

Overview of FCMAT's Work Part 5 — Assembly Bill 139 Reviews, Community Colleges and Other Work

This report concludes a series of reports focusing on FCMAT's work in education. Previous reports in this series discuss FCMAT's role in fiscal crisis in school districts, professional learning and product development, the California School Information Services, and management assistance.

This final report covers several important subjects. These include Assembly Bill (AB) 139 reviews, management assistance for and fiscal crises in community colleges, the Certificated Salaries and Benefits Form (Form J-90) Project, the Education Audit Appeals Panel (EAAP), Fiscal Alerts, Education Code 42160-42163 reviews, and FCMAT's general administration.

Assembly Bill 139 Reviews

Introduction

The Education Code (EC) has long maintained authority for county superintendents of schools to audit or review the expenditures and internal controls of school districts. This authority has been clarified and expanded over time, extending to include both charter schools and instances in which allegations or suspicions of fraud, misappropriation of funds and/or assets, or other illegal fiscal practices have arisen. This authority is discussed in EC 1241.5, which states:

- (a) At any time during a fiscal year, the county superintendent may audit the expenditures and internal controls of school districts he or she determines to be fiscally accountable, and shall conduct this audit in a timely and efficient manner. The county superintendent shall report the findings and recommendation to the governing board of the district within 45 days of completing the audit. The governing board shall, no later than 15 days after receipt of the report, notify the county superintendent of schools of its proposed actions on the county superintendent's recommendation. Upon review of the governing board report, the county superintendent, at his or her discretion, may revoke the authority for the district to be fiscally accountable pursuant to Section 42650.
- (b) At any time during a fiscal year, the county superintendent may review or audit the expenditures and internal controls of any school district in his or her county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The review or audit 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 county superintendent shall report the findings and recommendations to the governing board of the school district at a regularly scheduled school district board meeting within 45 days of completing the review, audit, or examination. The governing board of the school district shall, no later than 15 calendar days after receipt of the report, notify the county superintendent of its proposed actions on the county superintendent's recommendations. Upon review of the school district governing

board report, the county superintendent, at his or her discretion, and consistent with law, may disapprove an order for payment of funds consistent with Section 42638.

(c) At any time during a fiscal year, the county superintendent may review or audit the expenditures and internal controls of any charter school in his or her county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The review or audit 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 county superintendent shall report the findings and recommendations to the governing board of the charter school at a regularly scheduled meeting, and provide a copy of the information to the chartering authority of the charter school, within 45 days of completing the review, audit, or examination. The governing board of the charter school shall, no later than 15 calendar days after receipt of the report, notify the county superintendent and its chartering authority of its proposed response to the recommendations.

Moreover, EC 42638(b) states:

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 2001, EC 1241.5 was amended to authorize county superintendents to audit the expenditures and internal controls of school districts when they have reason to suspect fraud, misappropriation of funds, or other illegal fiscal practices may have occurred. This amendment was introduced through AB 139 (chapter 620/2001), which is the source of the names “AB 139 fraud reviews,” “AB 139 extraordinary audits,” or more generically, “AB 139 reviews.”

The authority established by the Education Code is supplemented by the language in the annual budget act, which states:

The State Board of Education may request any county superintendent of schools to initiate such an audit, examination or review for any charter school or all-charter district for which the board has oversight responsibility.

The county superintendent has sole authority to call for an AB 139 review. FCMAT is not explicitly mentioned in EC 1241.5. FCMAT’s involvement in the AB 139 review process is determined by the language in the annual budget act, which states:

FCMAT shall administer allocation of the funds, and all reimbursements shall be subject to the approval of both the Department of Finance and the California Department of Education (CDE).

Additional information on funding AB 139 fraud reviews is discussed in the [“Funding Process for Assembly Bill 139 Reviews”](#) subsection of this report.

As previously discussed in this section, school districts and charter schools are subject to AB 139 reviews as outlined in the Education Code. Neither county superintendents and their offices nor community colleges are covered in the applicable Education Code statutes.

Figure 1 shows the number of AB 139 reviews conducted for school districts, associated student bodies at school districts, and charter schools during fiscal years 2017-18 to 2022-23. Sixty-six AB 139 reviews were conducted during this time.

Assembly Bill 139 Review Activity, Fiscal Years 2017-18 to 2022-23

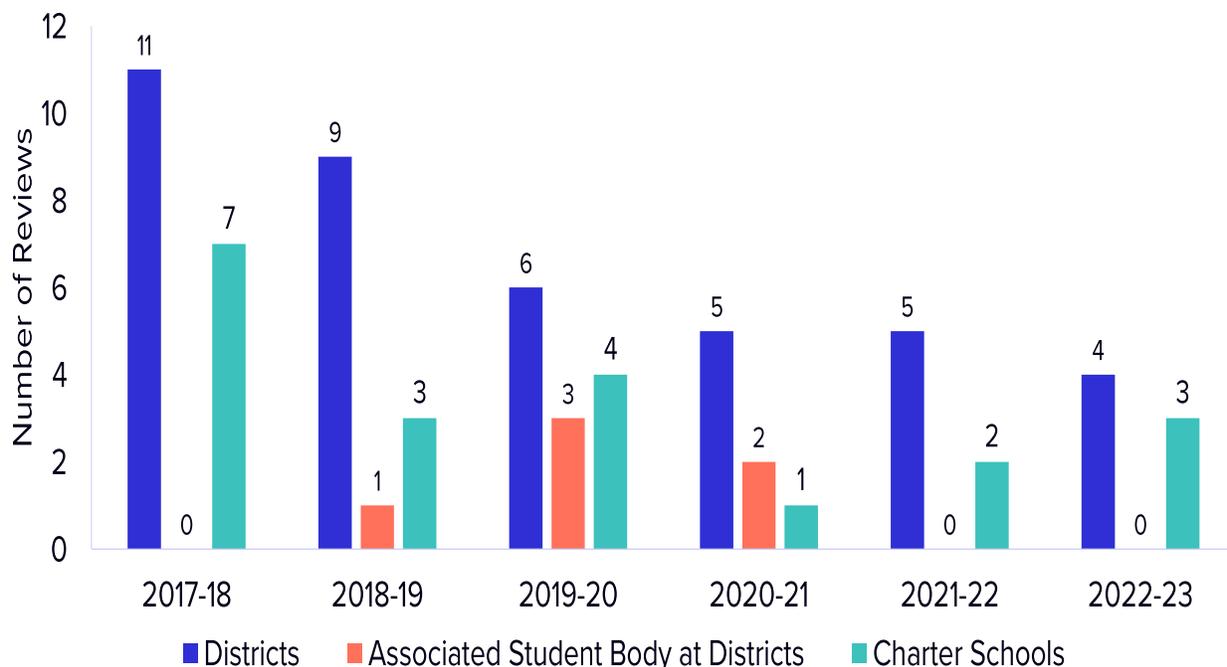


Figure 1. AB 139 review activity for school districts, associated student body at school districts, and charter schools during fiscal years 2017-18 to 2022-23.

Background

The AB 139 review process is designed to prevent further loss or exposure to risk; establish and secure evidence needed to help in criminal or disciplinary actions; minimize and recover losses; strengthen internal controls; and promote an anti-fraud culture that would require the school district or charter school to take appropriate legal or disciplinary action, if justified.

One of the main purposes of conducting an AB 139 review is to help with criminal investigations and/or prosecutions, as well as regulatory or disciplinary actions. An AB 139 review may also result in civil action between involved parties.

County superintendents may initiate AB 139 reviews if they suspect fraud, misappropriation of funds and/or assets, or other illegal fiscal practices have occurred that merit examination. The examination and the review’s conclusion are based on the evidence and its analysis, the specific context within which the actions occurred (e.g., environment, conditions, circumstances), existing policies and procedures, and numerous other considerations.

Assembly Bill 139 reviews serve a crucial role in providing a detailed narrative of data and events drawn from the expertise of subject matter professionals. These narratives increase the understanding of local, state, or federal law enforcement, prosecutors, and regulators, who ultimately determine whether to pursue further investigation and action.

The terms “fraud, misappropriation of funds, or other illegal fiscal practices” are not further defined in Education Code, and the statute does not cross-reference related provisions in the Penal, Civil, Government, Vehicle, and/or Health and Safety codes — each of which is pertinent to various aspects of school operations. Within the Education Code and in the context of AB 139 reviews, these terms represent broad concepts of potential wrongdoing. It falls upon law enforcement, prosecutors and regulators to evaluate the evidence, intent and actions and determine the appropriate criminal or civil statute for further consideration. The same is true for federal statutes that may apply to school districts and charter schools.

Determining the existence of fraud, misappropriation of funds and/or assets, or other illegal fiscal practices is the sole purview of the judicial process. FCMAT does not make findings that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices have occurred, only that there is or is not sufficient evidence to warrant an investigation by the appropriate law enforcement or civil authorities. Similarly, auditors do not make legal determinations regarding whether illegal activity has occurred.

Deficiencies and exceptions noted during FCMAT’s review of a school district’s or charter school’s financial records and internal control environment increase the risk of fraud, mismanagement or misappropriation of funds and/or assets, or other illegal fiscal practices. Consequently, these issues should be a source of concern for both the district or charter school and its county superintendent. In many cases, the deficiencies and exceptions identified by FCMAT have not been addressed by the district or charter school and require the county superintendent’s immediate intervention to limit further financial losses or exposure to risk.

It is important to recognize and distinguish between deficiencies, exceptions and irregularities that may constitute wrongful acts involving elements of misrepresentation, concealment and other deceitful practices, and those that are simply instances of poor practices with no malicious intent. FCMAT uses insights from fraud research to help identify these conditions.

An example of such research includes criminologist D. R. Cressey’s 1953 hypothesis, as outlined in *Other People’s Money; A Study of the Social Psychology of Embezzlement*, which identifies three common factors in fraud: pressure, opportunity, and rationalization. This hypothesis is now recognized as the fraud triangle theory. It has since been expanded by D.T. Wolfe and D. R. Hermanson, who introduced “capability” as an additional fraud factor in their 2004 work, *The Fraud Diamond: Considering the Four Elements of Fraud*.

Assembly Bill 139 Review Requests

Assembly Bill 139 reviews are initiated by the respective county superintendent in response to allegations, information received, or as part of the county superintendent’s normal oversight process. When an AB 139 review is warranted, the county superintendent communicates a request, and FCMAT follows an internal job intake process that results in a mutual agreement regarding the specific scope of the review and its associated costs. In contrast to a management assistance scope of work, an AB 139 review’s scope is highly specific.

A scope of work for an AB 139 review outlines the allegations, concerns, time frame, and elements to be reviewed during the examination. This specificity aligns with statute, which states that the review “shall be focused on the alleged fraud, misappropriation of funds, or other illegal fiscal practices” (EC 1241.5(b) and (c)). FCMAT and the county superintendent may engage in multiple discussions to ensure that the scope accurately reflects the known

information about the situation. The scope is also informed by other available data and information, as well as the county superintendent's confidence in the accuracy and reliability of this data or the sources of information.

Furthermore, FCMAT requires county superintendents to conduct some form of due diligence regarding the allegations before finalizing the scope of work. This diligence ensures that there is credibility to the allegations or concerns and prevents county superintendents from simply passing along unverified allegations to FCMAT. Although FCMAT can provide guidance and support to county superintendents in these preliminary efforts, such assistance falls outside the formal AB 139 review process.

FCMAT is responsible for administering the reimbursement process for AB 139 reviews. Consequently, FCMAT collaborates with the county superintendent as they determine how to approach an examination. Over time, FCMAT has developed the expertise to provide such reviews. The organization has made an investment in and a commitment to the professional development of its staff to ensure they have the capacity to do so. Moreover, and importantly, FCMAT has subject matter expertise in school business and operational topics, giving it a distinct advantage over more traditional fraud examiners, particularly in areas related to student funds.

