



FCMAT's Work

Part 1 – Fiscal Crisis

FCMAT Board of Directors

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Fiscal Crisis

- Introduction
- Definitions
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- Background
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- Receivership
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Introduction

- FCMAT's work is guided by various statutes, history and needs of the field
- FCMAT's clients include traditional TK-12 districts, charter schools, county superintendents, community college districts and the state chancellor, and state agencies and the legislature
- FCMAT's work falls into five distinct categories plus a miscellaneous category that includes the administrative operations of the agency

• Management Assistance	• Professional Learning
• Fraud reviews	• Fiscal Crisis
• Data Management	

Introduction (Cont.)

- Staff have developed a series of written and oral reports entitled “FCMAT’s Work” to provide a deeper level of understanding of the scope, nature and approach of FCMAT’s activities across the TK-14 educational spectrum
- Part 1 of the series is fiscal crisis

Definitions

- The terms fiscal crisis and fiscal distress have been used interchangeably
- FCMAT defines the terms differently and provides different services under each
 - **Fiscal distress** – short-term budgetary difficulties that can be solved with aggressive budget balancing actions; many options exist for turnaround
 - **Fiscal crisis** – severe budgetary and cash flow difficulties resulting from prolonged imbalances between resources and spending, or unanticipated events; likely traditional cash flow mitigation strategies have been exhausted
 - **Receivership** – not defined in statute; FCMAT's preferred description of a district that has asked the state to provide an emergency apportionment

Federal Bankruptcy Protection

- Local educational agencies have access to federal bankruptcy protection
- State receivership process aligns with basic principles of federal statute

Federal	State
Insolvent – unable to pay its current obligations	Insolvent – unable to meet payroll obligations
No feasible alternative to bankruptcy	Provides a feasible alternative to bankruptcy
Develop a plan to adjust obligations	Develop a fiscal recovery plan

Background

- Legislatively created remedy in response to a state supreme court ruling in the civil rights litigation *Butt v State of California* designed to protect all students and safeguard students and the community from a school shutdown due to insufficient funds (Richmond USD, April 1991)
- The question before the court was if the state had a constitutional duty, aside from the equal allocation of educational funds, to prevent the budgetary problems of a particular school district from depriving its students of basic educational equality
- The court affirmed that such a duty exists, and affirmed a plan to
 - Provide an emergency state loan
 - Appoint an administrator to take temporary charge of the district's operation

Pre-Receivership

- Districts with financial difficulty follow a progression from stability to distress to crisis
 - Most districts stop at mild to moderate distress and take the necessary action to turn around
 - Others progress to distress and crisis and require more intense intervention
 - In 30 years only nine LEAs have progressed from crisis to receivership
- Districts may also progress from stability to crisis following a sudden event
 - Paradise USD, Loleta ESD are recent examples

Pre-Receivership (Cont.)

- The state's oversight system includes an early warning mechanism
 - Budget approvals and interim report certifications
 - Disapproved budgets, negative certifications, consecutive qualified certifications, downgrades and lack of going concern
 - County superintendent oversight is essential
 - Statute includes a complex progression of investigation, findings, notification, appellate review, further findings and further appellate review
 - Progression leads to the county superintendent's authority to exercise fiscal emergency powers, but stops short of receivership

Pre-Receivership (Cont.)

- FCMAT's Indicators of Risk or Potential Insolvency forms a basis for determining concerns
 - FCMAT's companion Fiscal Health Risk Analysis (FHRA) tool is used to perform the assessment of risks and is completed as part of the interventions triggered by fiscal distress
- Depending on the circumstances, FCMAT may also provide a multiyear year financial projection (MYP) and cash flow study
 - If the district progresses to fiscal crisis, these analyses become the basis for the timing of receivership and the size of the emergency apportionment

Pre-Receiveership (Cont.)

