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**Resolution of
BOARD OF EDUCATION
OF THE OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 1011-0048

Fiscal Management of the District During State Administration – State Controller Audits, Fines, Penalties, Payroll Liabilities and Failure to Reconcile Cash

WHEREAS, in March 2003, the Board of Education of the District (the "Board") determined that it could not meet its financial obligations, and requested an emergency loan from the State (the "Emergency Apportionment Loan");

WHEREAS, the State Legislature adopted special urgency legislation ("S.B. 39"), approved by the Governor on May 30, 2003, authorizing the loan and requiring the State Superintendent of Public Instruction to assume all of the rights, duties and powers of the governing board of the District, and to appoint an administrator (the "State Administrator") to act on behalf of the State Superintendent in exercising his powers over management of the District;

WHEREAS, S.B. 39 directed the State Controller's Office (the "Controller") to conduct the annual financial audits of the District until such time as the State Superintendent determines that the District is financially solvent;

WHEREAS, under the Education Code, school districts are required to adopt their audited financial statements following a public meeting to be conducted no later than January 31 following the close of each fiscal year;

WHEREAS, during State control, the State Controller did not meet the statutory timeframes for completion of the District's annual audits:

- a) In June 2004, the State Controller completed the audit of the District's financial statements for the Fiscal Year ending June 30, 2003 (6 months after the District was required by law to have adopted the audited financial statements at a public hearing);
- b) In January 2007, the State Controller completed the audit of the District's financial statements for the Fiscal Year ending June 30, 2004 (24 months after the District was required by law to have adopted the audited financial statements at a public hearing);
- c) In October 2006 the State Controller completed the audit for the Fiscal Year ending June 30, 2005 (9 months after the District was required by law to have adopted the audited financial statements at a public hearing);

- d) In July 2008 the State Controller completed the audit for the Fiscal Year ending June 30, 2006 (18 months after the District was required by law to have adopted the audited financial statements at a public hearing);
- e) In October 2009, the State Controller completed the audit for the Fiscal Year ending June 30, 2007 (18 months after the District was required by law to have adopted the audited financial statements at a public hearing); and
- f) The State Controller is currently auditing the District's financial statements for the Fiscal Year ending June 30, 2008 and has not commenced the audit for the Fiscal Year ending June 30, 2009; and

WHEREAS, on June 30, 2009, the Board regained full control of District governance.

Fiscal Year 2002-03 Audit — Completed by the State Controller on June 18, 2004

WHEREAS, on June 18, 2004, the State Controller completed an audit of the Fiscal Year 2002-03 financial reports of the District;

WHEREAS, the Fiscal Year 2002-03 Audit identified insufficiencies in accounting, record-keeping and supporting data that prohibited the Controller from rendering an opinion as to the accuracy of significant portions of the District's financial reports, including amounts reported for fixed assets, cash, accounts receivable, accounts payable, expenditures, revenues, restricted fund balances and deferred revenue.;

WHEREAS, for Fiscal Year 2002-03, the State Controller also identified certain matters involving internal control over financial reporting and District operations that it considered reportable, resulting in 120 separate findings. Among the findings, the State Controller disallowed and required repayment of approximately \$37 million in prior year State funds;

WHEREAS, the State Administrator agreed to comply with most of the findings of the Fiscal Year 2002-03 Audit; however the State Administrator requested waiver of one finding, sought legal opinions regarding three findings, and filed an appeal with the Education Audit Appeals Panel contesting nineteen findings of the Fiscal Year 2002-03 Audit; and

WHEREAS, as a result of the appeals process, the State Administrator resolved all findings and the District was found to have an audit liability of \$911,846. The State Administrator paid \$611,856 from the second State loan draw down to the State Department of Finance and \$300,000 was credited to the District to implement some of the FMCAT recommendations.

