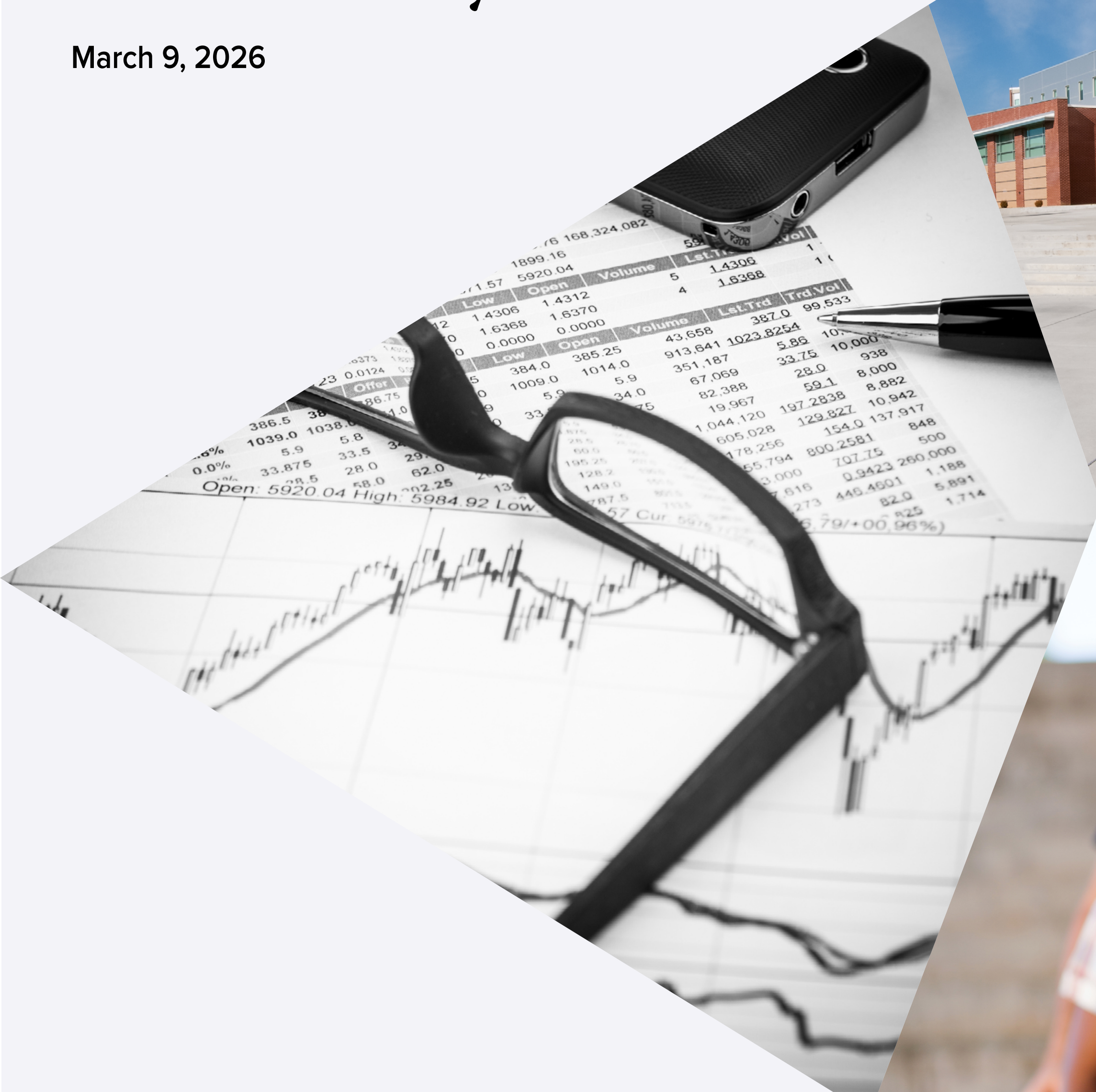
FCMAT

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

Extraordinary Audit

March 9, 2026



Alum Rock Union School District

Michael H. Fine
Chief Executive Officer

FCMAT FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

March 9, 2026

David M. Toston, Sr., Ed.D., Superintendent
Santa Clara County Office of Education
1290 Ridder Park Dr.
San Jose, CA 95131

Dear Superintendent Toston:

In September 2025, the Santa Clara County Superintendent of Schools and the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement for FCMAT to conduct an extraordinary audit of the Alum Rock Union School District. The agreement states the focus of the review is to determine, based on the sample testing performed and the auditors' judgment, whether fraud, misappropriation of funds, or other illegal fiscal practices may have occurred at the district. The agreement stipulates FCMAT will perform the following:

1. Review and test District reimbursements to board members by sampling associated transactions within fiscal years 2022-23, 2023-24 and 2024-25. Reimbursements selected for testing will be based on the Team's judgement as to sample size, sample selection technique and conclusion. Sample testing and review results are intended to provide reasonable but not absolute certainty about whether the District's disbursements were sufficiently appropriate;
2. Based on the assessment performed, either recommend or not recommend that the county superintendent of schools notify the District's governing board, the State Controller, the State Superintendent of Public Instruction, and the local district attorney that sufficient evidence exists to indicate the fraud, misappropriation of funds, or other illegal fiscal practices may have occurred.

This report contains the study team's findings and recommendation.

FCMAT appreciates the opportunity to serve you and extends our thanks to the staff of the Santa Clara County Office of Education and the Alum Rock Union School District for their cooperation and assistance during this review.

Sincerely,

Michael H. Fine
Chief Executive Officer

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About FCMAT

Purpose and Services

FCMAT was created by the California Legislature to help California's transitional kindergarten through grade 14 (TK-14) local educational agencies (LEAs) avoid fiscal insolvency. Today, FCMAT helps LEAs identify, prevent and resolve financial, management, program, data, and oversight challenges; provides professional learning; produces and provides software, checklists, manuals and other tools; and offers other related school business and data services.

FCMAT may be asked to provide fiscal crisis or management assistance by a school district, charter school, community college, county superintendent of schools, the state superintendent of public instruction, or the Legislature.

When FCMAT is asked for help with management assistance or a fiscal crisis, FCMAT management and staff work closely with the requesting LEA to meet their needs. Often this means conducting a formal study using a FCMAT study team that coordinates with the LEA for on-site fieldwork to evaluate specified operational areas and subsequently produces a written report with findings and recommendations for improvement.

For more immediate needs in a specific area, FCMAT offers short-term technical assistance from a FCMAT staff member with the required expertise.

To help meet the need for qualified chief business officials (CBOs) in LEAs, FCMAT offers four different CBO training and mentoring programs that consist of 11 or 12 diverse two-day training sessions over the course of a full year.

For agencies with professional learning needs, FCMAT offers workshops on specific topics. Popular topics include associated student body operations, use of FCMAT's Projection-Pro online financial forecasting software, use of FCMAT's Local Control Funding Formula (LCFF) Calculator, and data reporting for the California Longitudinal Pupil Achievement Data System (CALPADS). FCMAT staff and management also frequently make presentations at various professional conferences.

The California School Information Services (CSIS) service of FCMAT helps the California Department of Education (CDE) operate CALPADS; helps LEAs learn about CALPADS, resolve data issues and meet reporting requirements; and provides LEAs with training and leadership in data management. CSIS also developed and continues to host and improve the Standardized Account Code Structure (SACS) web-based financial reporting system for all California LEAs, and provides ed-data.org, which gives educators, policymakers, the Legislature, parents and the public quick access to timely and comprehensive data about TK-12 education in California.

Since it was formed, FCMAT has provided LEAs with the types of help described above on more than 2,000 occasions.

FCMAT's administrative agent is the Kern County Superintendent of Schools. FCMAT is led by Michael H. Fine, Chief Executive Officer, and is funded by appropriations in the state budget and modest fees to requesting agencies.

Workshop schedules, manuals, presentation slide decks, Projection-Pro software, LCFF calculators, past reports, an online help desk, and many other resources are available for download or use at no charge on FCMAT's website.

History

FCMAT was created by Assembly Bill 1200 (Chapter 1213, Statutes of 1991) and Education Code 42127.8. Assembly Bill 107 (Chapter 282, Statutes of 1997) added Education Code 49080, which charged FCMAT with responsibility for CSIS and its statewide data management work, and Assembly Bill 1115 (Chapter 78, Statutes of 1999) codified CSIS' mission.

Assembly Bill 1200 created a statewide plan for county offices of education and school districts to work together locally to improve fiscal procedures and accountability standards. Assembly Bill 2756 (Chapter 52, Statutes of 2004) gave FCMAT specific responsibilities for districts that have received emergency state loans.