- A key activity during the pre-receivership process is communication among the district, county superintendent, FCMAT and state agencies
 - FCMAT facilitates this process
 - Additionally, FCMAT typically begins to engage the Legislature through legislative staff and state partners about language for an emergency apportionment bill

Receivership

- The formal process of receivership begins when the district requests an emergency apportionment
- Statute provides two sets of conditions of acceptance or conditions on emergency apportionments
 - FCMAT refers to these as two types of loans – type 1 and type 2
 - The distinguishing characteristic is the amount of the emergency apportionment requested
 - Type 1 – equal to or less than 200% of the district's required reserve for economic uncertainty
 - Type 2 – greater than 200% of the district's required reserve for economic uncertainty

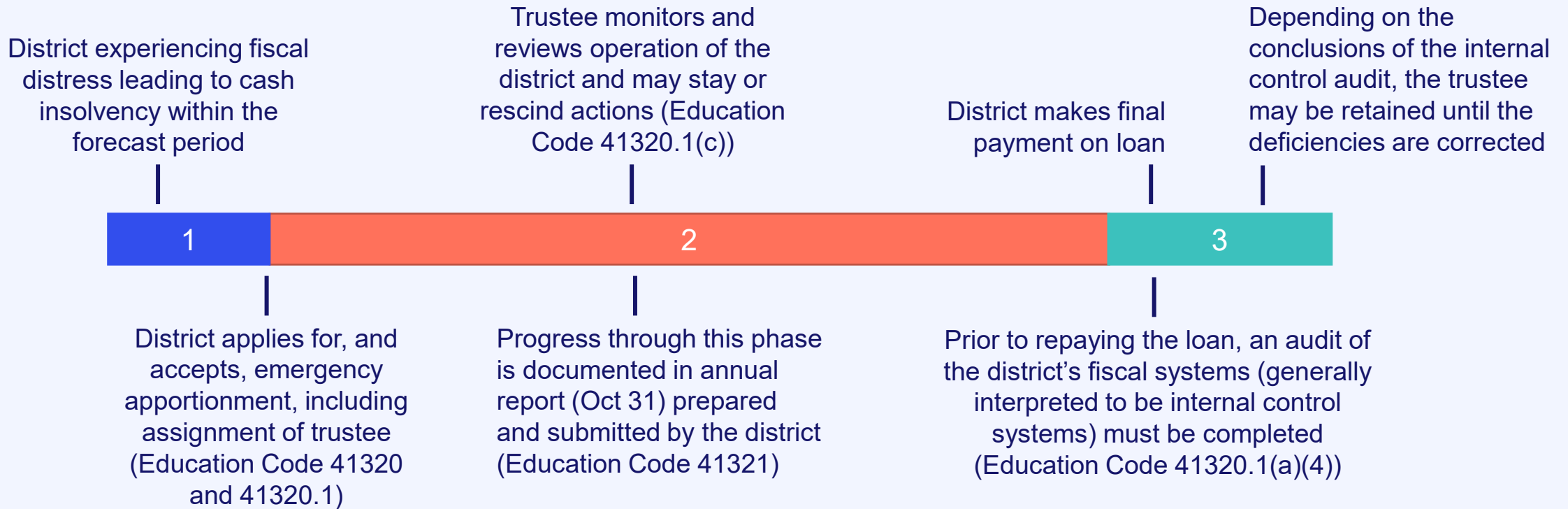
Receivership (Cont.)

- Prerequisites before an emergency apportionment is made include
 - Report by auditor on financial conditions and budgetary controls of district, management review by qualified management consultant (e.g., FCMAT) and a fiscal plan adopted by the governing board
 - Fiscal plan adopted shall be approved or disapproved by county superintendent
 - State superintendent (SSPI) reviews and approves various reports, fiscal plan and repayment plan
- An additional prerequisite before a type 2 emergency apportionment is made requires the governing board to discuss the need for the apportionment at public meeting of the board, and to receive testimony

Receivership (Cont.)

- For type 1 loans, the local governance team retains governing authority, and a trustee is assigned to monitor and review the district's operation
 - Trustee may stay or rescind actions that may affect the district's financial condition (including actions of personnel commission, if applicable)
- Trustee remains until the county superintendent, SSPI and president of the state board of education (SBE) determine conditions have been met, but no less than three years
 - Adequate fiscal systems and controls in place
 - Compliance with the recovery plan is probable
 - No longer needed

Phases of Recovery Under Receivership – Loan Equal to or Less Than 200%



This graphic is for illustration purposes only.

