

CALIFORNIA STATE AUDITOR

Bureau of State Audits

Implementation of State Auditor's Recommendations

Audits Released in January 2008 Through December 2009

Special Report to
Senate Budget and Fiscal Review Subcommittee #1—Education



February 2010 Report 2010-406 S1

SPECIAL REPORT

The first five copies of each California State Auditor report are free. Additional copies are \$3 each, payable by check or money order. You can obtain reports by contacting the Bureau of State Audits at the following address:

California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814
916.445.0255 or TTY 916.445.0033

OR

This report is also available on the World Wide Web <http://www.bsa.ca.gov>

The California State Auditor is pleased to announce the availability of an on-line subscription service. For information on how to subscribe, please contact the Information Technology Unit at 916.445.0255, ext. 456, or visit our Web site at www.bsa.ca.gov.

Alternate format reports available upon request.

Permission is granted to reproduce reports.

For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

Elaine M. Howle
State Auditor
Doug Cordiner
Chief Deputy

CALIFORNIA STATE AUDITOR

Bureau of State Audits

555 Capitol Mall, Suite 300

Sacramento, CA 95814

916.445.0255

916.327.0019 fax

www.bsa.ca.gov

February 23, 2010

2010-406 S1

The Governor of California
Members of the Legislature
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

The State Auditor's Office presents its special report for the Senate Budget and Fiscal Review Subcommittee No. 1—Education. This report summarizes the audits and investigations we issued during the previous two years that are within this subcommittee's purview. This report includes the major findings and recommendations, along with the corrective actions auditees reportedly have taken to implement our recommendations. To facilitate the use of the report, we have included a table that summarizes the status of each agency's implementation efforts based on its most recent response.

This information is also available in a special report that is organized by policy areas that generally correspond to the Assembly and Senate standing committees. This special policy area report includes a table that identifies monetary values that auditees could realize if they implemented our recommendations, and is available on our Web site at www.bsa.ca.gov. Finally, we notify auditees of the release of these special reports.

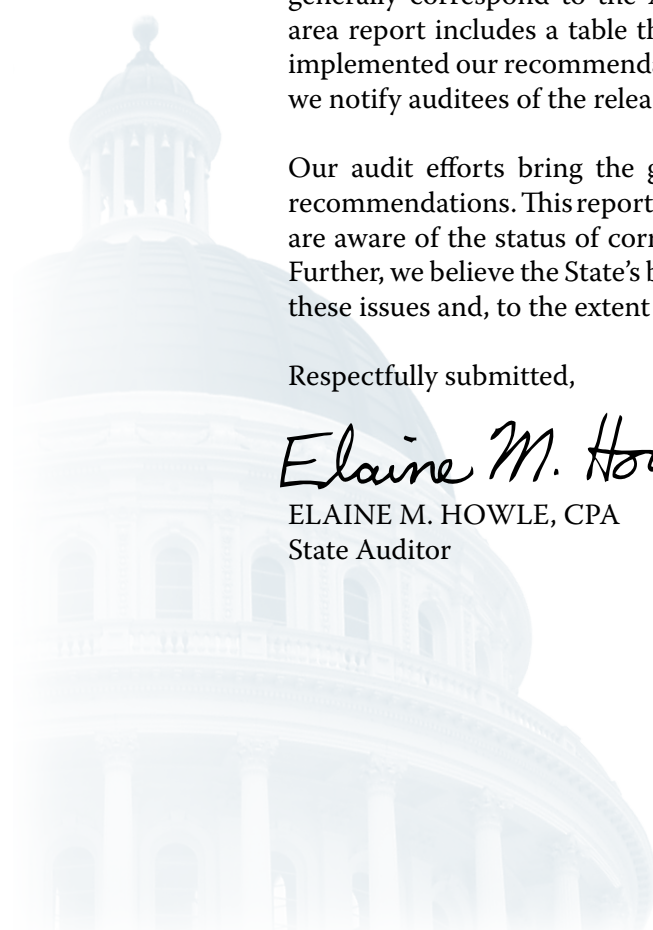
Our audit efforts bring the greatest returns when the auditee acts upon our findings and recommendations. This report is one vehicle to ensure that the State's policy makers and managers are aware of the status of corrective action agencies and departments report they have taken. Further, we believe the State's budget process is a good opportunity for the Legislature to explore these issues and, to the extent necessary, reinforce the need for corrective action.

Respectfully submitted,



Elaine M. Howle

ELAINE M. HOWLE, CPA
State Auditor



Contents

Introduction	1
Table	
<i>Recommendation Status Summary</i>	1
California Community Colleges	
Report Number 2007-116, Affordability of College Textbooks: <i>Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students</i>	3
California State University	
Report Number 2007-116, Affordability of College Textbooks: <i>Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students (see summary on page 3)</i>	
Report Number I2007-1158, California State University, Chancellor's Office: Failure to Follow Reimbursement Policies Resulted in Improper and Wasteful Expenditures	13
Education, Department of	
Report Number 2008-109, California Department of Education: Although It Generally Provides Appropriate Oversight of the Special Education Hearings and Mediations Process, a Few Areas Could Be Improved	17
University of California	
Report Number 2007-116, Affordability of College Textbooks: <i>Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students (see summary on page 3)</i>	

Introduction

This report summarizes the major findings and recommendations from audit and investigative reports we issued from January 2008 through December 2009, that relate to agencies and departments under the purview of the Senate Budget and Fiscal Review Subcommittee No. 1—Education. The purpose of this report is to identify what actions, if any, these auditees have taken in response to our findings and recommendations.

For this report, we have relied upon periodic written responses prepared by auditees to determine whether corrective action has been taken. The State Auditor’s Office (office) policy requests that the auditee provides a written response to the audit findings and recommendations before the audit report is initially issued publicly. As a follow-up, state law requires the auditee to respond at least three times subsequently: at 60 days, six months, and one year after the public release of the audit report. However, we may request an auditee to provide a response beyond one year or we may initiate a follow-up audit if deemed necessary.

