

**Education Audit Appeals Panel
State of California**

Appeal of 2003-04 Audit Findings 04-33,
04-35, 04-37, 04-38, 04-39, 04-40, 04-42,
04-44, 04-47, 04-49, 04-55, and 04-56 by:

Oakland Unified School District,

Appellant.

EAAP Case No. 06-01
OAH No. N2006010425

Decision

The Education Audit Appeals Panel has adopted the attached Proposed Decision of the Administrative Law Judge as its Decision in the above-entitled matter.

Effective date: January 14, 2008

IT IS SO ORDERED.

January 14, 2008
Date

Original Signed
Diana Ducay, Chairperson
for Education Audit Appeals Panel

BEFORE THE
EDUCATION AUDIT APPEALS PANEL
STATE OF CALIFORNIA

In the Matter of the Appeal of:

OAKLAND UNIFIED SCHOOL
DISTRICT,

Appellant.

Case No. 06-01

OAH No. 2006010425

PROPOSED DECISION

Administrative Law Judge David L. Benjamin, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on May 21, 22, 23, 24, and 29, 2007.

Attorney Gary D. Hori represented State Controller John Chiang.

Deputy Attorney General Susan J. King represented the Department of Finance, which intervened as a party pursuant to Education Code section 41344.1.

N. Eugene Hill and William B. Tunick, Attorneys at Law, Olson, Hagel & Fishburn, LLC, represented appellant Oakland Unified School District.

The record was held open to allow the parties to determine which documents should be offered into evidence with respect to audit finding 04-55. Pursuant to the parties' agreement, pages CSR 001, 002, and 229 through 322 have been removed from the exhibit binder, and pages CSR 010, 012, and 014 have been removed and replaced with the redacted copies of the same pages. With these changes, Exhibit 55 is admitted.

The record also remained open to receive written briefs, which were timely filed. The District's opening brief was marked as Exhibit Z. The Controller's response was marked as Exhibit 2 and the response of the Department of Finance was marked Exhibit 3. The District's reply brief was received on October 17, 2007 (a facsimile copy was received on October 16, 2007) and marked as Exhibit AA, and the matter was deemed submitted on October 17, 2007.

FINDINGS AND CONCLUSIONS

1. The Controller of the State of California (SCO) conducted an audit of appellant Oakland Unified School District (District) for Fiscal Year 2003-04. In 2003, the District received an emergency loan of \$100,000,000 from the state. The legislation

approving the loan authorizes SCO to audit the District's books and accounts.

2. Pursuant to Education Code section 41344, the District appealed audit findings 04-33,04-35,04-37,04-38,04-39,04-40,04-42, 04-44,04-47,04-49,04-50,04-52,04-53, 04-55, and 04-56. The audit findings constitute the statement of issues in this case.

3. Prior to hearing, the District withdrew its appeal of audit findings 04-47 and 04-56. [*Prior to action by the Panel, the District also withdrew audit findings 04-50, 04-52, and 04-53; SCO presented the evidence and argument on the remaining findings.*]

4. The District has the burden of proving that the audit findings are based on “errors of fact or interpretation of law.” (Ed. Code, § 41344, subd. (d).)

AUDIT FINDINGS 04-33 AND 04-37; AVERAGE DAILY ATTENDANCE CLAIM CALCULATIONS

5. Public school districts receive apportionments from the state based upon reports of attendance they submit to the California Department of Education (CDE). Under Education Code section 41601, every school district

shall report to the Superintendent of Public Instruction during each fiscal year the average daily attendance [ADA] of the district for all full school months during (1) the period between July 1 and December 31, inclusive, to be known as the “first period” report for the first principal apportionment (P-1], and (2) the period between July 1 and April 15, inclusive, to be known as the “second period” report for the second principal apportionment [P-2].

Every school district also makes an annual report of attendance. The apportionments paid to the district are determined by the ADA reported and the “revenue limit” associated with each educational program.

6. In audit finding 04-33, the audit determined that the District had overreported 48.27 ADA at P-2 in its K-12 regular, opportunity, special education, and adult education programs. Based upon the revenue limit associated with each program, the audit determined that the overstatement of ADA had resulted in an overpayment to the District of \$231,766. The audit determined that, at annual, the District had overreported 13.57 ADA in the K-12 regular, special education, and adult education programs, resulting in an overpayment of \$65,748. These findings are set forth in Table I.

Table I.

