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October 12, 2018  
**Commission on  
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October 12, 2018

**VIA E-FILE**

Heather Halsey  
Executive Director  
Commission on Draft Proposed Decision  
980 9th Street, Suite 300  
Sacramento, CA 95814

Re: **Comments on Draft Proposed Decision**  
*Enrollment Fee Collection and Waivers, 15-9913-I-02*

Dear Ms. Halsey:

I write on behalf of the North Orange County Community College District (District) with regard to the Draft Proposed Decision on the incorrect reduction claim *Enrollment Fee Collection and Waivers, 15-9913-I-02* (IRC) issued on September 21, 2018.

The audit underlying the IRC eliminated nearly \$16,000,000 in reimbursement otherwise due to the District – the entirety of the District’s mandated cost reimbursement claims (Claims). The District raised several concerns regarding the audit in its IRC filed on June 27, 2016.

After reviewing the Draft Proposed Decision, the District respectfully disagrees with the Draft Proposed Decision. It maintains that the State Controller (Controller) incorrectly reduced the Claims. The District reasserts the following positions, and all other arguments made, each as set forth in its IRC filed with the Commission:

- The Controller either used the wrong standard for the audit, or has misrepresented the actual nature of the audit, conducted in respect of the Claims.
- The audit incorrectly applied the documentation standards in the Parameters and Guidelines, which requires contemporaneous source documentation, not post-facto anecdotal information.
- Where guidelines were not yet established, a good-faith certification of District staff, as to time spent on processing reimbursable mandated

Heather Halsey  
October 12, 2018  
Page 2

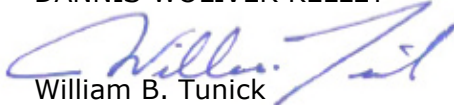
activities, is proper documentation in respect of the Claims, in the absence of actual contemporaneous cost documentation kept in the ordinary course of business.

- The Controller's inconsistent acceptance of average District staff time in some cases, while rejecting others, makes the Controller's reliance not credible.
- The Controller's use of a "stopwatch method" time study, with weighting, to determine time spent by the District on activities claimed for reimbursement does not meet the requirements of the Controller's own guidelines, nor do such studies properly represent a fiscal year period, let alone the entire 13-year period.
- As the audit used methods and data that constitute standards of general application without appropriate state agency rulemaking process, they are unenforceable as "underground rulemaking."
- The Controller has misapplied certain District program funds as "offsetting revenue" against the Claims.

The District appreciates the opportunity to provide, and the Commission's consideration of, these comments.

Sincerely,

DANNIS WOLIVER KELLEY



William B. Tunick

WBT:ah

**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 October 15, 2018, I served the:

- **Claimant's Comments on the Draft Proposed Decision filed October 12, 2018**

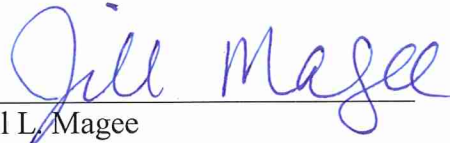
*Enrollment Fee Collection and Waivers, 15-9913-I-02*

Education Code Section 76300; California Code of Regulations, Title 5,  
Sections 58501-58503, 58611-58613, 58620, and 58630

Fiscal Years: 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004,  
2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011  
North Orange County 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 October 15, 2018 at Sacramento, California.



Jill L. Magee

Commission on State Mandates  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 9/26/18

**Claim Number:** 15-9913-I-02

**Matter:** Enrollment Fee Collection and Waivers

**Claimant:** North Orange County 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.)

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