BEFORE THE
EDUCATION AUDIT APPEALS PANEL
STATE OF CALIFORNIA

In the Matter of: Emery Unified School District, Appellant.	EAAP No.: 02-05 OAH No.: N-2002050611

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 28 March 2005

IT IS SO ORDERED 28 March 2005

Thomas E. Dithridge, Chairperson

Before the
Education Audit Appeals Panel
State of California

In the Matter of the Statement of Issues Against: Emery Unified School District, Appellant.	EAAP Case No.: 02-05 OAH No.: N2002050611 **Stipulation and Proposed Decision**

The State Controller's Office (SCO), the Department of Finance (DOF), and the Emery Unified School District, who are all of the parties in this action, hereby agree to a complete resolution of this matter as follows:

Recitals

A. The Division of Audits of the SCO conducted an audit of Emery Unified School District (Emery) schools for the fiscal year ending on June 30, 2001.

B. Emery timely appealed Findings 01-5, 01-8, 01-9, 01-10, 01-12, 01-13, 01-14, 01-15, and 01-17 from the above-audit to the Education Audit Appeals Panel on March 28, 2002. All of these findings were resolved informally, through waiver, or by legislative action, except Findings 01-09 and 01-12.

C. Finding 01-09 of the SCO audit report of the Emery dated February 15, 2002, concerning the school attendance reported for the Marina Gate Magnet School. The report stated that "attendance was not supported by source documentation," in accordance with California Code of Regulations, Title 5, section 16025(a). This led to a disallowance of all average daily attendance (ADA) funding for the Marina Gate Magnet School, 24.83 ADA. Subsequently, Emery provided printouts of spreadsheets used by the teacher for taking attendance and kept on

his laptop computer. However, the finding remained unchanged because attendance was not taken on a California Department of Education approved form. (California Code of Regulations, Title 5, section 401(b).)

D. Finding 01-12 of the SCO audit report of the Emery dated February 15, 2002, included a finding regarding the district not provide supporting documentation for staff development days claimed for funding. The report stated that, "the auditors were unable to determine that eligible participants were present for the full staff development day or whether staff development days were at least as long as the full-time instructional workday. In addition, the auditors were unable to determine that staff development activities were allowable and covered core curricular areas. Also the auditors were unable to determine that the staff development program met local education priorities as defined by the school board and school sites." (Education Code sections 44579.1(d) and (e), 51210(a) through (g) and 51220 (a) through (j).) Consequently, the amount of staff development funding claimed, $12,011, was disallowed.

E. On August 12, 2004, DOF filed a motion to intervene, which was granted on August 30, 2004.

F. On a motion by Emery, the hearing on October 4, 2004, before the Office of Administrative Hearings, was continued to November 23, 2004. Prior to that hearing, the parties reached the settlement agreement described below.

Agreement

1. For the sole purpose of effecting a stipulated resolution of this action, and based upon the further review of the spreadsheets used by the teacher at Marina Gate Magnet School and the lack of a form proscribed by the California Department of Education, the SCO agrees to withdraw audit Finding 01-09.

2. Furthermore, Emery, without admitting any liability, agrees to pay or have deducted from its next annual apportion the $12,011 identified in Finding 01-12 of the SCO audit report of Emery for the fiscal year ending June 30, 2001 and claimed by district for staff development activities.

3. Emery shall, and does hereby, withdraw its appeal with prejudice, and waives any and all rights it may have with respect to this appeal (EAAP Case No. 02-05, OAH No. N2002050611) and/or reconsideration of the audit findings in the above-entitled matter.

Office of the State Controller

Dated: 3/14/05

By: _____
Ronald V. Placet
Attorney for Steve Westly,
State Controller

Department of Finance

Dated: 3/4/05

By: _____
Julie Weng-Gutierrez
Deputy Attorney General
Attorney for Department of Finance

Emery Unified School District

Dated: 3/1/05

By: _____
Dr. Anthony Smith, Superintendent

Dated: 2/23/05

By: _____
Stephen L. Hartsell
School & College Legal Services
Attorneys for Emery Unified School District