an audit for the FY 2002-03 and FY 2003-04 annual claims expired on January 12, 2008, three years from the date the claims were filed, which is before the audit commenced on August 25, 2008. The clause in Government Code Section 17558.5 that delays the commencement of the three-year time period for the Controller to start an audit to the date of initial payment is void because it is impermissibly vague. At the

time a claim is filed, the claimant has no way of knowing when payment will be made or how long the records applicable to that claim must be maintained. The billions of dollars backlog in mandate payments requires claimants to maintain detailed supporting documentation for an unpredictable number of years. For example, college district annual claims have been filed retroactive to FY 2000-01 for the Minimum Conditions for State Aid mandate program and none have been paid so the three-year from payment period has not begun to toll. For school districts, annual claims have been filed retroactive to FY 1993-94 for the Behavioral Intervention Plans mandate program without payment, a span of more than two decades. While there are various state laws regarding the retention of relevant business records (e.g., payroll history), none of which reach back decades, the Controller has no enforceable record retention law. The parameters and guidelines requirement for relevant documents to be available when audited is similarly open-ended.

The Commission (DPD, p.17) states that it has no jurisdiction to address the vagueness issue because it cannot declare a statute unenforceable or refuse to enforce a statute. The District is not seeking any such declaration. The District requests the Commission to enforce the only specific and enforceable time limitation in the statute, that is, to commence an audit within three years from the date the claim was filed.

4. <u>Timely Completion of the Audits</u>

It is uncontested here that an audit is complete only when the final audit report is issued. The District agrees that the original and revised audits were timely completed based on the dates of the audit reports, and that the revised audit report supersedes the original audit report.

PART B. APPLICATION OF AN INDIRECT COST RATE — Audit Finding 3, FY 2002-03 and FY 2003-04

The District asserts that since the claimed indirect cost rates were not determined to be unreasonable that the audited changes are therefore without legal basis. The Commission determined (DPD, p. 18) that the reductions of the indirect costs claimed are correct as a matter of law for FY 2002-03 and FY 2003-04, but disclaims jurisdiction for the adjustments to FY 2004-05 and FY 2005-06.

Indirect Cost Rates Claimed and Audited

Fiscal Year	As Claimed	Difference	As Audited	Difference	Revised Audit	Net Difference
2002-03	32.50%	<15.86%>	16.64%	0	16.64%	<15.86%>
2003-04	31.46%	< 12.72%>	18.74%	<0.65%>	18.09%	<13.37%>
2004-05	29.66%	< 3.51%>	26.15%	9.71%	35.86%	6.20%
2005-06	28.90%	< 2.37%>	26.53%	9.98%	36.51%	7.61%

1. <u>Commission Findings Adjudicate the Wrong Facts</u>

The Commission has made an error of law because its decision is based on the indirect *costs* and not the indirect cost *rates*. Audit Finding 3 adjusts the indirect cost *rates*, not the indirect costs. Indirect costs are derivative, they are a function of the rate applied to total direct costs. For FY 2004-05, one of the years for which the Commission denies jurisdiction because the audited indirect cost rate increased 6.20%, the audited indirect costs decreased by $63,941 because the audited direct costs were reduced by $97,571. Therefore, not all audited increases to the rate result in increases to the claimed indirect costs. As a matter of law, the Commission should be adjudicating the audited rates, not the resulting calculation of the indirect costs.

2. <u>Methods Used to Calculate the Rates</u>

The Controller's claiming instructions provide three options for calculating indirect costs: the OMB Circular A-21; the Controller's FAM-29C method; or, a default rate of 7%. For FY 2002-03 and FY 2003-04, the District claimed indirect cost rates using the OMB A-21 method, but did not obtain federal approval. The Controller recalculated indirect rates using the FAM 29-C method. The audited indirect cost rates for FY 2002-03 and FY 2003-04, where the Controller, as a matter of statewide policy and not law, recognizes neither CCFS-311 capital costs nor CPA audited depreciation expenses, are significantly different (about half) than the claimed rate. The indirect cost rates calculated by the District are more consistent from year-to-year and recognize capital costs in the fiscal years incurred. The District rates are reasonable and not excessive. The District still disputes the audit findings for FY 2002-03 and FY 2003-04 because neither capital costs nor depreciation expenses are allowed.

