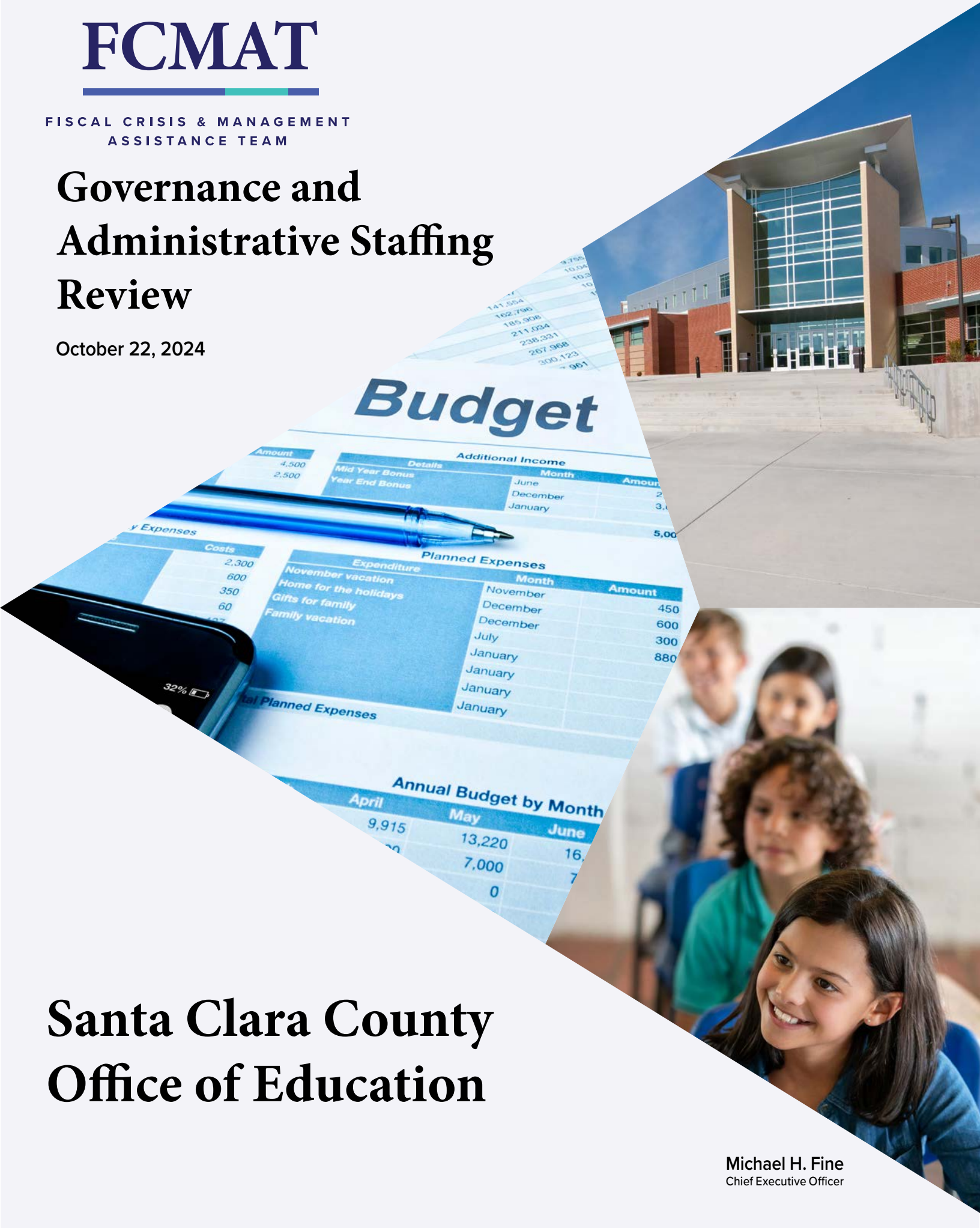
FCMAT

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

# Governance and Administrative Staffing Review

October 22, 2024




# Santa Clara County Office of Education


Michael H. Fine
Chief Executive Officer

FCMAT FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

October 22, 2024

Charles Hinman, Ed. D. , Interim Superintendent
Santa Clara County Office of Education
1290 Ridder Park Drives
San Jose, CA 95131