We report all instances of substantiated improper governmental activities resulting from our investigative activities to the cognizant state department for corrective action. These departments are required to report the status of their corrective actions every 30 days until all such actions are complete.

Unless otherwise noted, we have not performed any type of review or validation of the corrective actions reported by the auditees. All corrective actions noted in this report were based on responses received by our office as of January 2010. The table below summarizes the number of recommendations along with the status of each agency’s implementation efforts based on its most recent response related to audit reports the office issued from January 2008 through December 2009. Because an audit report and subsequent recommendations may cross over several departments, they may be accounted for on this table more than one time. For instance, the College Textbooks Affordability Report, 2007-116, is reflected under Community Colleges, California State University, and University of California.

Table
Recommendation Status Summary

	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION					PAGE NUMBERS
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	NO FOLLOW-UP RESPONSE	
Community Colleges										
College Textbook Affordability Report 2007-116				●	3	1	1			3
California State University										
College Textbook Affordability Report 2007-116				●	2	3	1			3
Investigations Report I2007-1158	●					1	2			13
Department of Education										
Special Education Hearings Report 2008-109				●	2	1				17
University of California										
College Textbook Affordability Report 2007-116				●	4	1				3

Affordability of College Textbooks

Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students

REPORT NUMBER 2007-116, AUGUST 2008

Responses from the University of California and the California State University as of October 2008, and the California Community Colleges as of August 2009

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the affordability of college textbooks in California's public universities and colleges. As part of our audit, we were to evaluate the textbook industry and its participants—including faculty, students, and others involved with the three public postsecondary educational systems in the State—to determine how the participants' respective roles affect textbook prices. In addition, the audit committee asked that we survey a sample of publishers to ascertain as much as possible about the methods that publishers use to set prices and market textbooks, including any incentives offered and the publishers' decisions about textbook packaging and the need for revisions. Further, we were asked to determine and evaluate how the three postsecondary educational systems identify, evaluate, select, and approve textbooks for courses on their campuses. The audit committee also asked us to identify and evaluate the success of the processes and practices that the University of California (UC), California State University (CSU), and the California Community Colleges (community colleges) use to keep the costs of textbooks affordable.

Finding #1: Publishers have increased the prices they charge retailers, and bookstores add their markup to those prices.

A publisher sells a textbook to a campus bookstore at an invoice price, and then the bookstore adds a markup to that invoice price, arriving at a retail price that will enable the bookstore to at least cover its operating costs. To identify which participant in this process—the publisher or the campus bookstore—is contributing more to the overall increase in the textbook prices students have to pay, we reviewed historical invoice prices and retail prices for a sample of three textbooks adopted by faculty at each of the nine campuses for use during academic years from 2004–05 through 2007–08. We found that the nine campus bookstores we reviewed generally apply a consistent percentage markup to the invoice price for each textbook they sell. Therefore, bookstores' retail prices are increasing proportionately to the increases in the publishers' invoice prices. Ultimately, then, the increase in the publishers' invoice prices is driving the rise in the bookstores' retail prices, which leads to increasing textbook costs for students.

The markups campus bookstores apply to publishers' invoice prices for textbooks range from a low of 25 percent to a high of 43 percent at the nine campuses we reviewed. Campus bookstores generally use the proceeds resulting from these markups to cover their operating costs

Audit Highlights . . .

Our review of the affordability of college textbooks at the University of California (UC), California State University (CSU), and the California Community Colleges (community colleges) systems revealed the following:

- » *Increases in textbook prices have significantly outpaced median household income, which makes it more likely that some students will forgo or delay attending college because of the financial burden that postsecondary education imposes.*
- » *Students can somewhat offset rising textbook costs by purchasing used books or purchasing textbooks from third parties that advertise their textbooks with on-line retailers.*
- » *Several key players in the textbook industry believe the used textbook market drives up the cost of new textbooks and may play a role in how frequently publishers issue new editions.*
- » *Of 23 textbooks we reviewed, publishers released a new edition about every four years on average; however, many of the deans, department chairs, and faculty members that we interviewed stated that revisions to textbooks are minimal and are not always warranted.*
- » *Even though bookstore managers claim that timely textbook adoptions enable them to pay students more for used textbooks and allow them to procure more used books to sell in the next term, the majority of faculty submit textbook adoptions after the initial deadline.*

continued on next page . . .

- » *Campus bookstores have implemented several strategies to reduce students' textbook costs; however they have not consistently employed them.*
- » *The community colleges and CSU, with some participation from UC, have explored possible solutions for the rising costs of textbooks, including open educational resources and the Digital Marketplace, both of which offer means of content delivery that differ from that of traditional textbooks.*

and, in some cases, to support campus activities and organizations. Moreover, the markups that campus bookstores add to the publishers' invoice prices do not only apply to new books; they also apply to used textbooks the campus bookstores purchase from wholesalers or buyback from students at the end of an academic term. Generally, campus bookstores sell a used textbook at 75 percent of the new version's retail price, even though the price students receive at buyback is below that.

After the bookstores cover the operating costs with the proceeds resulting from their markups, they may contribute a portion of their revenues to campus functions, such as the operations of the associated students organization. For instance, in fiscal year 2006–07, the auxiliary that manages the bookstore and food services operation at one campus we reviewed made a contribution of \$100,000 to the university to support various student activities. However, in that same fiscal year the auxiliary's food services operation reported a \$600,000 loss, which the auxiliary covered using the \$1.6 million profit the campus bookstore earned over the same period. Although we recognize that these monetary contributions are important to some campus functions, such as student activities and dining services, it is difficult to assess whether students value these services enough to warrant the markup on textbooks. Given that some students may not want to fund these types of activities by paying higher textbook costs, it seems reasonable for campuses to solicit student feedback on whether they support using the revenues from bookstores to fund various student activities.

