



California State Teachers'
Retirement System
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August 10, 2012

Pamila Fisher, Ed.D., Interim Chancellor
City College of San Francisco
33 Gough Street
San Francisco, CA 94103

**RE: Final Audit Report of City College of San Francisco
Project No. SEA 09-30**

Dear Dr. Fisher:

CalSTRS Audit Services performed an audit of earnings and other information reported by City College of San Francisco (District) to CalSTRS relative to the administration of the Teachers' Retirement Fund as provided in Education Code (EC) § 22000 et seq. The audit was authorized by EC § 22206(a) which states: "As often as the board determines necessary, it may audit or cause to be audited the records of any public agency."

CalSTRS is issuing this final audit report. Our audit conclusion is that the District:

1. Erroneously reported employees who are ineligible for CalSTRS membership.
2. Incorrectly reported compensation during the 2009-10 school year to CalSTRS for ten retired employees.
3. Incorrectly reported to CalSTRS non-creditable compensation as creditable for one member.
4. Incorrectly reported to CalSTRS six employees' compensation to the Defined Benefit (DB) Program.
5. Incorrectly reported members' earnings as non-member earnings.

A draft report dated January 31, 2012, was sent to the District for review and comment. Audit Services received the response to the draft report from School and College Legal Services of California on behalf of the District on March 1, 2012. Audit Services has included the response and an analysis of the response as part of the final report.

The District may submit an appeal through the administrative hearing process. The District must make this request within 90 days after the date of this letter to the Legal Office – CalSTRS, P.O. Box 15275, MS#3, Sacramento, California, 95851-0275. The date the appeal letter must be postmarked is no later than November 10, 2012.

This final audit report is intended for the information of the District, CalSTRS management, and the Audits and Risk Management Committee of the Teachers' Retirement Board. The body of this report is a matter of public record and its distribution is not limited. Portions of the confidential appendices may contain member information that is exempt from disclosure under the Public Records Act (Government Code § 6250 et seq.). By receipt of this final audit report, and in accordance with Government Code § 6254.5, subdivision (e), the District agrees to treat otherwise exempt information in the appendices as confidential and exempt from disclosure under the Public Records Act.

We appreciate the cooperation and assistance provided by District staff during the audit. If you have any questions regarding this letter or report, please contact Tom Gong, Audit Manager, at 916-414-6036.

Sincerely,


MARYANN CAMPBELL-SMITH
Chief Auditor

Enclosure

cc: City College of San Francisco:
John Rizzo, President, Board of Trustees
Peter Goldstein, Vice Chancellor, Finance/Administration
John Bilmont, Chief Financial Officer
Clara Starr, Dean of Human Resources
Donald Lind, Associate Dean of Payroll

CalSTRS:
Tom Gong, Audit Manager, Employer Audits

**City College of San Francisco
Teachers' Retirement Law Compliance Review
Membership and Compensation Reporting
Final Audit Report
August 10, 2012**

CALSTRS

HOW WILL YOU SPEND YOUR FUTURE?

***Securing the Financial Future and Sustaining the Trust of
California's Educators***

Audit Services:

MaryAnn Campbell-Smith, Chief Auditor

Tom Gong, Audit Manager

Randy Cortland, Auditor Specialist

Amal Kattan, Auditor Specialist

CALSTRS

HOW WILL YOU SPEND YOUR FUTURE?

City College of San Francisco Final Audit Report

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City College of San Francisco
33 Gough Street
San Francisco, California 94103
School No. 63-098
Project No. SEA 09-30

BACKGROUND

Established in 1935, the City College of San Francisco (the District) has grown into one of the nation's largest public universities. The District serves more than 85,000 students on 11 campuses scattered throughout San Francisco's neighborhoods.¹

The District uses the Banner payroll system. The District collects member and associated contribution data from their payroll system, formats the employees' payroll information with applicable assignment codes, pay codes, and member codes, and submits the monthly contribution report (F496) directly to CalSTRS.

AUDIT OBJECTIVES AND SCOPE

To protect the integrity of the State Teachers' Retirement System Defined Benefit Plan's fund, CalSTRS Audit Services, under the Teachers' Retirement Board (TRB) delegated authority, conducted an audit of the District's membership and compensation reporting procedures. The objective of this audit was to ensure District compliance with the Teachers' Retirement Law (Education Code § 22000 et seq.) regarding eligible membership and creditable compensation reported to CalSTRS. Specifically, our objectives were to determine whether:

- The District submitted accurate monthly reports and the required contribution amounts to CalSTRS.
- The District accurately reported and remitted contribution for all qualified employees as CalSTRS members and offered right of election to non-members.
- The District reported monthly reports and contribution data based on eligible members' creditable services and creditable compensations.

The audit period was July 1, 2006, through June 30, 2009. However, we expanded the scope of our audit through June 30, 2011, to include a sample of employees who met the conditions of Findings 1, 2, and 4.

The audit was performed in accordance with the professional standards and guidance framework of the *Generally Accepted Government Auditing Standards* (GAGAS) for performance audits as set forth by the United States Government Accountability Office.

¹ <http://www.ccsf.edu/NEW/ccsf/en/about-city-college.html>; January 10, 2010

METHODOLOGY

To achieve the objectives, we performed the following tasks:

- ✓ Worked with CalSTRS Member Account Services and Accounting's staff members to identify any outstanding issues regarding the District's contribution reports and/or remittance advice submissions.
- ✓ Utilizing CalSTRS corporate database, extracted and analyzed the reported members, non-members, earnings, compensations, and contribution data for the audit period. Identified potential risks in the areas of non-members, late reports, special compensations, and unusual increases in final compensation, etc.
- ✓ Selected sample individuals and pay periods based on the above risk assessment results.
- ✓ Interviewed appropriate District management and staff members to obtain an understanding of the District's personnel and payroll reporting processes as they relate to CalSTRS operations.
- ✓ Reviewed certificated employee bargaining agreements, employment contracts, salary and wage schedules, personnel files, and payroll records.
- ✓ Reviewed non-CalSTRS members reported to CalSTRS and determined the eligibility of these employees for CalSTRS membership.
- ✓ Reconciled District reported pay rates and compensations for sampled active and retired members with the District's payroll registers, salary/wage schedules, employee contracts, and other relevant personnel files.
- ✓ Determined the validity of the District's supporting documentations of the final compensation, basic sick leave days, base days, and other pertinent retirement data for the sampled retired members.

SUMMARY RESULTS

The audit disclosed that the District did not consistently comply with the Teachers' Retirement Law regarding eligible membership and creditable compensation reported to CalSTRS. Specifically, we noted that the District:

1. Erroneously reported employees who are ineligible for CalSTRS membership.
2. Incorrectly reported compensation during the 2009-10 school year to CalSTRS for ten retired employees.
3. Incorrectly reported to CalSTRS non-creditable compensation as creditable for one member.

4. Incorrectly reported to CalSTRS six employees' compensation to the Defined Benefit (DB) Program.
5. Incorrectly reported members' earnings as non-member earnings.

Refer to the attached findings for details, including the District's response.

We have not expressed an opinion related to the internal controls over the District's accounting and administrative operations.

Finding 1 – The City College of San Francisco (District) Erroneously Reported Employees Who Are Ineligible For CalSTRS Membership.

Finding 1 – Discussion:

The District has erroneously reported employees who are ineligible for CalSTRS membership. Specifically, we found the following:

- Based on a judgmental sampling of 14 retirees from a population of 150 members who retired during the period July 1, 2006, through June 30, 2010, we found three retired employees whom the District erroneously reported to CalSTRS as members. Membership in CalSTRS is allowed when an employee performs creditable service as defined in Teachers’ Retirement Law. These retired employees did not perform creditable service based upon their job titles and “non-educational” and “classified” status per the appointment memoranda from the Chancellor to the District’s Board of Trustees. In addition, we confirmed these retirees were not CalSTRS members, or employed by the District, prior to August 11, 1995, which is the effective date when the definition of “Creditable Service” was added to the Teachers’ Retirement Law.
- Of the 47 active employees listed on the District’s Employee Directory of Administrators and Deans (as of June 24, 2011), we found seven employees whom the District erroneously reported as members to CalSTRS. The Directory was publicized on the District’s website. We selected the seven employees for review based upon job titles. A review of the corresponding seven job duty statements confirmed that the positions’ responsibilities did not meet creditable service requirements. In addition, we confirmed these seven employees were not CalSTRS members, or employed by the District, prior to August 11, 1995, which is the effective date when the definition of “Creditable Service” was added to the Teachers’ Retirement Law.

The ten positions (three retirees and seven active members) are identified are as follows:

Job Title	Retirement Date	Membership Date	Summary of Responsibilities/Duties*
Associate Vice-Chancellor, Facilities, Planning, and Management (2)	10/22/2009	04/24/2004	(1)
Director of Buildings, Grounds, and Maintenance	07/01/2011	04/29/2005	(1)
Dean, Marketing & Public Information	07/01/2010	08/15/1995	(1)
Dean of College Development	N/A	07/01/2000	Manages private fundraising, alumni programs, and external relations activities to enhance the financial position of the College.
Director, Payroll Services	N/A	01/17/2004	Responsible for leadership of the payroll department.

Job Title	Retirement Date	Membership Date	Summary of Responsibilities/Duties*
Chief Information Technology Officer	N/A	07/21/10	The most senior technology administrator who provides visionary and operational leadership for strategic planning, implementation, and improvement of instructional and administrative technologies and related support services.
Associate Director, Human Resources	N/A	04/28/01	Assists the Director of Human Resources in coordinating and facilitating matters pertaining to the employment of faculty.
Interim Chief Financial Officer	N/A	10/01/05	Provides administrative support in preparing and managing the District's budget and prepares a variety of fiscal and budget reports. Supervises the District's Accounting, Budget, Payroll, and Purchasing sections.
ADA Compliance Director/Assistant Legal Counsel (3)	N/A	11/01/06	Plans and coordinates activities relating to administration of the Americans with Disabilities Act Guidelines and Regulations requiring accessibility for persons with disabilities to applicable buildings, educational programs, and activities.
Executive Assistant to the Chancellor	N/A	02/01/10	Serves as the Chancellor's strategic liaison to students, faculty, classified staff, and administrators.

