

**Education Audit Appeals Panel  
State of California**

Appeal of 2005-06 Audit Finding 2006-1  
by:

Santa Barbara County Education Office,  
Appellant.

EAAP Case No. 07-23

OAH No. 2008050233

**Decision**

The Education Audit Appeals Panel has adopted the attached Stipulation and Proposed Decision of the parties as its Decision in the above-entitled matter.

Effective date: March 23, 2009

IT IS SO ORDERED.

March 23, 2009

Date

*Original Signed*

Diana L. Ducay, Chairperson  
for Education Audit Appeals Panel

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

12 **In the Matter of the Audit Appeal of :**  
13 **Fiscal Year 2005-06 Audit Finding 2006-01 by**  
14 **SANTA BARBARA COUNTY EDUCATION**  
**OFFICE**  
15 **Appellant.**  
16 **CALIFORNIA STATE CONTROLLER,**  
17 **Respondent,**  
18 **CALIFORNIA DEPARTMENT OF FINANCE,**  
19 **Intervenor.**

OAH No. 2008050233  
EAAP No. 07-23

**STIPULATION AND  
PROPOSED DECISION**

21 Appellant Santa Barbara County Education Office (appellant), respondent John Chiang, the  
22 California State Controller's Officer (SCO), and intervenor Department of Finance (DOF) agree to  
23 a complete resolution of the above-captioned matter as follows:

24 **RECITALS**

25 A. The independent accounting firm of Vavrinek, Trine, Day & Co., LLP (VTD) conducted  
26 an audit of the appellant for the 2005-06 fiscal year, the results of which were included in the audit  
27 report issued on or about June 30, 2006.

28 B. In Audit Finding No. 2006-01, 70000, Instructional Materials Fund Realignment Program,

1 VTD determined:

2 [Appellant] does not appear to be in compliance with the State requirements for  
3 Education Code section 60119, which states that the governing board is  
4 required to hold a public hearing at which the governing board shall encourage  
5 participation by parents, teachers, members of the community, and bargaining  
6 unit leaders, and shall make a determination, through a resolution, as to whether  
7 each pupil has or will have, prior to the end of the fiscal year, sufficient  
8 textbooks of instructional materials, or both

9 . . .  
10 [Appellant] held their public hearing regarding the sufficiency of instructional  
11 materials at 2 p.m., October 6, 2005, after the eighth week of the start of school.  
12 Notice of the hearing was posted on September 28, 2005, eight days prior. In  
13 addition the meeting should be held after school and normal work hours in  
14 order to encourage the participation of the various groups noted above.

15 (Audit Report, at pp. 67.)

16 C. Education Code section 60119 requires such hearings to be held within the first eight  
17 weeks of school, that 10 days notice be given for any such hearing, and that hearings not be held  
18 immediately following school hours.

19 D. VTD determined that the specific elements of noncompliance with Education Code section  
20 60119 resulted in a \$49,505 apportionment against appellant.

21 E. The SCO certified the VTD Audit.

22 F. Appellant disputed the determination set forth in Audit Finding No. 2006-01, 70000, and  
23 requested a summary review with the Education Audit Appeals Panel (EAAP). On March 21, 2008,  
24 EAAP concluded that appellant did not substantially comply with Education Code section 60119.  
25 Appellant then timely filed a request for formal appeal instituting this action.

26 G. Appellant contends that it made a good faith attempt to substantially comply with  
27 Education Code section 60119.

28 H. DOF timely moved to intervene in the instant EAAP proceeding, and was granted  
29 intervenor status.

30 I. In order to avoid the cost and uncertainty of litigation, the parties to this case agree to  
31 resolve this dispute on the terms and conditions described herein.

#### 32 AGREEMENT

33 For the purpose of completely settling and resolving the appeal of Audit Finding No. 2006-01,  
34 70000, appellant, SCO, and DOF agree as set forth below:

1           1. This stipulation and proposed decision fully and completely resolves all claims, demands,  
2 appeals, obligations, or causes of actions arising from or relating to Audit Finding No. 2006-01,  
3 70000. Accordingly, appellant, DOF, and SCO expressly waive any right or claim to assert or  
4 pursue thereafter any claim, demand, obligation, and/or cause of action relating to Audit Finding No.  
5 2006-01, 70000. This is a settlement of a disputed claim, and none of the parties hereto makes any  
6 admission with respect to the issues presented.

7           2. Appellant shall repay the full audit apportionment from Audit Finding No. 2006-01,  
8 70000, in the amount of \$49,505.00, within the next two years following the execution of this  
9 agreement. Appellant, SCO, and DOF agree that the appellant will repay the \$49,505.00 in two  
10 annual installments from future principal apportionment funding by the State of California to the  
11 appellant, as follows:

- |    |    |           |             |
|----|----|-----------|-------------|
| 12 | a. | 2008-2009 | \$24,752.50 |
| 13 | b. | 2009-2010 | \$24,752.50 |

14           3. The State of California will not charge the appellant any interest for the amounts specified  
15 in paragraph 2, above, under the terms of this stipulation.

16           4. This stipulation and proposed decision is subject to and conditioned upon ratification by  
17 the appellant's County Superintendent.

18           5. This stipulation and proposed decision is subject to and conditioned upon approval and  
19 adoption by EAAP, pursuant to Education Code section 41344.1, subdivision (b). This stipulation  
20 and proposed decision shall be submitted to EAAP for approval following ratification by the  
21 appellant's County Superintendent.

22           6. This stipulation and proposed decision may be executed in counterparts, each of which  
23 shall constitute an original. Facsimile signatures transmitted to other parties to this stipulation and  
24 proposed decision are deemed to be the equivalent of original signatures on counterparts.

25  
26 [Signature page follows]

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Dated: Feb 25, 2009

**GRIFFITH & THORNBURGE, LLP**

*Original Signed*

Craig P. \_\_\_\_\_  
Attorneys for Appellant

**SANTA BARBARA COUNTY EDUCATION OFFICE**

*Original Signed*

\_\_\_\_\_, Superintendent  
Appellant

**OFFICE OF THE STATE CONTROLLER**

*Original Signed*

Dated: 3-11, 2009

John Dickerson  
Staff Counsel  
Attorneys for Respondent  
John Chiang, State Controller

**DEPARTMENT OF FINANCE**

EDMUND G. BROWN JR.  
Attorney General of the State of California  
JENNIFER M. KIM  
Supervising Deputy Attorney General

*Original Signed*

Dated: 3/11, 2009

ANDREW DHADWAL  
Deputy Attorney General  
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Department of Finance

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