To increase awareness and transparency about the reasons campus bookstores add markups to publishers' invoice prices for textbooks, we recommended that UC, CSU, and the community colleges require campuses to reevaluate bookstores' pricing policies to ensure that markups are not higher than necessary to support bookstore operations. If the campuses determine that bookstore profits are needed to fund other campus activities, the campuses should seek input from students as necessary to determine whether such purposes are warranted and supported by the student body, particularly when higher textbook prices result. Further, campuses should direct bookstores to publicly disclose on an annual basis any amounts they use for purposes that do not relate to bookstore operations, such as contributions they make to campus organizations and activities.

UC's Action: Corrective action taken.

According to UC, its campus bookstores set and review pricing policies in order to ensure that textbook markups stay within a range necessary to support bookstore operations and to keep textbooks within a reasonable price range to students. UC indicated that campus bookstores have pricing programs that are reviewed by governing or advisory boards that comprise students, staff, and faculty. UC added that these boards review revenues and the use of revenues as well. Furthermore, it stated that most of the campus bookstores review and disclose information related to bookstore operations on an annual basis and make information widely available upon request.

CSU's Action: Corrective action taken.

CSU explained that while campus bookstores provide an essential service, they are highly capital intensive. CSU added that the costs of providing the infrastructure for selling textbooks as well as the requirement that a campus bookstore offer all texts required by a campus's faculty results in a business that must markup its inventory, including textbooks, to cover its costs. CSU indicated that the markup rates differ across the system and are modified at various points in time when the contracts are negotiated. It also stated that the bookstores operated by campus auxiliaries are all not-for-profit corporations that are required to produce annual audited financial statements that include, among other financial details, the disclosure of net income, revenues and expenditures, and use of any funds provided to the campus for other activities. CSU indicated that it asked campuses to ensure that financial statements are made accessible to any interested student for auxiliary-operated bookstores. However, according to CSU, it cannot require the commercially operated bookstores to share their financial statements. Finally, in August 2009 the CSU sent a memorandum to all campuses instructing them to seek input from students through the bookstore Web site when they plan to use bookstore profits to support campus activities other than bookstore operations.

Community Colleges' Action: Pending.

The community colleges stated that its vice chancellor has held initial conversations with the executive board of the California Community Colleges Association of Chief Business Officers on the topic of increasing transparency in bookstore markups. However, the community colleges indicated that the discussions were placed on hold while the community colleges are dealing with the sizeable cuts sustained by college budgets. The community colleges added that it will resume addressing the issue when the current fiscal crisis has improved.

Finding #2: Many faculty members do not understand how their decisions and priorities affect the textbook costs to students.

Nearly all the faculty members we interviewed about state laws encouraging them to participate in efforts to reduce textbook costs were unaware of them, and many did not understand how their textbook adoption decisions and priorities could affect students' textbook costs. For instance, state law encourages faculty to place their orders in a timely manner with their campus bookstores, and bookstore managers agree that prompt orders enhance their ability to provide students with opportunities for cost savings. However, according to the bookstores' records, most faculty members at the nine campuses in our review failed to meet the bookstores' submission deadlines for textbook adoptions. Specifically, campus bookstores received on average just 20 percent of the required textbook adoptions by the stores' deadlines, which typically fall in the middle of the preceding academic term. Only two of the nine campus bookstores reported receiving more than one quarter of the adoptions on time. Several bookstore managers said that in some cases instructors receive teaching assignments after textbook adoption due dates have passed. Although we acknowledge that these late assignments might contribute to the low submission rates previously noted, our finding that nearly half of the faculty members we spoke to were not aware of the importance of submitting their textbook choices in a timely manner suggests that lack of faculty awareness is likely a dominant factor.

Further, although state law encourages faculty to consider the least costly practices when selecting and assigning textbooks, many faculty members, department chairs, and deans we interviewed at nine campuses stated that cost is the last factor they consider or that they do not consider cost at all during the textbook adoption process. For instance, one professor listed 10 factors he considers more important than cost and cited only the availability of the textbooks as less important than cost. Many faculty members expressed similar priorities, explaining that they choose textbooks by considering factors like quality, readability, and relevance of content rather than cost. Although we acknowledge the importance of providing students with a quality education, faculty's failure to consider less costly textbooks that do not compromise quality may play a role in increasing students' textbook costs.

Additionally, some faculty members we interviewed did not know that bundled textbooks frequently have no resale value. Bookstore managers at the campuses we reviewed stated that they accepted few or no bundled textbooks or their components during buyback at the end of the academic term. Although some bookstore managers stated they sometimes purchase bundled items from students, they explained that usually publishers bundle textbooks with items that cannot be reused, such as CDs with expiring access codes or workbooks with removable pages. However, according to bookstore managers, even a bundle consisting of several separate textbooks may have no buyback value because the publisher has changed the components of the bundle in a revised edition that faculty adopt for the next academic term. Thus, bundled textbooks prevent buyback and limit the used textbook market, depriving students of short-term cost savings they might otherwise realize if faculty had not required them to purchase a textbook bundled with other items.

We recommended that UC, CSU, and the community colleges issue systemwide guidance on the textbook adoption process to ensure that faculty members are aware of factors affecting textbook costs. This guidance should direct campuses to communicate the provisions contained within recent state laws regarding textbook affordability; to advise faculty to submit their textbook adoption information to the bookstores by the due dates; to encourage faculty to consider price in the textbook adoption process and, without compromising the quality of the education students receive or the academic freedom of faculty, to consider adopting less costly textbooks whenever possible; and to instruct faculty to consider adopting textbooks that are not bundled with supplementary products, unless all the components are required for the course.

UC's Action: Corrective action taken.

UC indicated that it sent a letter to each campus from its systemwide headquarters requesting a detailed report on implementation of each of the bureau's audit recommendations. According to UC, each campus reported its implementation efforts to date, but added that these efforts are ongoing and it will continue to evaluate ways in which it can ease the cost of higher education for its students. It also stated that campus bookstores issue guidance on the textbook adoption process and have taken significant steps to ensure that faculty are aware of deadlines for submitting textbook selections, advantages for students of adopting textbook selections in a timely manner, as well as providing advice on bundled materials. According to UC, faculty at all of its campuses have been informed of the textbook affordability issues and their significance in the systemwide Academic Senate's June 2009 issue of *The Senate Source*. UC noted that in the most recent issue of this publication, the Academic Senate provided an overview of faculty best practices on textbook affordability, a description of state legislation enacted to keep the cost of textbooks down, and an invitation for faculty to submit ideas to their local campus Senate divisions by December 2009.

