

**Education Audit Appeals Panel
State of California**

Appeal of 2009-10 Audit Finding 2010-18
by:

Calexico Unified School District,

Appellant.

EAAP Case No. 11-17

OAH No. 2012050608

Decision

The Education Audit Appeals Panel has adopted the attached Stipulated Agreement of the parties as its Decision in the above-entitled matter.

Effective date: December 10, 2012.

IT IS SO ORDERED.

December 10, 2012
Date

Original Signed
David Botelho, Chairperson
Education Audit Appeals Panel

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2 Justin W. Dersch, SBN 258603
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9 STATE CONTROLLER'S OFFICE

10 **BEFORE THE EDUCATION AUDIT APPEALS PANEL**
11 **FOR THE STATE OF CALIFORNIA**

12 In the Matter of the Audit Appeal of:) EAAP Case No. 11-17
13 Fiscal Year 2009-2010 Audit Finding 2010-18) OAH Case No. 2012050608
14 by:) **STIPULATED AGREEMENT**
15 CALEXICO UNIFIED SCHOOL DISTRICT,)
16 Appellant.)

17 Appellant CALEXICO UNIFIED SCHOOL DISTRICT (Appellant), Respondent JOHN
18 CHIANG, California State Controller (SCO), and Respondent DEPARTMENT OF FINANCE
19 (Finance) (collectively known as "the Parties") agree to a complete resolution of the above-
20 captioned matter as follows:

21 RECITALS

22 A. The independent accounting firm of Moss, Levy & Hartzheim LLP (Auditor)
23 conducted an audit of the Appellant for the 2009-10 school year, the results of which were
24 included in the audit report issued on or about January 28, 2011.

25 B. In Audit Finding 2010-18, the Auditor determined that the Appellant failed to
26 offer the minimum amount of instructional minutes and days as required by Education Code
27 sections 46201.2 and 41420, respectively, resulting in a total statutory penalty of \$2,111,647.

28 C. The SCO certified the audit.

D. The Appellant applied for a waiver of the above penalties with the Department of

1 Education. A waiver, in the amount of \$1,069,947, was granted for the penalty pursuant to
2 Education Code section 46200(c).

3 E. Appellant then timely filed a request for formal appeal instituting this action
4 pursuant to Education Code section 41344(d), related to the remaining penalties assessed
5 pursuant to Education Code section 41420(b).

6 F. Finance intervened as a Respondent pursuant to Education Code section
7 41344.1(b).

8 G. In order to avoid the cost and uncertainty of litigation, the parties to this case
9 agree to resolve this dispute on the terms and conditions described herein.

10 AGREEMENT

11 For the purpose of completely settling and resolving the appeal of Audit Finding
12 2010-18, the Parties agree as set forth below:

13 1. This stipulated agreement fully and completely resolves all claims, demands,
14 appeals, obligations, or causes of actions arising from or relating to Audit Finding 2010-18.
15 Accordingly, the Parties expressly waive any right or claim to assert or pursue thereafter any
16 claim, demand, obligation, and/or cause of action relating to Audit Finding 2010-18.

17 2. The Appellant shall offer at least two instructional days more than the minimum
18 amount legally required, at every school in the district, for two out of the following three fiscal
19 years in full satisfaction of Audit Finding 2010-18:

20 A. 2012-2013

21 B. 2013-2014

22 C. 2014-2015

23 3. This stipulated agreement is subject to and conditioned upon approval and
24 adoption by EAAP, pursuant to Education Code section 41344.1(b).

25 4. This stipulated agreement may be executed in counterparts, each of which shall
26 constitute an original. Facsimile and pdf signatures transmitted to other parties to this stipulated
27 agreement are deemed to be the equivalent of original signatures on counterparts.

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5. The parties shall be responsible for their own attorneys' fees and costs.

Dated: 09/27/, 2012

CALEXICO UNIFIED SCHOOL DISTRICT

By: Original Signed
RICHARD FRAGALE, Superintendent
Representative for Appellant

Dated: 10/16, 2012

DEPARTMENT OF FINANCE

By: Original Signed
JENNIFER K. ROCKWELL
Chief Counsel for Respondent,
Department of Finance

Dated: 10/11, 2012

OFFICE OF THE STATE CONTROLLER

By: Original Signed
JUSTIN W. DERSCH
Staff Counsel for Respondent,
JOHN CHIANG, California State Controller