

**Education Audit Appeals Panel
State of California**

Appeal of 2007-08 Audit Findings 08-29,
08-31, 08-36, 08-40, 08-43, 08-46, 08-51
and 08-52 by:

Oakland Unified School District,
Appellant.

EAAP Case No. 11-16
OAH No. 2011120017

Decision

The Education Audit Appeals Panel has adopted the attached Stipulation and Settlement Agreement of the parties as its Decision related to Audit Findings 08-29, 08-31, 08-36, 08-40, 08-46, 08-51 and 08-52 in the above-entitled matter. Finding 08-43 remains pending at this time.

Effective date: January 28, 2013.

IT IS SO ORDERED.

January 28, 2013
Date

Original Signed
David Botelho, Chairperson
for Education Audit Appeals Panel

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

13 **APPEAL OF FISCAL YEAR 2007-08 OF**
14 **AUDIT FINDINGS 08-29, 08-31, 08-36,**
15 **08-40, 08-43, 08-46, 08-51, & 08-52 by**
16 **OAKLAND UNIFIED SCHOOL**
17 **DISTRICT,**

Case No. EAAP 11-16; OAH 2011120017

STIPULATION AND SETTLEMENT
AGREEMENT

18 Appellant,

19 v.

20 **OFFICE OF THE STATE CONTROLLER,**

Respondent,

21 **DEPARTMENT OF FINANCE,**

Intervenor.
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24 Appellant Oakland Unified School District (“District”), Respondent Office of the State
25 Controller (“Controller”), and Intervenor California Department of Finance (“Finance”) agree to
26 complete resolution of the District’s appeal of seven of the eight disputed Audit Findings in the
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1 Controller's Audit Report for fiscal year ended June 30, 2008, namely, 08-29, 08-31, 08-36,
2 08-40, 08-46, 08-51, and 08-52.

3 STATEMENT OF FACTS

4 1. Pursuant to Senate Bill 39 (Stats. 2003, ch. 14), the Controller conducted the annual
5 financial and state compliance audit of the District for fiscal year ended June 30, 2008 and
6 subsequently issued an Audit Report.

7 2. The Audit Report contains, among things, eight Audit Findings 08-29, 08-31, 08-36,
8 08-40, 08-43, 08-46, 08-51, and 08-52.

9 3. Audit Finding 08-29 determined instances of non-compliance with certain teachers'
10 credential requirements under Education Code section 45037; \$107,054 disallowance.

11 4. Audit Finding 08-31 determined instances of non-compliance with various
12 independent study program requirements under Education Code sections 51747, 51747.5, and
13 51748 and Title 5 of the California Code of Regulations sections 11702 and 11703;
14 \$708,568 disallowance.

15 5. Audit Finding 08-36 determined that the independent study program student-to-teacher
16 ratio exceeded the maximum number of allowable students under the requirements of Education
17 Code section 51745.6; \$382,164 disallowance.

18 6. Audit Finding 08-40 determined that a shortage of instructional time occurred at
19 Laurel Elementary School for grades 4 and 5 pursuant to Education Code 46201;
20 \$587,995 disallowance.

21 7. Audit Finding 08-43 determined that there were excess administrators under the ratio
22 of administrator-to-teacher requirements under Education Code section 41402;
23 \$4,995,000 disallowance.

24 8. Audit Finding 08-46 determined that bond proceeds from Measure A and Measure C
25 were commingled and the tracking of expenditures to the specific bond measure was not recorded;
26 replace \$6,917,338 into Building Fund 21.

27 9. Audit Finding 08-51 determined that documentation was lacking to support the
28 District's receipt of Mathematics and Reading Professional Development training pursuant to

1 Education Code section 99237 and Title 5 of the California Code of Regulations section 1983,
2 subdivision (b)(1); \$403,750 disallowance.

3 10. Audit Finding 08-52 determined that documentation was lacking to support the
4 District's receipt of state funds for the class size reduction program under section 19845.1,
5 subdivision (b)(2) of the Audit Guide issued by the Education Audit Appeals Panel ("Panel");
6 \$182,070 disallowance.

7 11. The District timely submitted its appeal of the aforementioned eight Audit Findings to
8 the Panel on September 19, 2011.

9 12. Controller is a mandatory party in the District's appeal and Finance moved to
10 intervene on December 14, 2011. Finance's motion to intervene was granted on January 3, 2012.

11 13. The Panel referred the District's appeal to the Office of Administrative Hearings for
12 hearing before an administrative law judge.

13 14. The hearing on the District's appeal is scheduled for six days and is set to begin on
14 January 17, 2013.