* Source: The District's Employment Opportunity Bulletin or Position Description

- (1) The job title corroborates that related job duties would not be creditable service.
- (2) This employee also received a salary in excess of that approved by the Board of Trustees since his hire date – refer to Finding 4.
- (3) This employee also received pay for working in excess of her full-time equivalent – refer to Finding 4.
 Compensation paid for the additional assignment is non-creditable to the Defined Benefit (DB) Program.

The District's Board Resolutions refer to these positions as "non-educational." For instance, the Interim Chancellor, in a memo dated April 29, 2004, to the Board of Trustees, states in part:

"Subject: Interim Appointment Non-Educational Administrator (Resolution No. 042904-F1)

"That effective May 3, 2004, [employee] be appointed Interim Associate Vice Chancellor Facilities Planning and Management (Office of Vice Chancellor Finance and Administration). The total duration of this position is not to exceed one year...."

The District Administrative Handbook, page 13, issue date August 2006, defines non-educational administrators as "Administrators not employed in either the instructional or student services programs of the District."

Employees who hold (held) these non-educational positions are not eligible for CalSTRS membership because:

1. The duties performed by these employees do not qualify for creditable service per Education Code § 22119.5.
2. These positions are deemed “non-educational” by the District’s Board of Trustees; thus, work performed in these positions does not meet the criteria established by Education Code § 22119.5.
3. The employees were hired on or after August 11, 1995, (the effective date of Education Code § 22119.5.)

Finding 1 – Additional Observation:

As a result of the initial testing above, we expanded our audit scope to identify the population of additional employees who hold potentially non-educational administrative positions that the District reported to CalSTRS. We reviewed all appointment memoranda from the Chancellor to the District’s Board of Trustees found on the District’s web site. If the appointment memoranda referred to a position as “non-educational” or “classified,” we listed these positions below as potentially ineligible for CalSTRS membership. We have identified 13 positions as follows:

- Chief of Police
- Interim Vice-Chancellor, Research and Policy
- Associate Vice-Chancellor, Governmental Relations
- Assistant Director, Institutional Research
- Dean, Human Resources
- Management Analyst
- Interim Director of Human Resources
- Chief Financial Officer
- Director, Employee Relations
- Assistant Director, Affirmative Action
- Director, Information Technology
- Chief Legal Counsel
- Director, Administrative Services

Finding 1 - Criteria:

The District relied on Assembly Bill 1725 (September 19, 1988) and Education Code § 87001 to assert that the identified population as noted above are members of CalSTRS Defined Benefit (DB) Program because they are credentialed and considered “academic employees.” However, the assertion is flawed because Education Code § 87001(d) states in part:

“Nothing in this part shall be construed as repealing or negating any provisions in this code or any other code concerning employees of community college districts for the purposes of retirement

benefits under the State Teachers' Retirement System by referring to those employees as academic employees.”

Education Code § 24700 sets forth the terms of membership in the CalSTRS DB Program for District employees as follows: “...all persons who first enter employment in the ...San Francisco Community College District to perform *creditable service* subject to coverage under the Defined Benefit Program are members of the plan in accordance with Section 22501....” (emphasis added)

Education Code § 22501, states in part: “Any person employed to perform *creditable service* on a full-time basis who is not already a member of the Defined Benefit Program under the plan shall become a member as of the first day of employment....” (emphasis added)

Therefore, membership in CalSTRS is initiated when the identified population performs creditable service. “Creditable service” is defined by Education Code § 22119.5 as stated below.

Education Code § 22119.5, *effective August 11, 1995*, (emphasis added), states in part:

- “(a) ‘Creditable service’ means any of the following activities performed for an employer in a position requiring a credential, certificate, or permit pursuant to this code or under the appropriate standards adopted by the Board of Governors of the California Community Colleges ...:
- (1) The work of teachers, instructors, district interns, and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupation programs, child care centers, and prekindergarten programs pursuant to Section 22161.
 - (2) Education or vocational counseling, guidance, and placement services.
 - (3) The work of directors, coordinators, and assistant administrators who plan courses of study to be used in California public schools, or research connected with the evaluation or efficiency of the instructional program.
 - (4) The selection, collection, preparation, classification, demonstration, or evaluation of instructional materials of any course of study for use in the development of the instructional program in California public schools, or other services related to school curriculum.
 - (5) The examination, selection, in-service training, or assignment of teachers, principals or other similar personnel involved in the instructional program.
 - (6) School activities related to, and an outgrowth of, the instructional and guidance program of the school when performed in addition to other activities described in this section.
 - (7) The work of nurses, physicians, speech therapists, psychologists, audiometrists, audiologists, and other school health professionals.
 - (8) Services as a school librarian.
 - (9) The work of employees who are responsible for the supervision of persons or administration of the duties described in this section. ...
- (c) The board shall have final authority for determining creditable service to cover any activities not already specified.”

Education Code § 22508(a) states in part:

“A member who becomes employed by the same or a different ...community college district...to perform creditable service that requires membership in a different public retirement system, and who is not excluded from membership in that public retirement system, may elect to have service subject to coverage by the Defined Benefit Program of this plan and excluded from coverage by the other public retirement system. The election shall be on a form prescribed by this system within 60 days from the date of hire in the position requiring membership in the other public retirement system. If that election is made, the service performed for the employer after the date of hire shall be considered creditable service for purposes of this part.”

Education Code § 88003 states in part: “The governing board of any community college district shall employ persons for positions that are not academic positions....The employees shall be known as the classified service.”

Finding 1 – Effect:

Ten District employees (three retirees and seven active employees) in our initial sample erroneously earned 72.385 years of CalSTRS service credit as of June 30, 2011. The employees and employer erroneously made contributions of approximately \$1.489 million to CalSTRS based on the reported compensation. In addition, there is a yet-to-be determined effect for the 13 positions in which work is potentially non-creditable service.

CalSTRS has erroneously paid three retirees Defined Benefits and Defined Supplement Benefits in the amount of \$289,920 as of May 31, 2012. The three retirees have erroneously paid CalSTRS \$224,116.39 in receivables such as the purchase of service credit – refer to the Confidential Appendix.

Finding 1 - Corrective Action Required (And Relevant Provisions of Teachers’ Retirement Law):

- The District must submit corrections to CalSTRS to reverse the earnings for all years for the employees identified in the Confidential Appendix, Finding 1, within 60 days of the final audit report date. The District must make the corrections on the CalSTRS Form F496, “Report of Retirement Contributions.” Refer to the Confidential Appendix for the specific members affected.
- The District must notify impacted employees of their removal from CalSTRS membership. CalSTRS will notify impacted retirees through separate correspondence.
- The District must initiate a complete review of all administrative non-educational positions and corresponding employees (retired and active) hired on or after August 11, 1995, (the effective date when the definition of “Creditable Service” was added to the Teachers’ Retirement Law). The review must include the additional 13 positions listed in the audit report. The District must then either submit confirmation documentation of CalSTRS membership eligibility to CalSTRS based on the employees performing creditable service in accordance with Education Code § 22119.5 or

submit corrections to reverse all related earnings within 60 days of the final audit report date. CalSTRS will follow-up on the District's review.

- The District must determine that all newly-hired employees perform creditable service in accordance with Education Code § 22119.5 before enrolling them into CalSTRS membership.

Finding 2 – The District Incorrectly Reported Compensation During the 2009-10 School Year to CalSTRS For Ten Retired Employees.

Finding 2 – Discussion:

a. The District incorrectly reported a retroactive salary step increase.

During the 2009-10 school year, The District reported a salary step increase for eight employees who retired at the end of the school year. This salary step increase was reported after the end of the 2009-10 school year as a retroactive adjustment for the period July 1, 2009, through June 30, 2010.

The memorandum from the Chancellor to the Board of Trustees dated June 25, 2009, Resolution No. 090625-S1, states in part:

“All salary step increments scheduled to be implemented on July 1, 2009, shall be deferred for a period of one year until July 1, 2010 (non-retroactive). Academic management employees who retire from District service with an effective date on or between July 1, 2009, and June 30, 2010, and who would have been entitled to an annual salary step increment for the 2009-2010 academic year, shall receive a retroactive salary step increase. This retroactive salary step increase shall cover the period from July 1, 2009, through June 30, 2010, as appropriate.” The District’s Board of Trustees adopted this resolution on June 25, 2009.

The retroactive salary step increase is not creditable compensation to the Defined Benefit (DB) Program because the District inconsistently applied the increase among the administrators (those individuals subject to Administrators’ Salary Schedule). Specifically, the District only gave administrators who were retiring the pay increase and did not give this pay increase to active administrators. Instead, these pay increases should have been reported as creditable to members Defined Benefit Supplement (DBS) Program accounts.

b. The District incorrectly reported a salary reduction pay back.

In addition to the salary step increase noted above, the District applied a salary reduction of 6 percent to all administrators whose salary was above \$150,000 per year. The reduction was effective September 1, 2009. However, the District retroactively paid back this reduction to only ten administrators (including the eight employees above) who retired at the end of the 2009-10 school year and reported this pay back to CalSTRS as a retroactive pay increase. We could not find evidence that the salary reduction was approved by the Board; however, the District implemented the reduction.