Even when FCMAT is not the party conducting the examination, it will coordinate with the county superintendent on selecting an appropriate auditor and developing the scope of work. The organization will also monitor the examination's progress and review the auditor's draft report. This coordination is important because the scope of work and the final report must be in alignment. Furthermore, any funding considerations must also be reconciled, as discussed in the "[Funding Process for Assembly Bill 139 Reviews](#)" subsection of this report.

Assembly Bill 139 reviews are the only audits that FCMAT performs. Other FCMAT functions, such as management assistance and related activities, do not constitute auditing. FCMAT will not conduct an AB 139 review when it has a conflict of interest with the involved parties. Likewise, FCMAT will not conduct an AB 139 review if it is providing other services (such as management assistance) to that same district or charter school. In such instances, the work is contracted out to an accounting firm, attorney, or other capable party experienced in forensic auditing and investigations.

Assembly Bill 139 reviews should not be confused with the annual independent audit that districts and charter schools are required to conduct under the Education Code. These audits are not designed to detect or examine fraud. Their primary purpose is to comply with state requirements and to express an opinion regarding the district's or charter school's overall financial health as reported through its financial statements. Such audits adhere to various standards, including those outlined in the *Guide for Annual Audits of K-12 Local Educational Agencies and State Compliance Reporting*.

Example scopes of work for AB 139 fraud reviews include:

- **Charter School Expenditures** – The focus of this review is to determine, based on sample testing performed and auditors' judgment, whether 1) charter school funds were used for reasons other than legitimate educational purposes, and 2) based on that assessment, determine whether there is evidence that fraud, misappropriation of funds or other illegal fiscal practices may have occurred.

The team will review and test recorded professional development, conference, retreat, consulting, outside services, travel, meal and entertainment, enrichment, rental, and other expenditures related to allowable costs for unrestricted general fund and federal Elementary and Secondary School Emergency Relief Fund (ESSER) funding for July 1, 2021 through December 31, 2022. Testing for this review will be based on a sample of transactions and records for this period. Testing and review results are intended to provide reasonable but not absolute certainty about whether the charter school's financial transactions and activity were sufficiently accurate.

- **District Facility Project** – The county superintendent of schools has received anonymous allegations of possible fraud, misappropriation of funds and/or assets or other illegal fiscal practices at the _____ Elementary School District. The county superintendent has performed sufficient due diligence to believe the allegations have merit to be investigated. The focus of this review is to assess, based on sample testing performed and auditors' judgment, 1) the district's process for awarding contracts, 2) the possible intentional misrepresentation of information used to make board decisions on construction or other contracts, 3) if payments between related parties were made, 4) whether adequate management and internal controls are in place regarding the district's existing and anticipated contractual commitments, 5) if any related conflicts of interest exist, and 6) based on that assessment, determine whether there is evidence that fraud, misappropriation of funds or other illegal fiscal practices may have occurred.

The FCMAT study team will review information that was prepared and presented by district staff and/or consultants as the basis for board decisions related to construction and other contracts, test awarded contracts from July 2020 to present, review any applicable board policies, agendas and minutes, and utilize other investigatory means as appropriate. Testing for this review will be based on a sample of transactions and records for this period. Testing and review results are intended to provide reasonable but not absolute certainty about whether the district's processes and procedures for contracts followed board policy, public contract code laws and best practices.

- **Board Member Influence on Contract Award** – The county superintendent of schools has received anonymous allegations of possible fraud, misappropriation of funds and/or assets or other illegal fiscal practices at the _____ Unified School District. The county superintendent has performed sufficient due diligence to believe the allegations have merit to be investigated. The focus of this review is to assess, based on sample testing performed and auditors' judgment, 1) the process for awarding contracts and possible related conflicts of interest, 2) whether adequate management and internal controls are in place regarding the district's contractual commitments, and 3) based on that assessment, determine whether there is evidence that fraud, misappropriation of funds or other illegal fiscal practices may have occurred.

The team will review and test awarded contracts from July 2019 to present, and any applicable board policies and minutes. Testing for this review will be based on a sample of transactions and records for this period. Testing and review results are

intended to provide reasonable but not absolute certainty about whether the district's processes and procedures for contracts followed board policy, applicable laws and best practices.

- **Charter School Misappropriation of Funds** – The county superintendent of schools has received anonymous allegations of possible fraud, misappropriation of funds and/or assets or other illegal fiscal practices at the _____ charter school. The county superintendent has performed sufficient due diligence to believe the allegations have merit to be investigated. The focus of this review is to assess, based on sample testing performed and auditors' judgment, 1) whether the former executive director or his family members a) collected compensation or property from the charter school they were not entitled to, b) were involved in any undisclosed or inappropriate related-party transactions that were in conflict with state and federal policies and standards, or that violated conflict of interest laws or board policies, and c) whether charter funds were used for reasons other than legitimate educational purposes, and 2) based on that assessment, whether fraud, misappropriation of funds and/or assets or other illegal fiscal practices may have occurred.

The team will review and test recorded transactions for fiscal years 2016-17 through 2019-20. Testing for this review will be based on a sample of transactions and records for this period. Testing and review results are intended to provide reasonable but not absolute certainty about whether the charter school's financial transactions and activity were sufficiently accurate.

Assembly Bill 139 Review Process

As discussed in the previous section of this report, AB 139 reviews are initiated upon request from a county superintendent. This process begins with an intake phase during which FCMAT gains an understanding of the county superintendent's concerns and receives relevant information. FCMAT collaborates with the county superintendent to determine the appropriate scope of work and specifics for the review, a process that often involves multiple discussions.

Once an understanding has been reached, a draft scope of work is prepared, a cost estimate is generated, and a study agreement is crafted. The study agreement serves as the governing document for the engagement, outlining the agreed-upon scope of work, including specifics, and providing the framework for the audit procedures that will be used.

Upon finalizing the study agreement, the county superintendent notifies the school district or charter school that an AB 139 review has been requested. They also inform the district superintendent or charter school executive that FCMAT (or another third party) will contact them to begin the examination process.

Audit procedures form the foundation of the audit process, establishing the framework for advancing the scope objectives. Based on the type of potential fraud categories (e.g., disbursement, vendor, or related party transactions; construction or vendor conflicts-of-interest; and/or internal policies and procedures), FCMAT staff develop audit procedures specific to each category type. These procedures also form the basis for transaction sampling and testing.

Assembly Bill 139 reviews are highly dynamic. They involve numerous variables such as the levels of cooperation and transparency, as well as the condition of records. The team must continually adapt to these dynamic elements throughout the examination. Consequently, the team uses both high- and low-tech detection methods for fraud, misappropriation of funds, or other illegal fiscal practices. High-tech methods include data visualization, predictive modeling, anomaly detection, pattern recognition, and social media and/or email data mining. In contrast, low-tech methods entail traditional data analysis through the examination of documents, financial data, and accounting registers, while sorting and comparing information. As the audit progresses, audit procedures may be added or discarded as necessary.

FCMAT assigns staff and consultants to each AB 139 review based on their specific areas of expertise. Documents and data are requested from the district or charter school and other relevant parties. These materials are reviewed in detail by the assigned FCMAT team. Interviews are then scheduled and conducted with appropriate members of the district’s or charter school’s staff, governing board members, county superintendent’s staff and other identified parties. The FCMAT team samples and tests the collected data. It then triangulates data from multiple sources, including documents, financial systems, interviews, and personal observations, for analysis and review. These steps are shown below in Figure 2.

Assembly Bill 139 Fraud Review Process – Fieldwork

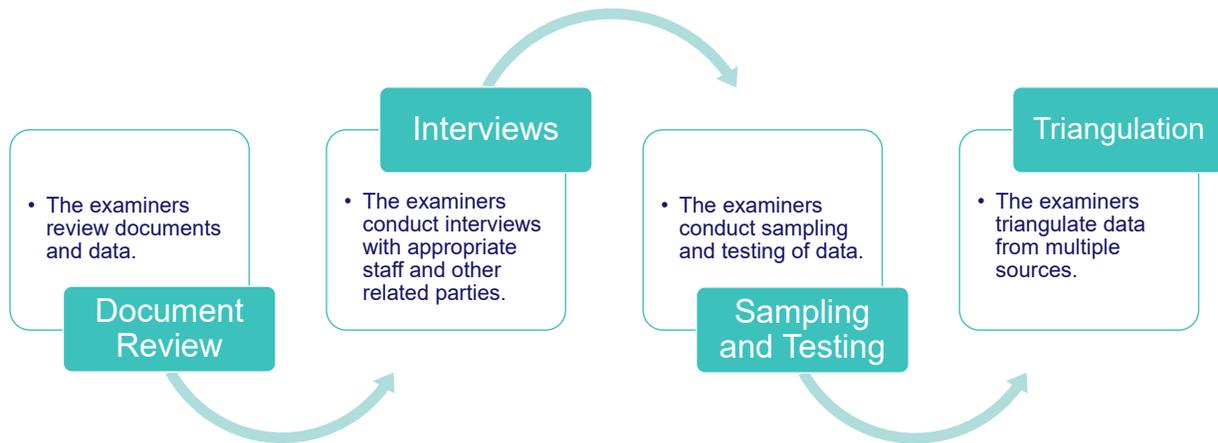


Figure 2. Illustration of the fieldwork process for AB 139 reviews.

The next phase of the AB 139 review process involves drafting a report. The FCMAT team conducts a comprehensive review and analysis of the data and documents. The team then summarizes its findings and observations in a draft report before reaching a conclusion. Each team member involved in the study reviews the draft report and the conclusion to confirm accuracy and achieve consensus. The draft report is then edited and formatted by professional technical writers. These steps are shown on the following page in Figure 3.

Assembly Bill 139 Fraud Review Process – Report Drafting

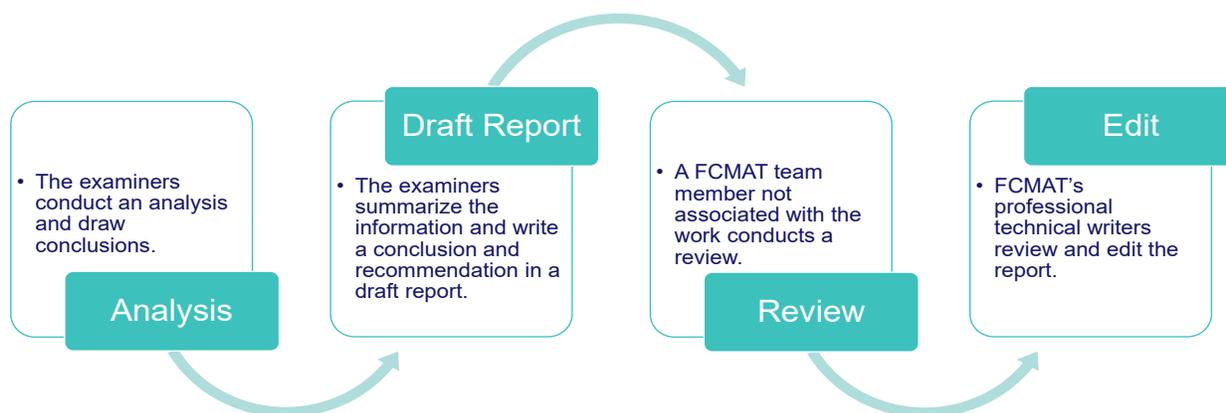


Figure 3. Illustration of the report drafting process for AB 139 reviews.