In January 2006, Senate Bill 430 (Chapter 357, Statutes of 2005) amended Education Code 42127.8, and Assembly Bill 1366 (Chapter 360, Statutes of 2005) amended Education Codes 42127.8 and 84041. These newer laws expanded FCMAT's services to include charter schools and community colleges, respectively.

Assembly Bill 1840 (Chapter 426, Statutes of 2018) changed how fiscally insolvent districts are administered once an emergency appropriation has been made, shifting oversight responsibilities from the state to the local county superintendent to be more consistent with the principles of local control, and giving FCMAT new responsibilities associated with the process.

Introduction

Report Authority, Purpose and Standards

Education Code (EC) 1241.5(b) permits a county superintendent of schools to review or audit the expenditures and internal controls of any school district within the county if they have reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. This is known as an extraordinary audit.

The purpose of an extraordinary audit is to determine if sufficient evidence exists that fraud, misappropriation of funds, or other illegal fiscal practices may have occurred, and to document the findings for referral to the state controller, the state superintendent of public instruction and the local district attorney's office and further investigation by others if needed.

When conducting an AB 139 extraordinary audit, one must be able to determine that there was intent before finding that there is sufficient evidence to indicate that fraud may have occurred. If the intent to commit fraud cannot be determined, it is likely that the conclusion at the end of an extraordinary audit report will indicate there is insufficient evidence to demonstrate that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices may have occurred in the specific areas reviewed.

This extraordinary audit report considers standards that define and help detect fraud, occupational fraud, financial abuse, internal controls, and gift of public funds. These standards are defined in Appendix B and are integral to this report.

In writing its reports, FCMAT uses the Associated Press Stylebook and its own short internal style guide, which emphasize plain language, capitalize relatively few terms, and strive for conciseness, clarity and simplicity.

County Superintendent of Schools' Responsibilities

In accordance with EC 42638(b), action by the county superintendent of schools shall include the following:

> If the county superintendent determines that there is evidence that fraud or misappropriation of funds has occurred, the county superintendent shall notify the governing board of the school district, the State Controller, the Superintendent of Public Instruction, and the local district attorney.

In accordance with EC 1241.5(b), the county superintendent is required to report these findings and recommendations to the district's governing board at a regularly scheduled board meeting within 45 days of completing the audit (the date of this report). Within 15 days of receipt of the report, the district's governing board is required to notify the county superintendent of its proposed actions regarding the county superintendent's recommendations.

Judgments Regarding Guilt or Innocence

The existence of fraud, misappropriation of funds and/or assets, or other illegal fiscal practices is solely the purview of the courts. FCMAT is not making statements that could be construed as a conclusion that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices have occurred. These terms are a broad legal concept, and auditors do not make legal determinations regarding whether illegal activity has occurred.

Study Team

The study team was composed of the following members:

Jeffrey B. Potter, CFE
FCMAT Intervention Specialist

Marcus Wirowek, CFE
FCMAT Intervention Specialist

Leonel Martínez
FCMAT Technical Writer

Each team member reviewed the draft report to confirm its accuracy and to achieve consensus on the final recommendations.

Background

Located in eastern San Jose, the Alum Rock Union School District has a five-member board of trustees serving approximately 7,300 students in transitional kindergarten (TK) through grade eight. The district has 12 elementary schools, four TK-8th grade schools, five middle schools, and one early learning center. According to data available through the California Department of Education (CDE) for 2024-25, approximately 83% of the district's students are either English learners, foster youth and/or eligible for free or reduced-priced meals.

In September 2025, the Santa Clara County Superintendent of Schools requested that FCMAT assist the county office of education by conducting an Assembly Bill (AB) 139 extraordinary audit to determine if fraud, misappropriation of funds, or other illegal fiscal practices may have occurred at the district. The audit was initiated following allegations from parents, community members and district employees of questionable board member reimbursements, specifically where district funds may have been used to reimburse board members for college-level coursework or other similar training.

The scope of the transactions was collectively determined to include a review of the district's reimbursements to governing board members during fiscal years 2022-23 through 2024-25. Review and transaction testing covered all reimbursements, as provided by the district, for July 1, 2022 to June 30, 2025.

Reimbursements were considered to be any payments made by the district to the benefit of a district board member. Most often, these payments were made through the district's reimbursement process. However, in some instances, similar transactions, such as a direct payment to a vendor by the district to the benefit of an individual board member, were also reviewed. Certain items that occurred prior to July 1, 2022 were also reviewed due to their transactional relationship to items captured within the scope. These exceptions are further explained within the report.

FCMAT initially visited the district on November 5-6, 2025 to conduct interviews, collect data and review documents. Following fieldwork, FCMAT continued its review and analysis and conducted additional interviews.

Extraordinary Audit Procedures

An extraordinary audit is conducted based on the study team's experience and judgment. These audits have many components, including obtaining and examining available original source documents; corroborating documents and information through third-party sources when possible; interviewing potential witnesses; gaining an understanding of internal controls applicable to the scope of the work; and assessing factors such as intent, capability, opportunity, and possible pressures or motives.

The audit consists of the following:

- Gathering adequate information about specific allegations.
- Establishing an audit plan.
- Performing audit test procedures, often based on sampling of transactions.
- Using the team's judgment and experience to determine whether fraud, misappropriation of funds, or other illegal fiscal practices may have occurred.
- Evaluating the loss that resulted from the alleged inappropriate activity.
- Determining who may have been involved and how it may have occurred.

Findings

Transaction Sampling

The purpose of sampling transactions is to provide insight into all transactions. The larger the sample size, the more accurate and representative of all transactions the results can be. For this audit, because the scope of transactions was limited to three fiscal years, and because the total population of board member reimbursements for the scope of the audit could be effectively reviewed in totality, a sample was not used. Rather, the entire population of board member reimbursements was reviewed for the specified time period.

For all transactions, FCMAT reviewed all relevant information for each transaction, including the amount, date and purpose of the reimbursement. This information is summarized in a table below. Additionally, any administrative approvals that may have been obtained were reviewed, as well as any board approvals for expenditure reimbursements.

FCMAT identified several types of reimbursements during the term of the scope. These are outlined below and included travel and related costs, trainings and professional development, and other miscellaneous reimbursements.

Results of Testing

FCMAT requested that the district provide all board member reimbursements for July 1, 2022 through June 30, 2025, thereby covering the review scope of fiscal years 2022-23 through 2024-25. The district provided available documentation as requested, and FCMAT presumes that all applicable transactions were disclosed.

FCMAT noted that the total population of transactions included several credits or refunds of prior payments for various reasons (event cancellations, etc.). These transactions were reviewed and determined to be either offsetting transactions that essentially nullified an original payment or were insignificant to the overall testing results. All credits or refunds have therefore been omitted from the results. Also, any district trustees who lacked any reimbursements in accordance with the audit scope are excluded from the table below.

Trustee	Payment Date	Stated Purpose of Expense	Amount ($)
Andrea Flores Shelton			
	6/26/23	Latino Leadership Alliance Gala	215.26
	6/28/24	CSBA Conference	1,250.00
		Total	1,465.26
Andres Quintero			
	12/21/20	Graduate education courses *	4,700.00
	7/23/21	Graduate education courses *	4,700.00
	4/21/22	The Kids Table: Susan Ellenberg *	50.00
	7/22/22	Graduate education courses	5,000.00
	6/30/23	Graduate education courses	830.00
	10/6/23	Graduate education courses	1,245.00
	1/19/24	Graduate education courses	1,245.00

Trustee	Payment Date	Stated Purpose of Expense	Amount ($)
	3/22/24	Water Education for Latin Leaders	200.00
	5/17/24	Graduate education courses	2,490.00
	9/20/24	Graduate education courses	2,490.00
		Total	22,950.00
Corina Herrera-Loera			
	10/31/22	SCCSBA (dinner)	55.00
	11/4/22	SCCSBA (dinner)	150.00
	12/16/22	CSBA	2,114.75
	1/20/23	CSBA	2,282.00
	3/21/23	Santa Clara Children's Summit	85.00
	5/19/23	Alum Rock Counseling Center Luncheon	90.00
	8/11/23	SSC Event, CSBA Conference, Working Partnership	1,075.00
	10/19/23	Latino Leadership Summit	175.00
	11/16/23	SSC Event, DV Conference, Latina Coalition Event	301.21
	1/18/24	CSBA Governance Event	1,785.37
	9/12/24	Women to the Polls Equality Day Brunch	81.88
	11/19/24	CSBA Leadership Luncheon	1,647.56
	12/13/24	CSBA Conference (airfare)	277.96
	6/6/25	CSBA Conference (lodging, other travel costs)	1,190.82
	6/30/25	Crisis Resilient Schools Summit	84.93
		Total	11,396.48
Linda Chavez			
	9/19/22	CSBA (dinner)	52.56
	11/16/22	CSBA (meals, transportation)	208.57
	12/16/22	CSBA (registration, airfare)	1,127.96
	12/27/22	CSBA (meals, transportation)	214.47
	1/20/23	CSBA (lodging)	994.56
	6/26/23	Latino Leadership Alliance Gala	215.26
	9/8/23	CSBA Symposium	1,250.00
	1/12/24	CSBA (meals, transportation)	253.14
	1/18/24	CSBA (lodging)	1,371.60
	3/15/24	CSBA (meals)	69.51
	11/19/24	East Side Education Foundation Event	200.00
	6/30/25	Baleo Conference	370.98
		Total	6,328.61
Minh Nguyen			
	12/13/24	CSBA Conference (airfare)	465.97
	12/18/24	CSBA Conference	935.00
	1/21/25	CSBA Conference	575.00
	N/A **	CSBA Conference (lodging, transportation)	1,113.01
	3/24/25	Memb. - Asian Pacific Islander Board Members	150.00