Fiscal Year 2003-04 Audit Completed by the State Controller on November 15, 2005

WHEREAS, the State Administrator received the State Controller's audit report for Fiscal Year 2003-04 on November 15, 2005. The State Controller again did not express an opinion on the District's financial statements or accompanying schedule of revenues and expenditures. The State Controller identified 58 findings, including costs that the District may have been required to repay. The State Administrator appealed 15 of the apportionment-significant findings representing approximately \$7.5 million. As a result of the appeals process, the State Administrator resolved all findings and the District was found to have an audit liability of \$887,029, which the State Administrator paid to the State Department of Finance from the second State loan draw down;

WHEREAS, subsequently, the State withheld \$673,884 from the District's first principal apportionment payment in February 2009 to satisfy Audit Findings in the EAAP decision on the 2003-04 audit¹ and reduced the 2003-04 average daily attendance; and

WHEREAS, the \$673,884 was credited to the District as an apportionment payment and deducted from the second draw down of the State loan.

Fiscal Year 2004-05 Audit Completed by the State Controller on October 26, 2006

WHEREAS, the State Administrator received the State Controller's audit report for Fiscal Year 2004-05 on October 26, 2006. The State Controller did not express an opinion on the District's financial statements or accompanying schedule of revenues and expenditures. The State Controller identified 58 findings, including costs that the District may be required to repay; and

WHEREAS, the State Administrator appealed three of the apportionment-significant findings representing approximately \$7.9 million. Because the District did not receive the Fiscal Year 2004-05 Audit until after the end of Fiscal Year 2005-06, many of the same audit findings contained in the Fiscal Year 2003-04 Audit are also contained in the Fiscal Year 2004-05 Audit. Two waivers cleared two of the apportionment findings. The State Administrator resolved the other findings and the District was found to have an audit liability of \$495,099 for the 2004-05 Fiscal Year.

Fiscal Year 2005-06 Audit Completed by the State Controller on July 23, 2008

WHEREAS, the State Controller issued an audit of the District's Fiscal Year 2005-06 financial reports on July 23, 2008. The State Controller again did not express an opinion on the financial statements or accompanying schedule of revenues and expenditures, and changes in fund balance-budget;

¹ See Audit Findings 04-33, 04-35, 04-37, 04-38, 04-39, 04-40, and 04-44.

WHEREAS, the State Controller made 12 findings in its audit report, representing potential financial liabilities of approximately \$25 million. Because the District did not receive the Fiscal Year 2005-06 Audit until after the end of Fiscal Year 2006-07, many of the same audit findings contained in the Fiscal Year 2004-05 Audit are also contained in the Fiscal Year 2005-06 Audit. The State Administrator appealed these findings; and

WHEREAS, as a result of the appeals process, waivers cleared \$2,897,561, \$239,520 in findings were corrected by bookkeeping with the use of funding that had been flexed, and \$270,946 in findings were corrected by journal entries. The District, after return of local control resolved the other findings, and the District was found to have an audit liability of \$315,000 for the 2005-06 Fiscal Year.

-- Amount Paid to the State Department of Finance for Fiscal Years 2004-05 and 2005-06

WHEREAS, the District underreported attendance during for the 2004-2005 Fiscal Year. As a result, the District had a credit of \$719,107; and

WHEREAS, in determining the District's total audit liability for Fiscal Years 2004-05 and 2005-06, the audit liability for 2004-05 of \$495,099 was added to the audit liability for 2005-06 of \$315,000 and the credit for underreported attendance in the amount of \$719,107 was credited thereto. As a result, the District paid \$90,992 to the State Department of Finance from the second draw down of the State Loan.

Fiscal Year 2006-07 Audit Completed by the State Controller on October 20, 2009

WHEREAS, the State Controller issued an audit of the District's Fiscal Year 2006-07 financial reports on October 20, 2009. The State Controller again did not express an opinion on the financial statements or accompanying schedule of revenues and expenditures. Because the District did not receive the Fiscal Year 2006-07 Audit until after the end of Fiscal Year 2007-08, many of the same audit findings contained in the Fiscal Year 2005-06 Audit are also contained in the Fiscal Year 2006-07 Audit; and

WHEREAS, the District filed a notice of appeal of these findings prior to the April 5, 2010 deadline for noticing such appeal.

Fiscal Year 2007-08 Audit –the Audit has not been issued

WHEREAS, the State Controller has not issued an audit of the District's Fiscal Years 2007-08 or 2008-09 financial reports.