Receivership (Cont.)

- For type 2 loans, the appointed administrator may
 - Implement substantial changes in the fiscal policies and practices of the district, including filing for protection under federal bankruptcy law
 - Revise educational programs to align with resources and student performance standards
 - Encourage all partners to accept a fair share of the burden
 - Consult with a variety of partners including FCMAT
 - Adjust and change policies to effectively implement recovery plans
- Shall suspend the personnel commission, if applicable
- Within 30 days of assuming authority, administrator shall discuss options for resolving the fiscal problems with a variety of partners

Receivership (Cont.)

- For type 2 loans, the return of local control occurs when the administrator's work is complete and a transition is made to a trustee (i.e., type 1 loan)
- The return of local control is conditioned on a series of determinations and approvals, but no less than one year following acceptance of the loan
 - Recovery plans are approved and FCMAT completes at least two comprehensive reviews
 - The administrator certifies that all collective bargaining agreements have been negotiated and ratified and that the agreements are consistent with the terms of the recovery plans
 - The district has completed all reports required by the administrator and county superintendent

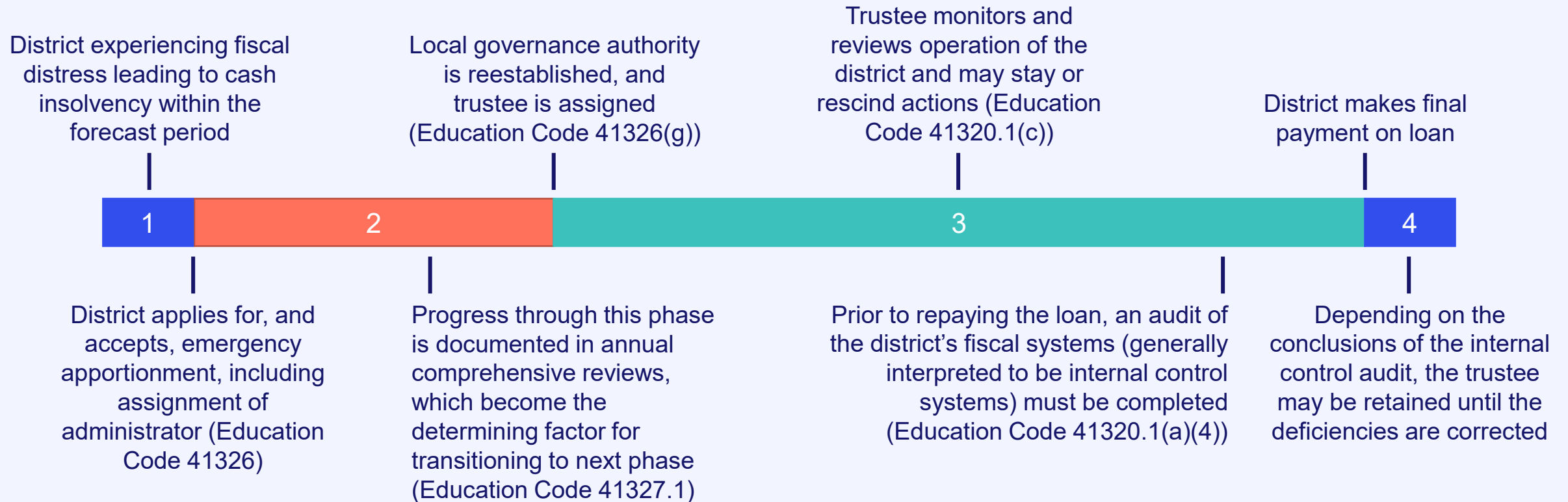
Receivership (Cont.)

- The administrator, county superintendent, SSPI and president of the SBE determine that future compliance with the recovery plans is probable
- Approval by the county superintendent, with concurrence of the SSPI
- The return of local control is based on both objective and subjective considerations
 - The probability of future compliance with the recovery plans is best determined by the district's progress in implementing the recovery plans as evidenced by annual or semiannual comprehensive assessment conducted by FCMAT – the comprehensive review

Receivership (Cont.)