Trustee	Payment Date	Stated Purpose of Expense	Amount ($)
		Total	3,238.98
Minh Pham			
	3/21/23	Luncheon - East Side School	588.56
	10/19/23	Board President Event	45.92
	11/16/23	Board President Event	350.56
	9/19/22	Working Partnership USA - Champions for Change	100.00
	2/21/23	Creations Connections YMCA Project	65.00
	3/21/23	SCCBA Brunch	40.00
	5/19/23	Alum Rock Counseling Center Luncheon	90.00
	6/30/23	San Jose Spotlight Presents: Politibeat	160.00
	10/19/23	East Side Foundation Event	200.00
	11/16/23	Santa Clara School Boards Association Event	71.21
	3/18/24	SCCBA Brunch	39.19
	4/19/24	East Side Foundation Event	90.00
	5/16/24	Alum Rock Counseling Center Luncheon	154.50
	11/19/24	SCCSBA Dinner, East Side Foundation Event	271.21
	3/24/25	Fremont High School Event	49.87
		Total	2,316.02

* Payments predate FCMAT's review scope of fiscal years 2022-23 to 2024-25, as mentioned below.

** Items identified as "N/A" could not be determined using documentation provided to FCMAT.

As shown by the table above, most trustee reimbursements were related to various community events, governance trainings and other educational or charitable functions.

FCMAT noted that some reimbursements for one board member, Trustee Quintero, were related to post-graduate coursework at University of the Cumberlands. Transcripts provided by the board member to the district indicate the coursework was taken in support of a doctorate degree in history, with a specific emphasis in leadership. The transcripts indicated the degree remained in progress at the time of FCMAT's fieldwork and that some coursework credits had already been successfully earned toward a degree. The district had previously informed FCMAT that these coursework reimbursements had occurred and also provided FCMAT with the applicable district policies related to allowable trustee reimbursements. Questions from current and former district staff members, as well as from various community members, had also been received related to the collegiate coursework reimbursement payments.

FCMAT reviewed the coursework payments and related documentation, noting that the reimbursements for the specific coursework in question began in 2020, predating the scope of FCMAT's engagement by two years. Because the coursework reimbursements occurred throughout the duration of FCMAT's scope from 2022-23 through 2024-25, FCMAT requested all reimbursements related to the coursework from the inception of the reimbursement requests in 2020 through 2024-25. The district provided the requested documentation, which resulted in three additional reimbursement transactions from 2020 to 2022, two of which were related to the coursework in question.

As shown by the table above, the total amount of the coursework reimbursements to Trustee Quintero from 2020 to 2025 was $22,700 resulting from eight reimbursement payments.

FCMAT reviewed all reimbursements to all board members to determine whether district funds were used in a manner that was both a generally appropriate and typically allowable educational use of district funds, as well as whether each reimbursement followed established district reimbursement policies. While most payments were for generally acceptable educational expenditures as shown in the above table, the coursework reimbursements were unique in that FCMAT did not find that other board members had requested similar reimbursements. As previously mentioned, FCMAT requested additional district documentation, including the district's reimbursement policy related to the coursework in question.

Board Policy

Originally adopted in 2019 and subsequently reviewed and revised in 2020, the district's governing board policy at the time of the coursework reimbursements stated the following:

> **Bylaw 9240: Board Training**
>
> The Board of Trustees believes that the Board's ability to effectively and responsibly govern the district is essential to promoting student achievement, building positive community relations, and protecting the public interest in district schools. Board members shall be provided sufficient opportunities for professional development that helps them understand their responsibilities, stay abreast of new developments in education, and develop boardsmanship skills.
>
> The Board and/or the Superintendent or designee shall provide an orientation to newly elected or appointed Board members which includes comprehensive information regarding Board roles, policies, and procedures and the district's vision and goals, operations, and current challenges. Throughout their first term, Board members shall continue to participate in additional educational opportunities designed to assist them in understanding the principles of effective governance, including, but not limited to, information on school finance and budgets, student achievement and assessment, labor relations, community relations, program evaluation, open meeting laws (the Brown Act), conflict of interest laws, and other topics necessary to govern effectively and in compliance with law.
>
> All Board members are encouraged to continuously participate in advanced training offered by the California School Boards Association and/or education through an accredited college or university in order to reinforce boardsmanship skills and build knowledge related to key education issues. Such activities may include online courses, webinars, webcasts, and in-person attendance at workshops and conferences. In addition, workshops and consultations may be held within the district on issues that involve the entire governance team.
>
> The Superintendent shall make available the dates for the Masters in Governance Courses. The Superintendent shall provide, to the extent possible, registration and hotel arrangements which shall be made through the Superintendent's office.
>
> The goal is to increase academic achievement by improving organizational effectiveness and efficiency, learning best practices to identify and fix weaknesses.
>
> Funds for board training shall be budgeted annually for the Board and each Board member. In selecting appropriate activities, the Board and/or individual Board members shall consider training and/or education that is aligned with the district's vision and goals and the needs of the Board or individual member to obtain specific knowledge and skills. The Board shall annually develop a board training calendar in order to schedule and track board training activities

> and to schedule opportunities for Board members to report on the activities in which they participate.
>
> Board members may attend a conference or similar public gathering with other Board members and/or with the Superintendent or designee in order to develop common knowledge and understanding of an issue or engage in team-building exercises. In such cases, a majority of the Board members shall not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the district's jurisdiction, so as not to violate the Brown Act open meeting laws pursuant to Government Code 54952.2.
>
> Board members shall report, orally or in writing, on the board training activities they attend, for the purpose of sharing the acquired knowledge or skills with the full Board and enlarging the benefit of the activity to the Board and district.

FCMAT reviewed the coursework reimbursements to determine if these payments could reasonably be considered allowable expenditures in accordance with the above policy. While coursework related to obtaining a doctorate degree in history may not generally be considered appropriate training for which a school district should be reimbursing a board member, interviews and coursework materials indicated that the doctorate program included an emphasis on "leadership," which could coincide with the policy outlined above. Specifically, the policy states that (with emphasis added), "…Board members shall continue to participate in additional educational opportunities designed to assist them in understanding the principles of effective governance, including, <u>but not limited to</u>, information on school finance and budgets, student achievement and assessment, labor relations, community relations, program evaluation, open meeting laws (the Brown Act), conflict of interest laws, <u>and other topics necessary to govern effectively and in compliance with law</u>."

The policy further states that, "All Board members are encouraged to continuously participate in advanced training offered by the California School Boards Association and/<u>or education through an accredited college or university in order to reinforce boardsmanship skills</u> and build knowledge related to key education issues."

Based on the policy in place at the time of the reimbursements, FCMAT determined that, while the reimbursement of collegiate coursework may not have been the original intent of the policy when adopted by the governing board, training that includes an emphasis on leadership skills can generally assist or improve a board member's ability to "govern effectively."

Disclosure Requirement

FCMAT noted an additional requirement in the above policy, which states that, "Board members shall report, orally or in writing, on the board training activities they attend, for the purpose of sharing the acquired knowledge or skills with the full Board and enlarging the benefit of the activity to the Board and district." Interviews indicated that this section of the policy was not regularly followed by the greater board, with some trainings discussed and disclosed in open session, while others were not. Interviews indicated the college coursework in question was not reported or discussed in open session when it originally occurred and was only reported to the greater board in 2025.

While such a policy oversight could theoretically invalidate a reimbursement, the practice of reporting individual board member trainings and related activities was not always followed. Whether such an oversight could effectively invalidate any such reimbursement, regardless of actual permissibility, is a local determination subject to board discussion and action. Moreover, the underlying coursework reimbursements that include leadership training could conceivably be considered an allowable expenditure based on the district's broad definition as included in the aforementioned policy.