The final phase of the AB 139 review process involves several levels of review before the publication of the final report. Draft reports for all AB 139 reviews are subject to at least two internal peer reviews and a legal review. A draft of the report is then shared with the county superintendent, who is FCMAT’s client in a review of this nature. FCMAT requests that the county superintendent evaluate the information based on their own knowledge and provide feedback before it finalizes the draft report. Given the potential for changes to draft reports, FCMAT requests that county superintendents limit their circulation. AB 139 reviews result in a final report that is then published on the FCMAT website. These steps are outlined in Figure 4 below.

Assembly Bill 139 Fraud Review Process – Report Review



Figure 4. Illustration of the report review process for AB 139 reviews.

Assembly Bill 139 review reports are unique in that only one conclusion and one recommendation are made. The conclusion either affirms or denies that there is sufficient evidence to demonstrate that fraud, misappropriation of funds and/or assets or other illegal fiscal practices may have occurred in the specific areas reviewed. Consistent with statute, a single recommendation is made when the conclusion is that sufficient evidence exists:

The county superintendent should notify the governing board of the [district or charter school], the State Controller, the State Superintendent of Public Instruction (SPI) and

the local district attorney that sufficient evidence exists to indicate that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices may have occurred, and that the county superintendent has concluded its review (EC 42638(b)).

FCMAT does not issue a recommendation in cases where there is insufficient evidence. In such instances, FCMAT uses one of two approaches. The first approach involves FCMAT preparing a management letter that discusses any findings and their corresponding conclusions. This method is used when it becomes apparent early in the review process that the discrepancies stem from a lack of training or other actions or inactions that are clearly not indicative of wrongdoing. In these cases, a full review is not completed. The second approach entails conducting a full review, which results in the conclusion that 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.

Operational Considerations of Assembly Bill 139 Reviews

FCMAT adheres to standard operating procedures to maintain consistency in delivering AB 139 reviews, ensuring mutual understanding among FCMAT staff, county superintendents and other partners relying on the report.

FCMAT does not have the authority to conduct interviews under penalty of perjury, nor does the agency have the power to issue subpoenas. FCMAT often devotes considerable effort to persuade individuals to participate in interviews or contribute to the review process. As a result, extra skill, judgment, patience, skepticism, fairness and experience-based intuition play large roles in conducting this type of work.

Assembly Bill 139 reviews require the cooperation of the district or charter school being audited and its staff. The information shared or withheld from FCMAT contributes to the conclusion. A lack of cooperation may indicate potential issues, and such instances are documented in FCMAT's reports. Such actions may also serve as a signal of potential wrongdoing to law enforcement, which has access to additional tools for conducting investigations.

The nature of AB 139 reviews requires the double and triple checking of facts, nuanced remarks, or other evidence. Information can also mature over time, becoming more meaningful when considered in different contexts. Interviews for AB 139 reviews are often conducted over longer periods of time compared to other management assistance work (see *Overview of FCMAT's Work Part 4 – Management Assistance*). Moreover, comments made in one interview may require FCMAT staff to speak with a prior interviewee so they can ask follow-up questions and build upon the information collected throughout the examination.

FCMAT conducts AB 139 reviews on a first-come, first-served basis. However, there are exceptions. When a requested or triggered management assistance job is associated with signs of fiscal distress, it takes precedence over AB 139 requests. Furthermore, indications of active fraud, as opposed to past fraud, also influence the speed at which FCMAT assigns staff to an AB 139 review.

FCMAT continually evaluates and monitors the timing for commencing and concluding AB 139 reviews. The organization's goal for all its work is to produce timely and thorough reports that add value. Given that AB 139 reviews carry the possibility of legal or disciplinary consequences for individuals and involved parties, it is essential that accuracy and fairness not be

sacrificed for speed. The subject of timing remains an area of continuous improvement for FCMAT.

On occasion, law enforcement may become involved or, as FCMAT's examination progresses, they may receive regular updates and other pertinent information. Upon request, FCMAT will provide law enforcement with a draft report immediately before finalizing it. This is done to brief law enforcement on the report's conclusion and the relevant information it contains. In rare cases, law enforcement may request that FCMAT postpone the release of the final report while they assess whether its publication might impede their investigation. FCMAT readily cooperates with requests from law enforcement.

County Superintendent's Role Following Issuance of FCMAT Report

In accordance with statute, an AB 139 review report represents the respective county superintendent's review, audit or examination. Once FCMAT produces the final report for the county superintendent, statutory timelines for the next steps begin. The county superintendent is responsible for these next steps. FCMAT does not typically engage in these next steps but will provide guidance as needed.

These steps are outlined in EC 1241.5(b), which states in part:

... the county superintendent shall report the findings and recommendations to the governing board of the school district at a regularly scheduled school district board meeting within 45 days of completing the review, audit, or examination. The governing board of the school district shall, no later than 15 calendar days after receipt of the report, notify the county superintendent of its proposed actions on the county superintendent's recommendations.

Education Code 1241.5(c) for charter schools follows the same pattern and timeline. This code requires that the county superintendent "provide a copy of the information to the chartering authority of the charter school" within 45 days and continues with the relevant requirements beyond that period.

Education Code 42638 imposes additional requirements on county superintendents when there is evidence of fraud or misappropriation of funds. It states:

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.

Given these notification responsibilities and timelines, FCMAT strongly recommends that county superintendents complete their notice in accordance with EC 42638 before presenting the report to the respective governing board(s). When reporting on an AB 139 review report, it is better for a county superintendent to be able to discuss the actions they have already taken (e.g., "I have notified..."), as opposed to those they have not (e.g., "I will notify...").

Additionally, FCMAT recognizes that the 15-calendar-day time frame for a governing board to develop a corrective action plan and notify the county superintendent is quite constricting. To help alleviate these constraints, FCMAT recommends that county superintendents provide a copy of the final report to the respective school district superintendent or charter

school executive before conducting the formal presentation for the governing board. While this proactive step does not fulfill the statutory responsibility assigned to the county superintendent, it does provide the district's or charter school's governing board with additional time to prepare a corrective action plan.

Corrective action plans must be prepared by the district or charter school and submitted to the county superintendent. Statute specifies that the district's or charter school's governing board shall notify the county superintendent of its proposed actions. Consequently, the corrective action plan should be directed and approved by the board. The county superintendent holds sole discretion over what is deemed acceptable for a corrective action plan and response from the district's or charter school's board. The county superintendent should communicate any specific items that must be included in the corrective action plan (e.g., items based on findings in the report) to the district or charter school in advance.

Although an AB 139 review report becomes a public document once FCMAT has provided the final report to the county superintendent, FCMAT typically delays posting the report on its website until the morning after the county superintendent's presentation to the respective governing board. This honors FCMAT's principle that the responsible governing board should receive the first opportunity for public discussion of the report.

After-Report Support

FCMAT provides extensive support after issuing AB 139 review reports. Reports of this nature typically lead to numerous records requests for supporting documentation from various parties, including law enforcement agencies. Consistent with the purpose of an AB 139 review, FCMAT fully cooperates with local, state and federal law enforcement and control agencies. This includes police and sheriff investigators, district attorneys, the state attorney general's office, the United States Department of Education Office of Inspector General, the Federal Bureau of Investigation, the Internal Revenue Service, the state Franchise Tax Board, SPI auditors, the Fair Political Practices Commission, and other enforcement, investigative and control agencies.

Moreover, private parties frequently request public records associated with AB 139 review reports, and FCMAT fully complies with these requests in accordance with the California Public Records Act (Government Code 7920.000, and following). Record requests for an AB 139 review often involve the production of thousands of individual records.

After issuing an AB 139 review report, FCMAT is often called upon to provide assistance to law enforcement, prosecutors and other enforcement agencies. FCMAT does so without limitations. The organization and its staff are frequently subpoenaed for depositions, trial testimony, and the production of records.

Furthermore, when AB 139 reviews highlight irregularities or deficiencies in public policy, processes, or apportionment concerns, the state Legislature and other regulators may take an interest in the matter. FCMAT fully cooperates with legislative and regulatory authorities to help craft solutions to these issues and prevent further loss or exposure to risk.

Staffing Assembly Bill 139 Reviews

FCMAT team members regularly engage in ongoing professional development to stay current with emerging trends and tools. This commitment to professional growth not only

improves their efficiency but, more importantly, fosters fairness and completeness in their reviews.

FCMAT's professional development encompasses a broad spectrum of areas, including training in established professional standards, legal requirements, compliance, internal control systems, interviewing skills, human behavior analysis, professional experience, judgment, skepticism, and fairness. This comprehensive training forms the foundation of FCMAT's approach to AB 139 reviews, enabling the team to apply their unique subject matter expertise and diverse skill sets in preventing, detecting and investigating fraud allegations.

FCMAT staff undergo annual training through the Association of Certified Fraud Examiners (ACFE) and participate in both internal and external trainings on various topics related to auditing. They also engage in professional development for various accounting and fraud topics, including complex financial transactions and specialized techniques and tools tailored to local educational agencies.

FCMAT has an intervention specialist dedicated to AB 139 reviews who possesses unquestionable expertise in this area. He is a certified public accountant and holds a variety of professional certifications related to fraud examinations. This staff member also has many years of experience in examining fraud and fraud-like circumstances and allegations while working with various agencies, including school districts, charter schools and school-connected organizations, as well as public, non-profit, for-profit and tax structured entities.

In addition, more than 80% of FCMAT's intervention specialists are certified fraud examiners (CFEs) accredited by the ACFE. New intervention specialists are actively encouraged to obtain their CFE certifications, and FCMAT provides them with the financial support to do so. Staff members also regularly participate in ACFE training and receive ongoing professional education. The techniques and standards acquired through the CFE certification process are universally applicable to all FCMAT work, including management assistance. As a result, FCMAT's investment in maintaining this standard consistently yields great dividends in the quality of its work.

FCMAT has established Standard Operating Procedure (SOP) #016 that provides the protocol for AB 139 extraordinary audits. According to this SOP, the lead on an AB 139 review shall be a FCMAT staff member who is a CFE. The team shall include at least one other expert.

FCMAT uses consultants to augment its personnel for two main reasons: workload and expertise. Workload considerations may arise when there are insufficient staff to move forward with an engagement within the desired timeline. Expertise, however, may be sought to augment the FCMAT team with specific skill sets or experience. For AB 139 reviews, such expertise might include individuals who are attorneys, school construction experts or certified public accountants.

Funding Process for Assembly Bill 139 Reviews

Assembly Bill 139 reviews are the responsibility of the respective county superintendent. The state provides full reimbursement to county superintendents for their actions under EC 1241.5 (b) and (c). The initiation of an AB 139 review does not require preapproval, but the approval for reimbursement is contingent on the consent of the SPI and the Department of Finance, a process that is facilitated by FCMAT.

The schedules and provisions outlined in Item 6100-107-0001 of the annual budget act include the following provisions:

Schedule 3, Provision 4(a) – Up to \$871,000 may be used to fully reimburse COE activities for extraordinary costs of audits, examinations, or reviews of any school district or charter school in cases in which fraud, misappropriation of funds, or other illegal fiscal practices require review by the COE, pursuant to EC Section 1241.5. ... FCMAT shall administer allocation of the funds, and all reimbursements shall be subject to the approval of both the Department of Finance (DOF) and the CDE.

When FCMAT conducts an AB 139 examination, FCMAT bills the county superintendent for all hours worked on the examination. Billing is based on board-approved daily rates, travel, consultants, indirect costs, and any other examination-related costs. These rates, conditions, and other billing covenants are outlined in the study agreement. Subsequently, the county superintendent pays FCMAT and is then eligible to request reimbursement through FCMAT for the expenses incurred during the review.

This same procedure applies if FCMAT coordinates the examination with a third-party vendor but does not perform the actual work. In such cases, the county superintendent pays the vendor directly. The county superintendent can then seek reimbursement from state funds through FCMAT.

The funding process for AB 139 reviews is shown below in Figure 5.

