

**Education Audit Appeals Panel  
State of California**

Appeal of 2018-19 Program Audit of  
California Clean Energy Jobs Act Audit  
Findings 1-4 by:

Saddleback Valley Unified School District  
and Ralph A. Gates Elementary,  
Appellants

EAAP Case No. 20-07

OAH No. 2021070697

**Decision**

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

Effective date: 2/28/2022.

IT IS SO ORDERED.

2/28/2022  
Date

  
Joel Montero, Chairperson  
for Education Audit Appeals Panel

1 SHAWN SILVA, State Bar No. 190019  
2 KIMBERLEY K CHOW, State Bar No. 289832  
3 **OFFICE OF THE STATE CONTROLLER**  
4 300 Capitol Mall, Suite 1850  
5 Sacramento, CA 95814  
6 Telephone No.: (916) 445-2636

7 Attorneys for Respondent,  
8 Betty T. Yee, State Controller

9  
10 **BEFORE THE EDUCATION AUDITS APPEAL PANEL**  
11  
12 **FOR THE STATE OF CALIFORNIA**

13 **In the Matter of the Appeal of:** ) EAAP Case No.: No. 20-07  
14 **Fiscal Year 2018-19 Program Audit of** ) OAH Case No.: 2021070697  
15 **California Clean Energy Jobs Act Audit** )  
16 **Findings 1-4 by:** ) **STIPULATION AND SETTLEMENT**  
17 ) **AGREEMENT**  
18 **SADDLEBACK VALLEY UNIFIED** )  
19 **SCHOOL DISTRICT and RALPH A.** )  
20 **GATES ELEMENTARY,** )  
21 **Appellants** )  
22 **vs.** )  
23 **OFFICE OF THE STATE** )  
24 **CONTROLLER** )  
25 **Respondent,** )  
**DEPARTMENT OF FINANCE,**  
**Respondent**

INTRODUCTION

Appellant SADDLEBACK VALLEY UNITED SCHOOL DISTRICT (Saddleback),  
Appellant RALPH A. GATES ELEMENTARY (Gates), Respondent BETTY T. YEE,  
CALIFORNIA STATE CONTROLLER (SCO), and Respondent, DEPARTMENT OF

1 FINANCE (DOF) (collectively known as "the Parties") agree to a complete settlement of the  
2 above-captioned matters as follows:

3 RECITALS

- 4 A. The SCO conducted an audit of a selection of completed projects under the California  
5 Clean Energy Jobs Act for the period of July 1, 2018 through June 30, 2019, the results of  
6 which were included in an audit report titled "Program Audit of the California Clean  
7 Energy Jobs Act" issued on or about June 30, 2020 (Audit).
- 8 B. In Audit Finding 1, the SCO determined that \$262,577.00 of Gate's costs and  
9 \$5,418,069.00 of Saddleback's costs were disallowed because they were sole-sourced, in  
10 violation of Public Resources Code section 26235 subdivision (c), which prohibits local  
11 education agencies from using a sole source process to award Proposition 39 funds.
- 12 C. In Audit Finding 2, the SCO found that the Appellants did not identify the required  
13 projected energy savings in its awarded contracts in violation of Public Resources Code  
14 section 26206, subdivision (d), which requires that all project contracts identify the  
15 project specifications, costs, and projected energy savings.
- 16 D. In Audit Finding 3, the SCO determined that a Local Education Agency improperly  
17 applied Proposition 39 funds towards ineligible expenditures. The Audit did not identify  
18 either Appellant in this Finding; therefore, Audit Finding 3 is not at issue in this appeal.
- 19 E. Lastly, in Audit Finding 4, the SCO determined that the Appellants submitted their final  
20 project completion report after the deadline in violation of Public Resources Code section  
21 26240, subdivision (b). The Audit found that GATES' report was submitted 20 months  
22 after project completion and SADDLEBACK submitted its report 23 months after the  
23 reported project completion date.  
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25

1 F. Both Appellants timely filed a joint request for formal appeal of Audit Findings 1-4  
2 pursuant to Education Code section 41344, subdivision (d), instituting this appeal before  
3 the Education Audit Appeals Panel (EAAP).

4 G. In order to avoid the cost and uncertainty of litigation, the parties to this case agree to  
5 resolve this dispute on the terms and conditions described below.

6 AGREEMENT


7 For the purpose of completely settling and resolving the appeal of Audit Findings 1-4, the Parties  
8 agree as set forth below:

- 9 1. This stipulated agreement fully and completely resolves all claims, demands, appeals,  
10 obligations, or causes of actions arising from or relating to Audit Findings 1-4.  
11 2. Appellant SADDLEBACK shall repay, in full satisfaction of Audit Findings 1-4,  
12 the sum of \$540,000, without interest, in equal installments of \$67,500 per year  
13 over a period of eight (8) years, commencing with the first payment due by June  
14 30, 2022, and by June 30 of each year thereafter, until final payment by June 30,  
15 2029, following EAAP approval and adoption of this Stipulated Agreement.  
16 3. Appellant GATES shall repay, in full satisfaction of Audit Findings 1-4, the sum of  
17 \$26,000, with no interest, in equal installments of \$3,250 per year over a period of eight  
18 (8) years, commencing with the first payment due by June 30, 2022, and by June 30 of  
19 each year thereafter, until final payment by June 30, 2029 following EAAP approval and  
20 adoption of this Stipulated Agreement.  
21 4. This Stipulated Agreement is subject to and conditioned upon approval and adoption by  
22 EAAP, pursuant to Education Code section 41344.1, subsection (b).  
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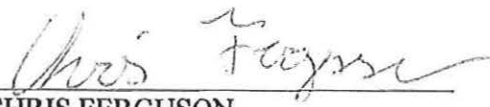
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- 5. This Stipulated Agreement may be executed in counterparts, each of which shall constitute an original. Facsimile and PDF signatures transmitted to other parties to this Stipulated Agreement are deemed to be the equivalent of original signatures.
- 6. The parties shall be responsible for their own attorneys' fees and costs relative to the Appeal.


Dated: 2/10, 2022                      SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT and RALPH A. GATES ELEMENTARY

By:   
 DR. CRYSTAL TURNER, ED.  
 Superintendent  
 Saddleback Valley unified School District

Dated: 2/17, 2022                      DEPARTMENT OF FINANCE

By:   
 CHRIS FERGUSON  
 Program Budget Manager  
 Department of Finance

Dated: 2, 17, 2022                      OFFICE OF THE STATE CONTROLLER

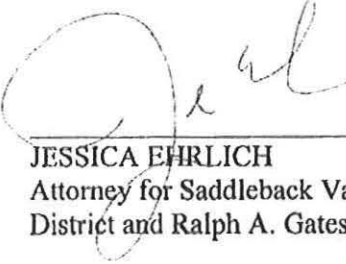
By:   
 KIMBERLEY K. CHOW  
 Staff Counsel for Respondent,  
 BETTY T. YEE, California State Controller

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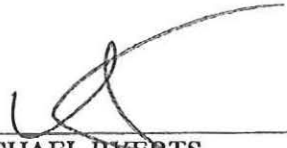
Dated: 2/11, 2022

FAGEN FRIEDMAN & FULFROST LLP

By:   
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JESSICA EHRLICH  
Attorney for Saddleback Valley Unified School  
District and Ralph A. Gates Elementary

Dated: 2/16, 2022

OFFICE OF THE ATTORNEY GENERAL

By:   
\_\_\_\_\_  
MICHAEL BYERTS  
Deputy Attorney General  
Attorney for Department of Finance