

**Education Audit Appeals Panel  
State of California**

Appeal of 2006-07 Audit Findings 07-24,  
07-26, 07-27, and 07-34 by:

Oakland Unified School District,

Appellant.

EAAP Case No. 10-04

OAH No. 2010050766

**Decision**

The Education Audit Appeals Panel has adopted the attached Stipulation and Settlement Agreement of the parties as to Audit Findings 07-24, 07-26, and 07-27 as its Decision in the above-entitled matter with the understanding that the appeal of Audit Finding 07-34 is still pending before the Office of Administrative Hearings.

Effective date: April 11, 2011.

IT IS SO ORDERED.

April 11, 2011

Date

*Original Signed*

Diana L. Ducay, Chairperson  
for Education Audit Appeals Panel

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6 OAKLAND UNIFIED SCHOOL DISTRICT

7  
8 BEFORE THE EDUCATION AUDIT APPEALS PANEL  
9 STATE OF CALIFORNIA

11	EAAP No.: 10-04
12	OAH No.: 2010050766
13	<b>STIPULATION AND SETTLEMENT AGREEMENT</b>

14

12 **In the Matter of the Appeal of Fiscal Year 2006-07 Audit Findings 07-24, 07-26, 07-27, and 07-34 by Oakland Unified School District**

15  
16 Appellant Oakland Unified School District ("District"), respondent Office of the State Controller ("Controller"), and intervenor California Department of Finance ("Finance") agree to complete resolution of the District's appeal of Audit Findings 07-24, 07-26, and 07-27 in the Audit Report for fiscal year ended June 30, 2007, as follows:

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21 **STATEMENT OF FACTS**

- 22 1. Pursuant to Senate Bill 39 (Stats. 2003, ch. 14), the Controller conducted a financial and compliance audit of the District for the fiscal year ended June 30, 2007 and thereafter issued an Audit Report.
- 23  
24  
25 2. The Audit Report, as certified by the Controller, contains Findings 07-24, 07-26, 07-27, and 7-34.
- 26  
27 3. Finding 7-24 determined instances of non-compliance with the certain teachers' credential requirements under the requirements of Education Code section 45037.
- 28

1 4. Findings 07-26 determined instances of non-compliance with various independent study  
2 program requirements under the requirements of Education Code sections 51747, 51747.5, and 51748,  
3 and Title 5 of the California Code of Regulations, sections 11702, 11703, and 19819.

4 5. Finding 07-27 determined that the District's independent study program student-to-  
5 teacher ratio exceeded the ratio of regular students to teachers under the requirements of Education Code  
6 section 51745.6.

7 6. Finding 7-34 determined that the District's ratio of administrative employees to teachers  
8 exceeded the maximum number of allowable administrative employees under the requirements of  
9 Education Code sections 41402 and 41403.

10 7. The District timely submitted its appeal of Findings 07-24, 7-26, 7-27 and 7-34 to the  
11 Education Audit Appeals Panel on March 31, 2010.

12 8. Finance moved to intervene in the District's appeal on May 27, 2010. Finance's motion  
13 to intervene was granted on June 3, 2010.

14 9. The Panel referred the District's appeal to the Office of Administrative Hearings for  
15 hearing before an administrative law judge.

16 10. The hearing on the District's appeal was scheduled for October 19-21, 2010 before  
17 Administrative Law Judge David Benjamin at the OAH Office in Oakland, California.

18 11. The parties met and conferred prior to the scheduled hearing date on the District's appeal  
19 to discuss potential settlement of some of the findings at issue. The settlement discussions between the  
20 parties have resulted in this Agreement.

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

23 NOW, THEREFORE, in consideration of the mutual promises contained herein and for good and  
24 valuable consideration, the receipt and sufficiency which is hereby acknowledged, the parties agree as  
25 follows:

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27 **AGREEMENT**

28 1. For the purposes of effecting a compromise of this action, and to prevent the uncertainty

1 and cost of further litigation, the Controller, Finance, and the District agree:

2 a. That as a result of the determinations made in Findings 07-24, 7-26, and 7-27, in  
3 lieu of any other penalty or other loss of funding, the District shall repay  
4 \$153,070.14.

5 b. The repayment of \$153,070.14 shall be withheld from the District's next principal  
6 apportionment following the date this Agreement is approved by the Education  
7 Audit Appeals Panel.

8 2. This Agreement shall fully resolve and/or cause to be withdrawn any and all claims,  
9 demands, audit findings, appeals, obligations and/or causes of action, now and hereafter arising, relating  
10 to alleged violations of law identified in Findings 07-24, 7-26, and 7-27 in the Audit Report for the  
11 District for the fiscal year ended June 30, 2007.

12 3. The District, Finance, and the Controller expressly waive any right or claim or right to  
13 assert thereafter any claim, demand, audit finding, obligation and/or cause of action relating to the  
14 alleged violations of law identified in Findings 07-24, 7-26, and 7-27 in the Audit Report for the District  
15 for the fiscal year ended June 30, 2007.

16 4. Pursuant to settlement discussions, the Controller issued revised Finding 7-34 to replace  
17 Finding 7-34 as originally contained in the certified Audit Report. By mutual agreement, the parties  
18 have requested that the OAH continue the hearing on the District's appeal of revised Finding 7-34 in the  
19 Audit Report for the fiscal year ended June 30, 2007 to January 26-27, 2011.

20 5. The parties shall continue to meet and confer regarding revised Finding 7-34 in an effort  
21 to reach a settlement of that finding prior to the continued hearing date.

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1 Dated: 1/18/11

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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5 Dated: 1/13/11

OAKLAND UNIFIED SCHOOL DISTRICT

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By: Original Signed

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President of the Governing Board,  
Oakland Unified School District  
*Original Signed*  
Edgar R. Estrada, Jr., Secretary

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9 Dated: 3/10/2011

OFFICE OF THE STATE CONTROLLER

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By: Original Signed

11

Gary D. Hori, Staff Counsel  
Attorney for John Chiang, State Controller

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14 Dated: 1/19/2011

DEPARTMENT OF FINANCE

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By: Original Signed

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Sarah E. Kurtz  
Deputy Attorney General  
Attorney for Department of Finance

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OAKLAND UNIFIED SCHOOL DISTRICT  
Office of General Counsel  
APPROVED FOR FORM'S SUBSTANCE  
By: Original Signed  
Attorney at Law

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File ID Number: 11-0545  
Introduction Date: 1/18/11  
Enactment Number: 11-0097  
Enactment Date: 1/12/11  
By: er

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