

**Education Audit Appeals Panel  
State of California**

Appeal of fiscal year 2006-07 Audit Finding  
2007-4 by:

Center Unified School District,

Appellant.

EAAP Case No.: 08-12

OAH No. 2009050441

**Decision**

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

Effective date: February 28, 2011

IT IS SO ORDERED.

February 28, 2011

Date

*Original Signed*

Diana L. Ducay, Chairperson  
for Education Audit Appeals Panel

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9 Attorneys for Appellant CENTER UNIFIED  
10 SCHOOL DISTRICT

11 BEFORE THE EDUCATION AUDIT APPEALS PANEL

12 CENTER UNIFIED SCHOOL DISTRICT,  
13 Appellant,  
14 v.  
15 OFFICE OF THE CONTROLLER, STATE OF  
16 CALIFORNIA,  
17 Respondent,  
18 And  
19 DEPARTMENT OF FINANCE, STATE OF  
20 CALIFORNIA,  
21 Intervener.

EAAP Case No.: 08-12  
OAH No.: 2009050441  
**SETTLEMENT STIPULATION**

22 The Center Unified School District ("Appellant" or "District"), Office of the State  
23 Controller ("Controller"), and Intervener California Department of Finance ("Finance") agree to a  
24 complete resolution of the above-captioned matter as follows:

25 **I.**  
26 **RECITALS**

27 A. This matter involves the District's Antelope View Charter School ("Charter  
28 School") which operates an Independent Study Program ("ISP"). The Charter School opened in  
the 2000-01 school year, is accredited by the Western Association of Schools and Colleges, and  
serves pupils who have difficulty in the traditional classroom setting, including many minority and  
socioeconomically disadvantaged students.

1 B. In December 2007, the Charter School received a negative audit finding resulting  
2 in a loss of all apportionment for the 2006-07 school year totaling \$1,387,383.00 (Audit Finding  
3 2007-4). The 2006-07 school year audit was conducted by Robertson & Associates, CPAs,  
4 55 First Street, Suite 306, Lakeport, CA 95453 ("Auditor"). The Auditor determined the Charter  
5 School's independent study master agreements were not in one self contained document and did  
6 not fully comply with Education Code section 51747.

7 C. The Controller certified Audit Finding 2007-4 in June 2008. The District timely  
8 requested summary review. In March 2009 Executive Director Cindy Chan, Education Audit  
9 Appeals Panel ("Panel"), concluded the conditions for finding substantial compliance were not  
10 clearly met.

11 D. In April 2009, the District timely filed its Notice of Audit Appeal requesting a  
12 hearing and waived its right to have the hearing set within "90 days" as required by Education  
13 Code section 41344(d).

14 E. Finance timely moved to intervene in the proceeding on June 10, 2009, and was  
15 granted intervener status.

16 F. The hearing was set for September 2, 2009. On July 15, 2009, a 90-day  
17 continuance was granted to allow the District time to submit additional documentation to the  
18 Auditor for a second review of Audit Finding 2007-4.

19 G. The hearing was reset for December 1, 2009. The District received the Auditor's  
20 revised Finding ("Revised Audit") on October 2, 2009. The District distributed copies of the  
21 Revised Audit to the parties on October 5, 2009. The Revised Audit was forwarded to the  
22 Controller for certification. On October 23, 2010 the District filed a motion to continue the  
23 hearing which was granted. The Revised Audit was not certified by the Controller and the  
24 hearing was reset for May 25-27, 2010.

25 H. On May 25, 2010, prior to commencement of the hearing, the District and Finance  
26 entered into a stipulated settlement agreement wherein the Charter School agreed to repay  
27 \$386,000.00 within the next eight (8) years without interest to resolve this matter. The Controller  
28 did not join in the stipulated settlement agreement and the hearing proceeded.

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1 I. On October 4, 2010, the Administrative Law Judge ("ALJ") issued a proposed  
2 decision denying the Charter School's appeal. However, the ALJ concluded the settlement  
3 agreement entered into between Appellant and Finance in the amount of \$386,000.00 "is  
4 reasonable" and "constitutes a serious penalty" for the Charter School. (See Proposed Decision,  
5 at p. 27, *fn.* 8.) The ALJ reasoned the settlement amount accounts for the "inadvertent nature" of  
6 the Charter School's "noncompliance, its good faith efforts to correct the problem once  
7 discovered, and the benefits of the ISP to students," and "avoids the catastrophic consequence of  
8 closure of the school and loss of the program." (*Id.*)

9 J. On January 12, 2011, the Panel rejected the proposed decision in its entirety and  
10 notified Appellant and Controller that both parties may submit written argument to the Panel on  
11 or before February 4, 2011.