For FY 2004-05 and FY 2005-06, the District claimed indirect cost rates using the FAM-29C method. The revised audited indirect cost rates for FY 2004-05 and FY 2005-06, where the Controller recognizes depreciation expenses, vary less than the two prior years (6% to 7%). In this case, the revised rates are higher which may indicate the accounting timing differences between the CCFS-311 capital costs used by the District and the financial statement depreciation expenses used by the Controller. Because the Controller's method of utilizing depreciation expenses in lieu of CCFS-311 capital costs is also a reasonable method, the District does not dispute the audited rates for FY 2004-05 and FY 2005-06.

3. <u>Compliance with the Parameters and Guidelines Requirements</u>

The District has followed the parameters and guidelines. The burden of proof is on the Controller to prove that the product of the District's calculation is unreasonable.

The Commission (DPD, p. 18-19) states:

> The Commission's adoption of parameters and guidelines is quasi-judicial and, therefore, the parameters and guidelines are final and binding on the parties unless set aside by a court pursuant to Government Code section 17559 or amended by the filing of a request pursuant to Government Code section 17557. In this case, the parameters and guidelines for the *Health Fee Elimination* program have not been challenged, and no party has requested they be amended. The parameters and guidelines are therefore binding and must be applied to the reimbursement claims here.

The District agrees that the parameters and guidelines, to the extent they don't conflict with state law, must be used for the preparation of the annual reimbursement claims, even if, at the time the relevant language for the calculation of the indirect cost rate was adopted, the parameter and guidelines adoption process was quasi-legislative and not quasi-judicial. However, the fact that the parameters and guidelines have not been challenged is not a substantative determination of any of the issues raised by the incorrect reduction claims.

Note that the Heath Fee Elimination parameters and guidelines were amended on January 29, 2010. However, the indirect cost rate language remained the same:

> 3. Allowable Overhead Cost
>
> > Indirect costs may be claimed in the manner described by the State Controller in his claiming instructions.

The Commission has had numerous opportunities to clarify its intent and language regarding the indirect cost rate calculation methods and resolve or avoid the delegation and derivation issue. For example, and by contrast, the parameters and guidelines language for the new college mandate Cal Grants, adopted on the same date as the January 29, 2010, amendment for Health Fee Elimination, has the needed specific and comprehensive language:

> B. <u>Indirect Cost Rates</u>
>
> Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.
>
> Indirect costs include: (a) the indirect costs originating in each department or

agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

This language in the parameters and guidelines for Cal Grants makes the Controller's guidance on the suggested three choices of indirect cost calculation methods legally enforceable. The Commission properly adopted this language within the scope of their regulatory discretion and has utilized it in new program college mandate parameters and guidelines since at least 2002. However, this language has never been adopted by the Commission for Health Fee Elimination.

4. Compliance with the Claiming Instructions

The District asserts that the Health Fee Elimination mandate parameters and guidelines do not require the claimants to use the Controller's claiming instructions and forms for the calculation of the indirect cost rate. The Controller's claiming instructions are not alone enforceable as a matter of law as they are not regulations nor were they adopted pursuant to the administrative rulemaking process required to enforce agency manuals and instructions, as did the *Clovis* Court.[1] Therefore, any documentation standards or

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[1] From the Clovis Appellate Court Decision (4):

"Once the Commission determines that a state mandate exists, it adopts regulatory "[P]arameters and [G]uidelines" (P&G's) to govern the state-mandated reimbursement. (§ 17557.) The Controller, in turn, then issues nonregulatory "[C]laiming [I]nstructions" for each Commission-determined mandate; these instructions must derive from the Commission's test claim decision and its adopted P&G's. (§ 17558.) Claiming Instructions may be specific to a particular mandated program, or general to all such programs." Emphasis added.