2003-04 (P-2)	Per Report of Attendance	Per Audit Calculation	Variance Over/(Under)	Revenue Limit	Amount Over/ (Under)
K-12 Regular	41,643.56	41,618.07	25.49	\$4,827.32	\$123,048
Opportunity	387.61	386.32	1.29	4,827.32	6,227
Special Education	1,453.84	1,450.32	3.52	4,472.72	15,744
Adult Education	4,707.94	4,689.97	17.97	4,827.32	86,747
Total ADA (P-2)			48.27		\$231,766
2003-04 (Annual)					
K-12 Regular	41,436.93	41,436.55	0.38	\$4,827.32	\$ 1,834
Special Education	1,451.76	1,452.44	(0.68)	4,472.72	(3,041)
Adult Education	4,813.88	4,800.01	13.87	4,827.32	66,955
Total ADA (Annual)			13.57		\$ 65,748

7. In audit finding 04-37, the audit determined that the District had overreported ADA in its independent study program at P-2 and disallowed \$109,484. SCO and Intervenor Department of Finance (DOF) stipulated, however, that the disallowance for audit finding 04-37 is included in the disallowance stated in audit finding 04-33.

8. At hearing, the parties agreed to a corrective amendment to audit finding 04-33 based upon a revised P-2 filed by the District. The amendment relates to the K-12 regular, opportunity, and special education programs only; the alleged overpayment for adult education – \$86,747 – remains unaffected by the parties’ stipulation. The revised findings at P-2 pursuant to the parties’ stipulation are set forth in Table II.

Table II.

2003-04 (P-2)	Amount Over/ (Under)
K-12 Regular	\$ 17,136.97
Opportunity	3,286.03
Special Education	14,233.80
Adult Education	86,747.00
Total for these Programs at P-2:	\$121,403.80 ¹

¹ The parties stated at hearing that the total is \$121,303.80, but the correct total appears to be \$121,403.80.

9. In its closing argument, the District asserted that the audit applied the wrong revenue base limit to its calculations for the adult education program. The District claims that the FY 2003-04 revenue base limit for adult education was \$2,242.12, not \$4,827.32 as alleged in audit finding 04-33. SCO agrees. The parties' agreement on this point has the effect of amending the allegations at P-2 and at annual, as shown in Table III.

Table III.

2003-04 (P-2)	ADA Variance Over/ (Under)	Revenue Limit	Amount Over/ (Under)
K-12 Regular	(By stipulation)		\$ 17,136.97
Opportunity	(By stipulation)		3,286.03
Special Education	(By stipulation)		14,233.80
Adult Education	17.97	\$2,242.12	40,290.89
Total at P-2:			\$ 74,947.69
2003-04 (Annual)			
K-12 Regular	0.38	\$4,827.32	\$ 1,834.00
Special Education	(0.68)	4,472.72	(3,041.00)
Adult Education	13.87	2,242.12	31,098.20
Total at Annual:			\$ 29,891.20

10. The District asserts that adult education is funded upon the District's annual report, not its P-2 report, and that the audit therefore disallows apportionments that the District never received. Javetta Robinson is the District's chief financial officer; she is a certified public accountant and a former school auditor for SCO. Robinson testified that adult education is funded on the annual report of ADA, not the P-2 report. No contrary evidence was submitted.

11. SCO argues that, under the Education Audit Appeals Panel 2003-04 Audit Guide (EAAP Audit Guide), auditors are required to report discrepancies in ADA for both the P-2 and annual reporting periods.

12. While the auditor may be required to report discrepancies in ADA at both reporting periods, audit finding 04-33 goes further: it states that 17.97 ADA should be disallowed based on the District's P-2 report. No legal authority is offered for a disallowance based on a report unrelated to the program's funding. SCO's position on audit finding 04-33 appears to be inconsistent with its approach to the same issue in audit finding 04-42. There, the audit noted ADA discrepancies at P-2 and at annual for the District's continuation education program. The audit, however, stated that a disallowance would be imposed only for the overreporting at P-2, because continuation is funded on the P-2 report, not the annual report. (Finding 32, fn. 5, below.)

No legal basis has been established for a disallowance based on the District's P-2 report for adult education.

13. The auditors concluded that the District had overreported adult education ADA after comparing summary monthly attendance reports prepared by the District's adult education office with the ADA the District reported to the state. The auditors discussed their finding with District financial analyst Minh Co when it was still in draft form. In FY 2003-04, Co was responsible for preparing the District's P-I, P-2, and annual reports of attendance to the state.