Annual Limit on Reimbursements

During fieldwork, FCMAT also learned that the district had maintained an annual limit for board member educational reimbursements of $5,000, inclusive of any training and related travel costs. This limitation was known to both the governing board members and staff members and appears to have been monitored and enforced annually. FCMAT could not locate any district or board policy that outlined such a restriction and assumed this may have been a remnant of a previous policy no longer in existence. Even so, this limit appears to have been known by all board members, resulting in annual training reimbursements that remained at or near this limitation in all years reviewed by FCMAT.

Reimbursement Approvals

Board member reimbursements were typically paid through the district's reimbursement process. This process included a form called a "Request for Payment" where each board member would describe the reimbursement being requested, including all relevant details and supporting documentation. This form would then be circulated for internal approvals prior to the generation of any payments. FCMAT's review of these forms indicated that internal approvals were regularly obtained, often from the district superintendent, among other signers. Following approval, a warrant (check) was issued to the board member for the reimbursement(s). Warrants were generated through the district's standard warrant issuance process, each time resulting in a warrant register report for board approval.

FCMAT reviewed the warrant reports provided regularly to the governing board. The team identified only four instances where a reimbursement could not be located within a warrant report, suggesting documentation may be unavailable in these instances. For all remaining reimbursements, all payments were clearly documented in the warrant reports. These reports were presented under the consent agenda during most board meetings. This is a common practice and allows the board to approve all warrants in an expedited manner, often without any formal discussion unless otherwise raised by an individual board member. FCMAT further reviewed board member voting records and found that, in every case where warrant reports were approved, the vote was unanimous. This included any reports that contained board member reimbursements, such as the university coursework in question. FCMAT did not identify any open opposition to board member reimbursements in the meeting minutes for any meetings during the scope of FCMAT's review.

During FCMAT's fieldwork, the district indicated that a review was ongoing of Board Policy 9240 and that revisions were nearing completion that would more clearly describe, in detail, allowable board member training reimbursements in the future. FCMAT did not review or consider any policy changes that occurred during or following the review.

Conclusion

Potential for Fraud, Misappropriation of Funds, or Other Illegal Fiscal Practices

Specific to the scope of the audit and based on the findings included in this report, there is insufficient evidence to demonstrate that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices may have occurred at the hands of district staff and board members in the specific areas reviewed.

Recommendation

The county superintendent should:

1. Notify the Alum Rock Union School District governing board at a regularly scheduled board meeting within 45 days of the audit's completion (the date of this report) that insufficient evidence exists to indicate that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices may have occurred, and that the Santa Clara County Superintendent of Schools has concluded its review.

Appendices

Appendix A — Study Agreement

Appendix A: Study Agreement

FCMAT

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM
STUDY AGREEMENT
FOR AB 139 REVIEW

This study agreement, hereinafter referred to as Agreement, is made and entered into by and between the Fiscal Crisis and Management Assistance Team, hereinafter referred to as the Team or FCMAT, and the Santa Clara County Office of Education, hereinafter referred to as the Client or county superintendent of schools; collectively, Team and Client are hereinafter referred to as the Parties. This Agreement shall become effective from the date of execution hereof by FCMAT.

1. **BASIS OF AGREEMENT**

The Team provides a variety of services to local education agencies (LEAs). Pursuant to the provisions of Education Code (EC) 1241.5(b), county superintendents may review or audit the expenditures and internal controls of any school district in their county if they have reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. Furthermore, pursuant to the provisions of EC 1241.5(c), county superintendents may review or audit the expenditures and internal controls of any charter in their county if they have reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination.

The county superintendent of schools has requested that FCMAT assign professionals to conduct an Assembly Bill (AB) 139 review consistent with EC 1241.5 (b) or (c), as applicable. Such AB 139 review is in fulfillment of the county superintendent of school's authority under EC 1241.5(b) or (c), as applicable. The review conducted by the county superintendent shall be focused on the alleged fraud, misappropriation of funds, or other illegal fiscal practices and shall be conducted in a timely and efficient manner. The assigned professionals will include FCMAT staff and may include professionals from county offices of education, school districts, charter schools, community colleges, other public agencies or private contractors. All professionals assigned shall work under the direction of FCMAT. All work shall be performed in accordance with the terms and conditions of this Agreement.

The county superintendent of schools has received information regarding possible fraud, misappropriation of funds or other illegal fiscal practices at the Alum Rock Unified School District, hereinafter referred to as Subject Entity.

2. **SCOPE OF THE WORK**

   A. Scope and Objectives of the Review

      1. The focus of this AB 139 review is to determine, based on sample testing performed and auditors' judgment, whether fraud, misappropriation of funds, or other illegal fiscal practices may have occurred at the Subject Entity.

      2. Based on that assessment, either recommend or not recommend that the county superintendent of schools notify the governing board of the Subject Entity, the State Controller, the state superintendent of public instruction, and the local district

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attorney that sufficient evidence exists to indicate that fraud, misappropriation of funds or other illegal fiscal practices may have occurred, and that the county superintendent of schools has concluded its review.

3. The team will review and test the Subject Entity's reimbursements to board members by sampling associated transactions within fiscal years 2022-23, 2023-24 and 2024-25. Reimbursements selected for testing will be based on the Team's judgment as to sample size, sample selection technique and conclusion. Sample testing and review results are intended to provide reasonable but not absolute certainty about whether the Subject Entity's disbursements were sufficiently appropriate.

4. Based on the assessment performed, either recommend or not recommend that the county superintendent of schools notify the governing board of the Subject Entity, the State Controller, the state superintendent of public instruction, and the local district attorney that sufficient evidence exists to indicate that fraud, misappropriation of funds or other illegal fiscal practices may have occurred, and that the county superintendent of schools has concluded its review.

B. <u>Services and Products to be Provided</u>

1. Orientation Meeting for Client
   The Team will conduct an orientation session at the Client's location to brief the Client on the Team's procedures and the purpose and schedule of the review. This orientation meeting shall be held prior to commencing fieldwork for the study.

2. Orientation Meeting for Subject Entity
   The Team will conduct an orientation session at the Subject Entity's location to brief the Subject Entity's superintendent or head of school, as applicable, on the Team's procedures and the purpose and schedule of the review. This orientation meeting is normally held at the beginning of fieldwork for the review.

3. Fieldwork
   The Team will conduct fieldwork at the Subject Entity and/or the Client's office and/or school site(s), or other locations as needed. Limited fieldwork may also be conducted remotely via telephone or videoconferencing services, in addition to the Public Safety Considerations outlined in Section 13 below.

4. Progress Reports
   The Team will provide periodic written and/or verbal updates to the Client on any material issues as the review progresses. Such updates will normally be provided at the conclusion of fieldwork and the conclusion of the initial report writing phase but prior to the release of a draft report. Updates will also be provided at any time the Client requests.

5. Draft Report
   An electronic copy of a preliminary draft report will be delivered to the Client's point of contact for review and comment.

6. Final Report
   An electronic copy of the final report will be delivered to the Client's point of contact following completion of the review. FCMAT's work products are public and all final reports are published on the FCMAT website.

7. Follow-up Support
   The Team will meet with the Client and/or the Subject Entity to discuss the findings, conclusion and recommendation in the final report after the final report has been issued.

3. PROJECT PERSONNEL

The personnel assigned to the review will be led by a FCMAT staff person (job lead) and will include at least one other professional. FCMAT will notify the Client of the assigned personnel when the fully executed copy of this Agreement is returned to the Client.

FCMAT will communicate to the Client any changes in assigned project personnel.

4. PROJECT COSTS

The cost for AB 139 reviews shall be as follows:

A. $1,500 per day for each FCMAT staff member while conducting activities associated with the review. This includes, but is not limited to, planning, on-site or virtual document collection and review, interviews, conducting fieldwork at other locations, conducting analysis, preparing reports, or participating in meetings. The cost of independent FCMAT consultants will be billed at their daily rate for all work performed.

B. All out-of-pocket expenses, including travel and its associated costs, and miscellaneous items necessary to complete the scope and objectives of the study.

C. The applicable indirect rate at the time work is performed on the review will be added to all costs billed.

D. The Client will be invoiced for 50% of the not-to-exceed cost shown below following completion of fieldwork (progress payment) and the remaining amount shall be due upon the issuance of the final report (final payment). The Parties agree that changes documented in a revised study agreement may change the original not-to-exceed amount shown below. If changes are made before or during fieldwork, the new not-to-exceed amount documented in such a revised study agreement will constitute the basis for the progress payment. If changes are made after fieldwork, 100% of the total changed value documented in a revised study agreement, less progress payments made, will constitute the final payment due. All payments shall be due immediately based on the terms of the invoice.