Dear Interim Superintendent Hinman:

In July 2024, the Santa Clara County Office of Education and the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement for FCMAT to conduct a review of the county office's executive administration and risks related to governance or leadership. The agreement stated that FCMAT would perform the following:

1. Review the organizational structure, operational relationship and efficiency of the COE executive leadership. Include any mandated or voluntary advisory committees or commissions within the structure. Identify any indicators of risk related to the governance and leadership process. Compare the COE executive leadership organizational structure with similarly situated class II county offices. Make recommendations for improvements and restructuring, if any.
2. Review and discus statutory authority distinctions, if any, for a county office with an elected versus an appointed county superintendent. Review and discuss any impacts from this form of governance on the operational relationship and efficiency of the COE executive structure.

This final report contains the study team's findings and recommendations.

FCMAT appreciates the opportunity to serve the Santa Clara County Office of Education and extends thanks to all the staff for their assistance during fieldwork.

Sincerely,

Michael H. Fine
Chief Executive Officer

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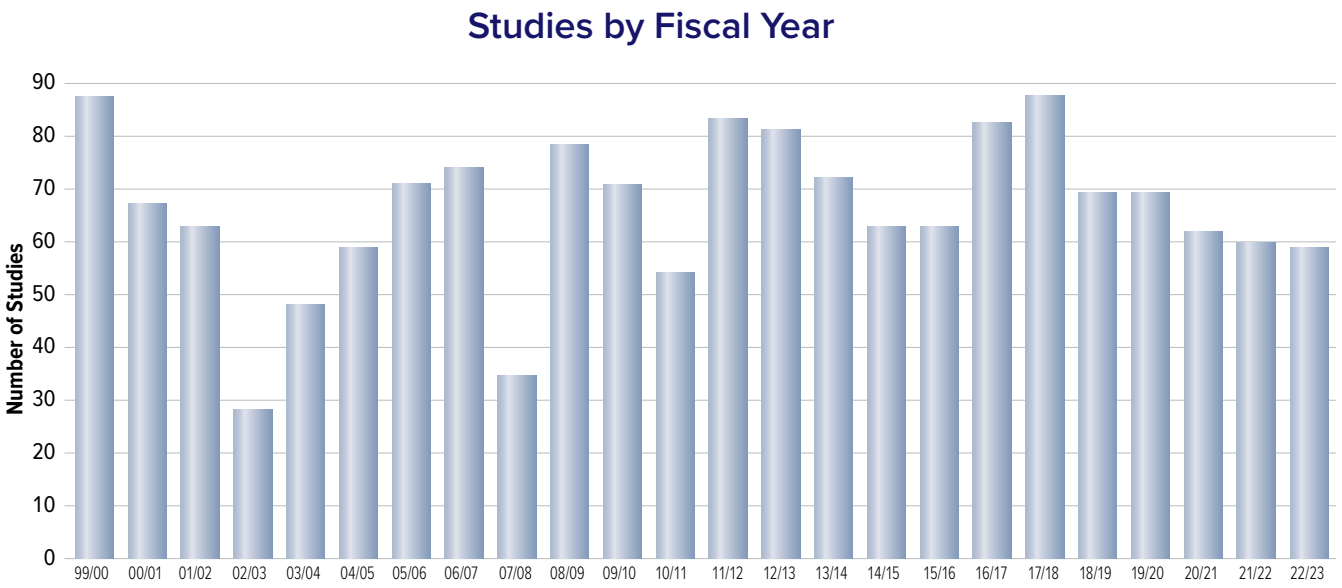
# About FCMAT

FCMAT's primary mission is to assist California's local TK-14 educational agencies to identify, prevent, and resolve financial, human resources and data management challenges. FCMAT provides fiscal and data management assistance, professional development training, product development and other related school business and data services. FCMAT's fiscal and management assistance services are used not just to help avert fiscal crisis, but to promote sound financial practices, support the training and development of chief business officials and help to create efficient organizational operations. FCMAT's data management services are used to help local educational agencies (LEAs) meet state reporting responsibilities, improve data quality, and inform instructional program decisions.