The retroactive salary reduction pay back is not creditable compensation to the DB Program because the District inconsistently applied the pay back among the administrators. Specifically, the District did not give a salary reduction pay back to active administrators who continued working into the 2010-11 school year or who retired after the 2009-10 school year. Instead, salary reduction pay back should have been reported as creditable to the member’s DBS Program accounts.

Finding 2 – Criteria:

Education Code § 22112.5(a) states: “‘Class of employees’ means a number of employees considered as a group because they are employed to perform similar duties, are employed in the same type of program, or share other similarities related to the nature of the work being performed.”

Education Code § 22119.2(a) states:

“Creditable compensation means remuneration that is payable in cash by an employer to all persons in the same class of employees and is paid to an employee for performing creditable service. Creditable compensation shall include: (1) Salary paid in accordance with a salary schedule or employment agreement.”

Education Code § 22119.2(f) states:

“This definition of ‘creditable compensation’ reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member’s career, consistent treatment of compensation among an entire class of employees, preventing adverse selection, and excluding from compensation earnable remuneration that is paid for the principal purpose of enhancing a member’s benefits under the plan.”

Education Code § 22134.5(a) states:

“‘Final compensation’ means the highest average annual compensation earnable by a member during any period of 12 consecutive months while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944.”

Education Code § 22905(b)(3) states:

“Member and employer contributions on a member’s compensation under the following circumstances shall be credited to the member’s Defined Benefit Supplement Account: Compensation that is payable for a specified number of times as limited by law, a collective bargaining agreement, or an employment agreement.”

Finding 2 – Effect:

These reporting errors caused six of the ten employees’ final compensation to be overstated, resulting in an approximate overpayment in their retirement allowances between \$395 and \$698 per month. Overpayments accumulated from the impacted six employees’ retirement dates (July 1, 2010, through May 31, 2012) total approximately \$73,393. One of the ten employees did not perform creditable

service (Finding 1) and, therefore, does not have creditable compensation. The remaining three employees' final compensation was not impacted as a result of this finding (refer to the Confidential Appendix).

Future benefit overpayments could total over \$382,919 by extrapolating the monthly overpayments over ten years.

In addition, the reporting errors caused member and employer contributions totaling approximately \$17,318 on earnings of \$123,697 to be credited to the retired members' DB Program accounts instead of being correctly credited to the members' DBS Program accounts.

Finding 2 – Corrective Action Required (And Relevant Provisions of Teachers' Retirement Law):

- The District must submit reporting corrections to reverse the impacted members' retroactive salary step increases and retroactive salary reduction pay back identified in the Confidential Appendix. The District must then report these retroactive payments to CalSTRS using Assignment Code 71 (DBS) and Contribution Code 1 (normal contributions) The corrections must be made within 60 days of the final audit report date in accordance with Education Code § 23008(a). Overpayments related to incorrectly reported compensation approximate \$73,393 through May 31, 2012, and will continue to increase until properly reported by the District as instructed in this audit.
- CalSTRS will establish a receivable and collect overpayments from the member, former member, or beneficiary pursuant to Education Code § 24616 and 24617.

Education Code § 24616 states in part: "Any overpayment made to or on behalf of any member, former member, or beneficiary, [...] shall be deducted from any subsequent benefit that may be payable [...], except as provided in Section 24616.5."

Education Code § 24617, subdivision (a) states in part: "To recover an amount overpaid, the corrected monthly allowance payable [...] may be reduced by no more than [five] 5 percent if the overpayment was due to error by the [...] school district."

- The District will pay to CalSTRS the difference between the overpayment and the actuarial present value of payments expected to be paid by the member, former member, or beneficiary.

Education Code § 24616.5 states:

"If an employer reports erroneous information, the system shall calculate the actuarial present value of the expected payments from the member, the former member, or beneficiary pursuant to Sections 22008 and 24617. The employer shall pay the difference between the total amount of the overpayment and the calculation of the actuarial present value of expected payments."

In other words, the District will be required to pay CalSTRS for benefit overpayments that CalSTRS has projected that it will not collect from the member. This amount will be computed by the CalSTRS Accounting Division using actuarial tables.

- In addition, the District must initiate a complete review of all administrators who are CalSTRS members, who retired in the 2010-11 school year or shortly thereafter, and who met the conditions stated in this finding, and submit corrections to reverse all related earnings within 60 days of the final audit report date.

Finding 3 – The District Incorrectly Reported to CalSTRS Non-Creditable Compensation as Creditable for One Member.

Finding 3 – Discussion:

During the 2008-09 school year, the District assigned an Acting Dean additional duties to perform supervision and management functions in the Public Safety Department. The District reported salary earned as a full-time Acting Dean as creditable compensation to the CalSTRS Defined Benefit (DB) Program during the 2008-09 year. The District also reported as creditable compensation to the CalSTRS DB Program \$13,415 for additional duties the member performed in the Public Safety Department during the 2008-09 school year. The member retired on July 1, 2010. CalSTRS used the 2008-09 year as his final compensation period in calculating his retirement benefits.

The Interim Chancellor, in a memorandum to the Board of Trustees dated August 28, 2008, “SUBJECT: Temporary Additional Duties and Salary Adjustment Acting Dean Student Affairs (Resolution No.: 080828-F2)” recommended:

“RESOLVED: That effective August 1, 2008, through December 31, 2008, Acting Dean [employee] continue to perform his duties as Acting Dean Student Affairs while performing the increased responsibilities and duties in some of the supervision and management functions of the Public Safety Department. To reflect these additional duties, Acting Dean [employee] salary shall be temporarily increased for the period August 1, 2008, through December 31, 2008, in accordance with the 2008-09 Administrative Salary Schedule Classification D, Dean, total compensation not to exceed Step 13.”

On the same day, the Interim Chancellor instructed the Academic Payroll department to raise the Acting Dean’s salary rating from D, Step 11 to D, Step 13 because of “Resolution 080828-F2 Temporary Additional Duties and Salary Adjustment.”

Furthermore, the Interim Chancellor, in a memorandum to the Board of Trustees dated June 25, 2009, “SUBJECT: Non-Educational Administrative Appointment (Resolution No. 090625-F1)” recommended in part:

“BE IT FURTHER RESOLVED: That as a result of [new appointment’s name] appointment as Chief of Police, the assumption of temporary management duties of the Public Safety Department along with the temporary increase in salary for Acting Dean of Student Affairs, [Acting Dean’s name] (authorized by Resolution No. 080828-F2) end effective June 30, 2009.”

The additional Public Safety Department duties performed by the Acting Dean, as noted above, do not meet the definition of creditable service per Education Code § 22119.5. Therefore, the member’s associated compensation is non-creditable to the DB Program.

In addition, compensation paid for the additional assignment in excess of a full-time position (i.e., in excess of one year of service credit) is non-creditable to the DB Program.

Finding 3 – Criteria:

Education Code § 22119.2 (a)(1) states that: “‘Creditable compensation’ means salary and other remuneration payable in cash by an employer to a member for creditable service.”

Education Code § 22119.5 “Creditable service” states:

“(a) ‘Creditable service’ means any of the following activities performed for an employer in a position requiring a credential, certificate, or permit pursuant to this code or under the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges or under the provisions of an approved charter for the operation of a charter school for which the employer is eligible to receive state apportionment or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training:

- (1) The work of teachers, instructors, district interns, and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupation programs, child care centers, and prekindergarten programs pursuant to Section 22161.
- (2) Education or vocational counseling, guidance, and placement services.
- (3) The work of directors, coordinators, and assistant administrators who plan courses of study to be used in California public schools, or research connected with the evaluation or efficiency of the instructional program.
- (4) The selection, collection, preparation, classification, demonstration, or evaluation of instructional materials of any course of study for use in the development of the instructional program in California public schools, or other services related to school curriculum.
- (5) The examination, selection, in-service training, or assignment of teachers, principals or other similar personnel involved in the instructional program.
- (6) School activities related to, and an outgrowth of, the instructional and guidance program of the school when performed in addition to other activities described in this section.
- (7) The work of nurses, physicians, speech therapists, psychologists, audiometrists, audiologists, and other school health professionals.
- (8) Services as a school librarian.
- (9) The work of employees who are responsible for the supervision of persons or administration of the duties described in this section.”

Finding 3 – Effect:

The Acting Dean’s final compensation (school year 2008-09) that CalSTRS used to calculate his retirement allowance was overstated by \$13,415. This error caused his Defined Benefit (DB) retirement allowance to be overstated by approximately \$667 per month. Overpayments accumulated from the impacted member’s retirement date (July 1, 2010, until May 31, 2012) total approximately \$15,346. Refer to the Confidential Appendix.

Future benefit overpayments could total over \$80,040 ($\$667 \times 12 \times 10$) by extrapolating the monthly overpayments over ten years. Member and employer contributions on non-creditable compensation total \$2,180. Refer to the Confidential Appendix.

Finding 3 – Corrective Action Required (and Relevant Provisions of Teachers’ Retirement Law):

- In accordance with Education Code § 23008(a), the District must submit corrections to reverse out the non-creditable salary adjustment which it incorrectly reported to CalSTRS. The District must make the corrections on the CalSTRS Form F496, “Report of Retirement Contributions.” Please refer to the Confidential Appendix for specific adjustments needed. The District must make these corrections within 60 days of the final audit report date.

Education Code § 23008(a) states in part:

“If more or less than the required contributions ... are paid to the system based on any payment of creditable compensation to a member, proper adjustments shall be made on a monthly report ... College superintendent ... who submitted the report, within 60 days after discovery or notification by the system and any refunds shall be made to the member within the same time period by the employing agency.”

- Once the District submits the corrections to CalSTRS, CalSTRS will recalculate the retired member’s retirement allowances using the correct final compensation and notify the retired member. Overpayments related to incorrectly reported compensation approximate \$15,346 as of May 31, 2012, and will continue to increase until properly reported by the District as instructed in this audit.
- CalSTRS will establish a receivable and collect overpayments from the member, former member, or beneficiary pursuant to Education Code sections 24616 and 24617.