Based on the scope and objectives of the review, the total not-to-exceed cost of the review will be $78,000.

E. Any change to the scope of work will affect the total cost. Changes may include, but are not limited to, delays, revisions to the scope of services, and substitution or addition of personnel. The need for changes shall be communicated by FCMAT to the Client in advance in the form of a revised study agreement.

F. The Client may be eligible for full or partial reimbursement from the State of California for the costs of this review under EC 1241.5(b) or (c). Further information and the reimbursement request form are available on the FCMAT website at: Reimbursements to COEs 2025.pdf.

Payments for FCMAT's services are payable to Kern County Superintendent of Schools, Administrative Agent, 1300 17th Street, City Centre, Bakersfield, CA 93301.

5. **RESPONSIBILITIES OF THE CLIENT**

The Parties recognize that the Subject Entity is not a party to this Agreement. The Parties further recognize that many of the responsibilities outlined below are best fulfilled by the Subject Entity. The Client shall take responsibility to secure the Subject Entity's full cooperation with this AB 139 review and to facilitate the performance of each of the following responsibilities.

A. Notify the Subject Entity in writing that an AB 139 review has been requested and will commence. Provide FCMAT with a copy of this notice.

B. Return current organizational chart(s) that show the Subject Entity's management and staffing structure with the signed copy of this Agreement. Organizational charts should be relevant to the scope of this Agreement.

C. Provide private office or conference room space for the Team's use during fieldwork at the Subject Entity's facility or other facilities that FCMAT may agree to.

D. Provide for a Client and/or a Subject Entity employee to upload all requested documents and data to FCMAT's online SharePoint repository per FCMAT's instructions. Provide FCMAT with the name and email of the person who will be responsible for collecting and uploading documents requested by FCMAT with the signed copy of this Agreement.

E. Provide documents and data requested on the Team's initial and supplementary document request list(s) by the date requested.

All documents and data provided shall be responsive to FCMAT's request, in quality condition, readable and in a usable form. With few exceptions, documents and data requested are public records and records maintained by LEAs in the routine course of doing business. Some data requested may require exporting LEA financial system reports to Microsoft Excel or another usable format agreed to by FCMAT.

All documents shall be provided to FCMAT in electronic format, labeled as instructed by FCMAT. Upon approval of this Agreement, access will be provided to FCMAT's online SharePoint repository, to which the Client and/or the Subject Entity will upload all requested documents and data.

F. Ensure appropriate senior-level staff are available for the orientation meetings for both the Client and the Subject Entity.

G. Facilitate access to requested Subject Entity's board members, officers and staff for interviews.

H. Facilitate access to requested information and facilities to include, but not be limited to, files, sites, classrooms and operational areas for observation.

I. Review a draft of the report and return it to FCMAT by the date FCMAT requests with any comments regarding the accuracy of the report's data. The Team will review this feedback in a timely manner and make any adjustments it deems necessary before issuing the final report. This is a Client only responsibility; the Subject Entity is not provided a copy of the draft report.

J. Follow the recommendation of the report and make all necessary notifications as outlined in the report.

K. Return the requested evaluation survey to FCMAT as described below.

6. PROJECT SCHEDULE

Time is of the essence. The Parties acknowledge that the goal of the scope and objectives of the review under this Agreement is to produce a timely and thorough report that adds value for the Client. To accomplish this goal, the Parties agree to communicate and mutually agree to honor established time commitments. These commitments include the Client providing, or facilitating the provision of, requested documents, setting and keeping interview appointments and returning comments on the draft report consistent with the established project schedule.

The following project schedule milestones will be established by FCMAT upon receipt of a signed Agreement from the Client:

ACTION	TIMELINE
FCMAT provides Client with a draft Agreement.	Draft Agreements are usually provided within 30 business days Client's initial request for services.
Client returns partially executed Agreement to FCMAT along with the applicable Subject Entity organizational charts and the name and email of the person who will be responsible for collecting and uploading documents requested by FCMAT.	Draft Agreements are valid for 30 business days.
FCMAT returns a fully executed Agreement to the Client and identifies the project schedule and the lead and other personnel assigned to the job.	Within five business days of the Client's return of the signed Agreement.
Client and/or the Subject Entity uploads	Within 20 business days of the Client's

ACTION	TIMELINE
initial requested documents and data to FCMAT's online SharePoint repository.	receipt of the FCMAT document and data request list.
Fieldwork	Mutually agreed upon; usually, to commence within 20 business days of FCMAT's receipt of requested documents and data.
Orientation meeting for the Client	Prior to commencing fieldwork
Orientation meeting for the Subject Entity	First day of fieldwork at the Subject Entity's location.
Initial follow up fieldwork, if needed (e.g., rescheduled interview, additional interviews).	Mutually agreed upon; usually, within five business days of FCMAT's request.
Additional follow-up fieldwork, if needed (e.g., additional interviews).	Mutually agreed upon; usually, within five business days of FCMAT's request.
Client and/or the Subject Entity uploads supplemental documents and data to FCMAT's online SharePoint site repository.	Within two business days of the Client's receipt of FCMAT's supplemental document and data request(s).
Draft report submitted to the Client	To be determined, usually, within 90 days of the conclusion of fieldwork and receipt of all documents and data requested.
Client comments on draft report	Within 10 business days of FCMAT providing a draft report to the Client.

The Client acknowledges that project schedule deadlines build upon and are contingent on each previous deadline. Missed deadline dates will affect future deadline dates and ultimately the timing of the final report. For example, if the Client or the Subject Entity does not provide requested documents and data by the specified date, the fieldwork may not be able to proceed as originally planned.

The Parties acknowledges that the Subject Entity has an educational program to administer, is balancing many priorities, and in some cases may have records management difficulties, staffing capacity issues, staff on various types of leave, or other circumstances, all of which will affect the project schedule.

The Parties commit to regular communication and updates about the review schedule and work progress. FCMAT may modify the usual timelines as needed.

7. **COMMENCEMENT, TERMINATION AND COMPLETION OF WORK**

FCMAT will commence work as soon as it has assembled an available and appropriate review team, taking into consideration other jobs FCMAT has previously undertaken, assignments from the state, and higher priority assignments due to fiscal distress. The Team will work expeditiously to complete its work and deliver its report, subject to the cooperation of the Client, the Subject Entity and any other related parties from which, in the Team's judgment, it must obtain information. Once the Team has completed its fieldwork, it will proceed to prepare a report. In the absence of extraordinary circumstances, FCMAT will not withhold preparation, publication and distribution of a report once fieldwork has been completed.

Upon written notice to FCMAT, the Client may terminate its request for service at any time up to the issuance of the draft report and will be responsible for all costs incurred by FCMAT to the date of termination under Section 4 (Project Costs). If the Client does not provide written notice of termination prior to issuance of the draft report, the Team will complete its work and deliver its final report and the Client will be responsible for the full costs.

FCMAT may terminate this Agreement at any time if the Client or the Subject Entity fails to cooperate with the requested project schedule, provide requested documents and data and/or make staff available for interviews as requested by FCMAT.

8. **INDEPENDENT CONTRACTOR**

FCMAT is an independent contractor and is not an employee or engaged in any manner with the Client or the Subject Entity. The manner in which FCMAT's services are rendered shall be within its sole control and discretion. FCMAT representatives are not authorized to speak for, represent, or obligate the Client or the Subject Entity in any manner without prior express written authorization from an officer of the Client or the Subject Entity.

9. **RECORDS**

The Client understands and agrees that FCMAT is a state agency and all FCMAT reports are public records and are published on the FCMAT website. Supporting documents and data in FCMAT's possession may also be public records and will be made available in accordance with the provisions of the California Public Records Act.

FCMAT has a records retention policy and practice, and every effort will be made to maintain records related to this Agreement in accordance with this policy.

10. **CONTACT WITH PUPILS**

Pursuant to EC 45125.1, representatives of FCMAT will have limited contact with pupils. The Client and the Subject Entity shall take appropriate steps to comply with EC 45125.1.

11. **INSURANCE**

During the term of this Agreement, FCMAT shall maintain liability insurance of not less than $1 million unless otherwise agreed upon in writing by the Client, automobile liability insurance in the amount required by California state law, and workers' compensation as required by California state law. Upon the request of the Client and receipt of the signed Agreement, FCMAT shall provide certificates of insurance, with the Client named as additional insured, indicating applicable insurance coverages.

12. HOLD HARMLESS

FCMAT shall hold the Client, its board, officers, agents, and employees harmless from all suits, claims and liabilities resulting from negligent acts or omissions of FCMAT's board, officers, agents and employees undertaken under this Agreement. Conversely, the Client shall hold FCMAT, its board, officers, agents, and employees harmless from all suits, claims and liabilities resulting from negligent acts or omissions of the Client's board, officers, agents and employees undertaken under this Agreement.