CSU's Action: Corrective action taken.

In October 2008 CSU's executive vice chancellor/chief academic officer distributed an official "coded" memorandum to campus presidents requesting that they distribute a message to all faculty regarding our recommendations and that they renew their message to all faculty at appropriate times in order to remind them each academic term to take actions that may result in lower costs to students for textbooks and learning materials. CSU included a "draft text of a message to faculty regarding textbook affordability" for presidents to use at their discretion in communicating the recommendations in our report that relate to ensuring faculty members are aware of factors affecting textbook costs.

Community Colleges' Action: Corrective action taken.

According to the community colleges, it developed recommendations to colleges on textbook affordability in a report that it presented to its board of governors in May 2008 that address several of the bureau's recommendations. It indicated that one of the primary recommendations in its report was for colleges to create local textbook affordability taskforces that would include academic senates, faculty, and other stakeholders to address these issues. According to the community colleges,

campuses began working on implementing the recommendations in its report at the start of the 2008–09 academic year. Further, the community colleges indicated that management and staff of its system office made several presentations at statewide conferences of various community college stakeholders on textbook affordability that address the bureau’s recommendations and its staff continued to make presentations in 2009 at statewide conferences whenever the opportunity presented itself. In addition, the community colleges stated that its system office developed an on-line archive and Web site of research, policy, legislation, links, and other useful information to assist local college textbook affordability taskforces in implementing our recommendations. For instance, the Web site includes examples of campus textbook adoption policies and information on strategies to reduce textbook costs for students. The community colleges also indicated that it emailed an announcement on the contents of its Web site to community college constituent groups, including faculty in October, 2009.

Finding #3: Campus bookstores use inconsistent methods to reduce textbook costs for students.

Although a single campus bookstore might implement several strategies to reduce students’ textbook costs, the bookstores across the three postsecondary educational systems we reviewed are inconsistent in the types of strategies they use. For instance, some campus bookstores guarantee they will buy back certain textbooks at the end of an academic term for 50 percent of the books’ retail prices—even if faculty do not readopt the books or the publishers issue new editions. Other campus bookstores do not offer such guarantees. Likewise, some but not all campus bookstores have developed incentives that encourage faculty to submit their textbook choices on time and thus increase the likelihood that the bookstores can procure used textbooks and pay higher amounts to students during buyback. By implementing consistent strategies that are equally effective, campus bookstores could provide greater opportunities for all students across the three systems to realize similar cost savings.

We recommended that UC, CSU, and the community colleges issue guidance directing campuses to advise their bookstores to evaluate the feasibility of implementing cost-saving strategies, such as low-price guarantees and guaranteed buyback on certain titles, to the extent they have not already done so.

UC’s Action: Corrective action taken.

In previous responses to our audit report, UC acknowledged that it has shared the audit report widely and is encouraging all campuses to consider one campus bookstore’s practice that has resulted in a higher proportion of faculty meeting the textbook adoption due dates, and other notable practices mentioned in the report because of their success. Further, UC stated that several of the bookstore managers have reported their individual efforts to address the objectives of the recommendations, as well as their efforts to share their practices with their colleagues. Finally, in its one-year response, UC provided a matrix of textbook affordability strategies outlining how each campus has implemented the specific recommendations of the audit. Some of these strategies included guaranteed buyback programs, rental programs, and book exchanges.

CSU’s Action: Pending.

Although CSU did not specifically address this recommendation in its one-year response, it indicated in its six-month response that it will advise the Auxiliary Organization Association, which includes campus bookstore operators, to evaluate alternative ideas that could reduce textbook costs.

Community Colleges’ Action: Corrective action taken.

The community colleges addressed this recommendation in its response to finding number 2.

Finding #4: Some campuses have developed initiatives to reduce students' textbook costs.

All the campuses we reviewed enable faculty to place copies of required textbooks on reserve at the library, and some have implemented strategies specifically intended to reduce the cost of textbooks for students. For instance, we found that one of the nine campuses in our review operates a textbook loan program for low-income students and three other campuses operate student book exchanges. Although few colleges have implemented textbook loan and rental programs, these are strategies that could make textbooks more affordable for students. For example, the director of one campus bookstore, who also oversees that campus's rental program, indicated that students typically pay from 25 percent to 45 percent of the new retail price to rent a textbook. Further, as the administrator of student activities, the associate dean at another campus indicated that to his knowledge he oversees the only book loan program in the three systems. He indicated that students may borrow up to three textbooks at no charge for an entire academic term. However, textbook rental and loan programs typically require initial startup costs and may demand ongoing funding to continue operating, which might explain the low participation rates among colleges in these programs.

Student book exchanges may also offer opportunities for students to reduce their textbook costs. Three campuses we reviewed reported hosting student book exchanges, operated by the associated students organization on each campus. One of the three campuses offered unique support to the program through the cooperation of the campus bookstore. According to the associated students' business manager at this campus, the bookstore gives the book exchange access to its entire textbook-ordering database, which includes information on adopted textbooks and new and used textbook prices. Students at all three-book exchanges are able to set their prices. However, faculty's decisions to adopt a different textbook, or the publishers' decisions to release new editions, play a role in the success of student book exchanges.

We recommended that UC, CSU, and the community colleges issue guidance directing campuses to evaluate the feasibility of implementing book rental programs or student book exchange programs to the extent they have not already done so.

UC's Action: Corrective action taken.

UC addressed this recommendation in its response to finding number 3.

CSU's Action: Partial corrective action taken.

Although it did not fully address this recommendation, CSU indicated that several of the CSU auxiliary owned bookstores implemented book rental programs, as recommended, and that all campuses reporting implementation of a rental program during the 2008–09 academic year and expect to expand the program in 2009–10.

Community Colleges' Action: Corrective action taken.

