

**Education Audit Appeals Panel  
State of California**

Appeal of 2006-07 Audit Finding 2007-10  
by:

Luther Burbank Elementary School  
District,  
Appellant.

EAAP Case No. 08-15

OAH No. 2010050809

**Decision**

The Education Audit Appeals Panel has adopted the attached Stipulation and Settlement Agreement of the parties, reducing the penalty from \$68,924 to \$22,975, as its Decision in the above-entitled matter.

Effective date: May 23, 2011.

IT IS SO ORDERED.

May 23, 2011  
Date

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

1 KAMALA D. HARRIS  
Attorney General of California  
2 SUSAN M. CARSON  
Supervising Deputy Attorney General  
3 BEVERLEY R. MEYERS  
Deputy Attorney General  
4 State Bar No. 109624  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5545  
6 Facsimile: (415) 703-5480  
Email: Beverley.Meyers@doj.ca.gov

7 *Attorneys for Department of Finance*

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

12  
13 In the Matter of:

14 Appeal of Fiscal Year 2006-2007 Audit Finding  
2007-10 by

15 LUTHER BURBANK ELEMENTARY SCHOOL  
16 DISTRICT

17 Appellant,  
v.

18 OFFICE OF THE STATE CONTROLLER,

19 Respondent,

20 DEPARTMENT OF FINANCE,

21 Intervener.

Case No. EAAP 08-15 (Oakland)

OAH No. 2010050809

12 **STIPULATION AND**  
13 **SETTLEMENT AGREEMENT**

22  
23 **INTRODUCTION**

24 Appellant Luther Burbank Elementary School District (District) and intervenor California  
25 Department of Finance (Finance)<sup>1</sup> agree to complete resolution of the appeal of Audit Finding

26 <sup>1</sup> On July 8, 2010, the Office of the State Controller (Controller) had sent notice of the  
27 administrative hearing scheduled initially for September 7, 2010. On November 2, 2010, the  
28 Controller informed the Education Audit Appeals Board and the parties that the Controller's  
Office would no longer actively participate in any further proceedings regarding this appeal.

1 2007-10 for fiscal year ended June 30, 2007, as follows:

2 1. Pursuant to Senate Bill (Stats. 2003, ch. 14), independent auditor, Nigro, Nigro &  
3 White conducted financial and compliance audits of the District for the fiscal year ending June  
4 30, 2007, and thereafter issued an Audit Report.

5 2. The Audit Report, as certified by the Controller, contains Finding No. 2007-10.

6 3. Finding 2007-10 determined that the District exceeded the allowable ratio of  
7 administrators to teachers by one administrator, under the requirements of Education Code  
8 sections 41400-41403.

9 4. The District timely submitted its appeal of Finding 2007-10 to the Education Audit  
10 Appeals Panel on March 24, 2009.

11 5. Subsequently Finance, on June 10, 2010 intervened in this appeal.

12 6. This Agreement is subject to approval of the Education Audit Appeals Panel, pursuant  
13 to Education Code section 41344.1, subdivision (b).

14 NOW, THEREFORE, in consideration of the mutual promises contained here and for good  
15 and valuable consideration, the receipt and sufficiency which is hereby acknowledged, the parties  
16 agree as follows:

17 **AGREEMENT**

18 1. For the purposes of effecting a compromise of this action, and to prevent the  
19 uncertainty and cost of further litigation, Finance and the District agree:

20 a. That as a result of the determination contained in Finding 2007-10 for fiscal year  
21 ended June 30, 2007, in lieu of any other penalty or loss of funding, the District shall repay  
22 \$22,975.

23 b. The repayment of \$22,975 shall be withheld from the District's next principal  
24 apportionment following the date this Agreement is approved by the Education Audit Appeals  
25 Panel.

26 c. That the District will make all reasonable efforts in the future to insure compliance  
27 with the provisions of law at issue in these audits.

28

1           2. This Agreement shall fully resolve any and all claims, demands, audit findings, appeals,  
2 obligations and/or causes of action, now and hereafter arising, relating to alleged violations of law  
3 identified in Audit Findings 2007-10 of the 2006-07 fiscal year audit of the District.

4           3. Accordingly, the District and Finance, expressly waive any right or claim or right to  
5 assert thereafter any claim, demand, audit finding, obligation and/or cause of action relating to the  
6 alleged violations of law identified in Audit Finding 2007-10 of the 2006-07 fiscal year audit of  
7 the District, other than any right or claim to enforce this Agreement, and Finance will refrain  
8 from engaging in further activity to adversely affect District funding based on the 2006-07 fiscal  
9 year Audit Finding at issue in this appeal.

10          4. This agreement may be signed in counter-parts.

11 Dated: April 11, 2011

KAMALA D. HARRIS  
Attorney General of California

*Original Signed*

BEVERLEY MEYERS  
Deputy Attorney General

Attorneys for Intervener Department of Finance

16  
17 Dated: Apr. 14, 2011

HERRERA & PIZARRO

*Original Signed*

ESAU HERRERA

Attorneys for Appellant, Luther Burbank Elementary  
School District

22 Dated: 4/11, 2011

LUTHER BURBANK ELEMENTARY  
SCHOOL DISTRICT

*Original Signed*

LORRAINE GARZA

President, Board of Trustees

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APPROVED AS TO FORM:

Dated: March 23, 2011

JOHN CHIANG  
California State Controller

*Original Signed*

~~DAVID L. BROMFIELD~~  
Staff Counsel

Office of the State Controller

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