Funding Process for Assembly Bill 139 Reviews

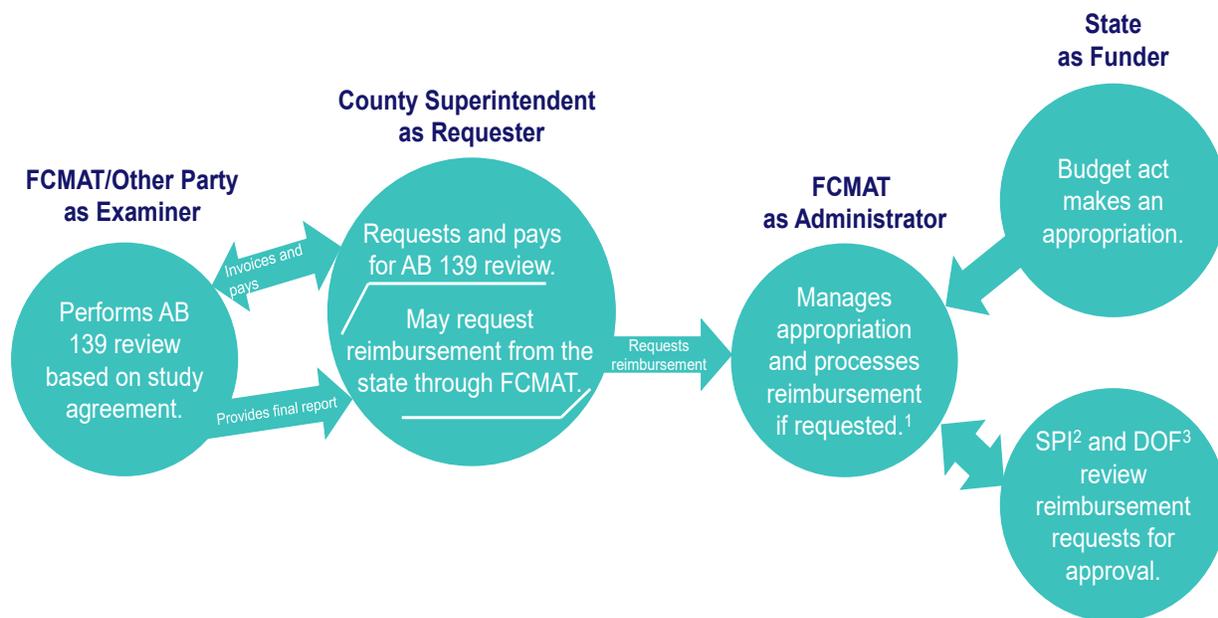


Figure 5. Illustration of the funding process for AB 139 reviews.

¹Up to available funds.

²State superintendent of public instruction.

³Department of Finance.

Management Assistance in Community College Districts

Introduction

Effective January 1, 2006, Assembly Bill (AB) 1366 (Chapter 360, Statutes of 2005) added Education Code (EC) 84041, expanding FCMAT'S services to include assistance for community college districts. In sum, EC 84041 provides:

- The California Community Colleges Board of Governors (board of governors) may request FCMAT to assist a community college district with establishing or maintaining sound financial and budgetary conditions and complying with principles of sound fiscal management.
- The board of governors may recommend additional individuals with expertise in community college district fiscal accountability to serve as part of a FCMAT operation for the purposes of this Education Code.
- The board of governors may request FCMAT to assist a community college district if the board of governors adopts regulations authorizing the contracting of a management review of the district's educational programs or an audit of the district's financial conditions.
- The board of governors may request FCMAT to provide management or fiscal crisis intervention, or both, for a community college district facing an imminent threat to its fiscal integrity and security. In such instances, FCMAT is granted authority, in accordance with regulations adopted by the board of governors, to stay or rescind any action taken by the district's governing board that is inconsistent with the district's fiscal integrity and security.

A community college district may also ask FCMAT to do either or both of the following at district expense:

- Provide fiscal management assistance.
- Facilitate training for members of the district governing board and for any district employees whose responsibilities include addressing fiscal issues. This training will prioritize improving fiscal accountability and expanding the fiscal competency of the participants.

Exhibit A provides in full the relevant Education Code statutes pertaining to FCMAT management assistance for community college districts.

Requested Management Assistance

Management assistance is initiated through a request for FCMAT to study a specific condition or provide support to a community college district. These requests are made by the board of governors, the California Community Colleges Chancellor (chancellor or chancellor's office), or a district seeking assistance. The process for providing FCMAT management assis-

tance to community college districts is the same as that for other local educational agencies (LEAs), as explained in *Overview of FCMAT's Work Part 4 – Management Assistance*.

Figure 6 shows the number of management assistance reviews conducted by FCMAT for community college districts in recent years.

Count of community college district management assistance jobs by year, 2016 — 2023

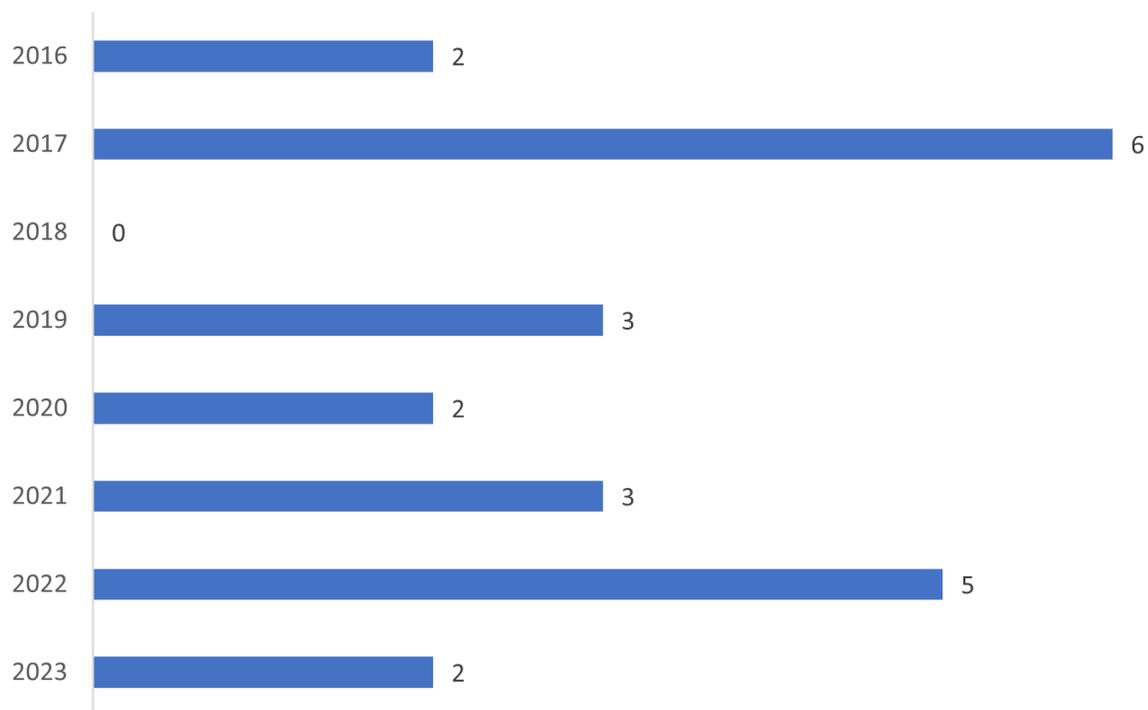


Figure 6. The number of community college district management assistance jobs performed annually by FCMAT from 2016 through 2023.

FCMAT’s primary management assistance work revolves around fiscal matters and issues that may have adverse financial implications for a district. Nevertheless, FCMAT will assemble a team of professionals to study any fiscal, business, operational, human resources, governance, organization and staffing, and/or data management topic(s). These studies are initiated when there is a shared belief between FCMAT and the board of governors, chancellor and/or the district that FCMAT’s support can bring value to the system or district.

When management assistance services are initiated, FCMAT follows an internal job intake process to establish a mutual agreement on the scope of the assistance and associated costs. Included below are example studies, along with their scopes and objectives, written in accordance with established boundaries and practices derived from many years of experience in performing such work.

- Fiscal Review:** Conduct an analysis of the district’s operational and financial structure with the intent to improve the management of the district’s current expense of education. This will include the following: (1) Review and analyze the account code structure and onboarding process; (2) Analyze time and effort employment reports for management and professional staff; and (3) Develop recommendations for improvement, if any.

- **Fiscal Review:** (1) Develop a comparison and trend (5 years) analysis of the following: salaries and benefits schedule efficiency versus total revenues and expenses. (2) Develop a revenue calculation tool to simulate a class schedule that meets the efficiency standard for the term length multiplier used. (3) Once historical data is validated, develop a future trend and forecasting tool for planning activities. (4) Develop a list of recommendations that focuses on the district's ability to meet classroom efficiency, salary and benefits percentages, expense of education, and faculty obligation standards that align with the revenue the college generates.
- **Technology Center Operations:** Review the district's Technology Center operations and management to provide recommendations for operational improvements. For 2021-22, whether the Technology Center followed the provisions of the following agreements with the California Community Colleges Chancellor's Office and met deliverables and agreed upon service levels: Contracts with consultants and subcontractors are monitored on an ongoing basis to determine that deliverables are met, and that expenditures are allowable and within the contract budget. Determine if the number and qualifications of Technology Center employees are appropriate given the Technology Center's responsibilities to California Community Colleges and need for operational capacity. The Technology Center operating budget is developed using reasonable estimates and that revenues and expenditures are monitored throughout the year.
- **Purchasing and Procurement Review:** Review the material weakness finding in the district's 2021 independent audit report (2021-001 Internal Controls Over Procurement), determine what changes are needed for the district to achieve compliance with best practices and state law to address this finding and make recommendations for how the district can implement those changes. Review the district's procurement processes and procedures and make recommendations for improved efficiencies, if any.
- **Human Resources Review:** (1) Review the district's human resources (HR) policies, procedures, and operational practices including, but not limited to recruitment, retention, compensation (placement and advancement on salary schedule), employee benefits, performance management (supervision, evaluation, and disciplinary policies and procedures), employee relations, and training and development. Identify whether specific practice areas or processes comply with legislative requirements and are adequate and effective. Provide recommendations of implementation strategies for improvements, if any. Prioritized recommendations will be included to address the gaps in an effort to minimize regulatory violations, as well as to achieve and maintain effectiveness in key human resource practice areas. (2) Review current HR indicators (e.g., number of unfilled positions, the time it takes to fill a new position, turnover, employee satisfaction, internal grievances filed, number of legal complaints, absenteeism rates) and make recommendations for improvements, if any. (3) Review staffing of the HR Department and make recommendations for staffing improvements, if any. (4) Evaluate the current workflow and distribution of functions in the HR Department to provide recommendations for improved efficiency and practice, if any. (5) Provide technical coaching assistance, such as training on best practices and compliance,

for improving HR policies, procedures, and operational practices with the ultimate goal of improving the district's overall fiscal health. This technical assistance would be provided based on the findings identified and recommendations provided in the review.

- **Grant Development, Submission and Management Review:** (1) Review and analyze operational processes and procedures that support grant development and management between and among the colleges and district office, including but not limited to business procedures, grants department, and human resources, and make recommendations for improved efficiency, clarity of roles, responsibilities, and decision making, if any. Ensure the who, what, where, why, when and how aspects of relevant processes are identified (or perhaps established) and understood (e.g., process mapping). (2) Evaluate the current workflow and distribution of functions for grant development and management, and make recommendations for improvements, if any. (3) Identify resources necessary to carry out an effective grants process based on FCMAT's recommendations.
- **Fiscal Review:** (1) Review unrestricted general fund expenditures reported on the districtwide annual financial and budget report, CCFS-311, in material categories, including salaries and benefits, for fiscal years 2016-17, 2017-18, and 2018-19. (2) Review revenue and budget projections for fiscal years 2019-20, 2020-21 and 2021-22, and make recommendations, if appropriate. (3) Determine whether the district has developed and implemented a strategic enrollment plan that considers the impact of SCFF metrics. FCMAT shall make recommendations regarding the plan, where appropriate.
- **Fiscal Health Risk Analysis:** Prepare an analysis using the 18 factors in FCMAT's Fiscal Health Risk Analysis and identify the district's specific risk rating for fiscal insolvency.