The community colleges addressed this recommendation in its response to finding number 2.

Finding #5: Open educational resources could provide long-term cost savings to students.

The community colleges have recently explored various avenues for reducing textbook costs for students and increasing faculty's awareness of their role in textbook pricing. During fall 2007 and spring 2008 academic terms, the system office of the community colleges convened two textbook summits to identify strategies that campuses could implement to reduce textbook costs. In early May 2008, as a result of the summit meetings, participants compiled a list of 11 recommendations for consideration by the board of governors—the entity that sets policy and provides guidance for the community college system of 72 districts and 110 colleges. In May 2008 the board of governors approved the nine short-term and two medium- to long-term recommendations.

One long-term recommendation was to “promote awareness, development, and adoption of free, open educational resources in the community colleges as alternatives to high-cost textbooks and learning materials.” To produce a traditional textbook, publishers must pay various costs such as author royalties, production, and development costs and, according to several publishers, these costs affect the final price of the textbook. Open educational resources can provide content similar to that of a traditional textbook in a paperless, on-line format. The William and Flora Hewlett Foundation, which is active in promoting open educational resources, defines them as teaching, learning, and research resources that reside in the public domain or have been released under intellectual property licenses that permit their free use or repurposing by others. Open educational resources include full courses; course materials; modules; textbooks; streaming videos; tests; software; and any other books, materials, or techniques used to support access to knowledge. According to one professor at a community college who uses open educational resources in her classroom and participated in the summit meetings, these resources offer an alternative approach to content delivery, as well as the potential for improved student learning and long-term cost savings to students.

Although open educational resources have received some faculty support, many faculty members are concerned that the content of this learning material may not be as credible as a traditional textbook, which typically undergoes a peer review process. Further, participants in the community college summit discussed potential issues about the compatibility of open educational resources and the requirements of the articulation process. According to the president of the academic senate for community colleges, UC and CSU will not accept transfer credits for certain Web and online classes. However, he stated that the system office of the community colleges, the UC office of the president, and the CSU chancellor’s office continue to refine articulation issues. Thus, as open educational resources is being developed as a possible long-term cost-saving strategy for students, the three systems need to clarify its impact on articulation requirements.

We recommended that the system offices of UC, CSU, and the community colleges continue taking steps to promote awareness, development, and adoption of open educational resources as alternatives to traditional textbooks. Further, to ensure that courses taught by faculty who mainly use these alternative instructional materials meet the articulation requirements for transfer to the UC and CSU systems, faculty and the system offices should collaborate to develop acceptable standards and policies related to content, currency, and quality of open educational resources.

UC’s Action: Partial corrective action taken.

UC stated that it continues its engagement with the CSU and community colleges through its Strategic Publishing and Broadcast Services to develop and promote open educational resources. According to UC, Strategic Publishing and Broadcast Services is also involved in other efforts to create open access textbooks, and instill broader discussions to try to comprehend the arena of textbook affordability for the State’s postsecondary segments, as well as for California’s K–12 public schools. It also stated that it is working in partnership with the community colleges on the Hewlett-funded Open Textbook Project to create free or low-cost, high-quality textbooks for community college students. In addition, UC explained that as part of its licensing deal for Springer Journals, the California Digital Library recently acquired permanent access to the more than 20,000 e-books that Springer Journal has published between 2005 and 2009. The collections include 1,300 college level textbooks in the Science, Technology, Engineering, and Mathematics as well as the social science fields. According to UC, all of these e-books are available at no cost to UC faculty, staff, and students who are also able to get print-on-demand copies for less than \$25. Furthermore, it also stated that the California Digital Library is exploring opportunities for members of the UC community to purchase or subscribe to Wiley Publishing’s online textbooks at a discounted rate. Finally, UC indicated that its Strategic Publishing and Broadcast Services has been working with the academic senate to improve outcomes by working on non-standard textbook adoption and articulations challenges. One of the ideas put forth by the academic senate’s University Committee on Computing and Communications is for UC to commission textbooks from UC faculty that could be free and online to UC students.

CSU's Action: Partial corrective action taken.

In its 60-day response, CSU reported that it is continuing conversations with the community colleges regarding smooth articulation for those courses that use open educational resources. Further, CSU asserted that it has been a leader in open educational resources since 1997 with the development of the Multimedia Educational Resource for Learning Online Teaching (MERLOT). MERLOT is a digital library that contains over 20,000 free on-line learning materials across a wide range of academic disciplines. It also indicated that it recently partnered with the Public Interest Research Group to create and support a digital library service for people creating and searching for open educational resources. Further, CSU stated that its Academic Technology Services division is delivering a program throughout the system to educate faculty on how best to utilize open educational resources to support use of both the open textbook collection as well as all other free instructional content. In its one-year response, CSU indicated that as agreements are reached on open educational materials, faculty at both the CSU campuses and community colleges across the State are kept informed of these resources.

Community Colleges' Action: Partial corrective action taken.

According to the community colleges, its faculty have worked with the CSU Office of the Chancellor to incorporate open educational resource-friendly language into 2010 revisions of the CSU Guiding Notes for General Education Course Reviewers. The community colleges indicated that these revisions will guide users of the Online Services for Curriculum and Articulation Review (OSCAR) data base, an intersegmental repository for course articulation and related textbook information, on how to include open educational resource textbooks in the system. The community colleges stated that the obstacle to incorporating open educational resource textbooks into articulation agreements was largely procedural, and not based in policy. It added that this step should alleviate any perceived barriers to accepting courses using Open Educational Resource textbooks. According to the community colleges, the UC does not have an equivalent publication, but uses OSCAR and generally accepts and makes reference to this CSU publication. Additionally, the community colleges stated that its system office became a member of the Community College Consortium for Open Educational Resources steering committee that oversees a pilot supporting the creation of open education resource textbooks for community college faculty. It drafted and sent a solicitation to identify parties interested in becoming the California Community Colleges Open Educational Resources Center pilot in spring 2009. The community colleges indicated that it identified two colleges as qualified and interested in being Open Educational Resource Center pilots. It added that a proposed statement of duties and deliverables has been developed and agreed upon and a Memorandum of Understanding is in the process of being developed and will be signed and presented at a board of governors meeting following completion of appropriate signatures.