From the Clovis Appellate Court Decision (15):

"Given these substantive differences between the Commission's pre-May 27, 2004 SDC P&G's and the Controller's CSDR, we conclude that the CSDR implemented, interpreted or made specific the following laws enforced or administered by the Controller: the Commission's pre-May 27, 2004 P&G's for the SDC Program (§ 17558 [the Commission submits regulatory P&G's to the Controller, who in turn issues nonregulatory Claiming Instructions based

cost accounting formulas published in the claiming instructions, to be enforceable, must derive from another source. However, there are no cost accounting standards for calculating the indirect cost rate for the Health Fee Elimination mandate published anywhere except the Controller's claiming instructions and Mandated Cost Manual.

The Commission (DPD, p. 19) states:

> Section VI. of the parameters and guidelines provide that "*indirect costs may be claimed in the manner described by the State Controller in his claiming instructions.*" 95 Claimant argues that the word "may" in the indirect cost language of the parameters and guidelines is permissive, and that therefore the parameters and guidelines do not require that indirect costs be claimed in the manner described by the Controller.
>
> Claimant's argument is unsound: the parameters and guidelines plainly state that "indirect costs may be claimed in the manner described by the State Controller in his claiming instructions." The interpretation that is consistent with the plain language of the parameters and guidelines is that "indirect costs may be claimed," or may not, but if a claimant chooses to claim indirect costs, the claimant must adhere to the parameters and guidelines and claim indirect costs in the manner described in the Controller's claiming instructions.

The Commission now has concluded that the contents of the claiming instructions are as a matter of law derivative of the authority of the parameters and guidelines. To the contrary, for legislative construction and judicial interpretation, the "plain meaning" of the word "may" is not "shall." The District agrees that the parameters and guidelines have the force of law, but that it does not extend by mere reference to the general or specific claiming instructions for Health Fee Elimination. Neither the Commission nor the Controller has ever adopted the Controller's claiming instructions pursuant the process required by the regulations relevant to the Commission or the Administrative Procedure Act relevant to the Controller, nor has the Commission ever before stated that parameters and guidelines are subordinate to the Controller's claiming instructions.

5. Underground Rulemaking

The District asserts that the Controller's use of the FAM-29C method for audit purposes is a standard of general application without appropriate state agency rulemaking and is therefore unenforceable (Government Code Section 11340.5). The formula is not an exempt audit guideline (Government Code Section 11340.9(e)). State agencies are prohibited from enforcing underground regulations. If a state agency issues, enforces,

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> thereon]; and the Controller's statutory authority to audit state-mandated reimbursement claims (§ 17561,subd. (d)(2))." Emphasis added.

or attempts to enforce a rule without following the Administrative Procedure Act, when it is required, the rule is called an "underground regulation." Further, the audit adjustment is a financial penalty against the District, and since the adjustment is based on an underground regulation, the formula cannot be used for the audit adjustment (Government Code Section 11425.50). However, the Commission (DPD, p. 21) does not address this legal issue in preference for the threshold factual matter that the District did not obtain federal approval.

6. Federal Approval

The ultimate Commission holding (DPD, p. 21) is:

> Thus, the reduction of costs for failure to obtain federal approval is correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.

The Commission reasoning is circular and outcome driven. The Commission (DPD, p.21) concludes specifically that:

> As claimant did not negotiate with a federal agency to determine appropriate direct costs used to calculate the indirect costs rate, it cannot be determined whether the claimed rates would have received federal approval. Moreover, federal approval is clearly required by both the claiming instructions and the OMB methodology itself, but the Controller has no power to grant federal approval for an OMB-calculated rate.

The Commission concludes if the indirect costs are to be claimed, the Controller's instructions must be followed. If a federal method is used, federal approval must be obtained. However, there is no reason to obtain federal approval if the claiming instructions are not enforceable. The Commission has not answered the question of how the Controller's instructions and forms that "may" be used are legally enforceable.

