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June 19, 2017  
**Commission on  
State Mandates**

**SAN FRANCISCO**  
275 Battery Street  
Suite 1150  
San Francisco, CA 94111  
TEL 415.543.4111  
FAX 415.543.4384

**LONG BEACH**  
115 Pine Avenue  
Suite 500  
Long Beach, CA 90802  
TEL 562.366.8500  
FAX 562.366.8505

**SAN DIEGO**  
750 B Street  
Suite 2310  
San Diego, CA 92101  
TEL 619.595.0202  
FAX 619.702.6202

**NOVATO**  
1682 Novato Boulevard  
Suite 251  
Novato, CA 94947  
TEL 415.543.4111  
FAX 415.543.4384

**CHICO**  
2485 Notre Dame Boulevard  
Suite 370-A  
Chico, CA 95928  
TEL 530.343.3334  
FAX 530.924.4784

**SACRAMENTO**  
555 Capitol Mall  
Suite 645  
Sacramento, CA 95814  
TEL 916.978.4040  
FAX 916.978.4039

**SAN LUIS OBISPO**  
1065 Higuera Street  
Suite 301  
San Luis Obispo, CA 93401  
TEL 805.980.7900  
FAX 916.978.4039

**WILLIAM B. TUNICK**  
Attorney at Law  
wtunick@DWKesq.com

**San Francisco**

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June 19, 2017

**VIA ELECTRONIC FILING**

Heather Halsey  
Executive Director  
Commission on State Mandates  
980 9th Street, Suite 300  
Sacramento, CA 95814

Re: **Comments on Draft Proposed Decision**  
*Health Fee Elimination, 10-4206-I-32*  
State Center Community College District, Claimant

Dear Ms. Halsey:

I write on behalf of the State Center Community College District (District) with regard to the Draft Proposed Decision on the incorrect reduction claim *Health Fee Elimination, 10-4206-I-36* (IRC) issued on May 19, 2017.

The Controller's audit underlying the IRC eliminated over \$900,000 in reimbursement otherwise due to the District. The District raised several concerns regarding the audit in its IRC filed on September 1, 2010.<sup>1</sup>

After reviewing the Draft Proposed Decision, the District agrees with its conclusion that the audit's reduction of indirect costs claimed for fiscal years 2005-06 and 2006-07 was incorrect as a matter of law.<sup>2</sup> The District, however, disagrees with the Draft Proposed Decision's conclusions as to the remaining contested matters and stands by the arguments made in its IRC.

The District contests the Draft Proposed Decision's position that appropriations made for *Health Fee Elimination* in fiscal years 2003-04 and 2004-05 did not trigger the applicable three-year statute of limitations. (Govt. Code, § 17558.5.) Although it is true that the Court of Appeal in *California School Boards Association v. State* (2011) 192 Cal.App.4th 770, 791 held that the appropriations did not "constitute a funded mandate," the Court of Appeal did not interpret section 17558.5 or hold that there

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<sup>1</sup> Exhibit A, IRC.

<sup>2</sup> Draft Proposed Decision, pp. 29-34.

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were in fact “no appropriations” made for purposes of that statute. Thus, the appropriations, while insufficient to meet the State’s Constitutional responsibilities, triggered the statute of limitations making the audits of fiscal years 2002-03, 2003-04, and 2004-05 untimely.

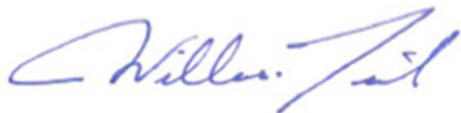
Further, the District does not believe the audit established that the District’s calculation of indirect cost rates for fiscal years 2002-03 and 2003-04 were excessive or unreasonable. Neither the audit nor the Draft Proposed Decision dispute that the District’s annual claims for fiscal years 2002-03 and 2003-04 used a federal study method prepared by District staff pursuant to a federal rate proposal. The audit used a different approach (excluding depreciation costs), but it does not explain why the District’s rates were excessive or unreasonable.

Finally, the District repeats its disagreement with the findings contained in the audit which the Draft Proposed Decision contends are beyond the Commission on State Mandate’s jurisdiction.<sup>3</sup> It does not intend, and does not understand the Draft Proposed Decision, to waive its rights as to those arguments.

For these reasons, the District asks that the Draft Proposed Decision be amended to eliminate the incorrect reductions which resulted from the Controller’s audit. The District appreciates the opportunity to provide, and the Commission’s consideration of, these comments.

Best regards,

DANNIS WOLIVER KELLEY



William B. Tunick

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<sup>3</sup> Ex. A, IRC, pp. 19-23.

**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 June 20, 2017, I served the:

- **Notice of Change of Representation**
- **Claimant Comments on the Draft Proposed Decision**

*Health Fee Elimination*, 10-4206-I-32

Former Education Code Section 72246 (Renumbered as 76355)<sup>1</sup>

Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.) (AB2X 1);

and Statutes 1987, Chapter 1118 (AB 2336)

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, and 2006-2007

State Center 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 June 20, 2017 at Sacramento, California.



Lorenzo Duran  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

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<sup>1</sup> Statutes 1993, chapter 8.

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 6/20/17

**Claim Number:** 10-4206-I-32

**Matter:** Health Fee Elimination

**Claimant:** State Center Community College District

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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.)

**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

**Lacey Baysinger**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 324-4112

Adagan@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

**Edwin Eng**, Vice Chancellor, *State Center Community College District*

Finance and Administration, 1525 East Weldon Avenue, Fresno, CA 93704-6398

Phone: (559) 244-5910

ed.eng@scccd.edu

**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

**Heather Halsey**, Executive Director, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
heather.halsey@csm.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

**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

**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*  
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106  
Phone: (619) 232-3122  
apalkowitz@as7law.com

**Keith Petersen**, *SixTen & Associates*

P.O. Box 340430, Sacramento, CA 95834-0430

Phone: (916) 419-7093

kbsixten@aol.com

**Sandra Reynolds**, *Reynolds Consulting Group, Inc.*

P.O. Box 894059, Temecula, CA 92589

Phone: (951) 303-3034

sandrareynolds\_30@msn.com

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

camille.shelton@esm.ca.gov

**Carla Shelton**, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 327-6490

carla.shelton@esm.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

**William Tunick**, Attorney, *Dannis Woliver Kelley***Claimant Representative**

275 Battery Street, Suite 1150, San Francisco, CA 94111

Phone: (415) 543-4111

wtunick@dwkesq.com