Finding #6: The CSU is in the process of developing the Digital Marketplace.

In addition to open educational resources, the Digital Marketplace—a one-stop, Web-based service for selecting, contributing, sharing, approving, procuring, and distributing no-cost and cost-based academic technology products and services—is another long-term strategy in the beginning stages of development by CSU. To provide a clearer definition of what this program will entail, the senior director of academic technology services for CSU (senior director) stated that the Digital Marketplace will be a centrally maintained system administered by individual campuses containing free content, such as open educational resources, as well as fee-based content, such as single chapters in digital format, for faculty to access and adopt as the educational materials they will use in their courses. Using this system or Web site, faculty will be able to select both free and fee-based digitized content for their courses, and students will no longer be required to purchase printed textbooks. Students also will be able to log on to the Web site to purchase the fee-based content and obtain the free materials at their own discretion. The senior director anticipates that each campus will be able to customize their Digital Marketplace services to meet their individual needs. Thus, it will allow publishers to provide educational content directly to students, bypassing the campus bookstore as a textbook retailer and eliminating the bookstore's markup on textbooks.

However, according to the senior director, despite its efforts to involve a broad base of CSU participants, the chancellor's office understands that faculty have diverse opinions of technology. Thus, one of the challenges confronting the Digital Marketplace is faculty resistance to digital teaching resources. Beyond faculty usage, the senior director described how the success of the Digital Marketplace partly depends on its reception by current and future college students. However, current college students have indicated that they prefer to read printed material, and the few copies of digital textbooks available at campus bookstores do not sell well. Thus, resistance from students as well as faculty may pose continuing obstacles for the implementation of the Digital Marketplace.

We recommended CSU to continue its efforts to develop, implement, and promote awareness of the Digital Marketplace, and while doing so, to monitor any resistance from students and faculty to ensure that the digital education content aligns with their needs and preferences.

CSU's Action: Partial corrective action taken.

CSU did not specifically address this recommendation in its one-year response to our audit report. However, in its 60-day response, CSU stated that it is developing and testing a prototype of the Digital Marketplace. Specifically, it reported that the office of the chancellor has partnered with CSU San Bernardino in the testing of the prototype with a focus on faculty in academic year 2008-09. Further, CSU asserted that the Long Beach Center for Usability in Design and Accessibility will be testing the Digital Marketplace prototype with students in academic year 2008-09.

California State University, Chancellor's Office

Failure to Follow Reimbursement Policies Resulted in Improper and Wasteful Expenditures

REPORT NUMBER I2007-1158, DECEMBER 2009

California State University, Chancellor's Office response as of December 2009

An official at the California State University (university), Chancellor's Office, received \$152,441 in improper expense reimbursements over a 37-month period from July 2005 through July 2008. The improper reimbursements included expenses for unnecessary trips, meals that exceeded the university's limits, the official's commute expenses between his home in Northern California and the university's headquarters in Long Beach, living allowances, home office expenses, duplicate payments, and overpayments of claims. The official consistently failed to follow university policies in submitting requests for reimbursement. In addition, the official's supervisor and the university failed to adequately review the official's expense reimbursement claims and follow long-established policies and procedures designed to ensure accuracy and adequate control of expenses. As a consequence, the university allowed the official to incur expenses that were unnecessary and not in the best interest of the university or the State.

Finding #1: The official received improper reimbursements for expenses related to travel, business meals, commute, and personal expenses.

Our investigation found that the official often engaged in travel that appeared to offer few tangible benefits or advantages to the university and was not in the State's best interest. The official traveled regularly throughout the 37-month period we analyzed. Much of his travel related to his duties in the university's Chancellor's Office. However, reimbursements for some of the official's trips were not for university events and resulted in \$39,135 in unnecessary costs to the State.

In addition, the official regularly organized, hosted, and attended meals involving a variety of university staff, as well as other individuals serving on working groups or boards with the official. Over the period we examined, the official claimed \$26,455 in reimbursements for these meals, which exceeded the amounts allowed for meal reimbursements.

We also calculated that the official improperly received reimbursements totaling \$43,288 in expenses resulting from commuting between his home in Northern California and headquarters in Long Beach, despite university policies clearly prohibiting employees from claiming reimbursement for expenses incurred within 25 miles of their designated headquarters or at their residence. The \$43,288 represents a variety of prohibited expenses, including dozens of flights on commercial airlines between his

Investigative Highlights . . .

Our investigation of expense reimbursement claims made by an official at the California State University (university), Chancellor's Office, revealed the following:

- » *The official received \$152,441 in improper expense reimbursements over a 37-month period from July 2005 through July 2008.*
- » *The official consistently failed to follow university policies in submitting requests for reimbursements.*
- » *The official's supervisor and the university failed to adequately review the official's expense reimbursement claims and follow long-established policies and procedures.*

residence in Northern California and his headquarters in Long Beach, hotel lodging, airport parking, rental car charges, and reimbursement for the personal use of his vehicle between his home and the airport.

Finally, the official improperly received reimbursements totaling \$17,053 for personal expenses incurred while purportedly conducting university business from his home in Northern California. Many of these expenses appeared to be for equipment, supplies, and services to his residence, including multiple telecommunications services often totaling hundreds of dollars per month. The university no longer employs the official.

We recommended that the university take the following actions:

- Reexamine its preapproval and reimbursement review process for all high-level university employees, and require staff at all organizational levels to submit correct and complete claims along with detailed documentation supporting those claims, subject to thorough and appropriate review by the university accounting staff.
- Specify upper monetary limits for its food and beverage policy and specify when this policy applies.
- Revise its travel policy to establish defined maximum limits for reimbursing the costs of lodging and to establish controls that allow for exceptions to such limits only under specific circumstances.

Chancellor's Office Action: Partial corrective action taken.