At hearing, the District produced revised summary monthly attendance reports for adult education that had not been presented to the auditors during the audit. The new records, one for each month of the 2003-04 school year, are all dated August 17, 2004, and signed by Alan D. Kern; at that time, Kern was the District's director of Adult and Career Education. Kern did not testify at hearing.

Brigitte Marshall is currently the director of Adult and Career Education for the District. She testified that the summary monthly attendance reports for adult education were commonly revised throughout the year because adult education teachers working at remote sites did not always submit their attendance reports to Kern's office on a timely basis. Marshall and Co testified that the August 17, 2004, summary monthly reports appear to be the "final" attendance reports for adult education; neither Marshall nor Co, however, was involved in the preparation of the August 2004 reports. The District claims that the August 2004 reports establish that it did not overreport ADA for adult education.

SCO asserts (among other arguments) that the revised summary attendance records are not credible or trustworthy. It contends that the records cannot be accepted until they have been reviewed against school site attendance data and found to be valid.

The revised monthly attendance reports have little persuasive value. It may be true, as Marshall and Co stated, that adult education periodically revised its summary monthly attendance reports to reflect late attendance data submitted by teachers. But the basis for Kern's August 2004 revisions was not established. Kern did not testify, Marshall and Co were not involved in the preparation of the reports, and no documents to support Kern's revisions were offered. In addition, Kern's August 2004 reports do not appear to be periodic revisions; they were all signed on the same date, and they purport to restate attendance data for the entire year. It is not probable that, in August 2004, Kern received data that required him to revise every monthly report for FY 2003-04; if he did, the submission of new attendance data months after the fact further diminishes confidence in Kern's reports. It is true, as the District argues, that the auditors did not require teacher attendance data when they first reviewed the summary monthly reports. At that time, however, there was no reason for the auditors to question the District's summary reports.

14. The disallowance under Audit Findings 04-33 and 04-37 is \$64,547.80, as stated in Table IV.

Table IV.

2003-04 (P-2)	ADA Variance Over/ (Under)	Revenue Limit	Amount Over! (Under)
K-12 Regular	3.55	\$4,827.32	\$ 17,136.97
Opportunity	0.66	4,827.32	3,286.03
Special Education	3.25	4,472.72	14,233.80 ----\$ 34,656.80
Adult Education	----	---	
Total at P-2:			
2003-04 (Annual)			
K-12 Regular	0.38	\$4,827.32	\$ 1,834.00
Special Education	(0.68)	4,472.72	(3,041.00)
Adult Education	13.87	2,242.12	31,098.00
Total at Annual:			\$ 29,891.00

AUDIT FINDING 04-35: KINDERGARTEN RETENTION FORMS NOT MAINTAINED

15. Under Education Code section 46300, subdivision (g), the attendance of students in kindergarten who have already completed one year of kindergarten cannot be counted in a district's ADA unless the district has on file for each such student an agreement, approved in form and content by the State Department of Education and signed by the parent or guardian, that the student can continue in kindergarten for an additional year. The auditors sought kindergarten retention forms for approximately 22 children, about 10 percent of the students who were enrolled in kindergarten in FY 2002-03 and FY 2003-04. These students attended 11 different elementary schools. Continuance forms were not maintained, not provided, or not compliant with statutory requirements at each of the schools. The auditors sought attendance records for the students who were retained without continuance forms, but only two schools could produce attendance records. As to those students for whom attendance records were available, the audit disallowed ADA based on their actual attendance. For the others, the audit disallowed one full ADA for each student. In total, the audit disallowed 18.36 ADA at P-2 and 18.36 at annual. The total disallowance equals \$88,630.

16. The District does not contend that it maintained continuance forms as required by statute. However, it offers new district-level documents, documents that were not provided to the auditors, concerning the attendance of the children for whom site-level attendance reports were not available. The documents, Exhibits I and J, were prepared by Minh Co in April 2007. They contain summary attendance data about each student who was retained in kindergarten. Co testified that he prepared Exhibit I and J from attendance data that had been transmitted to his office by the school sites. The District asserts that the actual days of attendance of the retained kindergartners can be calculated based on the information in Exhibits I and J. The exhibits, the District claims, show that it reported 9.63 ADA for

students retained in kindergarten without valid continuance agreements, not 18.36 as stated in the audit. This would result in a disallowance of \$46,487 ($9.63 \times \$4,827.32 = \$46,487$).

17. Some of the data in Exhibits I and J is drawn from the District's prior attendance accounting system (SASI), a system that was criticized in SCO's FY 2002-03 audit and uncorrected in FY 2003-04. No site-level attendance records were produced at hearing to support the summary data contained in Exhibits I and J.

18. SCO does not challenge the District's calculations based on Exhibits I and J, but it contends that the documents are not credible.²

19. The issue is not the credibility of Co, which is unimpeached, but the credibility of the summary attendance data he relied on to produce Exhibits I and J. The data is not reliable. It is based, at least in part, upon an attendance accounting system which was found to be flawed in a prior audit. The fact that nine of the 11 affected schools could not produce any attendance data for the auditors suggests strongly that the District's attendance accounting system remained flawed in FY 2003-04. The inability of the schools to produce student attendance data evidence suggests that the District's summary attendance data should be distrusted rather than accepted.

AUDIT FINDING 04-38: EXCESS INDEPENDENT STUDY PUPIL-TEACHER RATIO

20. Under Education Code section 51745.6, the ratio of independent study program (ISP) pupils to independent study teachers cannot exceed the ratio of pupils to teachers for all other educational programs operated by the District. The audit found that the pupil-teacher ratio for independent study was 22:1, while the pupil-teacher ratio for all other programs was 19:1. The audit disallowed 42 ADA, which equals \$202,747.

21. At hearing, the District contended, and SCO agreed, that the ISP pupil-teacher ratio was 20:1, not 22:1 as set forth in the audit. The excess ADA associated with this ratio is 15. The revised amount disallowed by audit finding 04-38 is \$72,410 ($15 \text{ ADA} \times \$4,827.32 = \$72,410$).

22. The District argues that, since it participates in class size reduction, it can compare its pupil-teacher ratio in independent study to its pupil-teacher ratio for grades seven to 12, which is 20:1. The District relies on section 51745.6, subdivision (d), which states as follows:

² SCO also objects to the documents on the ground that they were not provided during the audit. No objection was offered to the admission of the documents, however, and Education Code section 41344, which sets forth the audit appeal procedure, does not preclude a district from offering new evidence at hearing. SCO seems to recognize as much, as it agreed to reduce the disallowances in audit findings 04-33 and 04-49 based on new evidence. SCO's objection, therefore, appears to be based more on the reliability of the exhibits than on the principle that audit findings cannot be challenged by new evidence.

The pupil-teacher ratio described in subdivision (a) in a unified school district participating in the class size reduction program ... may, at the school district's option, be calculated separately for kindergarten and grades 1 to 6, inclusive, and for grades 7 to 12, inclusive.

This provision was added to section 51745.6 in 1998 by Assembly Bill 1327. (Stats.1998, ch. 60.) The District points to a committee analysis of the bill in which a committee staff member stated that the bill would allow school districts that participate in class size reduction to “maintain pupil-teacher ratios in independent study programs at the district-wide pupil-teacher ratio for grades 7-12, instead of at the district-wide ratio for grades K-12, as required by current law.”

23. The plain language of Education Code section 51745.6, however, is contrary to the committee analysis and the District's interpretation. Section 51745.6 does not state that a district can choose to compare its ISP pupil-teacher ratio to the pupil-teacher ratio in grades 7 to 12. It states that a district may make "separate calculations" for kindergarten and grades one to six "and" for grades seven to 12. This methodology requires the ISP pupil-teacher ratio to be lower for kindergarten through grade six, where class size reduction is in effect, but allows the ISP ratio to be higher in grades seven to 12.

AUDIT FINDING 04-39: INDEPENDENT STUDY AGREEMENT DEFICIENCIES

24. Under Education Code section 51747, a school district is not eligible to receive apportionments for independent study pupils unless it maintains on file a current written agreement for each independent study pupil that includes certain specific provisions. (Ed. Code, § 51747, subd. (c); *Modesto City Schools v. Education Audit Appeals Panel* (2004) 123 Cal.App.4th 1365, 1374-1378.) The written agreement must state, among other things:

The number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best interests of the pupil to remain in independent study, or whether he or she should return to the regular school program.

[T]he number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.

(Ed. Code, § 51747, subds. (c)(4) & (c)(6).) The purpose of the written agreement is to insure that students, parent, and teachers are aware of the statutory requirements for independent study programs. (*Modesto City Schools v. Education Audit Appeals Panel, supra*, 123 Cal.App.4th at 1377.) Every independent study contract must include the specific elements required by section 51747. (*Id.*)

25. The audit found deficiencies in the agreements of particular students, but it also found deficiencies in the independent study master agreements used in the Oakland Home Independent Study Program (OHISP) and at MetWest High School. The master agreement for OHISP did not state the number of missed assignments that would be allowed before a student would be evaluated for continued participation in independent study, or the measures of academic accomplishment to be earned by the pupil upon completion.³ The master agreement for MetWest did not state the number of missed assignments that would be allowed before a student would be evaluated for continued participation in independent study.⁴ The disallowance for OHISP was determined to be 26.34 ADA at P-2 and 26.16 at annual, and the disallowance for MetWest was determined to be 61.99 ADA at P-2 and 63.39 at annual. The total disallowance under these findings is \$426,397. The audit states that its finding concerning the master agreement is a repeat of a finding from a prior audit.

26. The District argues that the omissions in the OHISP agreement are cured by other documents, notably a document entitled “Guidelines for Independent Study” that is given to all families who enroll a student in independent study, and the student’s “Weekly Assignment Reports.” The District asserts that there is no prohibition against having an agreement composed of several different documents. When the documents are read together, the District claims, they form one agreement that provides all the information required by section 51747.

The District makes essentially the same argument for the MetWest master agreement. It asserts that any deficiencies in that agreement are cured by reference to the “Independent Studies Guidelines for MetWest High School,” which it claims is part of the student’s master agreement.

27. The evidence fails to establish that the various documents relating to OHISP constitute one agreement, or that the documents relating to MetWest are one agreement. The OHISP master agreement does not incorporate or refer to the Guidelines for Independent Study, and the MetWest master agreement does *not* incorporate or refer to the Independent Study Guidelines for MetWest High School. The OHISP guidelines do not state that they are part of the OHISP master agreement, and the MetWest guidelines do not state that they are part of the MetWest master agreement. On matters concerning the “rights and responsibilities of the parties,” both sets of guidelines refer the reader back to the master agreement. The OHISP guidelines do not state the course credit to be earned; instead, the guidelines refer to the reader to a third document, an “individual learning contract.”

³ The audit also found that the agreement for OHISP did not include a statement that instruction may be provided to the pupil through independent study “only if the pupil is offered the alternative of classroom education.” The District, however, asserts correctly that this provision must be included only if the pupil was participating in independent study pursuant to the provisions of Education Code sections 48915 or 48917. (Ed. Code, § 51747, subd. (c)(7).)

⁴ The audit also found that the agreement for Met West had preprinted beginning and ending dates for the pupil’s participation in independent study. The use of preprinted dates, however, is not expressly prohibited by statute. (Ed, Code, § 51747, subd. (c)(5).)

Contrary to the District's assertion, these various documents do not constitute a single agreement and do not purport to do so. The District's use of multiple documents frustrates, rather than promotes, the statutory purpose of clearly informing students, families, and teachers about the requirements and expectations of the independent studies program. The District has not complied with section 51747.

28. The District argues that, if it has not strictly complied with section 51747, then it has substantially complied. Education Code section 41344.1, subdivision (c), defines “substantial compliance” as follows:

[N]early complete satisfaction of all material requirements of a funding program that provide an educational benefit substantially consistent with the program's purpose. A minor or inadvertent noncompliance may be grounds for a finding of substantial compliance provided that the local educational agency can demonstrate that it acted in good faith to comply with the conditions established in law or regulation necessary for apportionment of funding. The [Education Audit Appeal Panel] may further define "substantial compliance" by issuing regulations or through adjudicative opinions, or both....

The Education Audit Appeals Panel has not further defined “substantial compliance” by regulation or precedential decisions.

29. The District has not demonstrated substantial compliance with the requirements of Education Code section 51747. Complying with section 51747 is a matter of creating a new form that contains all of the terms required by the statute. The evidence fails to establish that the District made any effort to comply with the requirements of section 51747 prior to the FY 2003-04 audit.

AUDIT FINDING 04-40: INDEPENDENT STUDY AGREEMENTS AND WORK SAMPLES DEFICIENT OR NOT PROVIDED

30. The audit disallowed 4.30 ADA, equal to \$20,757, for certain identified deficiencies in the full-time independent study program. The District presented no argument in opposition to this finding.