Education Code § 24616 states in part: “Any overpayment made to or on behalf of any member, former member, or beneficiary, [...] shall be deducted from any subsequent benefit that may be payable [...], except as provided in Section 24616.5.”

Education Code § 24617, subdivision (a) states in part: “To recover an amount overpaid, the corrected monthly allowance payable [...] may be reduced by no more than [five] 5 percent if the overpayment was due to error by the [...] school district.”

- The District will pay to CalSTRS the difference between the overpayment and the actuarial present value of payments expected to be paid by the member, former member, or beneficiary.

Education Code § 24616.5 states:

“If an employer reports erroneous information, the system shall calculate the actuarial present value of the expected payments from the member, the former member, or beneficiary pursuant

to Sections 22008 and 24617. The employer shall pay the difference between the total amount of the overpayment and the calculation of the actuarial present value of expected payments.”

In other words, the District will be required to pay CalSTRS for benefit overpayments that CalSTRS has projected that it will not collect from the member. This amount will be computed by the CalSTRS Accounting Division using actuarial tables.

- Once the corrections are made, the District must refund the member contributions to the retired member identified in the Confidential Appendix.

Finding 4 – The District Incorrectly Reported to CalSTRS Six Employees’ Compensation to the Defined Benefit (DB) Program.

Finding 4 - Discussion:

- a. The District incorrectly reported five employees’ compensation paid for additional assignments.

The District incorrectly reported to CalSTRS Defined Benefit (DB) Program compensation that was earned by five employees for working in excess of a full-time assignment. Specifically, the District included pay for additional assignments in the regular salary when reporting compensation to CalSTRS. These additional assignments are noted as follows:

School Year	Full-time Assignment	Additional Assignment	Retirement Date
05/01/09-10/16/09	Dean, Alemany Campus	“Additional responsibilities and duties resulting from this policy program.” (1)	07/01/10
2010-11	Dean, Evans Campus	Dean Southeast Campus (2)	07/01/11
2010-11	Dean, Financial Aid & Extended Opportunity Programs and Services (EOPS)	Vice-Chancellor, Student Development (4)	N/A
09/01/08-12/31/08	Dean, Financial Aid & EOPS	Dean, Mission Campus (3)	
2010-11	ADA Compliance Director/Assistant Legal Counselor (7)	Chief Legal Counsel (5)	N/A
2010-11	Dean of Human Resources	Dean, Library and Learning Resources(6)	N/A

- (1) Source: Memo from Chancellor to Board of Trustees dated April 30, 2009 – Resolution 090430-F1
- (2) Source: Memo from Chancellor to Board of Trustees dated June 17, 2010 – Resolution No. 100624-F10
- (3) Source: Memo from Chancellor to Board of Trustees dated June 17, 2010 – Resolution No. 080828-F3
- (4) Source: Memo from Chancellor to Board of Trustees dated August 28, 2008 – Resolution No. 100624-F14
- (5) Source: Memo from Chancellor to Board of Trustees dated June 17, 2010 – Resolution No. 100624-F12
- (6) Source: Memo from Chancellor to Board of Trustees dated June 17, 2010 – Resolution No. 100624-F11
- (7) Employee’s full-time assignment was not creditable service – refer to Finding 1.

For instance, the District’s Chancellor, in memos to the Board of Trustees, states:

April 30, 2009, “Subject: ... Temporary Additional Duties & Salary Dean Alemany Campus (Resolution No. 090430-F1),”

“Recommended: RESOLVED: That effective May 1, 2009 – December 31, 2009 [employee] perform his duties as Dean Alemany Campus while performing the additional duties administrative responsibilities and duties resulting from this policy/program. To reflect these additional duties, [employee’s] salary shall be temporarily increased for the same period in accordance with the 2008-2009 Administrators’ Salary Schedule Classification D, Dean, not to exceed Step 13.”

Prior to this additional assignment, the employee was at Step D 12 on the salary schedule.

Memo dated June 17, 2010, "Subject: ... Temporary Additional Duties & Salary for Interim Dean Evans Campus (Resolution No. 100624-F10)"

"RESOLVED: That effective July 1, 2010 – June 30, 2011, or until a permanent dean is hired, [employee], Interim Dean Evans temporarily perform the additional duties and responsibilities as the Dean Southeast Campus. Salary shall be temporarily increased for the same period in accord with the 2007-08 Administrators' Salary Schedule Classification D, Dean, Step 12."

Prior to this additional assignment, the employee was at Step B 12 on the salary schedule.

Pay earned for assignments in excess of a full-time position is not creditable to the DB Program because the reporting of this pay to the DB Program violates Education Code § 22138.5. Furthermore, the additional assignment was not consistently given to these employees throughout their careers with some of the additional assignments given to employees during the final compensation year. Therefore, reporting this pay to the DB Program violates Education Code § 22119.2(f).

- b. The District incorrectly reported one employee's compensation received in excess of that approved by the District Board of Trustees.

Notwithstanding Finding 1, the District incorrectly reported to CalSTRS DB Program compensation that was earned by the Associate Vice-Chancellor, Facilities, Planning, and Management in excess of that approved by the District's Board of Trustees. The District paid this employee in excess of the salary schedule from his hire date until his retirement date. The District reported this additional pay to CalSTRS as part of his creditable earnings (refer to the Confidential Appendix). For instance, during FY 2008-09 school year, the District reported \$205,499 as creditable compensation for this employee even though the salary schedule rate was \$183,272.

Pay in excess of the approved salary schedule, employment agreement, or that is otherwise not payable to all persons in the class of employees, is not creditable to the DB Program; and the reporting of this pay violates Education Code § 22119.2(a)(1) and (2).

Finding 4 - Criteria:

Education Code § 22115(a) states: "Compensation earnable' means the creditable compensation a person could earn in a school year for creditable service performed on a full-time basis, excluding service for which contributions are credited by the system to the Defined Benefit Supplement Program."

Education Code § 22119.2(a)(1) and (2) states:

“‘Creditable compensation’ means remuneration that is payable in case by an employer to all persons in the same class of employees and is paid to an employee for performing creditable service. Creditable compensation shall include: (1) Salary paid in accordance with a salary schedule or employment agreement. (2) Remuneration that is paid in addition to salary, providing it is payable to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.”

Education Code § 22119.2(f) states:

“The definition of ‘creditable compensation’ in this section is designed in accordance with sound funding principals that support the integrity of the retirement fund. These principles include, but are not limited to, consistent treatment of compensation throughout the career of the individual member, consistent treatment of compensation for an entire class of employees...”

Education Code § 22138.5(a) states in part: “‘Full time’ means the days or hours of creditable service the employer requires to be performed by a class of employees in a school year in order to earn the compensation earnable as defined in Section 22115 and specified under the terms of a collective bargaining agreement or employment agreement.”

Education Code § 22905(b)(1) states: “Member and employer contributions on a member’s compensation under the following circumstances shall be credited to the member’s Defined Benefit Supplement Account: Compensation for creditable service that exceeds one year in a school year.”

Finding 4 - Effect

- a. The District incorrectly reported five employees’ compensation for additional assignments.

The reporting errors caused \$46,290 in total compensation to be reported incorrectly to the DB Program for four of the five employees. In addition, the reporting errors caused member and employer contributions totaling approximately \$6,807 on earnings of \$46,290 to be credited to the employees’ DB Program accounts instead of being correctly credited to the employees’ DBS Program accounts. The remaining employee did not perform creditable service (Finding 1); and, therefore, does not have creditable compensation. Refer to the Confidential Appendix.

Further, a reporting error caused the Dean, Evans Campus’ final compensation to be overstated, resulting in overpayment of his retirement allowances by approximately \$621 per month. Overpayments accumulated from the affected member’s retirement date of July 1, 2011, through May 31, 2012, total approximately \$6,836. Future overpayments could total over \$74,572 by extrapolating the monthly overpayment over ten years.

- b. The District incorrectly reported one employee's compensation received in excess of that approved by the District Board of Trustees.

The Associate Vice-Chancellor, Facilities, Planning, and Management's final compensation period reported by the District and used to calculate his retirement allowance was overstated by \$61,216.45. The District paid the employee a compensation that was in excess of his approved salary schedule. This error caused his DB retirement allowance to be overstated by approximately \$240 per month. However, this amount was adjusted by \$16 due to incorrect reporting of base days on the Unused Sick Leave report. Therefore, total allowance was overstated by \$224. Overpayments accumulated from the impacted employee's retirement date (October 22, 2009, until May 31, 2012) total approximately \$6,944. Refer to the Confidential Appendix.

In addition, future benefit overpayments could total over \$26,880 by extrapolating the monthly overpayments over ten years. Employee and employer contributions on non-creditable compensation total \$9,948. Refer to the Confidential Appendix.

Further, compensation reported incorrectly to the DB Program for the Associate Vice-Chancellor, Facilities, Planning, and Management in excess of the salary schedule totaled \$142,259, and member and employer contributions on that compensation total \$23,117.

Finding 4 - Corrective Action Required (and Relevant Provisions of Teachers' Retirement Law):

- The District must submit the corrections to reverse out incorrectly reported compensation identified in this Finding. The District must report the compensation identified in the Confidential Appendix using Assignment Code 55 (part-time) and Contribution Code 1 (normal contributions) on the CalSTRS Form F496, "Report of Retirement Contributions." The District must make these corrections within 60 days of the final audit report date.

Education Code § 23008(a) states in part:

"If more or less than the required contributions ... are paid to the system based on any payment of creditable compensation to a member, proper adjustments shall be made on a monthly report ... district superintendent ... who submitted the report, within 60 days after discovery or notification by the system and any refund shall be made to the member within the same time period by the employing agency."