Although the university agreed that it should reexamine its reimbursement procedures for high-level employees, as well as require complete and thorough documentation of the expenses for which reimbursement is being sought, it disagreed with our finding that the official's travel appeared to offer few tangible benefits or advantages to the university. The university broadly asserted that the official's trips and associated activities were part of an effort to protect, maintain, and enhance the university's investment in software. More specifically, the university asserted that many of the trips were necessary to maintain a relationship with a particular vendor in whose software the university had made a substantial investment. Nonetheless, the university still failed to clearly identify how the official's extensive travel provided it concrete and measurable benefits.

In responding to our recommendation that the university should specify monetary limits for its food and beverage policy, and specify when that policy applies to a given situation rather than the university's stricter travel reimbursement policy, the university stated that, prior to receiving the draft of the report, it separated business meal reimbursements under its travel policy from business meal reimbursements under its food and beverage policy through the use of different funding sources. Regardless, the university's response failed to indicate whether it would specify monetary limits for its food and beverage policy—particularly for business meals—and clarify when the policy applies. Consequently, even though the university stated that it “will continue to be vigilant” about its compliance with the food and beverage policy, we have received no indication that the university intends to address the waste of public funds for the unnecessary expenditures that we identified in our report.

Finally, the university commented that, given the variety of locations around the world where it does business, it would be “impractical” to establish defined limits for reimbursing the costs of lodging. Instead, the university stated that it asks its employees who travel frequently to “pay careful attention to lodging choices” and asks its managers to “scrutinize travel claims for wasteful expenditures.” However, the university's response highlights its failure to grasp the enormity of the problem created by its lack of defined limits on lodging costs. Without defined limits—and a control that allows for exceptions to the limits—the university has abdicated its oversight responsibility. Furthermore, the university is disingenuous in stating that it would be impractical to institute defined limits on lodging costs. The Department of Personnel Administration (Personnel Administration), which oversees the

travel rules and regulations for most other state employees, has clearly established limits on lodging costs incurred in California. In addition, Personnel Administration allows state agencies to authorize exceptions to the defined limits for lodging costs incurred for in-state and out-of-state travel, and further allows state employees who travel in foreign countries to claim actual expenses up to defined limits established by the U.S. Department of State.

Finding #2: The university paid the official for long-term living expenses he was not entitled to receive.

We found that the official requested and received a \$748 monthly payment for 33 of the 37 months we examined, totaling \$24,676. These payments were referred to as “long-term subsistence” payments on the official’s travel expense claims and contained no additional supporting documentation or justification. University policy allows for the payment of per diem expenses an employee incurs from the use of establishments that cater to long-term visitors. To qualify for this allowance, the employee must be on a long-term field assignment. However, the official was not on a long-term field assignment as defined by university policy, so he should not have received \$24,676 for long-term subsistence costs. When we asked university executive management why the official was allowed to claim long-term subsistence for such an extended length of time, even though he also was being reimbursed for commuting expense between his home and university headquarters, we were told that such an arrangement was necessary to retain the official.

We recommended the university terminate any agreements with university employees that allow them to work at a location other than their headquarters and expressly prohibit the making of such agreements.

Chancellor’s Office Action: Pending.

The university did not agree with our recommendation that it should terminate agreements with employees that allow them to work at locations other than their headquarters and expressly prohibit the making of such agreements. The university responded that it needed flexibility to recruit and retain highly skilled employees; thus, it would be counterproductive to terminate its flexibility in allowing employees to work from locations other than their headquarters. Although that may be the university’s view, it does not address the finding of our investigation that the university allowed an employee to work from home, at considerable expense, without having any obvious business need for the university to permit the arrangement. Moreover, the university permitted the arrangement through an informal agreement that did not include safeguards like those imposed by the university’s telecommuting policy, which requires that important issues including work schedules, equipment needs, costs, and accountability for work be addressed. Finally, as was the case with the official who was the subject of this investigation, such costly informal agreements are not necessarily successful in retaining employees.

Finding #3: The university paid the official for duplicate payment and overpayments.

The official improperly received reimbursements totaling \$1,834 that resulted from duplicate payments and overpayments made by the university. In particular, our analysis found that the official received \$1,072 in payments for which the university had reimbursed him previously and \$762 in payments that exceeded the amounts the university owed him.

We recommended that the university recover from the official the \$1,834 in duplicate payments and overpayments.

Chancellor’s Office Action: Pending.

The university agreed that it should seek reimbursement for any duplicate payments or overpayments.

California Department of Education

Although It Generally Provides Appropriate Oversight of the Special Education Hearings and Mediations Process, a Few Areas Could Be Improved

REPORT NUMBER 2008-109, DECEMBER 2008

The California Department of Education's and Department of General Services' Office of Administrative Hearings' response as of December 2009

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine how the Department of General Services' Office of Administrative Hearings (Administrative Hearings) has conducted its operations since it began administering the special education hearings and mediations process. Specifically, the audit committee requested that we review and evaluate applicable laws, rules, and regulations specific to special education hearings and mediations and determine the roles and responsibilities of both the California Department of Education (Education) and Administrative Hearings, including any oversight responsibilities Education has related to Administrative Hearings' performance under the interagency agreement. The audit committee also requested that we make recommendations related to the future provision of special education mediation and adjudication functions, as appropriate.

Finding #1: Education needs to continue to work with Administrative Hearings to ensure that it reports all required information in its quarterly reports and its database contains accurate and complete information.

Our review of one of Administrative Hearings' quarterly reports for each fiscal year between 2005–06 and 2007–08 found that it had not consistently included in these reports 10 items that the interagency agreement requires. By not ensuring that Administrative Hearings is consistently including all required information in its quarterly reports, Education is unable to review the information as part of its oversight activities, and it is not ensuring that Administrative Hearings complies with the reporting requirements of its interagency agreement and state law.

