

**BEFORE THE
EDUCATION AUDIT APPEALS PANEL
STATE OF CALIFORNIA**

In the Matter of the Formal Appeal of:

Winters Joint Union
School District,

Appellant.

) EAAP No.: 04-02
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) OAH No.: N-2004070118
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DECISION

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

This Decision shall become effective on February 28, 2005.

IT IS SO ORDERED February 28, 2005.

(Original Signed)

Thomas E. Dithridge, Chairperson

1 RICHARD J. CHIVARO, Chief Counsel
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State Bar No. 190019
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7 Attorneys for Respondent,
STEVE WESTLY, State Controller

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

12
13 In the Matter of the Formal Appeal of:

EAAP Case No.: 04-02
OAH No. N2004070118

14
15 WINTERS JOINT UNION SCHOOL
16 DISTRICT,

**STIPULATION AND PROPOSED
DECISION**

17 Appellant

18
19 All of the parties to this action hereby agree to enter into the following stipulation,
20 resulting in complete resolution of the matter. Accordingly the State Controller's office (SCO),
21 the Department of Finance (DOF), and Winters Joint Union School District (WINTERS or
22 District) hereby agree as follows:

23 **RECITALS**

24 A. The independent accountant, James P. Marta, CPA, conducted an audit of WINTERS for
25 the fiscal year ending June 30, 2003.

1 B. On page 68 of the audit report, Mr. Marta identified an apportionment significant finding,
2 Finding 03-02. That finding stated that as a result of a review of the Independent Study
3 program, the auditor noted that the Independent Study Master Agreement failed to
4 contain many of the required statements. The District located all the agreements which
5 were missing the printing on the reverse side (which contained many of the elements
6 required by Education Code 51747), and reported that they accounted for 3.72 ADA on
7 the 2002/03 Second Period (P-2) ADA Report. The District then submitted an amended
8 P-2, reflecting a reduction of 3.72.

9 C. WINTERS timely submitted its summary appeal of finding 03-02 to the Education Audits
10 Appeal Panel (EAAP) on February 20, 2004.

11 D. On June 1, 2004 the summary appeal of WINTERS was denied.

12 E. WINTERS then timely submitted its formal appeal of finding 03-02 on June 30, 2004.

13 F. WINTERS alleges that the use of defective Independent Study Master Agreements was
14 due to an inadvertent error on the part of the District. This conclusion is based on the
15 following:

- 16 1. The reverse side of the District's Independent Study Master Agreements was not
17 included by the printer in the August 2002 printing, thereby omitting many of the
18 required statements pursuant to Education Code section 51747.
- 19 2. This mistake was not noticed by District employees, and the forms were used,
20 mostly for Independent Study of limited duration.
- 21 3. When notified of the error the District immediately destroyed the remaining
22 defective forms and amended their P-2 to reflect the ADA related to the defective
23 agreements.

1 **AGREEMENT**

2 A. For the sole purpose of effecting a compromise of this action and to avoid the uncertainty
3 of litigation, the SCO, DOF and WINTERS agree that the District does not need to
4 reduce its reported ADA for attendance related to the defective agreements (3.72), and
5 that if already so done, the District may file an amended P2 to reflect this finding of
6 substantial compliance.

7 B. WINTERS agrees to withdraw it appeal, with prejudice, of finding 03-02 of the annual
8 audit for fiscal year 2002/03.
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10 **OFFICE OF THE STATE CONTROLLER**
11

12
13 Dated: 15 Feb 05

14 By: *(Original Signed)*
15 SHAWN D. SILVA
16 Attorney for
17 STEVE WESTLY, California State
18 Controller

19 **DEPARTMENT OF FINANCE**
20

21 Dated: 2/10/05

22 By: *(Original Signed)*
23 JULIE WENG-GUTIERREZ
24 Deputy Attorney General
25 Attorney for Department of Finance

1 WINTERS JOINT UNIFIED SCHOOL DISTRICT

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3 Dated: 2/3/05

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By: *(Original Signed)*
GLORIA HAIN
Chief Business Officer, for
Winters Joint Unified School District

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