- Local control may be returned all at once or in phases by operational area
 - If returned in phases, creates an environment where the governing board with a trustee will have authority over one or more operational area, and simultaneously an administrator will retain authority over one or more other operational area

Phases of Recovery Under Receivership – Loan Greater Than 200%



This graphic is for illustration purposes only.

Receivership (Cont.)

- Prior to the district fully repaying the loan, including interest, the district must select an auditor to conduct an audit of its fiscal systems (i.e., an internal control audit)
 - If the fiscal systems are deemed to be inadequate, the county superintendent, with the concurrence of the SSPI and president of the SBE, may retain the trustee until the deficiencies are corrected
- If the district violates the recovery plan within five years after the trustee is removed or the loan is repaid, whichever is later, the county superintendent, with the concurrence of the SSPI and president of the SBE, may reassume, either directly or indirectly, the legal rights, duties and powers of the governing board

Receivership (Cont.)

- Regardless of whether a trustee or administrator is present, during receivership the county superintendent retains the responsibility to superintend schools under their jurisdiction, including all regular budget review and reporting obligations
 - Parallel but different roles



Normal fiscal oversight responsibilities and activities

Supervision of trustee and administrator

Source of Emergency Apportionment

I-Bank	Combination	General Fund
<ul style="list-style-type: none">• California Infrastructure and Economic Development Bank• Proceeds from sale of bonds secured by lease financing between district and I-Bank• May include a two-part loan due to timing, general fund then I-Bank financing	<ul style="list-style-type: none">• A combination of the two forms of loan – I-Bank and state general fund	<ul style="list-style-type: none">• State general fund• Depends on availability of cash

Appointment of Trustee and Administrator

- FCMAT is assigned the responsibility to identify and vet candidates for appointment as trustee and administrator
 - Shall provide an opportunity for public input on the selection of the pool of candidates
 - For trustees, final selection is made by majority vote of county superintendent, SSPI and president of SBE
 - For administrators, final selection is made by county superintendent, with the concurrence of SSPI and president of SBE
- Qualifications are expertise in management and finance, previous experience mitigating fiscal distress in districts, and ability to meaningfully engage with the community
- Employee of the district, reporting to the county superintendent

Appointment of Trustee and Administrator

Hold one-on-one and small group listening meetings with identified partners of the district to gain insight on the qualities and characteristics they are seeking in the trustee or administrator

Qualities and characteristics are summarized, and themes developed that are used in the application process to vet candidates

Standard recruitment process of individual and mass outreach

Applications are evaluated and candidates placed in tiers or ranked based on a scoring matrix that considers experience and responses to questions drawn from the partner input themes

FCMAT provides a vetted list of applicants to the county superintendent for further evaluation and selection

Comprehensive Review

- When an administrator is appointed (type 2 loan), FCMAT is tasked with conducting comprehensive assessments in five operational areas over which governance is exercised



Comprehensive Review (Cont.)

- SBE adopts a list of professional and legal standards that all school districts are encouraged to use as a guide to conduct good educational programs and fiscal and management practices
- These standards form the minimum basis for evaluating the improvement of a district in receivership
- Standards were last updated in 2019 and number approximately 150
- First (baseline) review within six months after emergency apportionment is approved, annually thereafter to update progress

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FISCAL CRISIS & MANAGEMENT
ASSISTANCE TEAM

Standards for Comprehensive Reviews

Community Relations and Governance

1.1 Leadership and Organizational Capacity
The LEA has the leadership, culture and organizational capacity to implement and maintain systemic reform, continuous improvement and high expectations for community relations and governance. The organization demonstrates a commitment to attract, develop, and retain competent individuals to carry out responsibilities for community relations and governance in alignment with objectives. The LEA establishes a framework of relationships, policies, systems, processes and practices that are participatory and ensure accountability, fairness and transparency.

1.2 Leadership and Organizational Capacity
The organizational structure clearly identifies key areas of authority and responsibility for community relations and governance. Reporting lines in each area are clearly identified and logical.

1.3 Leadership and Organizational Capacity
LEA leaders set the tone and establish the environment, exhibiting integrity and ethical values in carrying out their community relations and governance responsibilities and directing the work of those they supervise.