Technical assistance is another form of management assistant and is provided in areas such as budgeting, multiyear financial projections, internal controls, and oversight of associated student body organizations. This form of assistance allows FCMAT to quickly respond to a district's specific needs, delivering on- and/or off-site support. The ultimate goal is to leave the district and its staff in an improved condition and with the tools and processes they need to support sound fiscal and management practices.

Use of FCMAT Tools in Management Assistance

FCMAT provides a number of products and tools to the education field. Often, these products are initially developed to support FCMAT staff in conducting management assistance and related work and are later made available for general use in the school business field. In alignment with the management assistance services outlined earlier in this report, FCMAT's suite of products generally falls into two main categories: (1) tools and resources for providing guidance and improving efficiency in business operations; and (2) tools and resources geared toward fiscal risk assessment. A complete description of each tool can be found in *Overview of FCMAT's Work Part 2 – Professional Learning and Product Development*. Some

of the tools FCMAT staff frequently rely on when delivering management assistance specific to community college districts are the following:

- *Associated Student Body Manual, Fraud Prevention Guide and Desk Reference.*
- Fiscal Alerts.
- Fiscal Health Risk Analysis (FHRA).
- Fiscally Accountable/Independent Risk Analysis.
- Indicators of Risk or Potential Insolvency.
- Operational Standards Self-Assessment for California Community College Districts.

Each of these tools is available at no cost and accessible from FCMAT's website for self-assessment and as a resource. FCMAT staff regularly update the content and functionality of these products. For example, each year the questions in the FHRA tool are evaluated and revised and its results are analyzed to ensure the tool remains current and provides accurate assessments.

Funding for Management Assistance

In contrast to the organization's work in TK-12 districts and charter schools, FCMAT does not directly receive an annual apportionment for its work in community college districts. Instead, the Legislature appropriates funds to the chancellor's office to fund FCMAT assistance. In fiscal year 2023-24, these funds totaled \$570,000. Additionally, a separate apportionment of \$75,000 was received for curriculum development and planning for a new community college district chief business official mentor program, slated to launch its first cohort in 2025-26.

The chancellor apportions funds to FCMAT from the \$570,000 appropriation based on the specific work performed and in response to an invoice from FCMAT. Consequently, all funding for community college district assistance operates on a reimbursement basis. As outlined by statute, the annual appropriation encompasses:

- Audits, examinations, or reviews of any community college district.
- Technical assistance, training, and short-term institutional research necessary to address existing or potential accreditation deficiencies.

The following types of management assistance provided by FCMAT fall within the aforementioned categories:

- FHRA.
- Multiyear financial projections and cash flow analysis.

- Potentially, other requests from local community college districts and the chancellor's office.

The chancellor frequently uses the state appropriation to fund management assistance requested by a district; in other cases, the district pays FCMAT directly for the specific scope of work using its local funds. Comprehensive reviews for districts in receivership are financed through a separate state appropriation or the chancellor's office.

Statute specifically authorizes FCMAT to charge a fee to the chancellor or district for management assistance. This fee is determined by FCMAT board-approved daily rates corresponding to the type of job being performed. Community college district management assistance reports are invoiced at the full cost of the review.

In fiscal year 2022-23, FCMAT invoiced a total of \$526,607 for services provided to community college districts. Of this, \$395,510 was paid by the chancellor's office using funds from the state appropriation.

Staffing for Management Assistance

FCMAT staffs every engagement with a designated FCMAT lead and at least one additional expert. To supplement its 13 field staff personnel, FCMAT uses outside consultants to both manage the workload and provide specific expertise. Workload considerations may arise when the current staffing is insufficient to move forward with an engagement within the desired timeline.

In terms of expertise, FCMAT leverages consultants to augment the team with specific skill sets or experiences. For example, because none of the current FCMAT staff have direct experience with daily community college district responsibilities, consultants with such expertise are included in the assigned team whenever FCMAT conducts community college district reviews.

FCMAT cannot financially support the hiring of a dedicated or specific staff member with community college district expertise because it does not receive a direct appropriation of state funds. As a result, the organization is forced to rely on outside consultants, which incurs higher costs. Absent a direct appropriation, the only feasible avenue for internal staffing dedicated community college district assistance is to hire personnel with experience in both community college district and TK-12 LEA contexts.

Fiscal Crises in Community College Districts

While the terms “fiscal crisis” and “fiscal distress” are often used interchangeably, it is crucial to note a distinction: fiscal distress is generally less severe and precedes fiscal crisis. Districts in fiscal distress typically have many options for turnaround. Fiscal distress frequently arises from short-term budget challenges and can be addressed through aggressive budget-balancing actions. Conversely, fiscal crises are more severe, typically stemming from prolonged imbalances between resources and spending or from unexpected events. These issues can result in cash flow shortages and the exhaustion of options to mitigate those shortages (e.g., temporary cash borrowing options).

Although the receivership process primarily centers around fiscal crises, it is important to recognize that these crises are seldom limited to fiscal matters. More often than not, crises manifest in various areas, including the district's governance, academic programs, student

services, personnel management, and facilities operations. *Overview of FCMAT's Work Part 1 — Fiscal Crisis in School Districts* delves into federal bankruptcy protection and the historical basis of the receivership process for TK-12 districts, a framework partially adopted for community college districts.

However, unlike for TK-12 LEAs, state statutes do not explicitly address the receivership process for community college districts. Instead, practices have loosely followed the TK-12 processes and principles, with any district-specific requirements outlined in the emergency appropriation legislation. A comparison of the receivership processes for TK-12 and community college districts reveals both similarities and differences, a subject explored in this narrative.

Receivership

Compton Community College District (Compton) is the only community college district to have experienced a fiscal crisis that led to the legislature making an emergency appropriation in 2006. Although other community college districts have also encountered fiscal crises, these issues were not addressed through the legislative process. In these instances, the chancellor or the board of governors took action to intervene, often by allocating additional funds.

The process outlined herein is limited and based on that of the Compton receivership. It originated with governance and management failures that went uncorrected or unmitigated for a length of time, ultimately leading to Compton facing a fiscal crisis and accreditation issues. The threatened or actual loss of accreditation is a tipping point for community college districts grappling with fiscal crises. Specific statutes related to Compton offer insights and some specificity to the community college district emergency apportionment process. These include EC 41329.50–41329.52, 41329.55, 41329.58–41329.60, 71093, 74292.5, 74292.7, 74293, 74295 and 74296, Government Code 63049.67, and AB 318 (Chapter 50, Statutes of 2006). [Exhibit B](#) provides the relevant Education Code for the Compton receivership.

In TK-12 LEAs, the formal receivership process is initiated when the school district requests an emergency apportionment. No such requirement exists for community college districts because the statute is silent on prerequisites for community college districts to receive an emergency appropriation.

Upon receipt of an emergency appropriation, the authority of the district's governing board is shifted to the chancellor, who may appoint a special trustee with prior experience in a similar role. Following the requirements established for Compton, the special trustee reports to the chancellor, with the district bearing the associated costs. Over a period of up to five years from the effective date of the emergency appropriation, the governing board serves as an advisory body, reporting to the special trustee. If a personnel commission is in place, its operations are suspended until one calendar year after the district completes its final repayment for the emergency apportionment to the state.

In Compton's case, the special trustee is authorized to do all the following:

- Implement substantial changes in Compton's fiscal policies and practices.
- Revise Compton's academic program to align with realistic income projections in response to the impact of changes in fiscal policies and practices on program quality.

- Encourage all members of the college community to accept a fair share of the burden of Compton's full recovery in the five operational areas of finance, academics, personnel, facilities, and governance.
- Enter into agreements on behalf of Compton and, subject to any contractual and statutory obligation of Compton, change any existing rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plan.
- Appoint an advisory committee to advise the special trustee with respect to Compton's management and the establishment and implementation of the arrangements for provision of services by a partner district. This advisory committee may include residents of the communities served by Compton, and any outside experts deemed appropriate by the special trustee. No member of the advisory committee can receive any compensation or benefits for their services as a member of the advisory committee.

The decision on when to return a district to local control is subjective. It requires a joint determination by the chancellor, FCMAT, the director of finance, and the governor, with concurrence from the special trustee. This decision hinges on the district consistently meeting the requirements outlined in the comprehensive assessment and the recovery plan for two consecutive academic years.

Just as with TK-12 LEAs, governance authority is exercised in five broad areas: financial management, pupil achievement, personnel management, facilities management, and governance/community relations. Local governance is restored over each area as progress is made to meet the requirements.

Statute does not mandate that a community college district conduct an audit of its fiscal systems (e.g., an internal control audit) before repaying the loan, as is required of TK-12 LEAs. Consequently, the statute does not outline provisions for retaining the special trustee beyond maturity of the loan until any audit deficiencies are corrected.

Furthermore, statute applicable to TK-12 LEAs includes a provision allowing for the loss of local control if a school district or county office previously in receivership violates a provision of the recovery plans within five years after the trustee is removed or after the emergency apportionment is repaid, whichever occurs later. In such instances, the legal rights, duties and powers of the governing board may be removed as if the TK-12 LEA was under receivership. This continues until the later of (1) determination that future compliance with recovery plans is probable; or (2) one year. Community college districts are not subject to such a provision.

Source of Emergency Apportionment

The emergency apportionment is a loan that the district must repay with interest. Funding for emergency apportionments is sourced from the proceeds of bonds sold by the California Infrastructure and Economic Development Bank (I-Bank) or from the state's general fund. If the emergency apportionment is facilitated through the I-Bank, the process may involve two stages, contingent on the district's cash flow needs. In such cases, the chancellor's office or the state general fund may provide the district with an advance, which is subsequently

repaid with interest from the proceeds of the lease financing arrangement between the district and the I-Bank.

Comprehensive Review

When a special trustee is appointed, FCMAT conducts a comprehensive assessment and prepares a recovery plan addressing the five operational areas of governance: financial management, academic achievement, personnel management, facilities management, and governance/community relations. The State Board of Education adopts a list of professional and legal standards that serve as a guide for school districts in conducting effective educational programs and adhering to sound fiscal and management practices. Although these standards are specific to TK-12 LEAs, many are also applicable to best practices in community college districts. In cases where they are not directly applicable, FCMAT adapts or eliminates them. Additionally, FCMAT uses the standards of the Accrediting Commission for Community and Junior Colleges (ACCJC) to evaluate community college district-specific areas.

The first comprehensive review is conducted beginning six months after the approval of the emergency apportionment. These reviews continue to be performed at regular intervals (typically annually or semiannually) as mandated by statute until local control is returned to the community college district. In practice, the first review serves as the baseline assessment, with each subsequent review providing an update on the community college district's recovery progress.

As an example of this process, FCMAT conducted an initial assessment of Compton using 335 professional and legal standards for their District Assessment and Recovery Plan. This entailed an in-depth review and assigning a baseline score to each standard. FCMAT, with the collaboration of the special trustee, later identified a subset of 186 standards for evaluation during each subsequent progress review.

History of Community College District Receivership

Nine school districts and one community college district have entered state receivership since July 1990.

