

**Education Audit Appeals Panel
State of California**

Appeal of 2005-06 Audit Finding 5 by:

Dixon Unified School District,

Appellant.

EAAP Case No. 07-16

OAH No. 2008050289

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: October 12, 2009

IT IS SO ORDERED.

October 12, 2009
Date

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

1 RICHARD J. CHIVARO, State Bar No. 124391
JOHN E. DICKERSON, State Bar No. 248005
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5 Attorneys for Respondent
JOHN CHIANG, California State Controller
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7
8 **BEFORE THE EDUCATION AUDIT APPEALS PANEL**
9 **STATE OF CALIFORNIA**
10

11 In the Matter of) Case No.: 07-16
12 DIXON UNIFIED SCHOOL DISTRICT,) OAH No.: 2008050289
13 Appellant.) **STIPULATED AGREEMENT**
14)
15)

16
17 Appellant DIXON UNIFIED SCHOOL DISTRICT (Appellant), Respondent JOHN CHIANG,
18 California State Controller (SCO), and Intervenor DEPARTMENT OF FINANCE (DOF) agree to a
19 complete resolution of the above-captioned matter as follows:

20 **RECITALS**

21 A. The independent accounting firm of Perry Smith, LLP conducted an audit of the
22 Appellant for the 2005-06 fiscal year, the results of which were included in the audit report issued on or
23 about November 10, 2006.

24 B. In Audit Finding No. 2006-5, Perry Smith, LLP determined:

25 Dixon Unified School District was not in compliance with the legal mandate imposed by
26 Education Code section 44809, which requires the local education authority to develop and keep safe
27 accurate and adequate records so as to support the attendance reported to the state.
28

1 Dixon Unified School District was unable to provide contemporaneous supporting
2 documentation for their attendance reports during the independent audit by Perry Smith, LLP.

3 Perry Smith, LLP determined:

4 "The Maine Prairie High School could not provide supporting documentation for
5 their attendance records. . . [t]he scope over attendance continuation education
6 was limited as we were unable to audit the ADA reported to the California
7 Department of Education. . . [w]e can not (sic) determine the correct amount of
8 ADA. . . [t]he District could lose approximately 55 ADA. . . [t]he District
changed attendance systems and no one is able to compile the monthly
information needed to audit continuation education. There was also high turnover
at the Continuation Education School in the administration."
(Audit Report, at p. 63.)

9 C. Education Code section 44809 requires that each local education authority maintain
10 adequate attendance records to support the ADA claimed to the state.

11 D. Perry Smith, LLP determined that there was material noncompliance with Education
12 Code section 44809, which resulted in a \$280,071 overstatement on the amount of the apportionment
13 the District claimed to the state.

14 E. SCO certified the Perry Smith, LLP audit.

15 F. Appellant disputed the determination set forth in Audit Finding No. 2006-05, and
16 requested a summary review with the Education Audit Appeals Panel (EAAP). On March 24, 2008,
17 EAAP concluded that Appellant did not substantially comply with Education Code section 44809.
18 Appellant then timely filed a request for formal appeal instituting this action pursuant to Education
19 Code section 41344, subdivision (d).

20 G. DOF timely moved to intervene in the instant EAAP proceeding, and was granted
21 intervenor status.

22 H. In order to avoid the cost and uncertainty of litigation, the parties to this case agree to
23 resolve this dispute on the terms and conditions described herein. The District's promise to pay the
24 amount set forth in this agreement, without the risk and uncertainty of litigation, is valid consideration,
25 which the Appellant, SCO, and DOF agree.

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1 AGREEMENT

2 For the purpose of completely settling and resolving the appeal of Audit Finding No. 2006-05,
3 Appellant, SCO, and DOF agree as set forth below:

4 1. This stipulation and proposed decision fully and completely resolves all claims,
5 demands, appeals, obligations, or causes of actions arising from or relating to Audit Finding No. 2006-
6 05. Accordingly, Appellant, DOF, and SCO expressly waive any right or claim to assert or pursue
7 thereafter any claim, demand, obligation, and/or cause of action relating to Audit Finding No. 2006-05.
8 This is a settlement of a disputed claim, and none of the parties hereto makes any admission with
9 respect to the issues presented.

10 2. Appellant shall repay fifty percent (50%) of the audit overstatement, of \$280,071, from
11 Audit Finding No. 2006-05, within the next eight years following the execution of this agreement.
12 Thus, Appellant, SCO, and DOF agree that the Appellant will repay \$140,036 in eight annual
13 installments from future principal apportionment funding by the State of California to the Appellant, as
14 follows:

15	a.	2009-2010	\$17,504
16	b.	2010-2011	\$17,504
17	c.	2011-2012	\$17,504
18	d.	2012-2013	\$17,504
19	e.	2013-2014	\$17,504
20	f.	2014-2015	\$17,504
21	g.	2015-2016	\$17,504
22	h.	2016-2017	\$17,508

23 3. The State of California will not charge the Appellant any interest for the amounts
24 specified in paragraph 2, above, under the terms of this stipulation.

25 4. This stipulation and proposed decision is subject to and conditioned upon ratification by
26 the Appellant's Superintendent.

27 5. This stipulation and proposed decision is subject to and conditioned upon approval and
28 adoption by EAAP, pursuant to Education Code section 41344.1, subdivision (b). This stipulation and

1 proposed decision shall be submitted to EAAP for approval following ratification by the Appellant's
2 Superintendent.

3 6. This stipulation and proposed decision may be executed in counterparts, each of which
4 shall constitute an original. Facsimile signatures transmitted to other parties to this stipulation and
5 proposed decision are deemed to be the equivalent of original signatures on counterparts.

6
7 Dated: August 7, 2009

OFFICE OF THE STATE CONTROLLER

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9 *Original Signed*

10 By:

JOHN E. DICKERSON, Staff Counsel
Attorney for Respondent
JOHN CHIANG, California State Controller

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12
13 Dated: August 11, 2009

DIXON UNIFIED SCHOOL DISTRICT

14
15 *Original Signed*

16 By:

ROGER HALBERG, Superintendent
Representative for Appellant

17
18 Dated: August 13, 2009

DEPARTMENT OF JUSTICE

19
20
21 *Original Signed*

22 By:

CHRISTINE MURPHY, Deputy Attorney General
Attorney for Intervenor
DEPARTMENT OF FINANCE