2.1 Planning
The LEA has an internal annual community relations and governance calendar that lists responsible parties and all ongoing community relations and governance activities. The calendar is shared with all applicable departments and is used to ensure responsible parties meet critical deadlines, including those required by statute and board policy/administrative regulations.

2.2 Planning
The LEA has developed, and the board has adopted, a communications plan that addresses both internal and external communications. A process and structure exists to regularly update the communications plan based on best practices, assessment of communication strategies, and changing technology. The LEA communicates with all its stakeholders in a timely manner and facilitates two-way communications.

Note: Communications are also addressed in Finance Standard 1.6.

3.1 Parent/Community Relations
At the beginning of each school year the LEA provides all parents/guardians with an annual notice of parents' rights and responsibilities including the uniform complaint procedure. The annual notice and the complaint procedure are readily available. The LEA has internal procedures for accepting, investigating and responding to formal complaints, including Williams complaints, through a uniform complaint procedure. Both the notice of parents' rights and responsibilities, and the uniform complaint procedure are available in English and all other languages spoken by 15% or more of the students. (E.C. 48980, 48985, 11500; CCR Title 5, 4621, 4622)

3.2 Parent/Community Relations
The LEA encourages parents and community members to be involved in school activities and their children's education. Volunteers receive relevant training and contribute in meaningful ways to the schools. (E.C. 48985, 11500; CCR Title 5, 4621, 4622)

<https://www.fcmat.org/PublicationsReports/FCMAT-Standards-for-Comprehensives-3-2019.pdf>

Comprehensive Review (Cont.)

- FCMAT developed a scoring rubric to provide a more objective representation of a district's progress toward recovery
 - Scoring rubric is not in statute
- The scoring rubric was revised in 2019 to provide a more objective scoring system with less variability and subjectivity regarding the degree of attainment of the standard
- Scores are assigned to each standard and are added together in each operational area and the total is divided by the number of standards to determine an average score by operational area

Comprehensive Review (Cont.)

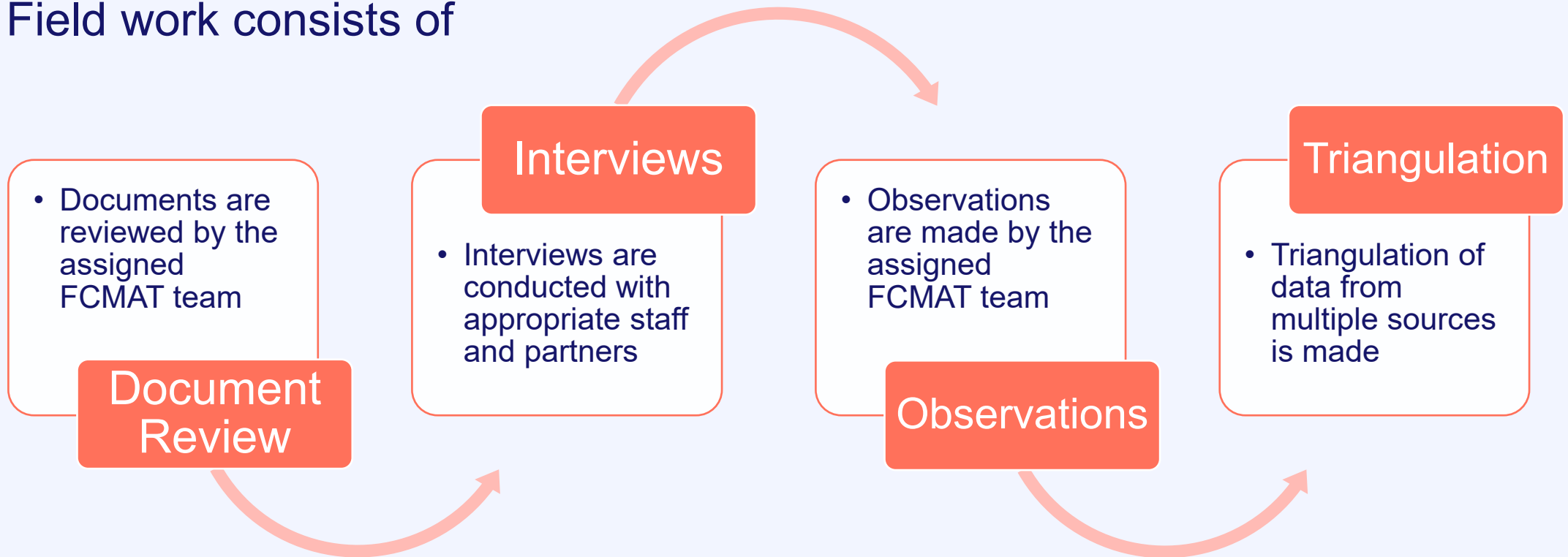
2019 Rubric		Prior Rubric ¹	
0	Not implemented	0	Standard has not been implemented
1	Planning	1-7 ²	Standard is partially implemented
2	Implementation begun	8-10 ²	Standard is fully implemented
3	Implemented		
4	Sustained		
To be considered for return to local control, minimum operational average score must be three , with no individual standard score below a two		To be considered for return to local control, minimum operational average score must be six , with no individual standard score below a four	