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

When a request or assignment is received, FCMAT assembles a study team that works closely with the LEA to define the scope of work, conduct on-site fieldwork and provide a written report with findings and recommendations to help resolve issues, overcome challenges and plan for the future.




FCMAT has continued to make adjustments in the types of support provided based on the changing dynamics of TK-14 LEAs and the implementation of major educational reforms. FCMAT also develops and provides numerous publications, software tools, workshops and professional learning opportunities to help LEAs operate more effectively and fulfill their fiscal oversight and data management responsibilities. The California School Information Services (CSIS) division of FCMAT assists the California Department of Education with the implementation of the California Longitudinal Pupil Achievement Data System (CALPADS). CSIS also hosts and maintains the Ed-Data website (www.ed-data.org) and provides technical expertise to the Ed-Data partnership: the California Department of Education, EdSource and FCMAT.

FCMAT was created by Assembly Bill (AB) 1200 in 1991 to assist LEAs to meet and sustain their financial obligations. AB 107 in 1997 charged FCMAT with responsibility for CSIS and its statewide data management work. AB 1115 in 1999 codified CSIS' mission.

AB 1200 is also a statewide plan for county offices of education and school districts to work together locally to improve fiscal procedures and accountability standards. AB 2756 (2004) provides specific responsibilities to FCMAT with regard to districts that have received emergency state loans.

In January 2006, Senate Bill 430 (charter schools) and AB 1366 (community colleges) became law and expanded FCMAT's services to those types of LEAs.

On September 17, 2018 AB 1840 was signed into law. This legislation changed how fiscally insolvent districts are administered once an emergency appropriation has been made, shifting the former state-centric system to be more consistent with the principles of local control, and providing new responsibilities to FCMAT associated with the process.

Since 1992, FCMAT has been engaged to perform more than 1,400 reviews for LEAs, including school districts, county offices of education, charter schools and community colleges. The Kern County Superintendent of Schools is the administrative agent for FCMAT. The team is led by Michael H. Fine, Chief Executive Officer, with funding derived through appropriations in the state budget and a modest fee schedule for charges to requesting agencies.

# Introduction

## Background

Santa Clara County is located in Northern California in the southern Bay Area. There are approximately 234,000 students countywide in 33 school districts and 60 charter schools. The countywide average percentage of students who are English language learners, foster youth, or eligible for free or reduced-price meals is 45%. The county office of education employs approximately 1,576 full- and part-time employees.

The Santa Clara County Office of Education operates many programs, including a special education program, Early Head Start and Head Start programs, environmental education program (Walden West), alternative education (community and court schools), migrant education program, Opportunity Youth Academy, and programs for foster youth and homeless students.

The county office's annual revenues for 2022-23 were $340,417,478 for the county schools service fund. The county office offers numerous services to districts, from library services and fingerprinting to technology and data services to an educator preparation program.

The Santa Clara County Board of Education consists of seven members, and the county superintendent is appointed by the board rather than being elected like most county superintendents in California.

## Study and Report Guidelines

In July 2024, the Santa Clara County Office of Education and the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement for FCMAT to conduct a review of the county office's executive administration (cabinet) and risks related to governance or leadership.

FCMAT visited the district on July 15 and 16, 2024 to conduct interviews with district and school staff, collect data and review documents. Following fieldwork, FCMAT continued to review and analyze documents. This report is the result of those activities.

FCMAT's reports focus on systems and processes that may need improvement; it does not generally comment on those that may be functioning well. In writing its reports, FCMAT uses the Associated Press Stylebook and its own short, internal style guide, which emphasize plain language, capitalize relatively few terms, and strive for conciseness, clarity and simplicity.

# Study Team

The study team was composed of the following members:

Tami Montero
Chief Analyst

John Von Flue
Chief Analyst

Edwards, Stevens & Tucker, LLP
Attorneys at Law
FCMAT Consultants

John Lotze
Technical Writer

Those members of this study team who are otherwise employed were not representing their employer but were working solely as independent contractors for FCMAT.

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

# Executive Summary

Appointed county superintendents are uncommon in California; only five in 58 are appointed. The more traditional model is for the superintendent to be elected by the voters and evaluated by the county board of education (BOE), whose members also must stand for election. Although the Education Code does not differentiate between elected and appointed superintendents in terms of their role, authority and responsibilities, the ability of appointed superintendents to operate independently can be hampered by the BOE.

