

**Education Audit Appeals Panel  
State of California**

Appeal of 2008-09 Audit Finding 2009-1  
by:

Chino Valley Unified School District,

Appellant.

EAAP Case No. 10-06

OAH No. 2010070805

**Decision**

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

Effective date: December 20, 2010.

IT IS SO ORDERED.

December 20, 2010  
Date

*Original Signed*  
Diana L. Ducay, Chairperson  
for Education Audit Appeals Panel

1 EDMUND G. BROWN, JR.,  
Attorney General of the State of California  
2 RICHARD WALDOW,  
Supervising Deputy Attorney General  
3 JONATHAN E. RICH State Bar No. 187386  
Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-2439  
Facsimile: (213) 897-2805  
6 E-mail: Jonathan.Rich@doj.ca.gov

7 Attorneys for Intervener,  
California Department of Finance  
8

9  
10 **BEFORE THE**  
11 **EDUCATION AUDIT APPEALS PANEL**  
12 **STATE OF CALIFORNIA**

13 **In the Matter of the Audit Appeal of:**  
14 **Fiscal Year 2008-09 Audit Findings 2009-1 of:**  
15 **CHINO VALLEY UNIFIED SCHOOL**  
16 **DISTRICT**  
17 **Appellant.**

OAH Case No. 2010070805  
EAAP Case No. 10-06  
**SETTLEMENT AGREEMENT**  
**Location: OAH San Diego**  
**1350 Front Street**  
**Ste 3005**  
**San Diego, CA 92101**

1 The DEPARTMENT OF FINANCE (Finance) and the CHINO VALLEY UNIFIED  
2 SCHOOL DISTRICT (District) (collectively, Parties) hereby enter into this Settlement  
3 Agreement (Agreement) to resolve the above-captioned audit appeal before the Education Audit  
4 Appeals Panel (EAAP), EAAP Case No. 10-06, OAH Case No. 2010070805.

5 **RECITALS**

6 A. Section 46200 of the California Education Code (Education Code) requires that the  
7 District offer 180 school days per year to be eligible to receive incentive funding.

8 B. The District received incentive funding for increased instructional time in  
9 accordance with Section 46200 of the Education Code.

10 C. The Audit Findings 2009-1 of the independent auditor's report of the District dated  
11 June 30, 2009 (audit report) concluded, in part, as follows:

12 The District did not meet the minimum daily minute  
13 requirement for grades 4-6 at two of their elementary  
14 schools for a total of 34 days and as a result, only offered  
15 146 school days during the fiscal year 2008-2009.

16 D. The fiscal penalty (Penalty) for the District's failure to comply with the minimum  
17 school year requirement totals \$7,517,527.

18 E. The District received the final audit report on or about December 14, 2009. The  
19 audit report was certified by the Controller on March 11, 2010. The certified audit report was  
20 received by the District on March 16, 2010.

21 F. On May 10, 2010, the District sent a written request for a formal appeal (Appeal)  
22 to EAAP pursuant to section 41344 of the Education Code.

23 G. Finance intervened in the above-captioned matter by notice of motion and motion  
24 to intervene pursuant to section 41344.1, subdivision (b), of the Education Code on or about  
25 August 3, 2010.

26 H. The hearing in this matter is calendared for November 30, 2010 before the Office  
27 of Administrative Hearings (OAH).

28 I. On September 13, 2010, the Controller notified EAAP that it will not oppose the

1 Appeal. EAAP responded on September 21, 2010 that it would reserve decision until after the  
2 conclusion of the evidentiary hearing.

3 J. In order to avoid the time and expense of ongoing litigation between the Parties,  
4 the Parties have agreed to enter into this Agreement.

5 **AGREEMENT**

6 1. This stipulation and proposed decision fully and completely resolves all claims,  
7 demands, appeals, obligations, or causes of actions arising from or relating to Audit Finding  
8 2009-1. Accordingly, the District and Finance expressly waive any right or claim to assert or  
9 pursue thereafter any claim, demand, obligation, and/or cause of action relating to Audit Finding  
10 2009-1.

11 2. The District shall repay \$1.5 million of the questioned costs contained in Audit  
12 Finding 2009-1 over a period of eight years without interest, beginning with the 2011-12 fiscal  
13 year. Payments will be secured as an offset to the District's revenue limit apportionment in equal  
14 installments for fiscal years 2011-12 through 2018-19.

15 3. The District shall agree to offer 428 additional minutes of instruction to all  
16 students in the District for the 2010-11 and 2011-12 fiscal years, consistent with their practice for  
17 the 2009-10 fiscal year. The District shall also ensure that in 2010-11, 2011-12 and all future  
18 years, all school days will meet the minimum requirements specified in Chapter 2, Part 26,  
19 Division 4 of the Education Code, commencing with Section 46100.

20 4. This Agreement is subject to and conditioned upon approval and adoption by  
21 EAAP, pursuant to section 41344.1, subdivision (b), of the Education Code. This stipulation and  
22 proposed decision shall be submitted to EAAP for approval following ratification by the District's  
23 Governing Board.

24 5. This Agreement may be executed in counterparts, each of which shall constitute an  
25 original. Facsimile signatures transmitted to other parties to this Agreement are deemed to be the  
26 equivalent of original signatures or counterparts.

27 The Parties ratify the preceding terms and conditions through the signatures of their  
28

1 respective representatives, as follows:

2  
3 DATED: December \_\_\_\_, 2010

CHINO VALLEY UNIFIED SCHOOL DISTRICT

4  
5 By: Original Signed  
6 GERI PARTIDA, Wayne M. Joseph  
7 Assistant Superintendent, Business Services  
8 CHINO VALLEY UNIFIED SCHOOL  
9 DISTRICT

10 DATED: December 9, 2010

EDMUND G. BROWN JR.,  
Attorney General of California  
RICHARD T. WALDOW  
Supervising Deputy Attorney General

11  
12 By: Original Signed  
13 JONATHAN E. RICH, Deputy Attorney General  
14 Attorneys for Intervener, CALIFORNIA  
15 DEPARTMENT OF FINANCE

16 AS TO FORM. ONLY:

17 DATED: December 9, 2010

OFFICE OF THE STATE CONTROLLER

18 By: Original Signed  
19 DAVID I. BROWNFIELD, Staff Counsel  
20 Attorneys for Respondent, JOHN CHIANG,  
21 CALIFORNIA STATE CONTROLLER

22 SD2010503190  
60566353.docx