7. The Statutory Standard of Reasonableness

In the absence of legally enforceable claiming instructions, rules or methods, or standards or specific language in the parameters and guidelines for the indirect cost rate calculation, the remaining standard is Government Code section 17561. No particular indirect cost rate calculation method is required by law. Government Code section 17561(d)(2) requires the Controller to pay claims, provided that the Controller may audit the records of any school district to verify the actual amount of the mandated costs, and may reduce any claim that the Controller determines is excessive or unreasonable. The Controller is authorized to reduce a claim if the Controller determines the claim to be excessive or unreasonable. Here, the District computed indirect cost rates utilizing cost accounting principles from the Office of Management

and Budget Circular A-21, and the Controller has disallowed the rates without a determination of whether the District's calculation is excessive, unreasonable, or inconsistent with cost accounting principles.

There is no rebuttable presumption for this mandate that the Controller's methods are per se the only reasonable method. The Controller made no determination as to whether the method used by the District was reasonable or not, but only that no federal approval was obtained. The substitution of the Controller's method is an arbitrary choice of the auditor, not a "finding" enforceable either by fact or law. The federally "approved" rates which the Controller will accept without further action are "negotiated" rates calculated by the districts and submitted for approval, indicating that the process is not an exact science, but a determination of the relevance and reasonableness of the cost allocation assumptions made for the method used. Further, the approved rates are used for several fiscal years. Neither the Commission nor the Controller can assume that the Controller's calculation methods are intrinsically more accurate and the Commission cannot shift that burden or create the presumption to the contrary where none is present in law.

PART C. UNDERSTATED OFFSETTING REVENUES Audit Finding 4

The amount of student health services fees collectible reduces the total reimbursable costs. The Controller increased the collectible amount by $716,795 for the four fiscal years which reduces the reimbursable cost by the same amount. This finding is the result of the Controller's recalculation of the student health services fees which may have been "collectible" which was then compared to the District's student health fee revenues actually received. The Controller computed the total student health fees collectible based on maximum student fee amounts published by the Chancellor's Office while the District reported actual fees collected.

The Commission (DPD, 24) finds that the correct calculation and application of offsetting revenue from student health fees have been resolved by the *Clovis Unified* decision, and that the reduction is correct as a matter of law:

> After the claimant filed IRC 09-4206-I-24, the Third District Court of Appeal issued its opinion in *Clovis Unified*, which specifically addressed the Controller's practice of reducing claims of community college districts by the maximum fee amount that districts are statutorily authorized to charge students, whether or not a district chooses to charge its students those fees. As cited by the court, the Health Fee Rule states in pertinent part:
>
>> Eligible claimants will be reimbursed for health service costs at the level of service provided in the 1986/87 fiscal year. The reimbursement will be reduced by the amount of student health fees authorized per the Education Code [section] 76355. 113 (Underline in original.)

The District agrees that claimants and state agencies are bound to apply the Health Fee Rule as decided law and that this extends to retroactive fiscal years still within the Commission's or Controller's jurisdiction. The District no long disputes this audit finding.

PART D. LIMITATION OF ALLOWED AUDITED COSTS FY 2005-06

The District asserts that the Controller's incorrectly reduced allowable costs by $114,614 for FY 2005-06 by reducing the "total program costs" by this amount because it is in "excess" of the total amount claimed. This reduction was not an audit "finding" by the Controller, it is just a mathematical computation that is a result of other audit findings. The Commission (DPD, p.23, Item 3 caption) has concluded that "The Commission Does Not Have Jurisdiction over the Adjustment of Indirect Costs Claimed for Fiscal Years 2004-2005 and 2005-2006, Because There Has Been No Reduction."

The audit report states that the reason for this limitation on allowable costs is Government Code Section 17568, cited in footnote 2 on page 6 of the audit report, that states "the State will not reimburse any claim more than one year after the filing deadline specified in Government Code section 17560." The State did not pay these claims in full or part within one year of the filing deadline, and rarely does so, so that citation does not appear relevant. Section 17568 pertains to the timely filing of an annual claim in order to be eligible for payment, not to the amount of ultimate payment or the contents of the claim itself.