¹The scoring rubric in use for Inglewood USD continues to be the prior rubric in order to be consistent year over year

²Range used to designate the degree of implementation or degree of sustainability

Comprehensive Review (Cont.)

- FCMAT approaches the comprehensive review in the same manner as it does all other work
- Field work consists of



Comprehensive Review (Cont.)

- Field work is followed by



Comprehensive Review (Cont.)

- Before a report is finalized



Review of County Superintendent's Oversight

- Within three months of the county superintendent assuming control over a district, FCMAT reviews the county superintendent's fiscal oversight of the district and reports its findings to the Legislature (initial review)
 - In the year following the initial review, FCMAT commences annual reviews
- The review and report shall include findings of fiscal oversight actions that were or were not taken and may include recommendations for an appropriate legislative response to improve fiscal oversight
- Depending on findings, the SSPI, with the concurrence of the president of the SBE, may exercise the authority of the county superintendent or investigate further

Review of County Superintendent's Oversight

- The statute requiring a review is not new, but were previously the responsibility of the SSPI and none were performed
- In 2018, the Legislature assigned the responsibility to FCMAT
- FCMAT developed the County Office Evaluation Tool with two components: an initial evaluation and an annual evaluation
- FCMAT approaches the county office evaluation in the same manner as it does all other work (see slides 30-32)

County Office Evaluation Tool Annual Evaluation - Administrator in District	FCMAT FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM
Was the long range recovery plan (LRRP) developed by the administrator within the statutory timelines? Alternatively, has the county office of education (COE) adopted the FCMAT comprehensive review in lieu of the LRRP?	
Team Narrative	
What role has the COE played in implementing the long range recovery plan?	
Team Narrative	
What process has the COE used to monitor the progress of implementing the LRRP or the FCMAT comprehensive review for the district?	
Team Narrative	
Does the COE have a plan for incremental return of governance authority to the district's advisory board?	
Team Narrative	
Has the administrator developed a multiyear financial recovery plan in cooperation with the COE? Has the plan been implemented?	
Team Narrative	

Current School District Receiverships

District	Date	Trustee / Administrator	Emergency Appropriation	Outstanding Balance ¹	Maturity
Oakland USD	June 2003	Trustee since July 2008; Administrator June 2003-2009	\$100,000,000	\$11,842,547	I-Bank: Jan 2023; GF: June 2026
Vallejo City USD	June 2004	Trustee since July 2007; Administrator June 2004-March 2013	\$60,000,000	\$7,420,366	I-Bank: Jan 2024; GF: Aug 2024
South Monterey County Joint Union HSD	July 2009	Trustee since July 2016; Administrator July 2009-June 2016	\$13,000,000	\$6,307,55	I-Bank: Oct 2028
Inglewood USD	November 2012	Administrator since Oct. 2012	\$26,000,000 of \$55,000,000	\$12,823,888	GF: Nov 2034

¹ As of July 2022

Topics For a Deeper Dive

- Related topics covered in other parts
 - Early Warning System – Part 2, Management Assistance
 - Fiscal Distress – Part 2, Management Assistance
 - Fiscal Health Risk Analysis – Part 2, Management Assistance
 - Annual Legislative Update – Part 5 – General