Before the
Education Audit Appeals Panel
State of California

In the Matter of: Golden Plains Unified School District, Appellant.	EAAP Case No. 02-15 OAH No. N-2002100760

Decision

The attached Proposed Decision of the Administrative Law Judge Jaime René Román is hereby adopted by the Education Audit Appeals Panel as its Decision in the above-entitled matter.

This Decision shall become effective on November 30, 2004.

Date: 30 Nov 2004

Thomas E. Dithridge, Chairperson
For Education Audit Appeals Panel

BEFORE THE
EDUCATION AUDIT APPEALS PANEL
STATE OF CALIFORNIA

In the Matter of: GOLDEN PLAINS UNIFIED SCHOOL DISTRICT 22000 Nevada Street P.O. Box 937 San Joaquin, CA 93660 Respondent.	Case No. 02-15 OAH No. N2002100760

PROPOSED DECISION

This matter came on for hearing[1] before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Sacramento, California, on November 2, 2004.

Gary D. Hori, Staff Attorney, State Controller's Office, represented Steve Westley, California State Controller.

Julie Weng-Gutierrez, Deputy Attorney General, Department of Justice, State of California, represented the California Department of Finance.

Lozano Smith, Attorneys at Law, by Ruth E. Mendyk, Esq., represented respondent Golden Plains Unified School District.

Evidence was received and the matter submitted on November 2, 2004.

[1] This is a proceeding conducted pursuant to the administrative adjudication provisions of the Administrative Procedure Act. Education Code section 41344.1, subdivision (b).

FACTUAL FINDINGS

1. Borchardt, Corona & Faeth, Accountancy Corporation, completed and submitted an Audit Report of the general purpose financial statements of respondent Golden Plains Unified School District (the District) as of and for the year ended June 30, 2001.

2. The Audit Report set forth Finding 2001-1, relating to Attendance – Summer School, noting: "that the attendance records maintained by the instructors for students attending high school summer school were not being kept on an hourly basis." Accordingly, the "District reported 18,765 hours @ $3.25 hr = $60,986.25 on the J-18/19 P-2." The cause of the reported deficiency arose because "[s]ite personnel were not aware of the specific requirements of recording summer school attendance on a [sic] hourly basis." Consequently, $60,986.25 has been disallowed.

3. The District filed a timely appeal to Audit Finding 2001-1 (Attendance – Summer School).[2]

4. While the District submits that summer school attendance was reported on the Summer Program Attendance Report on an hourly basis;[3] the Department of Finance, California State Controller, and the District acknowledge that teachers submitted unsigned Attendance Reports with annotations that included only student absences or tardiness. The Attendance Reports were reviewed at some later time by an unidentified District employee or employees. That employee (or employees) annotated each student's attendance on the teachers' submitted Attendance Reports to reflect hourly attendance in five-hour increments, unless such student's attendance had been documented as either dropped (dp), tardy (T) or absent (A).[4]

LEGAL CONCLUSIONS

California Code of Regulations title 5, section 406, subdivision (f), provides in pertinent part: "Attendance shall be reported in clock hours for pupils in summer schools."

The District posits that no statute or regulation requires that a teacher personally annotate or execute an Attendance Report. The District seeks reduction of the Audit Report finding from $60,986.25 to $0, claiming that its pupils' summer school attendance was

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[2] The District previously filed an appeal to Audit Report Finding 2001-6 (State-Standards-Based Instructional Materials Program). However, on November 1, 2004, the District withdrew its appeal to Finding 2001-6.

[3] The District's belated evidence of "hourly basis" reporting is limited to a declaration admitted in this proceeding as administrative hearsay (Government Code section 11513, subdivision (d). Accordingly, lacking other competent evidence, the declaration is not sufficient to establish the District's self-serving "hourly" practice claim.

[4] Students who left early or the degree to which students were tardy were not reflected in the teachers' submissions to the District.

properly reported to the State on Form J-18/19 P2.

This appeal arises pursuant to Education Code section 41344.1. The Education Audit Appeals Panel hears appeals filed pursuant to Education Code section 41344. An "audit or review" pursuant to Education Code section 41344, is conducted by either the Controller's office, a certified public accountant or a public accountant.[5]

Such an audit will be conducted pursuant to Generally Accepted Accounting Principles, Generally Accepted Accounting Standards,[6] or Generally Accepted Government Auditing Standards.[7] The purpose of such an audit or review is to ascertain a District's compliance with legal requirements.[8] Specifically, an audit or review seeks to ascertain whether reports or expenses submitted by a District can be verified.[9] In the instant case, the parties (teachers) reporting pupil attendance failed to:

1. Execute the attendance records.
2. Delineate the period of time each student was tardy.
3. Delineate whether any student left early.
4. Fully complete attendance records contemporaneously.

The District, through an unidentified employee or employees, completed what the teachers had not and presumed a full five-hour attendance where no student had been marked either dropped, tardy, or absent. Such presumption, however well meaning or probable,[10] lacked any verification sufficient in nature to meet any form of audit standards.

The District complains that the State failed to impose by specific statute or regulation the grounds supporting the Audit Report's District deficiency. However, the District ignores the import of an audit; namely, whether the auditee's financial statements are "in conformity with generally accepted accounting principles."[11] In *Bily v. Arthur Young & Co., supra* 3Cal. 4th at p. 380, our state Supreme Court observed: "'An audit is a verification of the financial statements of an entity through an examination of the underlying accounting records and supporting evidence.'" In the instant matter, the supporting documentation (i.e., the District's attendance records), is deficient.

Respondent has asked that the Audit Report's determination of funds owed to the State be reduced to zero. The Department of Finance, suggesting that equity does not

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[5] Education Code section 41344, subdivision (e).
[6] *Bily v. Arthur Young & Co.* (1992) 3 Cal. 4th 370, 382.
[7] Office of Management and Budget Circular A-133.
[8] Education Code section 41344.1, subdivision (c).
[9] See also Melvyn I. Weiss and Elizabeth A. Berney, *Restoring Investor Trust in Auditing Standards and Accounting Principles*, 41 Harv. J. on Legis. 29 (2004).
[10] California Code of Regulations, title 5, section 404.
[11] OMB Circular A-133, Subpart E, section 500, subdivision (b).

properly apply in this proceeding, submits that a denial of the appeal permits no vitiation. While a number of cases appear to suggest that some equitable jurisdiction lies in the context of administrative adjudication,[12] suffice it to say that respondent has not sought its application in this proceeding; accordingly, none is forthcoming. Further, no cogent evidence has been presented that would support the reduction of the amount disallowed by the Department of Finance or Controller.

Cause exists to deny the appeal of respondent from Finding 2001-1 of the Audit Report pursuant to the provisions of Education Code sections 41344 and 41344.1, in conjunction with California Code of Regulations, title 5, section 406, subdivision (f), as set forth in Findings 2 through 4.

ORDER

The appeal of respondent Golden Plains Unified School District is denied.

Dated: 11-16-04

JAIME RENE ROMÁN
Administrative Law Judge
Office of Administrative Hearings

[12] *Gates v. DMV* (1979) 94 Cal.App.3d 921; *Miller v. Eisenhower Med. Ctr.* (1980) 27 Cal.3d 614; *Conti v. Board of Civil Serv. Comm'rs* (1969) 1 Cal.3d 351; cf. *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32.