15 15. The parties met and conferred on January 3, 2013 at a Settlement Conference before
16 Melissa G. Crowell, Administrative Law Judge, to discuss and resolve some of the Audit Findings
17 at issue. The settlement discussions between the parties have resulted in this Agreement.

18 16. This Agreement is subject to the approval of the Panel, pursuant to Education Code
19 section 41344.1, subdivision (b).

20 NOW, THEREFORE, in consideration of the promises contained here and for good and
21 valuable consideration, the receipt and sufficiency which is hereby acknowledged, the parties
22 agree as follows:

23
24 **AGREEMENT**

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

- 27 a. That as a result of the determinations made in Audit Findings 08-29,
28 08-31, 08-36, 08-40, 08-46, 08-51, and 08-52, in lieu of any other monetary

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penalty or other loss of funding, the District shall repay \$498,788.00, more particularly described below:

08-29	\$85,643.00
08-31	13,145.00
08-36	0.00
08-40	42,930.00
08-46	175,000.00
08-51	0.00
08-52	<u>182,070.00</u>
Total	\$498,788.00

b. The repayment of \$498,788.00 shall be withheld from the District's next principal apportionment following the date this Agreement is approved by the Panel.

c. In addition, in order to resolve Audit Finding 08-46, the District agrees to hire and pay for auditors from Controller to apply agreed-upon procedures to examine the District's division of Bond Measures A and C and to monitor the remaining bond proceeds, if any, associated with these two Measures. The examination services will be prospective in nature beginning with fiscal year 2012-2013 and shall continue until all bonds proceeds associated with Bond Measures A and C are expended. For fiscal year 2012-2013, however, the examination period will be limited be to January 3, 2013 to June 30, 2013. The District shall provide a calculation to support all expenditures of and the remaining balances of Bond Measures A and C. Notwithstanding, the District's financial audit of fiscal year 2012-2013 will include, among other auditing procedures, the testing of expenditures from July 1, 2012 through June 30, 2013 regarding Bond Measures A and C. Controller shall present an engagement letter and a contract for examination services to the District

1 for signature immediately upon approval of this Agreement by the Panel.
2 This examination is separate and apart from the provisions of the Panel's
3 Audit Guide and the regular annual audit of the District's financial
4 statements. Further, the District admits that it commingled the bond
5 proceeds of Measures A and C, but does not admit that it improperly
6 expended any of the bond proceeds.

7 2. Subject to paragraph 1(c) above, this Agreement shall fully resolve and/or
8 cause to resolve any and all demands, appeals, obligations, and/or causes of action, now
9 and hereafter arising, relating to the alleged violations of law identified in Audit
10 Findings 08-29, 08-31, 08-36, 08-40, 08-46, 08-51, and 08-52 in the Controller's Audit
11 Report of the District of the fiscal year ended June 30, 2008.

12 3. Subject to paragraph 1(c) above, the Controller, Finance, and District
13 expressly waive any right or claim or right to assert hereafter any claim, demand, audit
14 finding, obligation, and/or cause of action relating to the alleged violation of law relating
15 to the alleged violations of law identified Audit Findings 08-29, 08-31, 08-36, 08-40,
16 08-46, 08-51, and 08-52 in the Controller's Audit Report of the District of the fiscal year
17 ended June 30, 2008.

18 4. The parties shall continue to meet and confer regarding Audit
19 Finding 08-43 in an effort to reach a partial settlement of that finding prior to the first
20 hearing date of January 17, 2013.

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Dated: 1/7/13

OAKLAND UNIFIED SCHOOL DISTRICT

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By: Original Signed

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RICHARD C. MIADICH
Olson Hagel & Fishburn LLP
Attorneys for Oakland Unified School District

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Dated: 1/14/2013 _____

OAKLAND UNIFIED SCHOOL DISTRICT

By: Original Signed

Officer of the Governing Board,
Oakland Unified School District

Dated: 1/7/2013 _____

OFFICE OF THE STATE CONTROLLER

By: Original Signed

GARY D. HORI, Attorney
Counsel for Hon. John Chiang,
State Controller

Dated: 1/7/2013 _____

DEPARTMENT OF FINANCE

By: Original Signed

CHARLES J. ANTONEN
Deputy Attorney General
Attorney for Department of Finance
AS TO FORM ONLY

Dated: 1/16/2013 _____

DEPARTMENT OF FINANCE

By: Original Signed

NICK SCHWEIZER,
Program Budget Manager
Department of Finance

Oakland USD 200-2008 Stip and Settle Agreement sfo draft JAN 7 2013