The Commission (DPD, p.23) states that the "plain language" of section 17551, which directs the Commission to hear incorrect reduction claims, applies only to "claims that are reduced":

> The plain language of section 17551, which directs the Commission to hear IRCs in the first instance, applies only to claims that are reduced. Here, the revised audit report finds an adjustment in favor of the claimant for fiscal years 2004-2005 and 2005-2006. Without a reduction alleged, the Commission does not have jurisdiction to determine whether the adjustment is correct.

The issue to be adjudicated is that the FY 2005-06 claim has been reduced by $114,614 without a legal basis, not that an increase in the indirect cost rate was in favor of the District. This is different from audit finding 3, as discussed in Part B above, where the Commission has incorrectly concluded that the increase in the indirect cost rate is the single source of the FY 2005-06 excess of $114,614. The derivative source was the audited increase in the direct costs to which the indirect cost rate was then applied.

Regarding the mathematical excess, the Commission (DPD, p.23) states:

> However, as noted above, for fiscal years 2004-2005 and 2005-2006, the revised audit found a net increase, rather than a reduction, over which the Commission has no jurisdiction in the context of an IRC.

A comparison of allowed direct costs, indirect costs, or allowable costs from the original audit report to the revised audit report is meaningless here since the revised audit report was timely completed and it supersedes the original audit report. The District did not appeal the mathematical total amount claimed or allowed, it appealed specific audit findings. The total amount allowed is a function of direct costs, the indirect cost rate applied to direct costs, and offsetting revenues (here it's the student health fees) and other income. A change to any of those components changes the total. The Commission has no need for jurisdiction of the "net" total amount claimed or allowed, only the specific findings appealed.

Regarding underpayments, the Commission (DPD, p.23) states:

> Government Code section 17551 provides that the Commission "shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, *that the Controller has incorrectly reduced payments* to the local agency or school district..." pursuant to an audit.

The Controller has incorrectly reduced and will thus underpay the FY 2005-06 claim through a combination of audit findings, some of which were appealed by the District (for which the Commission has jurisdiction) and findings not appealed (for which the Commission has no jurisdiction.) All of the findings affect the total program costs. The $114,614 disallowed as excess is the mathematical result of those actions, not the cause. To not reimburse the excess is to not reimburse the sum total of the audit and Commission findings.

There is no Government Code Section cited that prohibits the Controller from reimbursement of *audited* costs in excess of claimed costs. Government Code Section 17561(d)(2), as amended by Statutes of 2002, Chapter 1124[2], effective September 30, 2002, states:

> "[T]he Controller (A) may audit the records of any local agency or school district to verify the actual amount of the mandated costs . . . and (C) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years."

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[2] There have been subsequent technical amendments to this code section. However, this is the version that was in effect at the time the annual reimbursement claims that are the subject of these incorrect reduction claims were filed.

The use of the word "shall" makes the adjustment of *both* underpayments and overpayments mandatory. Thus, the Controller does not have the discretion to unilaterally determine that it will require reimbursement for audit adjustments in favor of the State and simply ignore audit adjustments in favor of the claimants. The Controller has no legal basis to exclude any unclaimed allowable mandated cost discovered as the result of an audit. The removal of the $114,614 will result in an arbitrary underpayment.

CERTIFICATION

By my signature below, I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this submission is true and complete to the best of my own knowledge or information or belief, and that any attached documents are true and correct copies of documents received from or sent by the District or state agency which originated the document.