On June 30, 2006, AB 318 (Chapter 50, Statutes of 2006) authorized a \$30 million loan to Compton. As of June 30, 2023, the outstanding balance, including interest, is \$3,706,896. Although the original maturity date of the loan was set for June 30, 2029 with a 10-year extension option, Compton is making additional principal payments to expedite repayment. It expects to fully retire the loan by June 2026. Compton's apportionment payments are due annually on June 1, with an interest rate of 2.307%.

Other Work

Certificated Salaries and Benefits Form (Form J-90) Project

Each spring, school districts and county offices are asked to complete a "Salary and Benefit Schedule for the Certificated Bargaining Unit" form (Form J-90). FCMAT facilitates and supports this voluntary data collection, which requests:

- Salary schedule information.
- Employee placement on the salary schedule by full-time equivalents.
- Bargaining unit bonuses paid for selected services.
- Salaries and days of service for school principals and superintendents.
- Health and welfare benefits by carrier with amounts paid by the school district or county office per employee.

This data is useful to California school districts and county offices, employee bargaining units, school consulting agencies, academic institutions, and state policymakers. Since the 1988-89 fiscal year, the SPI has been tasked with determining the statewide average percentage of school district expenditures that are allocated to salaries for teachers and certificated administrative personnel, as specified by EC 41409. This data is used to help meet the information requirements outlined in EC 41409.3 for the School Accountability Report Card. Additionally, the SPI also uses this data for the annual selected certificated salaries and related statistics report. This report provides that it is “a compilation of selected salary statistics” from Form J-90.

Participation in J-90 data collection is voluntary for districts. Through extraordinary efforts, the latest J-90 report includes information from 83.69% of school districts and county offices, representing 96.00% of the state’s noncharter school average daily attendance (ADA). FCMAT partners with School Services of California, Inc. (SSC), the CDE, the California Federation of Teachers (CFT), and the California Teachers Association (CTA) in this endeavor. SSC is contracted to perform the data collection and prepare the J-90 report, which is available on the CDE’s website.

No state funding is allocated to collect J-90 data. FCMAT collaborates with SSC to conduct the data collection and reporting tasks. The CFT contributes \$27,500, the CTA provides \$8,500, and FCMAT covers the remaining \$14,000 to compensate SSC for its services. The CDE does not contribute financially despite its reporting responsibilities. FCMAT’s financial contribution is derived from general operations funding because FCMAT does not receive a state appropriation specific to this purpose. FCMAT’s continued involvement in this process is based on its belief that the collected and reported data is of critical importance.

As of the writing of this report, AB 938 (Muratsuchi, 2023) is under consideration in the legislature and aims to expand J-90 reporting by including five classifications of site-based classified salaries. It would also mandate collection and reporting of such data for districts, county superintendents and direct-funded charter schools. The addition of classified salaries and benefits would dramatically increase the volume of data collected and reported and the complexity of comparative analysis of this data. The implementation of these requirements would necessitate both one-time development funding and an ongoing financial commitment from the state. AB 938 does not currently include such an appropriation.

Education Audit Appeals Panel

The Education Audit Appeals Panel (EAAP) serves as an impartial arbiter for both informal and formal administrative appeals lodged by TK-12 LEAs regarding apportionment and/or compliance audit findings stemming from each LEA's annual independent audit. The EAAP, in accordance with a statutory schedule, adopts regulations for use in both annual and supplemental audits. These regulations include the *Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting*. The EAAP's activities establish clear standards for compliance with education funding requirements and provide TK-12 LEAs with an avenue to appeal findings in their final audit reports.

The EAAP was established as a separate state agency and operates pursuant to EC 41344.1, with additional guidance from EC 14502.1 and 41344. The panel is staffed by the controller's office, and its three members include the SPI, the director of the department of finance, and the chief executive officer (CEO) of FCMAT, or their respective designees. Former FCMAT CEO Joel Montero, representing FCMAT's CEO, serves as the chairperson; Cheryl McCormick represents the director of finance; and Elizabeth Dearstynne represents the SPI. Additional information about the EAAP, including the panel's meeting schedule, is available at eeap.ca.gov.

FCMAT receives an annual state appropriation of \$42,000 to cover the organization's expenses associated with serving on the panel.

Fiscal Alerts

FCMAT alerts are issued to highlight and communicate significant announcements or information on a subject that FCMAT perceives is not receiving accurate or sufficient coverage from other agencies, private consultants or the media. These alerts may be time-sensitive and may address a specific condition and/or reinforce best practices. Alerts are not issued on a specific timeline, and the number of alerts written each year varies. Examples of past fiscal alerts include:

- "Managing and Ensuring the Integrity of Community College District Data."
- "Managing Local Reserves Under the Cap."
- "Associated Student Body Considerations During COVID-19."
- "Managing the Special Education Maintenance of Effort Requirement During the COVID-19 Pandemic."
- "Correctly Sizing a Community College District's Management Structure and Staffing."
- "CALPADS Data Reporting Challenge."

Education Code 42160-42163 Reviews (Assembly Bill 1840/181 Reviews)

In 2018, AB 1840 (Chapter 428, Statutes of 2018) introduced EC 42160 and 42161, aimed at supporting the fiscal recovery of the Inglewood and Oakland unified school districts. The

relevant provisions of AB 1840 were in effect from fiscal year 2018-19 through 2021-22. In 2022-23, AB 181 (Chapter 52, Statutes of 2022) added EC 42162 and 42163, which provided similar but modified provisions for the two districts. These districts are under state receivership and had appealed to the state in 2018 for financial assistance while they planned and implemented long-term fiscal stability measures.

FCMAT was tasked with analyzing the two districts according to the criteria outlined in the statute and with providing a funding recommendation in consultation with the respective county superintendents. Consistent with the statutes, FCMAT issued annual letters on March 1/April 1 and in the fall/October 1, summarizing the analysis and making recommendations. These letters are listed in the following tables.

Table 1. List of and links to FCMAT reports by type and date for Inglewood Unified School District under Education Code 42161 and 42163.

Number	Report Type	Issue Date	Link
1	AB 181	September 28, 2023	Click Here
2	AB 181	March 30, 2023	Click Here
3	AB 1840	December 13, 2021	Click Here
4	AB 1840	March 1, 2021	Click Here
5	AB 1840	November 10, 2020	Click Here
6	AB 1840	March 2, 2020	Click Here
7	AB 1840	January 9, 2020	Click Here
8	AB 1840	March 1, 2019	Click Here

Table 2. List of and links to FCMAT reports by type and date for Oakland Unified School District under EC 42160 and 42162.

Number	Report Type	Issue Date	Link
1	AB 181	September 29, 2023	Click Here
2	AB 181	March 31, 2023	Click Here
3	AB 1840	January 4, 2022	Click Here
4	AB 1840	March 1, 2021	Click Here
5	AB 1840	November 4, 2020	Click Here
6	AB 1840	March 2, 2020	Click Here
7	AB 1840	January 15, 2020	Click Here
8	AB 1840	April 24, 2019	Click Here
9	AB 1840	March 1, 2019	Click Here

As of the writing of this report, FCMAT has fulfilled its obligations under the referenced statutes. Furthermore, there is no expectation of new similar provisions being enacted.

Historically, FCMAT has been eligible for reimbursement from the department of finance for the costs incurred in delivering technical assistance and conducting the AB 1840/AB 181 reviews of the Inglewood and Oakland unified school districts.

FCMAT's General Administration and Availability to Support Policies and Practices

FCMAT's work includes the general administration of the agency itself, including both executive and governance processes. This involves managing personnel, budgets, contracts, jobs, intergovernmental relations, and the administration and support of the governing board and its functions.

Both statutory provisions and historical practices have established FCMAT as a frequent consultant to county superintendents, district leaders, regulatory bodies, labor association leaders, advocates, private consultants, professional organizations, legislators, legislative staff, and representatives of the administration. FCMAT administrators and staff are routinely assigned to sit as members on committees and task forces, and to testify in legislative or regulatory hearings. FCMAT staff are available to support both policy and practice with these partners and do so without hesitation or charge.

EXHIBIT A

Statutes Regarding FCMAT Management Assistance for Community College Districts (California Education Code)

TITLE 3. POSTSECONDARY EDUCATION [66000 – 101149.5]

DIVISION 7. COMMUNITY COLLEGES [70900 – 88933]

PART 50. FINANCE [84000 – 85304]

CHAPTER 1. State Financial Management and Control [84000 – 84044]

ARTICLE 2. Accounting, Budget Controls and Audits [84030 – 84044]

Education Code 84041

- (a) The board of governors may request the County Office Fiscal Crisis and Management Assistance Team (FCMAT) established pursuant to Section 42127.8 to assist a community college district to establish or maintain sound financial and budgetary conditions and to comply with principles of sound fiscal management.
- (b) The board of governors may recommend additional persons with expertise in community college fiscal accountability to serve as part of a FCMAT operation for the purposes of this section.
- (c) The board of governors may request FCMAT to assist a community college district as follows:
- (1) Whenever regulations adopted by the board of governors authorize contracting for a management review of the district and its educational programs or an audit of the financial conditions of the district.
 - (2) To provide management or fiscal crisis intervention, or both, for a community college district where a crisis presents an imminent threat to the fiscal integrity and security of that district. In these cases, the FCMAT shall have the authority, subject to regulations adopted by the board of governors, to stay or rescind any action of the district's governing board that is inconsistent with the district's fiscal integrity and security.
- (d) The FCMAT shall submit a progress report to the affected district, to the board of governors, and to the chancellor at least every six months, or more frequently if that is required by the chancellor.
- (e) Each community college district that receives assistance at the request of the board of governors under subdivision (a), (b), (c), or (d) shall be required to pay the full cost incurred by the unit for these purposes.
- (f) If the board of governors requests the assistance of the FCMAT pursuant to paragraph (2) of subdivision (c), the chancellor shall provide the board of governors with a report that includes all of the following:
- (1) An assessment of which events or activities led to the crisis.
 - (2) An action plan for addressing the deficiencies of the district.
 - (3) A process for assessing district progress in correcting deficiencies.

(4) Benchmarks that indicate the presence of local capacity to manage the fiscal responsibilities of the district.

(g)(1) Irrespective of whether the FCMAT has been requested by the board of governors to assist a district under this section, a district may request the FCMAT to do either or both of the following at district expense, in accordance with paragraph (2):

(A) Provide fiscal management assistance.

(B) Facilitate training for members of the district governing board and for any district employees whose responsibilities include addressing fiscal issues. Training services shall emphasize efforts to improve fiscal accountability and to expand the fiscal competency of the trainees.

(2) Each community college district that receives assistance at its request under this subdivision shall be required to pay the full cost incurred by the unit for that purpose.

(h) The board of governors shall develop and adopt any regulations that are necessary for the implementation of this section.

(Added by Chapter 360, Statutes of 2005.)

EXHIBIT B

Statutes Pertaining to Compton Community College District Receivership
(California Education Code)

TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 – 65001]

DIVISION 3. LOCAL ADMINISTRATION [35000 – 45500]

PART 24. SCHOOL FINANCE [41000 – 43052]

CHAPTER 3. State School Fund [41300 – 41455]

ARTICLE 2.7. Emergency Apportionment Financing [41329.50 – 41329.60]

Education Code 41329.50

The following definitions apply to this article, Article 2 (commencing with Section 41320), and Article 2.5 (commencing with Section 41325), unless the context clearly indicates or requires another or different meaning:

- (a) “Bank” means the California Infrastructure and Economic Development Bank.
- (b) “Bonds” has the same meaning specified in Section 63010 of the Government Code.
- (c) “Loan” and “emergency apportionments” means the financing described in Sections 41329.51, 41329.52, and 41329.53. The financing does not constitute a borrowing but an advance payment of apportionments subject to repayment with interest as described in the article.
- (d) “School district” means a school district that requests an emergency apportionment pursuant to Section 41320, including, as applicable, an administrator appointed pursuant to Article 2 (commencing with Section 41320) and a trustee appointed pursuant to Article 2.5 (commencing with Section 41325).