- Once the adjustments to creditable compensation are correctly reported, CalSTRS will recalculate the members' retirement allowances using the correct final compensation and notify the retired members of the adjustments made to his/her benefits. Overpayments related to incorrectly reported compensation will continue to increase until properly reported by the District, as instructed in this audit.
- CalSTRS will establish a receivable and collect overpayments from the members, former members, or beneficiaries pursuant to Education Code § 24616 and 24617.

Education Code § 24616 states in part: “Any overpayment made to or on behalf of any member, former member, or beneficiary, [...] shall be deducted from any subsequent benefit that may be payable [...], except as provided in Section 24616.5.”

Education Code § 24617, subdivision (a) states in part: “To recover an amount overpaid, the corrected monthly allowance payable [...] may be reduced by no more than [five] 5 percent if the overpayment was due to error by the [...] school district.”

- The District will pay to CalSTRS the difference between the overpayment and the actuarial present value of payments expected to be paid by the members, former members, or beneficiaries.

Education Code § 24616.5 states:

“If an employer reports erroneous information, the system shall calculate the actuarial present value of the expected payments from the member, the former member, or beneficiary pursuant to Sections 22008 and 24617. The employer shall pay the difference between the total amount of the overpayment and the calculation of the actuarial present value of expected payments.”

In other words, the District will be required to pay CalSTRS for benefit overpayments that CalSTRS has projected that it will not collect from the member. This amount will be computed by the CalSTRS Accounting Division using actuarial tables.

Finding 5 – The District Incorrectly Reported Members’ Earnings as Non-Member Earnings.

Finding 5 – Discussion:

The District incorrectly reported to CalSTRS nineteen (19) members’ earnings as non-member earnings. These members elected membership at another position or at another employer.

Finding 5 – Criteria:

Education Code § 22146 states in part: “‘Member’ means any person, unless excluded under other provisions of this part, who has performed creditable service as defined in Section 22119.5 and has earned creditable compensation for that service and has not received a refund for that service and, as a result, is subject to the Defined Benefit Program.”

Education Code § 22502 (b) states:

“Any person employed by a community college district to perform creditable service on a part time basis, who is not already a member of the Defined Benefit Programs, shall become a member as of the first day of the pay period following his or her employment to perform creditable service subject to Sections 87474, 87480, 87481, 87482, or 87485 unless excluded from memberships pursuant Section 22601.”

Education Code § 22503(a) states:

“Any person employed to perform creditable service as a substitute employee who is not already a member of the Defined Benefit Program is a member as of the first day of the pay period following the pay period in which the person performed 100 or more complete days of creditable service during the school year in one school district, community college district, or county superintendent’s office, unless excluded from membership pursuant to section 22601.”

Education Code § 22504(a) states in part:

“Any person employed by a school district or county office of education to perform creditable service on a part-time basis, who is not already a member of the Defined Benefit Program, shall become a member as of the first day of the pay period following the pay period in which the person performed at least 60 hours of creditable service, if employed on an hourly basis, ... during the school year, in one school district or county office of education, unless excluded from membership ...”

Education Code § 22504(b) states:

“Any person employed by a community college district to perform creditable service on a part time basis, who is not already a member of the Defined Benefit Programs, shall become a member as of

the first day of the pay period following his or her employment to perform creditable service subject to Sections 87474, 87480, 87481, 87482, or 87485 unless excluded from memberships pursuant Section 22601.”

Education Code § 22901 states: “Each member of the Defined Benefit Program shall contribute to the retirement fund an amount equivalent to 8 percent of the member’s creditable compensation.”

Education Code § 22950(a) states: “Employers shall contribute monthly to the system 8 percent of the creditable compensation upon which members’ contributions under this part are based.”

Education Code § 23000 states: “Each employer shall deduct from the creditable compensation of members employed by the employer the member contributions required by this part and shall remit to the system those contributions plus the employer contributions required by this part and Section 44987.”

Finding 5 – Effect:

As a result, 19 employees did not receive the proper service credit, and CalSTRS did not receive the potential employee and employer contributions of approximately \$31,539 on \$194,090 of total member earnings.

Finding 5 – Corrective Actions Required:

- The District must submit corrections to adjust the 19 impacted members’ creditable compensation and remit to CalSTRS the related employee and employer contributions. The corrections must be made within 60 days of the final audit report date in accordance with Education Code § 23008(a).
- The District must verify membership status for all part-time employees who worked in a certificated position. Further, the District must determine if these part-time employees are CalSTRS members. If so, the District must report their compensation using Member Code 1 (Member), and remit the member and employer contributions to CalSTRS.

City College of San Francisco

Appendix Index

Appendices

Appendix A

District's Response Dated March 1, 2012

CalSTRS Audit Services Evaluation of District's Response

Confidential Appendix B

Finding 1 – The District Erroneously Reported Employees Who Are Ineligible For CalSTRS Membership.

Finding 2 – The District Incorrectly Reported Compensation During the 2009-10 School Year to CalSTRS For Ten Retired Employees.

Finding 3 – The District Incorrectly Reported to CalSTRS Non-Creditable Compensation as Creditable for One Member.

Finding 4 – The District Incorrectly Reported to CalSTRS Six Employees' Compensation to the Defined Benefit (DB) Program.

Finding 5 – The District Incorrectly Reported Members' Earnings as Non-Member Earnings.

Appendix – A

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*A Joint Powers Authority serving school and  
college districts throughout the state*

March 1, 2012

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Re: Draft Audit of City College of San Francisco – Project No. SEA 09.30

Dear Ms. Campbell-Smith:

This constitutes the response of City College of San Francisco<sup>1</sup> (CCSF) to the January 31, 2012 draft audit report of the California State Teachers' Retirement System (STRS). CCSF's initial position regarding each draft audit finding is provided below.<sup>2</sup>

Background. STRS asserts that CCSF erred in reporting STRS membership and/or in reporting STRS member contributions in five (5) different ways. STRS findings are set out at page 1 of its January 31, 2012 draft as follows:

Finding 1: CCSF "erroneously reported service to CalSTRS on behalf of employees ineligible for CalSTRS membership."

Finding 2: CCSF "incorrectly reported compensation during the 2009-2010 school year to CalSTRS for ten retired employees."

Finding 3: CCSF "incorrectly reported to CalSTRS non-creditable compensation as creditable for one member."

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<sup>1</sup> The San Francisco Community College District

<sup>2</sup> CCSF expressly reserves the right to provide additional information, position statements, arguments, and defenses that are not included in this response.

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Finding 4: CCSF "incorrectly reported to CalSTRS six employees' compensation paid above their full-time salary."

Finding 5: CCSF "incorrectly reported member's earnings as non-member earnings."

Legal Issues. This audit process is complicated because it addresses the employment of individuals who were hired into specific positions over multiple decades. One potentially affected employee was initially hired in 1969. Basic laws for community college employment have changed significantly over those years. The laws regarding state teachers' retirement have also changed significantly over these years. CCSF submits that it is not legally possible to simply refer to current state teachers' retirement law as though it applies retroactively or uniformly.

In December, 2011, CCSF alerted STRS's staff legal counsel, Jennifer Plescia, about significant changes in the law, including changes in STRS laws. We requested Ms. Plescia to advise us as soon as possible if STRS disagreed with our position. No response was ever received. Accordingly, we conclude that STRS agrees that STRS cannot invoke current statutory provisions as though they apply to circumstances that occurred years prior to their passage. Nevertheless, the draft audit continues to quote improperly from current law without regard to its irrelevancy and non-application to certain issues, positions, and/or individuals.

For example, STRS quotes from Education Code Section 24700<sup>3</sup>. This is a section that applies specifically to CCSF. Section 24700 currently reads:

"On July 1, 1972, and thereafter all persons who first enter employment in the San Francisco Unified School District or the San Francisco Community College District to perform *creditable service* subject to coverage under the Defined Benefit Program are members of the plan in accordance with Section 22501. These new members are excluded from coverage under Subchapter II (commencing with Section 401) of Chapter 7 of Title 42 of the United States Code, for service performed as a member of the plan."

STRS's draft audit document italicized the term "*creditable service*," as though CCSF employee membership in STRS has always depended on providing "creditable service." That is not true. The reference to "creditable service" was not added to section 24700 until 1997, many years after the employment of employees into positions that are now challenged by STRS and who are the subject of this draft audit

STRS also states that STRS membership is conditioned on performing "creditable service." Again, this is not an accurate statement for all the years in question in the audit because "creditable service" was not even defined by the Legislature until 1996.

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<sup>3</sup>All section references are to the California Education Code unless otherwise indicated.

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Finally, STRS cites to section 22508 for the proposition that if an academic employee assumes a classified position, that employee must notify STRS in writing if he/she wishes to remain in STRS. This "election" section has also changed over the years. Prior to 1997, a member was required to notify STRS only if he/she wished to leave STRS.

The draft audit also does not reflect an understanding of California community college organization. AB 1725 (Stats. 1988, c. 973.) was significant to the community college system. It increased authority within the community college system, so that the community college system would begin to more closely resemble the other two segments of California's public higher education system (i.e., the University of California and the California State University system). This governance principle was stated as follows:

"AB 1725 embraces the notion of the community colleges operating as a system – comprised of the Board of Governors and local governing boards – that functions apart from, but responsive to, the Legislature. Embodied in this notion is an intent to strengthen governance both by and within the system. *The Board of Governors and local governing board are enabled to respond to state interests and concerns as a system – through the system's own internal governance mechanisms – rather than having to be so reliant on the Legislature.*" (*AB 1725: A Comprehensive Analysis*, Page 4, emphasis added, January 1989. A publication of the Board of Governors of the California Community Colleges.