According to Education, it was aware that Administrative Hearings was not including all the required information in its quarterly reports, and we found some evidence that staff from Education and Administrative Hearings discussed this issue during monthly meetings involving both agencies. In September 2008 the presiding administrative judge for Administrative Hearings indicated that Administrative Hearings has modified the database to include the missing information, beginning with the first quarterly report for fiscal year 2008–09. However, when we later reviewed its first quarterly report, we found that Administrative Hearings was still missing one of the 10 items. It was not until we informed Administrative Hearings that the quarterly report was still missing one item that it amended the quarterly report to include all the required items on November 13, 2008.

Audit Highlights . . .

Our review of the California Department of Education's (Education) oversight of the special education hearings and mediations process revealed that:

- » *The average cost per case closed has increased by 14 percent since the Office of Administrative Hearings (Administrative Hearings) took over the hearings and mediations process.*
- » *The average time the University of the Pacific's McGeorge School of Law took to close cases was 185 days, whereas, Administrative Hearings took an average of 118 days.*
- » *Neither Education nor any other entity tracks the total number and cost of appealed hearing decisions.*
- » *Education could improve its oversight to ensure Administrative Hearings is meeting established standards called for in its interagency agreement.*
- » *Administrative Hearings did not consistently include 10 items, required by the interagency agreement, in its quarterly reports to Education—seven of these items are also required by state law and five of these items must be reported annually to the federal government.*
- » *Administrative Hearings was unable to provide documentation demonstrating that its administrative law judges receive all the training required by state law and the interagency agreement.*
- » *Administrative Hearings has not always issued hearing decisions within the legally required time frame, which could potentially lead to sanctions by the federal government.*

Additionally, our review of Administrative Hearings' new database—Practice Manager—found that the data were inaccurate or missing in certain fields. Specifically, we reviewed a sample of 29 closed cases and found that the reason-for-closure field was inaccurate for one case and missing for another. Additionally, for three cases, one of the following fields were inaccurate: closed within the legally required time frame, case closed date, and case opened date. According to Administrative Hearings, it uses these fields to compile certain data that it includes in the quarterly reports it submits to Education.

To ensure that Administrative Hearings complies with state and federal laws, as well as with the specifications in its interagency agreement, we recommended that Education, in its oversight role, continue to work with Administrative Hearings to ensure that it reports all the required information in its quarterly reports and that its database contains accurate and complete information.

Education's Action: Partial corrective action taken.

According to Education, it has been working with Administrative Hearings to ensure that the required information is included in the quarterly reports. As such, Education indicated that it compared information from the electronic reporting Practice Manager System with hard copy files at Administrative Hearings on January 22, 2009, June 3, 2009, and November 24, 2009. According to Education, its review of a sample of 20 records found that Administrative Hearings accurately and completely reported information in the following fields: (1) student name, (2) case name, (3) subject matter type, (4) subject matter number, (5) date case opened, and (6) case jurisdiction.

Finding #2: Education has not verified that the administrative law judges (administrative judges) are receiving the appropriate training.

Education has not taken steps to verify that Administrative Hearings is ensuring that its administrative judges receive all the training required by state law and the interagency agreement. Administrative Hearings has reported to Education that its administrative judges have participated in the required training. However, when we selected 15 administrative judges and attempted to verify that they had taken two classes listed in Administrative Hearings' report, we found that Administrative Hearings could not always demonstrate that all 15 had, in fact, taken the two courses.

To ensure that Administrative Hearings complies with state and federal laws, as well as with the specifications in its interagency agreement, we recommended that Education, in its oversight role, require Administrative Hearings to maintain sufficient documentation showing that its administrative judges have received the required training and review these records periodically to ensure that Administrative Hearings complies with the training requirements.

Education's Action: Corrective action taken.

Education entered into a new interagency agreement with Administrative Hearings effective June 26, 2008, for the period of July 1, 2008, through June 30, 2011, and it requires Administrative Hearings to provide Education with quarterly training logs for each administrative judge and mediator covering training taken during the previous quarter. To ensure the accuracy of training data, Education stated that on November 24, 2009, it reviewed Administrative Hearings' training records for 10 ALJs and a corresponding sample of training courses for the period July 1, 2009, through September 30, 2009. Based on this review, Education stated that it found only one exception in which the actual hours of training listed in the Administrative Hearings' First Quarter 2009–10 Special Education Training Report (training report) differed from the actual sign-in sheet for the ALJ. In this instance, the ALJ actually received 1.25 hours more training than was listed in the training report. According to Education, Administrative Hearings has taken immediate action to revise the training report to correct this discrepancy.

Finding #3: Administrative Hearings has not always issued hearing decisions within the legally required time frame.

Our audit revealed that Administrative Hearings has not always issued hearing decisions within the legally required time frame. For example, Administrative Hearings reported that it issued only 29 percent and 57 percent of its decisions on time in the third and fourth quarters of fiscal year 2005–06, respectively, and it issued on time decisions 72 percent of the time in the first quarter of fiscal year 2006–07. The types of noncompliance related to timeliness of decisions could potentially lead to sanctions by the federal government and affect special education funding for the State. For its part, Education has been raising this issue with Administrative Hearings in letters requesting corrective action plans and during monthly meetings between staff of Education and Administrative Hearings. Administrative Hearings has reported measurable improvements, including that since the second quarter of fiscal year 2006–07 it had only about one late case in each quarter. However, despite this improvement, it needs to issue 100 percent of its hearing decisions on time to ensure that it complies with relevant laws and regulations.

To ensure that Administrative Hearings complies with state and federal laws, as well as with the specifications in its interagency agreement, we recommended that Education, in its oversight role, continue to monitor Administrative Hearings to ensure that it consistently issues hearing decisions within the time frame established in federal regulations and state law so that Education is not exposed to possible federal sanctions.

Education's Action: Corrective action taken.

According to Education, to ensure that Administrative Hearings consistently issues hearing decisions within the timeline established in federal regulations and state law, Administrative Hearings' compliance with the mandated timelines is a standing item on all monitoring meeting agendas. Education indicated that, between July 2009 and September 2009, Administrative Hearings was 100 percent compliant with these timelines. It also stated that it will continue to monitor Administrative Hearings to ensure that hearing decisions are consistently issued within the required timeline.