(Amended by Chapter 50, Statutes of 2006.)

TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 – 65001]

DIVISION 3. LOCAL ADMINISTRATION [35000 – 45500]

PART 24. SCHOOL FINANCE [41000 – 43052]

CHAPTER 3. State School Fund [41300 – 41455]

ARTICLE 2.7. Emergency Apportionment Financing [41329.50 – 41329.60]

Education Code 41329.51

Notwithstanding any other law, an emergency apportionment is a financing provided to a community college district as authorized by the Legislature or to a school district, other than a community college district, complying with the requirements contained in Article 2 (commencing with Section 41320) and Article 2.5 (commencing with Section 41325). The emergency apportionment shall be made pursuant to either Section 41329.52 or Section 41329.53, as determined by statute. The school district, the bank, and the Superintendent of Public Instruction, or the Board of Governors of the California Community Colleges, as appropriate, shall promptly perform the duties specified in the statute making the emergency apportionment.

(Amended by Chapter 50, Statutes of 2006.)

TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 – 65001]

DIVISION 3. LOCAL ADMINISTRATION [35000 – 45500]

PART 24. SCHOOL FINANCE [41000 – 43052]

CHAPTER 3. State School Fund [41300 – 41455]

ARTICLE 2.7. Emergency Apportionment Financing [41329.50 – 41329.60]

Education Code 41329.52.

(a) A school district may receive a two-part financing designed to provide an advance of apportionments owed to the district from the State School Fund and the Education Protection Account.

(b) The initial emergency apportionment shall be an interim loan from the General Fund to the school district. General Fund money shall not be advanced to a school district until that district agrees to obtain a lease financing as described in subdivision (c) and the bank adopts a reimbursement resolution governing the lease financing. The interim loan shall be repaid in full, with interest, from the proceeds of the lease financing pursuant to subdivision (c) at a time mutually agreed upon between the Department of Finance and the bank. The interest rate on the interim loan shall be the rate earned by moneys in the Pooled Money Investment Account as of the date of the initial disbursement of emergency apportionments to the school district.

(c) The school district shall enter into a lease financing with the bank for the purpose of financing the emergency apportionment, including a repayment to the General Fund of the amount advanced pursuant to subdivision (b). In addition to the emergency apportionment, the lease financing may include funds necessary for reserves, capitalized interest, credit enhancements, and costs of issuance. The bank shall issue bonds for that purpose pursuant to the powers granted pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act as set forth in Division 1 (commencing with Section 63000) of Part 6.7 of the Government Code. The term of the lease shall not exceed 20 years, except that if at the end of the lease term any rent payable is not fully paid, or if the rent payable has been abated, the term of the lease shall be extended for a period not to exceed 10 years.

(Amended by Chapter 48, Statutes of 2013.)

TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 – 65001]

DIVISION 3. LOCAL ADMINISTRATION [35000 – 45500]

PART 24. SCHOOL FINANCE [41000 – 43052]

CHAPTER 3. State School Fund [41300 – 41455]

ARTICLE 2.7. Emergency Apportionment Financing [41329.50 – 41329.60]

Education Code 41329.55

(a) Simultaneous with the execution of the lease financing authorized pursuant to Section 41329.52, the bank shall provide to the Controller and the school district a notification of its lease financing. The notice shall include a schedule of rent payments to become due to the bank from the school district and the bond trustee. The Controller shall make the apportionment to the bond trustee of those amounts on the dates shown on the schedule. The bank may further authorize the apportionments to be used to pay or reimburse the provider of any credit enhancement of bonds and other ongoing or periodic ancillary costs of the bond financing issued by the bank in connection with this article. If the amount of rent payments vary from the schedule as a result of variable interest rates on the bonds, early redemptions, or changes in expenses, the bank shall amend or supplement the schedule accordingly.

(b) Except where financing is for a community college district, the Controller shall make the apportionment only from moneys in Section A of the State School Fund and the Education Protection Account designated for apportionment to the district and any apportionment authorized pursuant to this subdivision shall constitute a lien senior to any other apportionment or payment of State School Fund and the Education Protection Account moneys to or for that district not made pursuant to this subdivision.

(c) If financing is for the Compton Community College District, the Controller shall make the apportionment only from moneys in Section B of the State School Fund. Any apportionment authorized pursuant to this subdivision shall constitute a lien senior to any other apportionment or payment of Section B State School Fund moneys.

(d) The amount apportioned for a school district pursuant to this section is an allocation to the school district for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution. For purposes of computing the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, for any school district, the local control funding formula allocation for any fiscal year in which funds are apportioned for the school district pursuant to this section shall include any amounts apportioned by the Controller pursuant to subdivisions (a), (b), and (c), and Section 41329.57.

(e) No party, including the school district or any of its creditors, shall have any claim to the money apportioned or to be apportioned to the bond trustee by the Controller pursuant to this section.

(Amended by Chapter 19, Statutes of 2015.)

TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 – 65001]

DIVISION 3. LOCAL ADMINISTRATION [35000 – 45500]

PART 24. SCHOOL FINANCE [41000 – 43052]

CHAPTER 3. State School Fund [41300 – 41455]

ARTICLE 2.7. Emergency Apportionment Financing [41329.50 – 41329.60]

Education Code 41329.58.

The sum of thirty million dollars (\$30,000,000) is hereby appropriated, without regard to fiscal year, from the General Fund to the Board of Governors of the California Community Colleges for apportionment to the Compton Community College District as an emergency apportionment to finance, among other things, the activities described in Article 5 (commencing with Section 74292) of Chapter 5 of Part 46.

(Added by Chapter 50, Statutes of 2006.)

TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 – 65001]

DIVISION 3. LOCAL ADMINISTRATION [35000 – 45500]

PART 24. SCHOOL FINANCE [41000 – 43052]

CHAPTER 3. State School Fund [41300 – 41455]

ARTICLE 2.7. Emergency Apportionment Financing [41329.50 – 41329.60]

Education Code 41329.59

(a) On or before October 30, 2006, the Fiscal Crisis and Management Assistance Team (FCMAT) shall conduct an extraordinary audit of the Compton Community College District, to be delivered to the Board of Governors of the California Community Colleges and the Director of Finance, focused upon an examination of alleged fraud, misappropriation of funds, or other illegal fiscal practices. The audit shall be conducted in a timely and efficient manner.

(b) On or before January 31, 2007, the FCMAT shall conduct a comprehensive assessment and prepare a recovery plan, to be delivered to the Board of Governors of the California Community Colleges and the Department of Finance, for the Compton Community College District addressing the five operational areas: financial management, academic achievement, personnel management, facilities management, and governance/community relations.

(c) The FCMAT shall file a written status report at regular intervals with the appropriate fiscal and policy committees of the Legislature, the advisory committee to the special trustee, the Board of Governors of the California Community Colleges, the Director of Finance, and the Governor. The status reports shall include the progress that the Compton Community College District is making in meeting the recommendations of the FCMAT comprehensive assessment and addressing the deficiencies identified by the Accrediting Commission for Community and Junior Colleges.

(d) Notwithstanding any other provision of law, an amount of up to five hundred thousand dollars (\$500,000) shall be provided to the Compton Community College District from any funds budgeted for FCMAT in Item 6110-107-0001 of Section 2.00 of the annual Budget Act or any other funds available from prior budget years for FCMAT for the purpose of funding the audit described in subdivision (a) of this section.

(Amended by Chapter 349, Statutes of 2011.)

TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 – 65001]

DIVISION 3. LOCAL ADMINISTRATION [35000 – 45500]

PART 24. SCHOOL FINANCE [41000 – 43052]

CHAPTER 3. State School Fund [41300 – 41455]

ARTICLE 2.7. Emergency Apportionment Financing [41329.50 – 41329.60]

Education Code 41329.60

Notwithstanding any other law, beginning July 1, 2016, the interest rate on any outstanding General Fund emergency apportionments made to the Compton Community College District pursuant to Section 41329.52 or 41329.58 shall be 2.307 percent. All other terms of those emergency apportionments shall remain the same.

(Added by Chapter 24, Statutes of 2016.)

TITLE 3. POSTSECONDARY EDUCATION [66000 – 101149.5]

DIVISION 7. COMMUNITY COLLEGES [70900 – 88933]

PART 44. BOARD OF GOVERNORS [71000 – 71096]

CHAPTER 1. Board of Governors [71000 – 71096]

ARTICLE 3. Office of Chancellor [71090 – 71096]

Education Code 71093

(a) The board of governors may authorize the chancellor to suspend the authority of the Board of Trustees of the Compton Community College District, or of any of the members of that board, to exercise any powers or responsibilities or to take any official actions with respect to the management of the district, including any of the district's assets, contracts, expenditures, facilities, funds, personnel, or property. The board of governors may authorize suspension for a period up to five years from the effective date of Assembly Bill 318 of the 2005–06 Regular Session, plus a period lasting until the chancellor, the Fiscal Crisis and Management Assistance Team, the Director of Finance, and the Governor concur with the special trustee that the district has, for two consecutive academic years, met the requirements of the comprehensive assessment conducted, and the recovery plan prepared, pursuant to Section 41329.59.

(b) A suspension authorized by this section becomes effective immediately upon the delivery of a document to the administrative offices of the Compton Community College District that sets forth the finding of the chancellor that a suspension pursuant to this section is necessary for the establishment of fiscal integrity and security in that district.

(c)(1) If and when the chancellor suspends the authority of the Board of Trustees of the Compton Community College District or any of its members pursuant to this section, the chancellor may appoint a special trustee as provided in paragraph (3) of subdivision (c) of Section 84040, at district expense, to manage the district. The chancellor is authorized to assume, and delegate to the special trustee, those powers and duties of the Board of Trustees of the Compton Community College District that the chancellor determines, with the approval of the board of governors, are necessary for the management of that district. The Board of Trustees of the Compton Community College District may not exercise any of the duties or powers assumed by the chancellor under this section.

(2) The chancellor may appoint as a special trustee under this section a person who has served in a similar capacity. A special trustee appointed under this section shall serve at the pleasure of the chancellor.

(3) Notwithstanding any other law, in order to facilitate the appointment of the special trustee, the chancellor is exempt, for purposes of this section, from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(d)(1) Notwithstanding any other law, at any time that this section is in effect, the chancellor is authorized to assume, and delegate to the special trustee, those powers and duties of the Compton Community College District Personnel Commission that the chancellor determines are necessary for the management of the personnel functions of the Compton Community

College District. The personnel commission may not exercise any of the powers or duties assumed by the chancellor.

(2)(A) If and when the suspension of the authority of the Board of Trustees of the Compton Community College District has ended pursuant to subdivision (a), the board of trustees shall assume those powers and duties of the Compton Community College District Personnel Commission that the board of trustees determines are necessary for the management of the personnel functions of the Compton Community College District. The personnel commission shall not exercise any of the powers or duties assumed by the board of trustees.

(B) Subparagraph (A) shall remain in effect until one calendar year after the Compton Community College District has repaid to the state the emergency apportionment funding pursuant to Section 41329.58.

(C) Beginning one calendar year after the Compton Community College District has made its final payment to the state for the emergency apportionment funding pursuant to Section 41329.58, the Compton Community College District Personnel Commission shall be reinstated to exercise the powers and duties necessary for the management of the personnel functions of the Compton Community College District.

(3)(A) Beginning in the year in which the Compton Community College District has repaid the emergency apportionment pursuant to Section 41329.58, the Board of Trustees of the Compton Community College District shall establish the Compton Community College District Personnel Commission in an advisory capacity. Members of the personnel commission shall be appointed pursuant to subparagraph (B). The personnel commission shall advise the board of trustees on the powers and duties assumed by the board of trustees pursuant to subparagraph (A) of paragraph (2).