Payroll Liabilities and Cash Reconciliation

WHEREAS, for at least six years prior to May 2008, the State Administrator did not reconcile the District's cash balances. In each of these years, the State Controller in its annual audit disclaimed to express an opinion on the District's financial statements or accompanying schedule of revenues and expenditures;

WHEREAS, on May 28, 2008, the then-State Administrator authorized Vavrinek, Trine, Day & Co. LLP, an independent public accounting firm, to complete a review of the District's cash for all funds for Fiscal Years 2002-03 through 2007-08;

WHEREAS, the independent audit determined that cash in the General Fund was overstated and that the Payroll Liabilities Fund was understated by approximately \$16.63 million; and

WHEREAS, as a result of the failure during State Administration to reconcile the cash, the effect on the District's General Fund balance was at least \$16.63 million.

Conclusion

WHEREAS, during State Administration, there was not sufficient fiscal oversight by the State Administrators, and they did not implement sufficient changes in the District's fiscal policies and practices as required by SB 39;

WHEREAS, some of the financial decisions that were made during State Administration have caused and continue to cause further financial hardship to the District, contrary to the intent of SB 39;

WHEREAS, one of the consequences of inadequate fiscal oversight was that fines and penalties were assessed by the State Controller which the State Administrator paid to the State Department of Finance from the State loan;

WHEREAS, because of the insufficient fiscal oversight by the State Administrators, the delays in completing the audits by the State Controller, the repeat audit findings, the penalties and fines that were assessed, and the significant failure to reconcile cash, \$2,972,868 in fines were paid from the State loan for Fiscal Years 2002-03, 2003-04, 2004-05 and 2005-06 and there has been a \$16.63 million negative effect on the District's General Fund because the State Administrator did not reconcile cash for at least six years prior to 2008;

WHEREAS, these actions by the State during State Administration have added to the current the burden on the District, further limiting the resources available to provide quality education to the children of Oakland;

NOW, THEREFORE, BE IT RESOLVED that the Board authorizes the President of the Board, supported by the Superintendent of Schools, working with the Alameda County State Legislative Delegation, and other State Legislators friendly to the District, to seek their sponsorship of State Legislation for the District that will 1) authorize the District to retain an independent audit

firm to conduct the District's annual audit commencing with the 2010-11 audit; 2) credit back to the District's State loan all the audit penalties and fines assessed by the State Controller against the State Administrators as well the negative effect on the District's General Fund balance of \$16.63 million caused by the State Administrators' failure to reconcile the District's cash (see Table 1 which is attached hereto); and 3) reduce by one-half the cost paid by the District to the State Controller for the annual financial audit for any fiscal year where the State Controller issued the audit six or more months late.

Passed by the following vote:

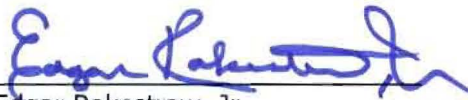
AYES: Jody London, Jumoke Hodge, Noel Gallo, Alice Spearman,
Vice President Christopher Dobbins, President Gary Yee

NOES: None

ABSTAIN: None

ABSENT: David Kakishiba

I hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted, at a Regular Meeting of the Governing Board of the Oakland Unified School District held on October 13, 2010.


Edgar Rakestraw, Jr.
Secretary, Board of Education

LEGISLATIVE FILE

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Table 1

**Total Audit Fines/Penalties, Cash Reconciliation and Payroll Liabilities Impact
On the State loan as of October 2010**

Fiscal Year	Amount Paid Out of State Loan	Amount Credited to District
Fiscal Year 2002-03	\$611,856	
Fiscal Year 2003-04	\$887,029	
Fiscal Year 2003-04 and 2004-05	\$673,884 (initially withheld from the District's first apportionment in Feb 2009; subsequently credited back then withheld from State loan)	
Fiscal Year 2004-05	\$495,099	\$719,107
Fiscal Year 2005-06	\$305,000	
Fiscal Year 2006-07	Appeal pending before the EAAP	
Cash Reconciliation and Payroll Liabilities	\$17,000,000 negative effect on the District's General Fund	
Total Amount deducted or paid out of State Loan due to fiscal mismanagement by the State Administrators	\$2,972,868 + \$16,631,851 negative effect on the District's General Fund. Total Amount equals \$19,604,719	