12 K. On January 19, 2011, the Appellant commenced settlement discussions with the  
13 Controller and on February 1, 2011, the Controller accepted the Appellant's offer to settle this  
14 matter as described further below.

15 L. The Charter School has never received a negative audit finding prior to or after the  
16 2006-07 school year.

17 M. In order to avoid the cost and uncertainty of litigation, the Appellant, Controller,  
18 and Finance agreed to resolve this dispute on the terms and conditions described herein.

19 **II.**  
20 **AGREEMENT**

21 For the purpose of completely settling and resolving the audit findings between Charter  
22 School, Controller, and Finance, the parties agree as set forth below:

23 1. This Settlement Stipulation fully and completely resolves all claims, demands,  
24 appeals, obligations, or causes of actions between Charter School, Controller, and Finance arising  
25 from or relating to Audit Finding 2007-4 and/or the audit appeal. Accordingly, Appellant,  
26 Controller, and Finance expressly waive any right or claim to assert or pursue hereafter any claim,  
27 demand, obligation, and/or cause of action between Charter School, Controller, and/or Finance  
28 relating to Audit Finding 2007-4 and/or the audit appeal.

1           2. Charter School shall repay in full satisfaction of Audit Finding 2007-4 from its  
2 future apportionments the sum of \$386,000.00 over a period of 8 years, without interest, at an  
3 annual payment of \$48,250.00 commencing with the 2011-12 school year. Appellant, Controller,  
4 and Finance agree that the Charter School will repay the \$386,000.00 in eight (8) annual  
5 installments of \$48,250.00 each, to be withheld from the Charter School's future principal  
6 apportionment funding from the State of California, as follows:

7	(A)	2011-2012	\$48,250.00
8	(B)	2012-2013	\$48,250.00
9	(C)	2013-2014	\$48,250.00
10	(D)	2014-2015	\$48,250.00
11	(E)	2015-2016	\$48,250.00
12	(F)	2016-2017	\$48,250.00
13	(G)	2017-2018	\$48,250.00
14	(H)	2018-2019	\$48,250.00

15           The State of California will not charge the Charter School any interest for the amounts  
16 specified in paragraph 2, above, under the terms of this Stipulation.

17           3. The Charter School will fully adhere to the requirements of Education Code  
18 section 51747 regarding independent study written agreements.

19           4. This Settlement Stipulation is subject to and conditioned upon approval and  
20 adoption by the Panel, pursuant to Education Code section 41344.1, subdivision (b). This  
21 Settlement Stipulation shall be submitted to the Panel for approval following execution hereof by  
22 the parties and may be executed in counterparts, each of which shall constitute an original.  
23 Facsimile signatures transmitted to the parties to this Settlement Stipulation are deemed to be the  
24 equivalent of original signatures on counterparts.

25           5. This Settlement Stipulation contains the entire agreement between the Charter  
26 School, Controller, and Finance and constitutes the complete, final, and exclusive embodiment of  
27 their agreement with respect to the subject matter hereof. The terms of this Settlement  
28 Stipulation are contractual and not a mere recital, and is executed without reliance upon any

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1 promise, warranty, or representation by any party or any representative of any party other than  
2 those expressly contained herein, and each party has carefully read this agreement, has been  
3 advised of its meaning and consequences by its respective attorney, and signs the same by their  
4 own free will.

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6 DATED: 2/1/11, 2011

*Original Signed*

7 \_\_\_\_\_  
SCOTT LOEHR  
Superintendent  
For Appellant, CENTER UNIFIED SCHOOL  
DISTRICT

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12 DATED: 2/1, 2011

*Original Signed*

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SCOTT K. HOLBROOK  
Atkinson, Andelson, Loya, Ruud & Romo  
Attorneys for Appellant CENTER UNIFIED SCHOOL  
DISTRICT

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JOHN CHIANG  
Controller of the State of California

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DATED: 2-1-11, 2011

*Original Signed*

20 \_\_\_\_\_  
RICHARD J. CHIVARO  
Chief Counsel  
Attorneys for  
STATE CONTROLLER JOHN CHIANG

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KAMALA D. HARRIS  
Attorney General of the State of California

DATED: 2/1, 2011

*Original Signed*

ISMAEL CASTRO  
Supervising Deputy Attorney General  
Attorneys for Intervener  
DEPARTMENT OF FINANCE

IT IS SO APPROVED.

DATED: \_\_\_\_\_, 2011

See Decision cover page adopting  
the settlement stipulation.

DIANA L. DUCAY  
For EDUCATION AUDIT APPEALS PANEL