

**BEFORE THE
EDUCATION AUDIT APPEALS PANEL
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)	Case No.: 01-38
)	
BREA OLINDA UNIFIED)	OAH No.: N-2001100411
SCHOOL DISTRICT)	
)	
)	
Petitioner/Appellant)	
_____)	

DECISION

The EDUCATION AUDIT APPEALS PANEL adopts the attached Proposed Decision of the Administrative Law Judge as its Decision in the above-entitled matter.

This Decision shall become effective on July 28, 2003.

IT IS SO ORDERED July 28, 2003.

(Original Signed)

BEFORE THE
EDUCATION AUDIT APPEALS PANEL
OF THE STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

BREA OLINDA UNIFIED SCHOOL
DISTRICT,

Petitioner/Appellant.

Case No. EAAP 01-38

OAH No. L2001100411

PROPOSED DECISION

On November 1, 2002, a telephonic status conference was held in the above-captioned matter before Administrative Law Judge Janis Rovner. Carol L. Noreen, Staff Counsel, represented respondent Office of the State Controller; Julie Weng-Gutierrez, Deputy Attorney General, represented the Department of Finance; and Atkinson, Andelson, Loya, Ruud & Romo, Attorneys at Law, by Joshua Morrison, Attorney at Law, represented petitioner/appellant Brea Olinda Unified School District.

All parties in this case have executed a Stipulation in the above-captioned case. Based on the agreement of the parties during the November 1, 2002, telephonic conference, the Stipulation is received as Exhibit 1 and is attached to this proposed decision and incorporated by reference. The parties agreed that the stipulation constitutes the record in this case. They also agree that the stipulation will be converted into a Proposed Decision by the Office of Administrative Hearings and submitted to the Education Audit Appeals Panel ("EAAP"). The Stipulation resolves the entire case. The Stipulation and this proposed decision constitute in their entirety the factual and legal basis and order for this proposed decision, in compliance with Government Code §§ 11415.60 and 11425.50.

Dated: June 18, 2003

(Original Signed)
JANIS S. ROVNER
Administrative Law Judge
Office of Administrative Hearings

JSR:ku

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2 CAROL L. NOREEN, State Bar No. 205097
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5 Attorneys for
6 KATHLEEN CONNELL, State Controller



7
8 BEFORE THE EDUCATION AUDITS APPEAL PANEL
9 STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues)
11 Against:)

OAH Case No.: L-2001100411
EAAP Case No. 01-38

12 BREA OLINDA UNIFIED SCHOOL)
13 DISTRICT)

STIPULATION AND PROPOSED
DECISION

14 Respondent

15
16 All of the parties in this action hereby agree to a complete resolution of this matter.
17 Accordingly, the State Controller's Office (SCO), the Department of Finance (DOF) and Brea
18 Olinda Unified School District (BREA OLINDA) hereby agree as follows:
19

20 **RECITALS**

21 A. The accountancy firm of Vicenti Lloyd Stutzman, LLP (Vicenti), the independent
22 auditor, conducted an audit of BREA OLINDA for the fiscal year ended June 30, 2000.

23 B. In its report of the BREA OLINDA audit dated October 25, 2000 (pages 63, 64 and
24 65 later amended on June 14, 2001 and certified by the State Controller's Office on June 22,
25 2001), Vicenti identified a finding related to Staff Development funding. The report stated that

STIPULATION AND PROPOSED DECISION IN THE MATTER OF THE STATEMENT OF ISSUES
AGAINST BREA OLINDA UNIFIED SCHOOL DISTRICT

1 OF 4



1 for the August 30, 1999 training, attendees were not required to sign in during the morning
2 general session. Sign in sheets were only used for the break-out sessions in the afternoon.

3 Therefore, the auditor was unable to verify that all teachers claimed were in attendance for the
4 full day.

5 C. The amount of questioned costs is approximately \$76,000.00.

6 D. The relevant statute in this appeal is Cal. Education Code § 44579.1. The applicable
7 regulation in this appeal is Title 5, Cal. Code Regs. §6001.