The Legislature confirmed that the California Community Colleges is a postsecondary education system that is comprised of the State Board of Governors and the local community college districts. (Education Code, section 70900) The authority of local districts was maximized, such that the State Board of Governors is required to recognize "to the maximum degree permissible, local authority and control in the administration of the California Community Colleges." (Section 70901(a).)

AB 1725 represented a significant, new direction for community college district employment practices. Credentials that were once issued at the state level were replaced by a system of "minimum qualifications." The state Board of Governors establishes minimum employment qualifications, and these minimum qualifications are applied by each community college district.

Various follow-up legislation was needed to facilitate AB 1725's implementation. Section 87001 was added in 1990 to clarify the transition from employment pursuant to credentials to employment pursuant to minimum qualifications and no credentials (Stats. 1990, c. 1302.) A key new statute was section 87001.

Subdivision (a) of 87001 states that an academic employee is an employee who occupies an academic position.

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Subdivision (b) of 87001 states that academic positions are those for which the state Board of Governors has established minimum qualifications.

Subdivision (c) of 87001 states that anywhere in any code that the term "certificated employee" appears, that reference should be considered a reference to a community college academic employee. Subdivision (c) represents the Legislature's recognition that the term "certificated employee" could appear in any number of California code sections. Subdivision (c) provided a comprehensive "fix" so that all statutory references to "certificated" employees did not need to be immediately changed to "academic" employees.

Subdivision (d) continued the theme of subdivision (c) by verifying that anywhere in any code that included a reference to "positions requiring certification qualifications" must be construed as being deemed a reference to community college academic positions.

STRS's audit has, at times, ignored the clear legislative authority of CCSF. STRS cites to the following single sentence of subdivision (d) as though it limits the ability of community colleges to designate positions as academic positions. STRS quotes:

"Nothing in this part shall be construed as repealing or negating any provisions in this code or any other code concerning employees of community college districts for purposes of retirement benefits under the State Teachers' Retirement System by referring to those employees as academic employees."

STRS misconstrues this statement. It does not restrict districts from establishing academic positions. To the contrary, the foregoing sentence constitutes a protection to all community college employees who are designated as academic employees by their boards. It verifies that community college employees cannot be denied retirement benefits by virtue of being referred to as "academic" employees as opposed to being referred to as "certificated employees."

Additionally, the STRS's draft audit suggests that CCSF references to "academic, non-educational administrators" are references to classified employees who are not eligible for STRS membership. This conclusion is not accurate.

Section 70902 grants broad authority to CCSF, and CCSF has used this broad authority and the authority of section 87001 to define "academic, non-educational administrators" in a specific way. It is indisputable that CCSF is authorized to designate positions as "academic positions."

The draft audit also does not reflect an understanding of the term "educational administrator." If an academic administrator is also considered an "educational administrator," then that individual has the opportunity to become a first-year probationary faculty member if he/she completes at least two (2) years of satisfactory service in that position. However, if an academic administrator is not considered an "educational administrator," he/she does not have

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the opportunity to become a first-year probationary faculty member upon the completion of 2 years of satisfactory service. (Section 87458.) The law allows the establishment of two types of academic employees. Designating two types of academic employees allows flexibility under section 87458. Furthermore, the fact that an academic administrator is not an educational administrator does not mean that the person is a classified employee.

Prior to AB 1725, any credentialed administrator could "count" all of his/her administrative service towards tenure as a faculty member. Thus, a dean of instruction who had never taught would be a tenured faculty member at the end of a probationary period that was served solely in the administrative position. This structure conflicted with the principle of hiring only the best teachers for teaching positions.

After AB 1725, administrative service no longer counted towards faculty tenure. Instead, if a person in an academic position and is also designated as an educational administrator, he/she has so-called "retreat rights," meaning he/she has the opportunity to become a probationary faculty member at the end of two (2) years of satisfactory administrative service. This new system requires academic administrators who are also educational administrators who leave administrative service to prove themselves as faculty by fulfilling a probationary period as faculty.

At CCSF, an academic educational administrator has retreat rights; an academic non-educational administrator does not have retreat rights. This distinction does not affect the status of individuals as "academic" employees. If CCSF erred by making this distinction among its academic administrators, the challenge would be that it failed to grant "retreat rights" appropriately. However, the scope of "retreat rights" is distinct from STRS membership.

Equitable Issues. STRS's audit raises issues that STRS has never raised with CCSF before, including issues concerning employees who have been making contributions to STRS for decades without any STRS question. Some of these individuals have already retired. Nothing in the draft audit suggests any wrongdoing on the part of any affected employee. It is unconscionable for STRS to suddenly threaten the retirement of persons who served for decades and who have now retired or are near retirement.

CCSF has advised STRS that a number of the positions that STRS apparently believes are not proper academic positions are clearly considered academic positions throughout the community college system. For example, STRS apparently questions whether a position that is responsible for fiscal/administrative services can be an academic position. CCSF advised STRS that five other community college districts recently advertised such positions as academic positions that are eligible for STRS membership. (These positions were advertised by Antelope Valley College, San Jose/Evergreen Community College District, Palomar College, Lake Tahoe Community College District, and West Valley-Mission Community College District.) One may suspect that other districts that are not currently recruiting for these positions also consider them to be eligible for STRS participation.

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Given the above, it appears that CCSF has been singled out from among other district employers for a STRS challenge with respect to these positions. Such selective enforcement is not equitable. The above information also suggests that other colleges have used their statutory authority to designate positions as academic and that there is at the least a "disconnect" by STRS with the community colleges. If clarification between the Community College and STRS is needed throughout the system, then it should be provided in a non-punitive way for all college districts. Certainly, STRS should not ignore this issue, wait decades, and then challenge the STRS membership of another unsuspecting group of innocent employees.

CCSF also requests STRS to take into consideration its unique circumstances. CCSF is unusual among community college district employers that report employee information to STRS. The usual standard for community college districts (as well as K-12 districts) is to report STRS contributions through a county office. County office STRS coordinators then review district information for accuracy and appropriateness, and the county then reports district information to STRS. These county office STRS coordinators provide expert assistance to districts in proper reporting and in meeting STRS requirements.

CCSF has never had access to county office assistance in STRS reporting. As a community college district located within a charter city and county, the usual county office support does not exist for CCSF. Instead, the Governing Board of the San Francisco Unified School District functions as the county board, but it does not provide any assistance to CCSF in STRS reporting. Accordingly, CCSF is disadvantaged because county office expertise in reporting to STRS that is available to other community college districts is not available to CCSF.

Throughout this audit process, CCSF has requested to meet with appropriate representatives to explore STRS resolution efforts to address these complicated legal and equitable issues. CCSF has repeatedly appealed to STRS to consider the innocent victims of STRS's efforts to retroactively deny membership to a number of long-term employees. CCSF renews its plea for resolution efforts that result in informed future decisions and the protection of faithful public employees.

In addition to the above response CCSF provides the following:

CCSF Response to Finding 1: CCSF "erroneously reported service to CalSTRS on behalf of employees ineligible for CalSTRS membership."

This finding has two parts. First, STRS asserts that ten (10) academic administrative positions are ineligible for STRS membership. Second, STRS asserts that an additional fourteen (14) positions are "potentially ineligible" for membership.

As to the first part of this finding, STRS asserts that the duties of ten (10) CCSF administrators did not constitute service that was eligible for STRS membership. CCSF maintains that it is authorized to designate positions as academic positions in accordance with applicable minimum qualifications and the broad grant of authority established by the

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Legislature as described above. CCSF has also submitted a specific response on specific positions in question. CCSF reserves the right to provide additional responses. CCSF is also interested in exploring possible resolution that would designate certain positions outside of STRS provided that individuals have an appropriate remedy that would maintain retirement.

However in the absence of an opportunity to work with STRS on a resolution, the CCSF reserves the right to challenge the draft audit in all aspects.

With respect to the second part of this finding, STRS indicates that additional administrative positions are "potentially ineligible" for STRS membership. CCSF maintains that some of the administrators who held these positions were STRS members under previous applicable law and CCSF is in the process of securing documentation of previous STRS membership. CCSF further maintains that its College Board was authorized to designate these administrative positions as academic positions for all purposes.

CCSF also challenges the corrective action that would require a review back to July 1, 1988 within 60 days. As we have already noted above and in prior correspondence to STRS – the law has changed significantly. It would be an enormously time consuming, labor intensive, process to undertake a review and would take much more than sixty (60) days.

CCSF Response to Finding 2: CCSF "incorrectly reported compensation during the 2009-1010 school year to CalSTRS for ten retired employees."

STRS asserts that CCSF generally deferred salary step increases for its academic administrators for the 2009-2010 college year, but it then provided the step increase for those academic administrators who retired with an effective date during that 2009-2010 college year. STRS quotes from Board Resolution 090625-S1 as the basis for this finding.

CCSF contests this finding. Resolution 090625-S1 verified that this salary step was a deferral. Those individuals who did not retire by the end of 2009-2010 received the 2009-2010 step increase as of July 1, 2010 in accordance with Resolution 100624-S4.

More importantly, CCSF denies that its actions were intended to treat members of a particular class of employees differently. CCSF intended to treat all of its administrators the same. The decision as to whether a salary step was available was in the hands of the administrators.

Put a different way, CCSF treated its administrative employees the same way by offering all academic administrators the same option. If they wished to continue working, they would have to agree to deferred step increases. If they wished to retire, there was no deferral.

In addition STRS asserts that CCSF applied a 6% salary reduction during 2009-2010 for its academic administrators who earned \$150,000 or more for that year. STRS asserts that CCSF

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paid back this reduction to those academic administrators who retired by the end of the 2009-2010 college year.

STRS bases the second part of its finding on language from CCSF's Board Resolution 090924-B1. Specifically, STRS draft audit states it relied on the following language:

"Board Resolution No. 090924-B1 in regard to the Adoption of Annual Budget 2009-2010 Budget (Final Budget) states: 'This budget includes specific cost reduction amendments as follows: a six percent salary reduction for all administrators earning \$150,000 dollars a year or more resulting in savings during the 2009-2010 fiscal year. .'"

STRS also reports that this finding was based on other language from Board Resolution 090924-B1:

"At the Board meeting, the Board reserves the right and hereby gives notice that it may amend this budget resolution by taking actions which include but are not limited to enacting reduction in salaries and/or benefits for any group of District employees, including members of the Board of Trustees; rescinding or modifying any prior resolutions that authorized agreements with and/or payments to outside entities; rescinding or modifying any prior resolutions that appointed any employee; transferring any sums of money from any one budget category to any other budget category; all of the foregoing to be accomplished only as permitted by applicable law."

To the extent the foregoing language addressed potential salary or benefit reductions, those reductions were intended "for any group of District employees." That is, CCSF contemplated groups of employees, not individuals.

However, the September 2009 Board Resolution 090924-B1 did not pass; it was tabled. The final budget resolution returned for Board action in October as Board Resolution 091022-B1. The October resolution was adopted. It did not contain the above-cited language. CCSF further questions the conclusion that information in a budget is action to modify salaries.

The intended purpose of the reductions was to preserve increasingly scarce District resources in an unpredictable fiscal climate. It was not the intention of the reductions to jeopardize the long-range salary and retirement expectations of its employees.

STRS invokes section 22119.2 for determining whether the compensation related to this finding should count as "creditable compensation." As noted in section 22119.2(f), certain principles apply in determining whether compensation is creditable. These statutory principles were not offended by providing the retirees with the steps or salary that were already built into CCSF's existing compensation structure.

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One of the principles is to provide "consistent treatment of compensation throughout a member's career." This principle guards against "spiking" where an individual works at a lower salary throughout his/her career and then receives an inflated salary immediately prior to retirement to increase his/her long-term retirement benefits.

The affected administrators worked for many years under a system of progressive and predictable salary increases that reflected years of satisfactory service. Providing the questioned steps and salary was merely a continuation of this progressive process of compensation. The restoration was not an artificial salary enhancement at the end of a career for the purpose of artificially inflating retirement benefits. It represented "consistent treatment of compensation throughout a member's career" in accordance with the principles of section 22119.2(f). Most importantly it represented compensation consistent with the applicable salary schedule.

Providing the steps and salary also reflected consistent treatment of compensation among the entire class of employees to the extent that every academic administrator had the opportunity to retire and to realize the progressive increases. There was not "adverse selection" by the District. That is, no employee was given special treatment by CCSF – the opportunity for restoration rested with the employees themselves.

As noted above, the principle that compensation should not be "paid for the principal purpose of enhancing a member's benefits under the plan" was also not offended. CCSF had an established, progressive system of compensation. CCSF undertook a one-time effort to conserve its on-hand financial resources. The restoration of steps and salary reflected its intent that these temporary cost-saving efforts not harm those who subsequently decided to retire. The restoration merely put the employees in the position they would have been in under a long-established compensation structure; it did not enhance their retirement beyond what they expected under the application of CCSF's standard processes.

The "principles that support the integrity of the retirement fund" are also not offended by the restorations. It would be profoundly unfair of STRS to penalize these employees when CCSF was merely trying to preserve dwindling resources in the short term and did not intend to impose a permanent penalty of reduced retirement pay on faithful employees.

The College also has questions regarding the corrective action that would require CCSF to pay STRS the difference between the overpayment and the actuarial present value. CCSF will need clarification on what that means and in the absence of that, objects to it.

CCSF Response to Finding 3: CCSF "incorrectly reported to CalSTRS non-creditable compensation as creditable for one member."

STRS asserts that CCSF assigned the duties of "Chief of Police" to an academic administrator in addition to his duties as an academic dean. STRS reports that due to these duties, the dean was placed on a higher step of the administrative salary schedule. When the dean

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retired, his retirement reflected the compensation he received as a result of placement at the higher salary step.

STRS asserts that the Chief of Police duties do not constitute creditable service. STRS further asserts that even if the Chief of Police duties constitute creditable service, the additional assignment should have been credited to the member's Defined Benefit Supplement account rather than to the member's Defined Benefit account.

A review of Board Resolution 080828-F2 verifies that CCSF did not assign the duties of "Chief of Police" to the academic administrator, as represented by STRS. The resolution states that the individual was assigned "responsibilities and duties in some of the supervision and management functions of the Public Safety Department." The individual never served as Chief of Police. Compensation for the assigned responsibilities and duties constituted creditable compensation.

CCSF also maintains that the duties were properly included for purposes of the calculation of retirement benefits. Because this issue is also the subject of STRS's Finding 4, CCSF's response to Finding 4 is incorporated here.

CCSF also questions and objects to the corrective action relating to repayment of the difference between the alleged overpayments and the actuarial present value. As noted above, clarification is needed.

CCSF Response to Finding 4: CCSF "incorrectly reported to CalSTRS six employees' compensation paid above their full-time salary."

STRS asserts that CCSF reported excessive compensation to STRS for six employees. This finding takes two distinct forms.

The first form of purported excessive compensation affects five (5) employees. STRS asserts that CCSF incorrectly reported employee compensation that was paid above the full-time salaries of the affected employees. STRS reported that these five employees were given additional administrative duties, and that CCSF increased their compensation to reflect the increased workload.

STRS asserts that section 22138.5 provides that only full-time service may be reported for inclusion in STRS's Defined Benefit program, that these employees already had full-time service, and that the extra duties could not be reported to the Defined Benefit program because they constituted more than full-time service.

CCSF contests STRS's determinations. Section 22138.5 defines "full-time" for purposes of STRS reporting. Subdivision (c)(2) and (3) address the "minimum standard" for "full-time service" for community colleges:

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"(2) One hundred ninety days per year or 1,520 hours per year for all program managers and for administrators, except as provided in paragraph (3),

(3) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer's governing board for administrators at a district office."

STRS has not identified any prohibition to increasing an employee's responsibilities within the above-referenced scope of "full-time" service. STRS had not identified any prohibition to increasing the salary of individuals who have increased responsibilities within the above-referenced scope of full-time service.

CCSF denies that the additional duties assigned to the administrators were some form of "overtime" or "bonus" that should be excluded in their Defined Benefit calculations. Instead, the full-time service of these administrators was adjusted to include additional duties that they were required to perform as part of their usual full-time service. The additional salary was a reflection of the increase level of responsibility.

Section 87806 expressly authorizes a community college board of trustees to increase salaries:

"The governing board of a community college district may at any time during any school year increase the salaries of persons employed by the district in academic positions. The increase shall be effective on any date ordered by the governing board."

Section 22119.2(b) limits the inclusion of salary that is paid "for the principal purpose of enhancing a member's benefits under the plan. . . ." None of the employees who were assigned additional responsibilities within their full-time service and who received a corresponding increase in their full-time salary received the increased salary for "the principal purpose of enhancing a member's benefits under the plan." STRS has not provided any evidence that the increases were intended to "spike" the retirement benefits of the affected employees. Such compensation is creditable unless the salary was paid "for the principal purpose of enhancing a member's benefits." The purpose of the salary increases was clear. Several employees were required to take on increased responsibilities as part of their full-time service and they received increased salary as a result. There is no evidence whatever of an intent to "spike" retirement benefits, and the salaries should be considered creditable compensation.

The second form of purported excessive compensation affects one (1) employee. STRS asserts that one employee was paid in an amount that was above that which was approved by the Board of Trustees. The College continues to review this matter. CCSF also questions and objects to the proposed corrective action that would require the College to pay the difference between the overpayment and the actuarial present value.

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CCSF Response to Finding 5: CCSF "incorrectly reported members' earnings as non-member earnings.

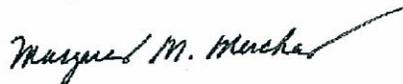
STRS asserts that CCSF did not forward proper compensation for nineteen (19) CCSF part-time employees.

Without acknowledging any wrongdoing, including any erroneous reporting, CCSF will not contest this finding and will take the corrective action specified by STRS.

In closing CCSF submits that there are additional equitable arguments/defenses that will be asserted as necessary in defense of conclusions and consequences suggested by this draft audit. As noted above the proposed conclusions and corrections impact many people, some of whom have been retired for years. It is submitted that STRS and its staff must take appropriate responsibility for processing those retirements and monthly contributions without ever questioning the validity of STRS participation and salary.

The foregoing constitutes CCSF's initial response to the January 31, 2012 draft audit. We respectfully request that STRS schedule a resolution meeting with CCSF. It is our hope that such a meeting would allow for resolution discussions and a mutually agreeable settlement of this matter without further expenditure of scarce resources for all parties.

Sincerely,



Margaret M. Merchat  
General Counsel

C: Dr. Don Q. Griffin, Chancellor  
San Francisco CCD

Jennifer Plescia, Staff Counsel  
CalSTRS

## **CalSTRS Audit Services Evaluation of the District's Response dated March 1, 2012**

### **Finding 1 – The District Erroneously Reported Employees Who Are Ineligible for CalSTRS Membership.**

#### *The District's Response:*

The District presented several legal arguments in its response, including but not limited to, the laws changing over the years.

#### *CalSTRS Evaluation of the District's Response:*

CalSTRS acknowledges Education Code § 22503, Other Employees Working Under Credential, Statutes of 1970, stated in part:

“All other employees ... who are employed in community college districts pursuant to minimum standards adopted by the Board of Governors of the California Community Colleges, and who are employed for at least 50 percent of each school month in work authorized by their credentials, or pursuant to minimum standards, are members of the system.”