Executed on March 1, 2016, at Sacramento, California, by

Keith B. Petersen, President
SixTen & Associates

Service by Commission Electronic Drop Box

Attachment:

Controller's Entrance Conference Letter dated August 25, 2008

JOHN CHIANG
California State Controller

August 25, 2008

W. Andy Dunn, Vice Chancellor of Business Services
Foothill-De Anza Community College District
12345 El Monte Road
Los Altos Hills, CA 94022

Re: Audit of Mandated Cost Claims for Health Fee Elimination Program
For the Period of July 1, 2002, through June 30, 2006

Dear Mr. Dunn:

This letter confirms that Ted Zimmerman has scheduled an audit of Foothill-De Anza Community College District's legislatively mandated Health Fee Elimination Program cost claims filed for fiscal year (FY) 2002-03, FY 2003-04, FY 2004-05, and FY 2005-06. Government Code sections 12410, 17558.5, and 17561 provide the authority for this audit. The entrance conference is scheduled for Thursday, September 11, 2008, at 2:00 p.m. We will begin audit fieldwork after the entrance conference.

Please furnish working accommodations for and provide the necessary records (listed on the Attachment) to the audit staff. If you have any questions, please call me at (916) 324-6788.

Sincerely,

JOHN H. COBBINAH, Audit Manager
Mandated Cost Audits Bureau
Division of Audits

JHC/sk

Attachment

6978

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250-5874
SACRAMENTO 300 Capitol Mall, Suite 518, Sacramento, CA 95814 (916) 324-8907
LOS ANGELES 600 Corporate Pointe, Suite 1000, Culver City, CA 90230 (310) 342-5656

cc: Bernata Slater, Director Budget Operations
Foothill-De Anza Community College District
Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits, State Controller's Office
Ginny Brummels, Manager
Division of Accounting and Reporting
State Controller's Office
Ted Zimmerman, Auditor-in-Charge
Division of Audits, State Controller's Office

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 1, 2016, I served the:

> **Claimant Comments on Draft Proposed Decision**
> *Health Fee Elimination*, 09-4206-I-24 and 10-4206-I-34
> Former Education Code Section 72246 (Renumbered as 76355)
> Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.) (AB2X 1);
> Statutes 1987, Chapter 1118 (AB 2336)
> Fiscal Years: 2002-2003, 2003-2004, 2004-2005, and 2005-2006
> Foothill-DeAnza Community College District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 1, 2016 at Sacramento, California.

Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/14/16

Claim Number: 09-4206-I-24 and 10-4206-I-34

Matter: Health Fee Elimination

Claimant: Foothill-De Anza Community College District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Kevin McElroy, *Foothill-De Anza Community College District*
12345 El Monte Road, Los Altos Hills, CA 94022
Phone: (650) 949-6202
mcelroykevin@fhda.edu

Socorro Aquino, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

Marieta Delfin, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Susan Geanacou, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Paul Golaszewski, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8341

Paul.Golaszewski@lao.ca.gov

Rebecca Hamilton, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Rebecca.Hamilton@dof.ca.gov

Ed Hanson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
ed.hanson@dof.ca.gov

Matt Jones, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
matt.jones@csm.ca.gov

Jill Kanemasu, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Dan Kaplan, Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8353
Dan.Kaplan@lao.ca.gov

Anne Kato, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
akato@sco.ca.gov

Jay Lal, *State Controller's Office (B-08)*
Division of Accounting & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0256
JLal@sco.ca.gov

Yazmin Meza, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Yazmin.meza@dof.ca.gov

Robert Miyashiro, *Education Mandated Cost Network*
1121 L Street, Suite 1060, Sacramento, CA 95814
Phone: (916) 446-7517
robertm@sscal.com

Andy Nichols, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Christian Osmena, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328

christian.osmena@dof.ca.gov

Arthur Palkowitz, *Artiano Shinoff & Holtz, APC*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@sashlaw.com

Keith Petersen, *SixTen & Associates*
Claimant Representative
P.O. Box 340430, Sacramento, CA 95834-0430
Phone: (916) 419-7093
kbpsixten@aol.com

Sandra Reynolds, *Reynolds Consulting Group,Inc.*
P.O. Box 894059, Temecula, CA 92589
Phone: (951) 303-3034
sandrareynolds_30@msn.com

Carla Shelton, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 327-6490
carla.shelton@csm.ca.gov

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov