

**Education Audit Appeals Panel
State of California**

Appeal of 2006-07 Audit Finding 2007-6	EAAP Case No. 09-03 OAH No. 2009110460
Appeal of 2007-08 Audit Finding 2008-1	EAAP Case No. 09-22 OAH No. 2009110461
Appeal of 2008-09 Audit Finding 2009-1	EAAP Case No. 10-05 OAH No. 2010070981
Appeal of 2009-10 Audit Finding 2010-1	EAAP Case No. 11-08 OAH No. 2011050333
Appeal of 2010-11 Audit Finding 2011-1	EAAP Case No. 12-03 OAH No. 2012050613
Appeal of 2011-12 Audit Finding 2012-1	EAAP Case No. 13-10 OAH No. 2013080905
Appeal of 2012-13 Audit Finding 2013-1	EAAP Case No. 13-23 OAH No. 2013120925
By: Perris Union High School District, Appellant.	

Decision

The Education Audit Appeals Panel has adopted the attached Consolidated and Stipulated Settlement Agreement of the parties as its Decision in the above-entitled matter.

Effective date: April 28, 2014

IT IS SO ORDERED.

April 28, 2014
Date

Original Signed
David Botelho, Chairperson
for Education Audit Appeals Panel

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California Department of Finance

8 BEFORE THE EDUCATION AUDIT APPEALS PANEL

9 STATE OF CALIFORNIA

11 **In the Matter of the Audit Appeals for f/y**
12 **2006-07; 2007-08; 2008-09; 2009-10;**
13 **2010-11; 2011-12; and 2012-13 of:**

14 **PERRIS UNION HIGH SCHOOL**
15 **DISTRICT,**

Appellant,

16 v.

17 **CALIFORNIA STATE CONTROLLER,**

Respondent,

19 v.

20 **CALIFORNIA DEPARTMENT OF**
21 **FINANCE**

Intervener.

EAAP Case Nos.

OAH Case Nos.

EAAP No. 09-03

OAH No. 2009110460

EAAP No. 09-22

OAH No. 2009110461

EAAP No. 10-05

OAH No. 2010070981

EAAP No. 11-08

OAH No. 2011050333

EAAP No. 12-03

OAH No. 2012050613

EAAP No. 13-10

OAH No. 2013080905

EAAP No. 13-23

OAH No. 2013120925

**CONSOLIDATED AND STIPULATED
SETTLEMENT AGREEMENT**

24 Appellant PERRIS UNION HIGH SCHOOL DISTRICT (Appellant), Respondent,
25 CALIFORNIA STATE CONTROLLER (SCO), and Intervener, CALIFORNIA DEPARTMENT
26 OF FINANCE (Finance) (collectively known as "the Parties") hereby agree to a complete
27 settlement and resolution of the above-captioned matters as follows:
28

RECITALS

A. The independent accounting firm of Vavrinek, Trine, Day & Co., LLP (VTD) (auditor), conducted annual financial compliance audits of the Appellant and its online charter school, Choice 2000, for the seven fiscal years of 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 that are the subject of the consolidated audit appeals pending before the Education Audit Appeals Panel (EAAP) and the Office of Administrative Hearings (OAH).

B. After each subject year audit, the auditor issued an audit report which contained an audit exception or audit finding related to Appellant’s charter school Choice 2000 that found the online charter school was subject to independent study program requirements per Education Code section 47612.5, and that as a result, Appellant was not in compliance with Education Code sections 51745 through 51749.3, which require, among other things, a written agreement for each student enrolled in an independent study program.

C. The SCO certified each of the subject audits and audit reports and audit findings.

D. The auditor determined, for each of the audit year findings that there was material non-compliance with Education Code section 51747, which resulted in an overstatement in the amount of apportionment funding the Appellant claimed and received from the State in the following corresponding amounts for each subject audited year:

Fiscal/Audit Year	Audit Finding No.	Disallowed ADA	Overfunded Amount
2006-07	2007-06	146.87	\$1,009,144
2007-08	2008-01	148.34	\$1,077,987
2008-09	2009-01	163.67	\$1,163,857
2009-10	2010-01	218.23	\$1,446,865
2010-11	2011-01	182.13	\$1,188,069
2011-12	2012-01	168.7	\$1,103,098
2012-13	2013-01	180.16	\$1,188,971
Totals		1,208.1	\$8,177,991

E. Appellant filed timely formal audit appeals of the above subject audit findings pursuant to Education Code section 41344, subdivision (d).

1 F. The EAAP and the OAH have assigned the following case numbers to the audit
2 appeals for each audit finding of the subject audited years as follows:

3 Fiscal/Audit Year	Audit Finding No.	EAAP No.	OAH No.
4 2006-07	2007-06	09-03	2009110460
5 2007-08	2008-01	09-22	2009110461
6 2008-09	2009-01	10-05	2010070981
7 2009-10	2010-01	11-08	2011050333
8 2010-11	2011-01	12-03	2012050613
9 2011-12	2012-01	13-10	2013080905
10 2012-13	2013-01	13-23	2013120925

14 G. Finance has timely intervened as a respondent in all of the above-subject audit
15 appeals pursuant to Education Code section 41344.1 subdivision (b).

16 H. By stipulation of the Parties and order, the OAH has consolidated the seven cases
17 of the subject audit appeals. Those audit appeal matters have been continued for a prehearing
18 conference on May 8, 2014, and for a three day hearing presently scheduled to begin on June 24,
19 2014. The hearing dates have been continued in anticipation of resolution of an earlier related
20 audit appeal with the same issue that is in litigation among the Parties before the California Court
21 of Appeal, Fourth Appellate District, Division Three, in Case No. G049109.

22 I. The Court of Appeal matter has been fully briefed and was set for oral argument in
23 December 2013, before the matter was taken off the oral argument calendar due to a tentative
24 agreement to settle that matter together with the instant subject audit appeals subject to approval
25 of the EAAP.
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1 J. The Court of Appeal matter involves an appeal from a denial of a petition for writ
2 of mandate by the Riverside Superior Court in which Appellant sought to have the court overturn
3 a final decision of the EAAP involving the same issue and similar audit finding for Appellant's
4 charter school, Choice 2000, for the fiscal year 2005-06 as those in the present administrative
5 audit appeal matters.
6

7 K. In order to avoid the additional cost and uncertainty of litigation, the parties to
8 these subject audit appeal cases agree to resolve these disputes on the terms and conditions
9 described herein.

10 SETTLEMENT AGREEMENT

11 For the purpose of completely settling and resolving the audit appeals from the seven
12 audit findings for the fiscal and audited years and assigned case numbers as follows:
13

14 Fiscal/Audit Year	Audit Finding No.	EAAP No.	OAH No
15 2006-07	2007-06	09-03	2009110460
16 2007-08	2008-01	09-22	2009110461
17 2008-09	2009-01	10-05	2010070981
18 2009-10	2010-01	11-08	2011050333
19 2010-11	2011-01	12-03	2012050613
20 2011-12	2012-01	13-10	2013080905
21 2012-13	2013-01	13-23	2013120925

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The Parties agree as set forth below:

1. This stipulated settlement agreement fully and completely resolves all claims, demands, appeals, obligations, and causes of actions arising from or relating to the recitals of the above-referenced audit findings for the seven fiscal audited years at issue herein. Accordingly, the Parties expressly waive any right or claim to assert or pursue thereafter any claim, demand, obligation, and/or cause of action relating to the recitals of the above referenced audit findings for the seven fiscal audited years at issue herein.

2. Appellant shall repay in full satisfaction of the audit findings described in the recitals herein, from its future apportionments, ten percent of the amount of the total overpayment for each audited year and for the aggregate of the seven audited years, for a total of **\$817,799.10**, to be paid over eight years in eight annual installments, commencing in fiscal year 2014-15. No interest shall be charged or accrued on the repayment amounts. The repayment schedule is summarized as follows:

a.	2014-15	\$102,224.89
b.	2015-16	\$102,224.89
c.	2016-17	\$102,224.89
d.	2017-18	\$102,224.89
e.	2018-19	\$102,224.89
f.	2019-20	\$102,224.89
g.	2020-21	\$102,224.89
h.	2021-22	\$102,224.87

3. Appellant has provided sufficient evidence satisfactory to the California Department of Education, Finance, and the SCO that Appellant's online charter school, Choice 2000, has been closed and is no longer in operation, nor is it authorized to operate as a charter

1 school in the State of California.

2 4. Appellant agrees to comply with all applicable provisions of the Education Code,
3 regulations, decisional law of the courts of California and of the EAAP, and particularly comply
4 with all the independent study laws, regulations and safeguards, including, but not limited to, the
5 independent study contract requirements for all of its existing and future charter schools
6 authorized and/or chartered by Appellant for students receiving nonclassroom-based instruction.
7

8 5. This consolidated and stipulated settlement agreement is subject to and
9 conditioned upon its approval and adoption by the EAAP, pursuant to Education Code section
10 41344.1, subdivision (b).

11 6. The Parties' rights and obligations under this consolidated and stipulated
12 settlement agreement are subject to, and arise only upon the occurrence of, the following
13 condition precedent: EAAP's approval of the Parties' settlement agreement of the appellate
14 matter pending in the Fourth Appellate District, Division Three, Case No. G049109. (EAAP in
15 no way obligates itself to approve the separate settlement agreement pertaining to Case No.
16 G049109, even if it were to approve this agreement.)
17

18 7. This consolidated and stipulated settlement agreement may be executed in
19 counterparts, each of which shall constitute an original. Facsimile and pdf electronic copies of
20 signatures transmitted to other Parties to this consolidated and stipulated settlement agreement are
21 deemed to be the equivalent of original signatures.
22

23 8. The Parties shall be responsible for their own attorney's fees and costs.

24 Dated: 4-14, 2014

PERRIS UNION HIGH SCHOOL DISTRICT

25
26 By: Original Signed
27 JONATHAN L. GREENBERG, Ed.D.
28 Superintendent
6 Perris Union High School District

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Dated: April 2, 2014

CALIFORNIA DEPARTMENT OF FINANCE

By: Original Signed
JENNIFER ROCKWELL
Chief Counsel
California Department of Finance

Dated: 4-10, 2014

STATE CONTROLLER'S OFFICE

By: Original Signed
JOHN DICKERSON
Staff Counsel for Respondent
State Controller's Office

APPROVED AS TO FORM:

KAMALA D. HARRIS
ATTORNEY GENERAL OF CALIFORNIA

Dated: 4-18, 2014

By: Original Signed
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Deputy Attorney General
Attorneys for Intervener
California Department of Finance

BEST, BEST & KRIEGER, LLP
Attorneys at Law

Dated: 4-14, 2014

By: Original Signed
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