13. PUBLIC SAFETY CONSIDERATIONS

Whether due to public health considerations, extreme weather conditions, road closures, other travel restrictions or interruptions, shelter-at-home orders, LEA closures or other related considerations, at FCMAT's sole discretion, the Scope of Work, Project Costs, Responsibilities of the Client, and Project Schedule (Sections 2, 4, 5 and 6 herein) and other provisions herein may be revised. Examples of such revisions may include, but not be limited to, the following:

A. Orientation meetings, interviews and other information-gathering activities may be conducted remotely via telephone, videoconferencing, or other means. References to fieldwork shall be interpreted appropriately given the circumstances.

B. Activities performed remotely that are normally performed in the field shall be billed hourly as if performed in the field (excluding out-of-pocket costs that can otherwise be avoided).

C. The Client may be relieved of its duty to provide conference and other work area facilities for the Team.

14. FORCE MAJEURE

Neither party will be liable for any failure or delay in the performance of this Agreement due to causes beyond the reasonable control of the party, except for payment obligations by the Client.

15. EVALUATION

In the interest of continuous improvement, FCMAT will provide the Client with an evaluation survey at the conclusion of the services. FCMAT appreciates the Client's honest assessment of the Team's services and process. The Client shall return the evaluation survey within 10 business days of receipt.

16. CLIENT CONTACT PERSON

The Client's contact person designated below shall be the primary contact person for FCMAT to use in communicating with the Client on matters related to this Agreement. At any time when this Agreement or FCMAT's process contemplates sending information, document request lists, draft report or final report, or when FCMAT makes other requests for the Client to act upon, this is the person whom FCMAT will contact. The Client may change the contact person upon written notice to FCMAT's job lead assigned to the review.

Name: Stephanie Gomez, Assistant Superintendent, Business Services

Telephone: (408) 453-6519

Email: sgomez@sccoe.org

FCMAT will ask the Subject Entity to also establish a contact person for FCMAT to use in communicating with the Subject Entity on matters related to the review.

17. SIGNATURES

Each individual executing this Agreement on behalf of a party hereto represents and warrants that he or she is duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

For Client:

9/19/25

Dr. David Toston, County Superintendent — Date
Santa Clara County Office of Education

For FCMAT:

Michael H. Fine Digitally signed by Michael H. Fine
Date: 2025.09.29 12:12:06 -07'00'

Michael H. Fine, — Date
Chief Executive Officer
Fiscal Crisis and Management Assistance Team

Appendix B

More About Types and Causes of Fraud

Fraud, Occupational Fraud and Internal Controls

Fraud can include an array of irregularities and illegal acts characterized by intentional deception and misrepresentations of material facts. Although all employees have some degree of responsibility for internal controls, the governing board, superintendent and senior management are ultimately responsible.

Occupational Fraud

Occupational fraud includes asset misappropriation, corruption, and fraudulent financial statements. Occupational fraud occurs when an organization's owners, executives, managers or employees use their position in the organization to deliberately misuse or misapply the employer's resources or assets for personal benefit.

Asset misappropriation includes the theft or misuse of local educational agency (LEA) assets and may include taking cash, inventory or other assets, and/or fraudulent disbursements. Asset misappropriation is the largest category of occupational fraud and includes numerous fraudulent disbursement schemes. Corruption schemes involve one or more employees and/or board members using their influence in business transactions to obtain a personal benefit that violates their duty to the employer or the organization; conflicts of interest fall into this category. Financial statement fraud includes intentionally misstating or omitting material information in financial reports.

Many different types of fraud exist; however, occupational fraud, including asset misappropriation and corruption, is more likely to occur when employees are in positions of trust and have access to assets. Embezzlement occurs when someone who is lawfully entrusted with property takes it for their personal use. Common elements in all fraud include the following:

- Intent, or knowingly committing a wrongful act.
- Misrepresentation or intentional false and willful representation(s) of a material fact.
- Reliance on weaknesses in the internal control structure, including when an individual relies on fraudulent information.
- Concealment of the act or facts.
- Damages, loss or injury by the deceived party.

Financial Abuse

Many transactions related to abusive financial practices are found in school districts, charter schools, and other similar organizations. Examples of financial abuse that cost an organization are as follows: taking an extended lunch or break without approval; coming to work late and leaving early; not reporting used vacation time; using sick leave inappropriately; getting paid for more hours than worked; doing slow or careless work; and performing work under the influence of drugs or alcohol. Financial abuse also requires dishonest intent on the part of the employee to victimize the organization. In the private sector, intentional financial abusive practices typically result in reprimands, reducing an employee's pay, or termination. Governmental entities may impose consequences similar to those in the private sector, but in addition abuse may also be considered fraud because the employee has intentionally made a false statement against the government for financial gain.

Internal Controls

The accounting industry defines the term “internal control” as it applies to organizations, including school agencies. The Committee of Sponsoring Organizations of the Treadway Commission (COSO) gives organizations guidance on internal control, risk management, governance and fraud deterrence. COSO is recognized globally for its Internal Control – Integrated Framework (ICIF), which was updated in its 2023 publication, *Achieving Effective Internal Control Over Sustainability Reporting (ICSR): Building Trust and Confidence Through the COSO Internal Control – Integrated Framework*. This publication defines internal control as follows:

> A process, effected by an entity’s board of directors, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives relating to operations, reporting, and compliance.

The reference to achievement of objectives refers to an organization’s work of planning, organizing, directing, and performing routine tasks related to operations, and monitoring performance. An organization establishes control over its operations by setting goals, objectives, budgets and performance expectations.

Several factors influence the effectiveness of internal control, including the social environment and how it affects employees’ behavior, the availability and quality of information used to monitor an organization’s operations, and the policies and procedures that guide an organization. Internal control helps an organization obtain timely feedback on its progress in meeting operational goals and guiding principles, producing reliable financial reports, and ensuring compliance with applicable laws and regulations.

Internal control is the primary mechanism for preventing and/or deterring illegal acts or fraud, which can include an assortment of irregularities characterized by intentional deception and misrepresentation of material facts. Effective internal control provides reasonable but not absolute assurance that operations are effective and efficient, that the financial information produced is reliable, and that the organization complies with all applicable laws and regulations.

Internal control provides the framework for an effective fraud prevention program. An effective internal control structure includes the policies and administrative regulations established by the board and operational procedures used by employees, adequate accounting and information systems, the work environment, and the professionalism of employees.

The Committee of Sponsoring Organizations of the Treadway Commission initially outlined the five components of internal control in an executive summary, Internal Control – Integrated Framework, published in 2013. Table B-1 provides a summary of these components and their respective characteristics.

Table B-1. Summary of internal control components and characteristics.

Internal Control Component	Characteristics
Control Environment	The set of standards, processes and structures that provide the basis for carrying out internal control across an organization. Comprises the integrity and ethical values of the organization. Commonly referred to as the moral tone of the organization, the control environment includes a code of ethical conduct; policies for ethics; hiring and promotion guidelines; proper assignment of authority and responsibility; oversight by management, the board or an audit committee; investigation of reported concerns; and effective disciplinary action for violations.

Internal Control Component	Characteristics
Risk Assessment	Identification and assessment of potential events that adversely affect the achievement of the organization's objectives, and the development of strategies to react in a timely manner.
Control Activities	Actions established by policies and procedures to enforce the governing board's directives. These include actions by management to prevent and identify misuse of the LEA's assets, including preventing employees from overriding controls in the system.
Information and Communication	Ensures that employees receive information regarding policies and procedures and understand their responsibility for internal control. Provides opportunity to discuss ethical dilemmas. Establishes clear means of communication within an organization to report suspected violations.
Monitoring Activities	Ongoing monitoring to ascertain that all components of internal control are present and functioning; ensures deficiencies are evaluated and corrective actions are implemented.

Source**:** COSO's 2013 publication, *Internal Control – Integrated Framework*.

The five components of internal control are supported by underlying principles that help ensure an organization achieves effective internal control. Each of the five components listed in Table B-1 above and their related principles must be present and functioning in an integrated manner to be effective. An effective system of internal control can provide reasonable but not absolute assurance that the organization will achieve its objectives.

Although an LEA's employees have some responsibility for internal control, the superintendent, board and other key management personnel have a higher ethical standard, fiduciary duty and responsibility to safeguard the LEA's assets.

Control Environment

The internal control environment establishes an organization's moral tone. It begins with the organization's leadership and encompasses employees' perception of the ethical conduct displayed by the governing board and executive management.