However, this section was repealed by the Statutes of 1995.

Education Code § 22146, prior to 1995, states: “Member’ means any person included in the membership of the system.”

However, the Statutes of 1995 changed this section to state (in part): “Member’ means any person, unless excluded under other provisions of this part, who has performed creditable service as defined in Section 22119.5 and has earned compensation for that service....”

The definition of “creditable service” was added by Education Code § 22119.5 to the Teachers’ Retirement Law, effective August 11, 1995, by the Statutes of 1995. The definition remains the same in this section as quoted in the Finding 1 “Criteria.”

Therefore, CalSTRS will allow the District employees reported as members to retain membership if they were hired prior to the August 11, 1995, effective date of the addition of the definition of “creditable Service” to the Teachers’ Retirement Law and the change in definition of “member.” Any employee hired by the District on or after August 11, 1995, who has not performed creditable service as defined in Education Code § 22119.5 remains ineligible for CalSTRS membership. Accordingly, CalSTRS revised Finding 1 in the final report.

Education Code §22508 did change in 1996 to give a member who becomes employed by the same or a different community college district to perform creditable service that requires membership in a different public retirement system, and who is not excluded from membership in that public retirement system, the option of electing to have service subject to coverage by the Defined Benefit Program of

this plan and excluded from coverage by the other public retirement system. The election shall be on a form prescribed by this system within 60 days from the date of hire in the position requiring membership in the other public retirement system. Therefore, CalSTRS is requiring the District to immediately implement this law for any member that is affected by it.

**Finding 2 – The District Incorrectly Reported Compensation During the 2009-10 School Year to CalSTRS For Ten Retired Employees.**

- a. The District inappropriately reported a retroactive step increase.

*The District's Response:*

The District contests this finding for the following reasons:

1. Resolution 090625-S1 verified that this salary step was a deferral. Those individuals who did not retire by the end of the 2009-10 school year received a 2009-10 step increase as of July 1, 2010, in accordance with Resolution 100624-S4.
2. The District treated its administrative employees the same way by offering all academic administrators the same option. If they wished to continue working, they would have to agree to deferred step increases. If they wish to retire, there was no deferral.

*CalSTRS Evaluation of the District's Response:*

1. According to Board Resolutions 090625-S1 and 100624-S4, the step increases for those employees who did not retire in the 2009-10 school year were effective starting July 1, 2010, and were not retroactive. The District gave step increases in 2009-10 only to those employees who retired at the end of that school year. Therefore, the step increases were inconsistently applied among administrators during the 2009-10 school year.
  2. The District did not offer administrators the "same option." Instead, there were two options, and only employees who retired received a step increase.
- b. The District incorrectly reported a salary reduction pay back only for those members who retired in 2009-10.

*The District Response:*

1. CalSTRS bases this part of the finding on the September 2009 Board Resolution 090924-B1. However, this board resolution did not pass. The final budget resolution returned to the Board in October 2009 was adopted.

2. The intended purpose of the reductions was to preserve increasingly scarce District resources. It was not the District's intentions to jeopardize the long-range salary and retirement expectations of its employees.
3. The restoration represented consistent treatment of compensation throughout a member's career because it represented compensation consistent with the applicable salary schedule.
4. Providing the steps and salary also reflected consistent treatment of compensation among the entire class of employees to the extent that every academic administrator had the opportunity to retire and to realize the progressive increases.
5. The principle that compensation should not be "paid for the principal purpose of enhancing a member's benefits under the plan" was not offended. The District had an established, progressive system of compensation. The District took a one-time effort to conserve its financial resources. The restoration of steps and salary reflected its intent that these temporary cost-saving efforts not harm those who subsequently decided to retire.
6. It would be profoundly unfair of CalSTRS to penalize these employees when the District was merely trying to preserve dwindling resources in the short-term and did not intend to impose a permanent penalty of reduced retirement pay on faithful employees.

*CalSTRS Evaluation of the District's Response:*

1. The District is correct in stating that the final approved board resolution did not have Board Resolution 090924-B1 wording as noted in the draft audit report. Accordingly, we removed the reference to this board resolution from the final audit report. However, the fact remains that the District only reported a salary step increase for employees who retired at the end of the 2009-10 school year and did not give or report the step increases for employees who did not retire that year. District personnel and payroll documents support this inconsistent treatment of the step increase.
2. The District has an obligation to comply with the Teachers' Retirement Law.
3. CalSTRS did not question that the salary reduction pay back was inconsistent throughout the member's career.
4. The District did not apply the step increase/salary payback to those administrators who did not qualify for retirement. Therefore, this step increase/salary pay back is inconsistent among the class of employees.
5. The District has an obligation to comply with the Teachers' Retirement Law. CalSTRS has a fiduciary responsibility to ensure compensation reported to the system complies with the Teachers' Retirement Law.

6. The District has an obligation to comply with the Teachers' Retirement Law.

CalSTRS revised the wording of Finding 2 in the final report.

**Finding 3 – The District Incorrectly Reported to CalSTRS Non-Creditable Compensation as Creditable for One Member**

*The District's Response:*

1. Board Resolution 080828-F2 verifies that the District did not assign the Chief of Police duties to the academic administrator. This resolution states that the individual was assigned "responsibilities and duties in some of the supervision and management functions of the Public Safety Department." Compensation for the assigned responsibilities and duties constituted creditable compensation.
2. The District maintains that these duties were properly included for purposes of the calculation of retirement benefits. Because this issue is also the subject of CalSTRS Finding 4, the District's response to Finding 4 is incorporated here.

*CalSTRS Evaluation of the District's Response:*

1. CalSTRS agrees with the District and has revised the wording of Finding 3 in the final audit report to reflect that this member performed additional responsibilities and duties in the Public Safety Department, as stated in Board Resolution 080828-F2, rather than the Chief of Police duties. However, in an e-mail from the District dated April 23, 2010, the Director of Payroll Services stated that this employee was "given extra duties as the acting Police Chief. For that duty, he was given a temporary (8/1/08 thru 12/31/08) pay adjustment."

In addition, the District did not provide any additional evidence that proves compensation paid for the responsibilities and duties in the Public Safety Department is creditable compensation. Functions of the Public Safety Department are not creditable service; therefore, pay for performing these functions is not creditable compensation.

2. Compensation paid for these duties must not be included in the member's Defined Benefit calculation because of the reasons stated in the audit report, Finding 3. The additional duties are not creditable service; therefore, the facts of Finding 4 do not apply.

CalSTRS revised the wording of Finding 3 in the final audit report; however, the required corrective action remains unchanged.

**Finding 4 – The District Incorrectly Reported to CalSTRS Six Employees’ Compensation to the Defined Benefit (DB) Program.**

*The District’s Response:*

1. The District contests CalSTRS determinations. Section 22138.5 defines “full-time” for purposes of CalSTRS reporting. Subdivision (c)(2) and (3) address the “minimum standard” for “full-time service” for community colleges.
2. CalSTRS has not identified any prohibition to increasing an employee’s responsibilities within the scope of “full-time” service. CalSTRS has not identified any prohibition to increasing the salary of individuals who have increased responsibilities within the above-referenced scope of full-time service.
3. The full-time service of these administrators was adjusted to include additional duties that they were required to perform as part of their usual full-time service. The additional salary was a reflection of the increased level of responsibility.
4. Section 87806 expressly authorizes a community college board of trustees to increase salaries.
5. Section 22119.2(b) limits the inclusion of salary that is paid “for the principal purpose of enhancing a member’s benefits under the plan...” CalSTRS has not provided any evidence that the increases were intended to “spike” the retirement benefits of the affected employees. Such compensation is creditable unless the salary was paid for the principal purpose of enhancing a member’s benefits.
6. The second form of purported excessive compensation affects one employee. The District continues to review this matter.
7. The District also questions and objects to the proposed corrective action that would require the College to pay the difference between the overpayment and the actuarial present value.

*CalSTRS Evaluation of the District’s Response:*

1. The Teachers’ Retirement Law defines the “minimum” full-time for a community college employee. This definition is meant to establish a minimum standard in order for a member who works for a community college to obtain one year service credit. The members referenced in Finding 4 would have received one year of service credit as a Dean without performing the additional assignments. Therefore, contributions for the additional assignments should be credited to the DBS Program.
2. CalSTRS is not questioning the amount of payments paid to District employees. CalSTRS has a fiduciary responsibility to ensure compensation reported to the DB program complies with the Teachers’ Retirement Law.

3. According to memorandum from the District’s Chancellor to the Board of Trustees, the additional duties were “temporary,” the additional pay was “temporary,” and the additional pay and duties were given “...or until a permanent [employee] is hired.” Therefore, the memos indicate that the temporary duties were in excess of the full-time positions already held by the applicable employees.
4. CalSTRS is not questioning the amount of payments paid to District employees. CalSTRS has a fiduciary responsibility to ensure compensation reported to the DB program complies with the Teachers’ Retirement Law.
5. CalSTRS did not make reference to the phrase, “for the principal purpose of enhancing a member’s benefits under the plan” in the draft audit report. Finding 4 states that the District incorrectly reported employees’ compensation paid for working in excess of their full-time assignments to the DB Program.
6. The District has not provided any evidence that CalSTRS conclusion was incorrect regarding one employee being paid in an amount above that which was approved by the Board of Trustees.
7. Additional explanation has been added to the final audit report to clarify the corrective actions necessary to apply the law regarding overpayment collection.

CalSTRS revised the wording of Finding 4 in the final audit report.

**Finding 5– The District Incorrectly Reported Members’ Earnings as Non-Member Earnings**

*The District’s Response:*

The District did not contest this finding and has remitted the member and employer contributions to CalSTRS.