AUDIT FINDING 04-42: CONTINUATION EDUCATION ATTENDANCE RECORD RETENTION DEFICIENCIES

31. The California Code of Regulations requires that records “basic to audit,” including records relating to attendance, average daily attendance, and periodic reports, be kept for at least three years. (Cal. Code Regs., tit. 5, §§ 16020, subd. (a), 16025, subds. (a) & (b), 16026.) The auditors reviewed the summary monthly attendance records at Far West Continuation School (“ATP20 Hourly Attendance Reports”) to reconcile the monthly site

summaries with the District's attendance claims in its reports to the state. The auditors found that the ATP20 reports for months 3, 5, and 7 were not maintained at the school site and disallowed the ADA associated with those months, 35.85 at P-2 and 28.48 at annual; the disallowance associated with the finding is \$173,059.⁵ Audit Manager Carolyn Baez confirmed that the disallowance imposed by audit finding 04-42 is based solely on the records retention violation noted in the finding.

32. The District acknowledges that the reports for months 3, 5, and 7 were not maintained at the school site, but it argues that the records were maintained, and remain available, in the office of Minh Co. Copies of the records were introduced at hearing. Extensive evidence and argument was offered on the reliability of the records.

The more fundamental argument presented by the District, however, is that SCO has no legal authority to disallow ADA based solely on a violation of records retention regulations. To this argument, SCO offers no direct reply. The regulations which the District was found to have violated are general regulations that do not impose such a penalty, and SCO offers no other basis for the penalty imposed by the audit. The EAAP Audit Guide does not state an audit procedure for records retention violations.

An audit can disallow ADA that is not supported by attendance records. The EAAP Audit Guide sets forth the procedure that auditors must follow when they audit attendance records. Audit finding 04-42, however, is not based upon an audit of attendance records. It is based entirely upon the failure of Far West to maintain monthly attendance summaries at the school site. SCO does not argue, and the evidence does not establish, that in reaching the disallowance stated in audit finding 04-42 the auditors followed the procedures required by the EAAP guidelines for an attendance audit. The failure to maintain monthly attendance records at a school site does not, by itself, justify the wholesale disallowance of ADA imposed by audit finding 04-42. The disallowance under this finding should be reduced to \$0.

AUDIT FINDING 04-44; ADULT EDUCATION INDEPENDENT STUDY WRITTEN AGREEMENT DEFICIENCIES

33. The audit found deficiencies in the agreement used in the adult education independent study program. It disallowed 29.89 ADA, which is equal to \$67,017 in state funding. The District presented no argument in opposition to this finding.

AUDIT FINDING 04-49: DEFICIENCIES IN INSTRUCTIONAL TIME AND STAFF DEVELOPMENT REFORM PROGRAM

34. This finding disallowed \$38,908 from the District's original claim of \$1,960,350 for staff development days. Evidence at hearing established that the District's

⁵ The audit states that, because continuation is funded on the P-2 reports and not the annual reports, the disallowance is based on ADA at P-2 only (35.85 x \$4,827.32 = \$173, 059).

original claim was never presented to the state, and that the District has since revised its claim to request \$985,971. Based on this evidence, SCO agrees that the disallowance associated with audit finding 04-49 should be reduced to \$0.

AUDIT FINDING 04-55: CLASS SIZE REDUCTION FOR GRADES K-3

35. The audit found that the District over claimed funding for its class size reduction program by 131 students due to rounding, mathematical, or clerical errors and disallowed \$118,686 in state funding. The District presented no argument in opposition to this finding.

ORDER

1. The appeal of Oakland Unified School District from audit findings 04-33 and 04-37 is granted in part and denied in part. The disallowance associated with these findings is \$64,547.80, as set forth in Table IV.

2. The appeal of Oakland Unified School District from audit finding 04-38 is granted in part and denied in part. The disallowance associated with this finding is \$72,410.

3. The appeal of Oakland Unified School District from audit findings 04-42 and 04-49 is granted. The disallowance associated with each of these findings is reduced to \$0.

4. The appeal of Oakland Unified School District from audit findings 04-35, 04-39, 04-40, 04-44, and 04-55 is denied.

DATED: November 9, 2007

Original Signed
DAVID L. BENJAMIN
Administrative Law Judge
Office of Administrative Hearings