The control environment is the set of standards that enables other components of internal control to be effective in preventing and/or deterring fraud or illegal acts. It sets the tone for the organization, provides discipline and control, and includes factors such as integrity, ethical values and competence of employees.

The control environment can be weakened significantly by a lack of experience in financial management and internal control.

Control Activities

Control activities are a fundamental component of internal control and are a direct result of policies and procedures designed to prevent and detect misuse of an LEA's assets, including preventing any employee from overriding system controls. Examples of control and transaction activities include the following:

- **Performance reviews**: These compare actual data with expectations. In accounting and business offices, this most often occurs when budgeted amounts are compared with actual expenditures to identify variances and followed up with budget transfers to prevent overspending.
- **Information processing**: This includes the approvals, authorizations, verifications and reconciliations necessary to ensure that transactions are valid, complete and accurate.

- **Physical controls**: These are the processes and procedures designed to safeguard and secure assets and records.
- **Supervisory controls**: These assess whether the transaction control activities performed are accurate and follow established policies and procedures.
- **Segregation of duties**: This consists of processes and procedures that ensure no employee or group is placed in a position to be able to commit and conceal errors or fraud in the normal course of duties. In general, segregation of duties includes separating the custody of assets, the authorization or approval of transactions affecting those assets, the recording or reporting of related transactions, and the execution of the transactions. Adequate segregation of duties provides for separate processing by different individuals at various stages of a transaction, and for independent review of the work; these measures reduce the likelihood that errors will remain undetected.

Gift of Public Funds

Article 16, Section 6 of the California Constitution specifies that the state Legislature cannot authorize any county, city, or other political subdivision to make any gift of public funds to an individual or corporation. This prohibits making any gift of public money or items of value to any individuals (including public employees), corporations, or other government agencies. This constitutional prohibition is designed to prevent the misuse of public money.

Expending public funds for a direct and substantial public purpose, with only an incidental benefit to an individual, is unlikely to violate this constitutional prohibition. The existence, lack of, or absence of a direct and substantial public purpose is the primary factor in determining whether an expenditure is a gift of public funds.

To justify an expenditure of public funds, a governing board must determine that the expenditure will benefit the education of the LEA's students. Expenditures that most directly and demonstrably benefit students' education are more likely justified, but expenditures driven by personal motives are not, even if they have been a longstanding local custom or are based on benevolent intentions. If the LEA's governing board has determined that a particular type of expenditure serves a public purpose, courts will almost always defer to that finding. Therefore, if the LEA has a board policy stating that specific items are allowable, such as scholarships and awards, the expenditure will likely be considered allowable.

Gifts and awards to employees and/or students may be considered gifts of public funds unless the board has a policy that defines the parameters of allowable gifts and awards.

Conflicts of Interest

Actual or (or Appearance of) Impropriety; Government Code 1090; Political Reform Act; and Common Law

In broad terms, a conflict of interest arises when a public official participates in a decision-making process about matters in which they have a personal interest that could influence their conduct, create the appearance of a conflict or impropriety, or be perceived as fostering divided loyalty.

Some conflict-of-interest laws focus on financial interests, such as contracts that come before an agency for approval when the official (or the official's spouse or registered domestic partner) has some financial connection to the transaction. An official is considered to be participating in making a contract not only by voting to approve it, but also by participating in the preliminary phases leading up to the vote, such as the earliest discussions about the contract, and planning, developing specifications, and soliciting for bids. The decision to hire an employee is considered an approval of a contract for purposes of conflict-of-interest law.

Conflicts of interest are addressed in common law, as reflected in court decisions, and in statute. Relevant statutes pertaining to LEAs include EC 35107(e); California Government Code (GC) 1090, GC 81000 and following; and California Corporations Code 5233, which applies to consultants serving LEAs.

Financial Conflicts

Government Code 1090

California Government Code 1090 prohibits approval of contracts in which an official has a financial interest. Under GC 1090, a "public official" includes board members, officers or certain designated employees and consultants of school districts, charter schools, and other governmental entities. It is the highest standard to meet, and violations of this law can lead to felony charges.

If a board member has an interest in a contract deemed to be a GC 1090 violation, then the entire board is prohibited from entering into the contract unless an exception or safe harbor (i.e., a special provision that offers legal protection if certain conditions are met) applies. This is true even if the contract offers the best price and even if the board member with the conflict abstains from voting on the matter. In cases where a safe harbor applies, such as when a board member is considered to have a "remote financial interest" according to GC 1091, or is not "deemed to be interested" under GC 1091.5(a), the board may vote on the contract provided the affected member abstains from discussion and voting on the matter.

Government Code 1090 also applies to employees who prepare or negotiate contracts in which they have a financial interest and those who recommend the approval of such a contract. The prohibition is absolute absent a valid exception, and the contracts are voidable and have no legal effect.

The Fair Political Practices Commission (FPPC) published *An Overview of Section 1090 and FPPC Advice* in October 2020, which provides further clarification regarding conflicts of interest as follows:

> In *Thomson v. Call* (1985) 38 Cal.3d 633, the California Supreme Court explained the purpose underlying Section 1090:
>
> > [E]xamination of the goals and policy concerns underlying section 1090 convinces us of the logic and reasonableness of the trial court's solution. In *San Diego v. S.D. & L.A.R.R. Co., supra*, 44 Cal. 106, we recognized the conflict-of-interest statutes' origins in the general principle that 'no man can faithfully serve two masters whose interests are or may be in conflict': 'The law, therefore, will not permit one who acts in a fiduciary capacity to deal with himself in his individual capacity. . . . For even if the honesty of the agency is unquestioned. . . yet the principal has in fact bargained for the exercise of all the skill, ability and industry of the agent, and he is entitled to demand the exertion of all this in his own favor.' (44 Cal. at p. 113.) We reiterated this rationale more recently in *Stigall v. City of Taft, supra*, 58 Cal.2d 565: 'The instant statutes [§ 1090 et seq.] are concerned with any interest, other than perhaps a remote or minimal interest, which would prevent the officials from exercising absolute loyalty and undivided allegiance to the best interests of the city.' (58 Cal.2d at p. 569.)
>
> Furthermore, Section 1090 is intended "not only to strike at actual impropriety, but also to strike at the appearance of impropriety." A contract that violates Section 1090 is void. The

> prohibition applies even when the terms of the proposed contract are demonstrably fair and equitable or are plainly to the public entity's advantage.
>
> Courts have recognized that Section 1090's prohibition must be broadly construed and strictly enforced. "An important, prophylactic statute such as Section 1090 should be construed broadly to close loopholes; it should not be constricted and enfeebled."

[Footnote case citations removed from the quoted information by FCMAT.]

Political Reform Act

The Political Reform Act, initially enacted by Proposition 9 in June 1974 and updated as needed, is another California law regarding financial conflicts. The stated intent of the act is to establish a process for most state and local officials, as well as with certain designated employees and consultants, to publicly disclose their economic interests. This disclosure of personal income and assets aims to identify potential areas of conflict that could influence the decisions and actions of these individuals.

The Political Reform Act's provisions are enforced by the FPPC and enumerated in the California Government Code. It requires every state and local governmental agency to adopt a conflict-of-interest code. The FPPC is the state agency responsible for interpreting the provisions of the law and issuing California Form 700 – Statement of Economic Interests.

Because school governing board members are considered public officials and governing boards are considered legislative bodies, these members, as well as certain designated individuals involved in financial decisions for an LEA, must annually file a statement of economic interests (Form 700) by April 1 for the preceding calendar year. They must also file this form within 30 days of assuming or leaving office or their position. In addition, the Political Reform Act stipulates that a consultant to the organization "who makes, participates in making, or acts in a staff capacity for making governmental decisions" may be required to complete a Form 700. Failure to follow FPPC Form 700 rules can result in fines, and in extreme cases, deliberate failure to file can result in criminal charges by the attorney general or district attorney, or civil or administrative action by the FPPC.

The Political Reform Act concerns situations in which a public official participates in or attempts to influence a government decision that affects their economic interests. Failure to disclose information is a form of influence. If a conflict under the Political Reform Act exists, the public official must recuse themself from every part of the decision-making process and abstain from voting. The FPPC has issued many detailed regulations about conflicts of interest, as discussed in the "Nonfinancial Conflicts" section below.

Nonfinancial Conflicts

Common Law

Court opinions lay out common law principles that require public officials to abstain from decisions in which they have a personal interest, even if their interest is not financial. The remedy for a common law conflict of interest is for the affected individual to disclose the conflict and abstain from discussion of and voting on the matter.