(B) One member of the Compton Community College District Personnel Commission shall be appointed by the Board of Trustees of the Compton Community College District. One member of the personnel commission shall be nominated by the classified employees of the Compton Community College District and appointed by the board of trustees. Those two members shall, in turn, appoint the third member of the personnel commission.

(C) As used in this section, "classified employees" means an exclusive representative that represents the largest number of noncertificated employees in a unit or units within the Compton Community College District. If there is no exclusive representative within the district, the board of trustees shall, by written rule, prescribe the method by which the recommendation is to be made by the district's classified employees.

(4) On or before September 15 the year after the Board of Trustees of the Compton Community College District establishes the Compton Community College District Personnel Commission in an advisory capacity pursuant to paragraph (3), the personnel commission shall provide a report of duties fulfilled in its advisory role to the board of trustees and shall make the report available to the public on the internet website of the Compton Community College District.

(5) Beginning on or before September 15, 2023, and annually thereafter, the Compton Community College District shall provide to the Department of Finance, the Assembly Budget Subcommittee on Education Finance, and the Senate Budget Subcommittee on

Education an update on its repayment of the emergency apportionment funding pursuant to Section 41329.58. The update shall include the principal loan balance, annual loan payment, and the loan repayment schedule.

- (e) Notwithstanding any other law, if the special trustee has been a member of the State Teachers' Retirement System or the Public Employees' Retirement System at any time before appointment, the special trustee shall, for the period of service as special trustee, be a member of the system to which the special trustee belonged, unless the special trustee elects, in writing, not to be a member. If the special trustee chooses to be a member, the special trustee shall be placed on the payroll of the district, or the payroll of another local educational agency or other entity that the district has an exchange agreement with pursuant to Section 87422 or other applicable laws, for the purpose of providing appropriate contributions to the applicable retirement system.
- (f) The special trustee appointed pursuant to this section is authorized to do all of the following:
- (1) Implement substantial changes in the fiscal policies and practices of the Compton Community College District.
 - (2) Revise the academic program of the Compton Community College District to reflect realistic income projections in response to the dramatic effect of the changes in fiscal policies and practices upon program quality.
 - (3) Encourage all members of the college community to accept a fair share of the burden of the full recovery of the Compton Community College District in the five operational areas of finance, academics, personnel facilities, and governance.
 - (4) Enter into agreements on behalf of the Compton Community College District and, subject to any contractual and statutory obligation of the Compton Community College District, change any existing district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plan. Any agreement authorized by this section shall be binding upon the district for the term of the agreement, notwithstanding the removal of the special trustee for any reason or the reinstatement of any powers or responsibilities of the board of trustees. No agreement authorized by this paragraph shall materially impair the security and other interests of the holders of any bonds issued pursuant to Article 9 (commencing with Section 63049.67) of Chapter 2 of Division 1 of Title 6.7 of the Government Code.
 - (5) Appoint an advisory committee to advise the special trustee with respect to the management of the Compton Community College District and the establishment and implementation of the arrangements for provision of services by a partner district pursuant to Article 5 (commencing with Section 74292) of Chapter 5 of Part 46. This advisory committee may include residents of the communities served by the Compton Community College District, and any outside experts deemed appropriate by the special trustee. No member of the advisory committee shall receive any compensation or benefits for their services as a member of the advisory committee.
- (g) In the event of a vacancy in the special trustee position, the chancellor shall temporarily assume all of the powers and duties of the special trustee until another special trustee can be appointed pursuant to this section.

(Amended by Chapter 529, Statutes of 2022.)

TITLE 3. POSTSECONDARY EDUCATION [66000 – 101149.5]

DIVISION 7. COMMUNITY COLLEGES [35000 – 45500]

PART 46. DISTRICT REORGANIZATION OR FORMATION [74000 – 74296]

CHAPTER 5. Miscellaneous [74262–74296]

ARTICLE 5. Continuing Services If Compton Community College Loses Accreditation [74292 – 74296]

Education Code 74292.5

Notwithstanding any other provision of law, so long as any bond issued pursuant to Section 63049.67 of the Government Code for the Compton Community College District is outstanding, all real property leases securing those bonds shall be leased by the Compton Community College District, and not the Compton Community Educational Center or any partner district.

(Added by Chapter 50, Statutes of 2006.)

TITLE 3. POSTSECONDARY EDUCATION [66000 – 101149.5]

DIVISION 7. COMMUNITY COLLEGES [35000 – 45500]

PART 46. DISTRICT REORGANIZATION OR FORMATION [74000 – 74296]

CHAPTER 5. Miscellaneous [74262–74296]

ARTICLE 5. Continuing Services If Compton Community College Loses Accreditation [74292 – 74296]

Education Code 74292.7

Cal Grant awards to students of the Compton Community College District shall not be adversely affected by this article.

(Added by Chapter 50, Statutes of 2006.)

TITLE 3. POSTSECONDARY EDUCATION [66000 – 101149.5]

DIVISION 7. COMMUNITY COLLEGES [35000 – 45500]

PART 46. DISTRICT REORGANIZATION OR FORMATION [74000 – 74296]

CHAPTER 5. Miscellaneous [74262–74296]

ARTICLE 5. Continuing Services If Compton Community College Loses Accreditation [74292 – 74296]

Education Code 74293

Notwithstanding any other provision of law:

(a) The partner district shall provide educational programs, as described in Section 74292, at the Compton Community Educational Center on the following terms:

(1) To the extent determined necessary by agreement between the Compton Community College District and the partner district, the Compton Community College District shall assign its current employees, or reemploy former employees, to provide educational or support services to students under the instructional services or other agreements described in Section 74292. The Compton Community College District has no obligation to assign or to reemploy persons who occupy or previously occupied administrative or supervisory positions to those positions. Notwithstanding any other provision of law, a person who provides services pursuant to this paragraph shall not be deemed to be an employee of the partner district or gain any status with the partner district for any purpose.

(2) Individuals providing educational or support services pursuant to paragraph (1) who serve as academic employees or educational administrators shall meet applicable minimum qualifications established by the Board of Governors of the California Community Colleges as well as any other job-related qualifications for service that are established by the partner district.

(3) The partner district shall have the primary right to direct activities under the contract or contracts in a manner that is consistent with the role of Compton Community College District as the employer of the individuals who are assigned duties under the agreements by the partner district. The partner district shall provide performance assessments to the special trustee appointed pursuant to Section 71093 regarding the services provided by employees of the Compton Community College District.

(b) Nothing in this section shall be construed to limit the ability of the Compton Community College District to employ employees of any type or class as otherwise authorized by law as needed to provide necessary services.

(c) The Compton Community College District shall continue to be responsible for all retiree benefits that it offered its employees prior to the date of its loss of accreditation and for retirement and other benefits for its employees assigned to provide services pursuant to subdivision (a). The partner district shall have no responsibility for any retiree or other benefits for persons provided by the Compton Community College District to serve under instructional services or other agreements described in this article.

(d) Nothing in this section shall be construed to limit the ability of the partner district to assign its existing personnel to oversee or manage services provided under instructional services or other agreements described in Section 74292 or to employ employees of any type or class as otherwise authorized by law as needed to provide oversight and management of those services. Any person who provides services pursuant to this subdivision shall not be deemed to be an employee of the Compton Community College District or gain any status with that district for any purpose, and that person shall not lose any rights, benefits, or status that he or she had previously acquired with the partner district.

(e) Nothing in this article shall be construed to interfere with, or require any change in, the existing bargaining units and collective bargaining agreements of the Compton Community College District.

(f) All existing statutory due process protections for employees of the Compton Community College District shall remain in effect including, but not necessarily limited to, the provisions governing layoff or dismissal, acquisition of tenure, and all other provisions of the Education Code except as expressly provided in this article.

(g) Nothing in this article shall be construed to interfere with or preclude negotiations with employee organizations in either of the districts over the effects, if any, of the partner district's operation of the Compton Community College District.

(Added by Chapter 50, Statutes of 2006.)

TITLE 3. POSTSECONDARY EDUCATION [66000 – 101149.5]

DIVISION 7. COMMUNITY COLLEGES [35000 – 45500]

PART 46. DISTRICT REORGANIZATION OR FORMATION [74000 – 74296]

CHAPTER 5. Miscellaneous [74262–74296]

ARTICLE 5. Continuing Services If Compton Community College Loses Accreditation [74292 – 74296]

Education Code 74295

Notwithstanding any other provision of law:

(a) The Compton Community College District shall receive apportionment for courses provided at the Compton Community Educational Center by the partner district pursuant to Section 74292, subject to the transfer of moneys described in Sections 41329.53 and 41329.55 and in accordance with the following schedule:

(1) For the 2005-06 fiscal year, an amount not less than the amount that was received by the Compton Community College District for the attendance of full-time equivalent students for the 2004-05 fiscal year.

(2) For the 2006-07 fiscal year, an amount not less than 90 percent of the amount that was received by the Compton Community College District for the attendance of full-time equivalent students for the 2004-05 fiscal year.

(3) For the 2007-08 fiscal year, an amount not less than 80 percent of the amount that was received by the Compton Community College District for the attendance of full-time equivalent students for the 2004-05 fiscal year.

(4) For the 2008-09 fiscal year, an amount not less than 70 percent of the amount that was received by the Compton Community College District for the attendance of full-time equivalent students for the 2004-05 fiscal year.

(b) In allocating funds for categorical aid to the Compton Community College District, the Chancellor of the California Community Colleges shall treat the Compton Community Educational Center as a separate college.

(c) The Compton Community College District shall not be subject to Section 84362 for the 2003-04 fiscal year to the 2008-09 fiscal year, inclusive.

(d) Should the loss of accreditation by the Compton Community College result in a lapse of federal financial assistance to otherwise eligible students before their eligibility is recognized through the partner district, the Compton Community College District may use a portion of the proceeds from the loan described in Section 41329.58 to provide comparable amounts of assistance to eligible students. This replacement funding shall not extend beyond the end of the term during which the lapse of federal funding occurred.

(e) The provisions of subdivision (a) shall be used solely to determine the apportionment funding to be allocated to the Compton Community College District. In computing state-wide entitlements to funding based upon the attendance of full-time equivalent students, neither the Compton Community College District nor its partner district shall be credited with more full-time equivalent students for the Compton Community College District than were actually enrolled in attendance. It is the intent of the Legislature that any amounts

necessary to make the apportionments required pursuant to subdivision (a) shall be drawn from the total statewide funding available for community college apportionments.

(Added by Chapter 757, Statutes of 2017.)

TITLE 3. POSTSECONDARY EDUCATION [66000 – 101149.5]

DIVISION 7. COMMUNITY COLLEGES [35000 – 45500]

PART 46. DISTRICT REORGANIZATION OR FORMATION [74000 – 74296]

CHAPTER 5. Miscellaneous [74262–74296]

ARTICLE 5. Continuing Services If Compton Community College Loses Accreditation [74292 – 74296]

Education Code 74296

Notwithstanding any other provision of law:

(a) In any action in which a court finds that any provision of this article is unlawful, or in any action challenging the implementation of this article, the Board of Governors of the California Community Colleges, the partner district, the Compton Community College District, and their respective officers, employees, and agents, are immune from the imposition of any award of money damages, including the award of attorney's fees, except to the extent that any liability for those claims arises from the gross negligence or willful misconduct of the party claiming the immunity.

(b) The state shall, from funds specifically appropriated for that purpose, indemnify and defend the partner district from and against any claims, other than claims based upon gross negligence or willful misconduct, arising out of its participation in the activities specified in this article.

(Added by Chapter 50, Statutes of 2006.)