8 E. BREA OLINDA timely appealed the audit findings to the Education Audits Appeal
9 Panel on August 14, 2001.

10 F. DOF officially appeared as a Real Party in Interest on December 13, 2001. A
11 continuance of the hearing until June 11, 2002 was granted. A further continuance of the hearing
12 until September 16, 2002 was also granted.

13 G. BREA OLINDA argued in its letter of May 17, 2002 that the district has maintained
14 its records of attendance for the August 30, 1999 Staff Development Day in the manner required
15 by law. Specifically the district has maintained a certification by a school district official that the
16 contemporaneous record of attendance correctly represents the full days attendance claimed for
17 each of the participants pursuant to Title 5, Cal. Code Regs. §6001.

18 H. Michael Herhser, Deputy General Counsel for the California Department of
19 Education provided a letter to counsel for BREA OLINDA dated May 23, 2002, in which he
20 advised that in his opinion, the documentation submitted by the district satisfied the requirements
21 of Title, 5 Cal. Code Regs. §6001.

22 I. After review of the sign in sheets maintained for the August 30, 1999 Staff
23 Development Day and the Application For Funding/Certification signed and dated by E.J.
24 Harcharik, Assistant Superintendent, dated June 26, 2000, the SCO concurs with BREA
25 OLINDA's assessment that the district has maintained its records of attendance for the August

STIPULATION AND PROPOSED DECISION IN THE MATTER OF THE STATEMENT OF ISSUES
AGAINST BREA OLINDA UNIFIED SCHOOL DISTRICT

2 OF 4

1 30, 1999 Staff Development Day in a manner that satisfies the requirements of Education Code
2 §44579.1 and Title 5, Cal. Code Regs. §6001.

3 **AGREEMENT**

4 1. For the sole purpose of effecting a stipulation of this action, the SCO, DOF, and
5 BREA OLINDA agree that the sign in sheets for the August 30, 1999 Staff Development Day
6 and the Application for Funding/Certification signed and dated by E.J. Harchik, Assistant
7 Superintendent on June 26, 2000 satisfy the requirements of Education Code §44579.1 and Title
8 5, Cal. Code Regs. §6001.

9 2. Since BREA OLINDA's attendance records for the August 20, 1999 Staff
10 Development Day are in compliance with Education Code §44579.1 and Title 5, Cal Code of
11 Regs. §6001, the audit finding identified as 00-3 Staff Development Buy Back on page 64 of
12 Vicenti's audit report of October 25, 2000 (later amended on June 14, 2001) is withdrawn.

13 3. BREA OLINDA shall, and does hereby, withdraw its appeal with prejudice (Case No.
14 01-38; OAH No. L2001100411), and waive any and all rights it may have with respect to appeal
15 and/or reconsideration of the audit findings in the above entitled matter.

16 4. The parties understand and agree that any admissions set forth in paragraphs 1 and 2
17 of the Agreement are set forth solely for the purpose of effecting a stipulation of this action
18 alone. Any admissions contained herein shall not preclude the parties from asserting any rights
19 or defenses with respect to findings in other audit reports or fiscal years.

20
21 OFFICE OF THE STATE CONTROLLER

22 Dated: *Sept 13, 2002*

By:

(Original Signed)
CAROL L. NOREEN
Attorney for KATHLEEN CONNELL,
State Controller

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STIPULATION AND PROPOSED DECISION IN THE MATTER OF THE STATEMENT OF ISSUES
AGAINST BREA OLINDA UNIFIED SCHOOL DISTRICT

1 [In the Matter of the Statement of Issues Against Brea Olinda Unified School District
2 EAAP No. 01-38; OAH No. L-2001100411
3 Stipulation and Proposed Decision]

4 DEPARTMENT OF FINANCE

5 Dated:

By: (Original Signed)

6 ✓ JULIE WENG-GUTIERREZ
7 Deputy Attorney General, for
8 Department of Finance

9 BREA OLINDA UNIFIED SCHOOL DISTRICT

10 Dated: 9/10/02

By: (Original Signed)

11 JOSHUA E. MORRISON
12 Attorney for Brea Olinda
13 Unified School District

14 This stipulation is adopted and submitted to the Education Audits Appeal Panel as my
15 proposed decision of the above-entitled matter.

16 Dated: June 18, 2003

By:

17 JANIS ROVNER
18 Administrative Law Judge
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