Appearance of Impropriety

Conflict of interest applies not only to economic interests but also to the appearance of impropriety, misconduct, or even indiscretion. Conflict of interest is about self-dealing, which is when a fiduciary such as a government official places their personal interests above those of the entity or persons they serve. Often a government official may claim they did not benefit financially from a transaction and that therefore there was no conflict of interest. However, those who may commit improprieties can have hidden interests that are not always economic, such as when a board member's actions are detrimental to the district because they provided a benefit to a friend, relative or romantic interest.

The Office of the Attorney General of California's Opinion No. 97-511, dated December 5, 1997, discusses the appearance of impropriety:

> The Supreme Court has declared that the purpose of section 1090's prohibition 'is to remove or limit the possibility of any personal influence, either directly or indirectly, which might bear on an official's decision, as well as to void contracts which are actually obtained through fraud or dishonest conduct. . . .' (*Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569.) The statutory goal is 'not only to strike at actual impropriety, but also to strike at the appearance of impropriety.' (*City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 197.)

Limiting the possibility of any direct or indirect personal influence includes avoiding even the appearance of a conflict. Failure to do so can be dishonest and is a breach of a public official's fiduciary responsibilities. When a public official such as a board member, or even any government employee, conceals information about their personal interest in a decision, they are depriving the board or management of information that may be necessary for them to make an informed decision. By acting without disclosing their own personal interest (self-dealing), the board member or employee gains hidden influence over the outcome of other board members' decisions.

A board member can influence a governmental decision by concealing information from fellow board members or the public when, had that information been known, it would, or would have appeared to, alter the outcome of the decision. Failure to disclose information is a form of influence.

The FPPC has published many resources regarding conflicts of interest, including *An Overview of Section 1090 and FPPC Advice* in October 2020, *A Quick Guide to Section 1090* in October 2020, and *Recognizing Conflicts of Interest* in August 2015. These resources provide further clarification regarding conflicts of interest.

A Quick Guide to Section 1090 describes the purpose of GC 1090 as follows:

> Section 1090 "Codifies the long-standing common law rule that barred public officials from being personally financially interested in the contracts they formed in their official capacities."
>
> The prohibition is based on the rationale that a person cannot effectively serve two masters at the same time. Therefore, Section 1090 is designed to apply to any situation that "would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of the [public entity concerned]." Section 1090's goals include eliminating temptation, avoiding the appearance of impropriety, and assuring the public of the official's undivided and uncompromised allegiance.
>
> Furthermore, Section 1090 is intended "not only to strike at actual impropriety, but also to strike at the appearance of impropriety."

[Footnote case citations removed from the quoted information by FCMAT.]

The Political Reform Act represents voters' recognition that conflicts of interest in government decision-making by public officials pose a significant danger. *Recognizing Conflicts of Interest* states:

> Under the Act, a public official will have a statutory conflict of interest with regard to a particular government decision if it is foreseeable that the outcome of the decision will have a

> financial impact on the official's personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. In fact, preventing conflicts of interest was of such vital importance to the voters that the Act not only prohibits actual bias in decision-making but also "seeks to forestall … the appearance of possible improprieties."

[Footnote case citations removed from the quoted information by FCMAT.]

The issue of the appearance of possible improprieties is discussed in the 1997 Fourth District Court of Appeal decision in *Witt v. Morrow* as follows:

> Morrow asserts it is unconstitutional to automatically disqualify a public official from participating in decisions which may affect the investments of an entity which pays him …. However, the whole purpose of the Political Reform Act of 1974 is to preclude a government official from participating in decisions where it appears he may not be totally objective because the outcome will likely benefit a corporation or individual by whom he is also employed. [*Witt v. Morrow* (1977) Official California Appellate Reports, Third Series volume 70 pages 817, 822-823 (*Witt v. Morrow* [1977] 70 Cal.App.3d 817, 822-823)].

The Political Reform Act applies to all "public officials," which GC 82048 defines as "every member, officer, employee or consultant of a state or local government agency." In the 1962 case of *Stigall v. City of Taft*, the California Superior Court recognized that GC 1090's prohibition against conflicts of interest must be broadly construed and strictly enforced. (*Stigall v. City of Taft* (1962) Official California Reports, Second Series volume 58 page 565 [*Stigall v. City of Taft* (1962) 58 Cal.2d 565]).

Reasonably Foreseeable Financial Effect

In its implementation of the Political Reform Act, the FPPC enacts many regulations, including Title 2, California Code of Regulations 18700 (2 CCR 18700), the basic rule and guide to conflict-of-interest regulations. This regulation states, in part:

> (a) Basic Rule: A public official at any level of state or local government has a prohibited conflict of interest and may not make, participate in making, or in any way use or attempt to use the official's position to influence a governmental decision when the official knows or has reason to know the official has a disqualifying financial interest. A public official has a disqualifying financial interest if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, directly on the official, or the official's immediate family, or on any financial interest described in subdivision (c)(6)(A-F) herein. (Sections 87100, 87101, & 87103.)

Title 2, California Code of Regulations 18701 (2 CCR18701) determines whether a financial effect is reasonably foreseeable and states, in part:

> (a) Financial Interest Explicitly Involved: A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).

Ethical Duty, Integrity, and Fiduciary Duty

It is not enough to evaluate a potential conflict of interest based on whether a public official has a direct financial interest. School managers and staff and the public should expect the highest level of ethics from all public officials. Public officials should show an ethical tone at the top and demonstrate the highest levels of integrity and fiduciary duty.

Board members are fiduciaries of the LEA. According to the Legal Information Institute, a fiduciary is someone who has a fiduciary duty to conduct themselves in a way that financially benefits another person or persons (referred to as a beneficiary or principal). In other words, the fiduciary assumes responsibility for managing money or other assets on behalf of the beneficiary. Moreover, a fiduciary may hold a legal or ethical relationship of trust with one or more other parties (person or group of persons). Board members, administrators and managers have fiduciary responsibilities or a fiduciary duty to the LEA(s) they serve.

The Legal Information Institute asserts that fiduciaries are responsible for certain fiduciary duties. FCMAT has summarized these six duties and actively applies them to LEA fiduciaries as follows:

- **Duty of Care**: Collect all evidence and available information before making a decision. Do your due diligence and review all the information and evidence available – do not just accept the information as it is presented. Assess information with a critical eye and ask who, what, when and where. A fiduciary's responsibility is to protect the LEA's assets.
- **Duty of Loyalty**: Do not use your position in the organization to further your private interests. Avoid anything that might injure the LEA.
- **Duty of Good Faith**: Advance the LEA's interests. Do not violate the law. Fulfill your duties and responsibilities.
- **Duty of Confidentiality**: Keep confidential matters confidential, and never disclose confidential information for your own benefit or to avoid personal liability.
- **Duty of Prudence**: Be trustworthy, with the degree of care and skill that a prudent member of management, board member, or fiduciary would exercise. Prudent means acting with wisdom and care, including exercising good judgment.
- **Duty of Disclosure**: Act with complete candor. Be open, sincere, honest and transparent. Disclose all financial interests on Form 700, Statement of Economic Interests.

Board members must be loyal and serve in good faith, with prudence and full disclosure, in the best interest of the LEA, without any hint of self-dealing or personal interest in any transaction associated with the LEA. They also have a duty to ensure their business partners (e.g., consultants, contractors and vendors) do the same.

When faced with potential conflicts of interest on the part of a public official, such as a school board member, administrator or consultant, it is important to consider the legal and ethical standards and to review any applicable board policies that may be even more restrictive than the statutory mandates.

Corruption

Corruption does not have to involve two or more parties; a single individual in a position of trust can exercise authority for their own personal gain. Personal gain can include, but is not limited to, helping a significant other or personal acquaintance get a job, promotion or pay raise. When the relationship is not disclosed to the public, management, or all fellow board members, and the interested board member votes or abstains on the matter but fails to explain their reasons for abstaining, these actions may be considered a conflict of interest. Every conflict of interest requires one party to be in a position of trust, and every instance of corruption requires both a conflict of interest and a breach of that trust.

Appendix C

More About Transaction Sampling

FCMAT developed and conducted audit procedures to analyze and evaluate allegations and identify potential outcomes. The audit scope, objectives, and substantive transaction testing were based on the FCMAT study team's experience and professional judgment. Transaction testing does not include testing or evaluating all available transactions and records. Transactions sampled were those selected randomly and/or based on the team's judgment.

Transactions selected, when applicable, are analyzed and compared to board bylaws and policies, administrative regulations, operational procedures, and industry standards or best practices. They are then evaluated for proper authorizations and reasonableness based on the team's judgment and technical expertise in school business operations, internal controls, and accounting best practices.

Sample testing and examination results are intended to provide reasonable but not absolute assurance that the transactions and financial activity are accurate, and/or to identify whether fraud, misappropriation of funds, or other illegal fiscal practices may have taken place during the period under review.