The situation at the Santa Clara County Office of Education (SCCOE) between the Santa Clara County Board of Education (SCCBOE) and the office's administration has and continues to exhibit this type of dysfunction and has become dire. Despite having been the subject of a civil grand jury investigation and subsequent report in 2018 on this very matter, the situation continues and has declined further. An excerpt from the civil grand Jury report states the following:

> The Grand Jury found that an inherent tension exists between appointed superintendents and the appointing BOE. The Santa Clara County BOE has often exceeded its authority by entering into the day-to-day management of the SCCOE. The challenge of the Superintendent, who has independent constitutional and statutory authority, is appeasing - BOE trustees who, as a Board, has the authority to terminate the "at will" Superintendent.[1]

Unfortunately, this is still the case in 2024, six years after publication of the civil grand jury report.

This report includes recommendations to help improve the efficiency of the county office's cabinet, addresses indicators of risk related to governance and leadership processes, provides a comparison of similar county offices of education, reiterates the statutory functions of county offices of education, and outlines the role of the superintendent of schools and of county boards of education.

## Subsequent Events

The Santa Clara County Board of Education terminated the county superintendent's employment on October 3, 2024. FCMAT's fieldwork and this report were complete pending final editing and review at that time.

1. *Superintendent Turnover at the Santa Clara County Office of Education: Time to Elect the Superintendent*, Civil Grand Jury of Santa Clara County, June 19, 2018, page 2.

# Findings and Recommendations

# Organizational Structure and Staffing

County offices of education should be staffed according to the basic theories of organizational structure used in other school agencies of similar size and type. The most common of these theories are span of control, chain of command, and line and staff authority.

## Span of Control

Span of control refers to the number of subordinates who report directly to a supervisor.[2] Although there is no agreed-upon ideal number of subordinates for span of control, the span can be larger at lower levels of an organization than at higher levels, because subordinates at lower levels typically perform more routine duties and therefore can be more efficiently supervised.

## Chain of Command

Chain of command refers to the flow of authority in an organization. Chain of command is characterized by two guiding principles: unity of command, meaning that a subordinate is accountable to only one supervisor, thus eliminating the potential for an employee to receive conflicting direction and instruction from a variety of supervisors; and the scalar principle, meaning that subordinates at every level in the organization follow the chain of command and only communicate through their immediate supervisor. The result is a hierarchical division of labor in the organization.

## Line and Staff Authority

Line authority is the relationship between supervisors and subordinates and refers to the direct line in the chain of command.

A county office's organizational structure establishes the framework for leadership and the delegation of specific duties and responsibilities for all staff members. As the needs of the county office's programs and of the districts in the county change, the organizational structure should adapt as necessary to the changes.

## Functional Alignment

An organizational chart is important because it shows the structure and the relationship of all positions to one another. This document is also necessary to identify the chain of command and the functional areas for which each staff member is responsible. For clarity and consistency, titles on the organizational chart should match those on the approved job descriptions.

The purpose of the organizational structure is to help a county office's administration make key decisions to support the districts in the county, provide proper oversight, and facilitate student learning while balancing internal financial resources. The organizational design should outline the management process and its

2. R. C. Wood, D. C. Thompson, L. O. Picus and D. I. Tharpe, Principles of School Business Management, Association of School Business Officials International, 1995.

specific links to the formal system of communication, authority, and responsibility needed to achieve the organization's goals and objectives. Authority in a county office of education originates with the county superintendent, who serves as the employer of record and holds the responsibility to oversee and superintend the districts in the county. Through the superintendent, authority and responsibility are delegated to the county office's administration and staff.

Management positions are typically responsible for supervising employees and overseeing the work of the department for which they are responsible. They must ensure that staff members understand all county office policies and procedures and perform their duties in a timely and accurate manner. Managers must also serve as a liaison between their department and others to identify and resolve problems and design and modify processes and procedures as necessary. Management positions should not typically be responsible for the department's routine daily functions; these should be assigned to department support staff.

# Operational Relationship and Efficiency

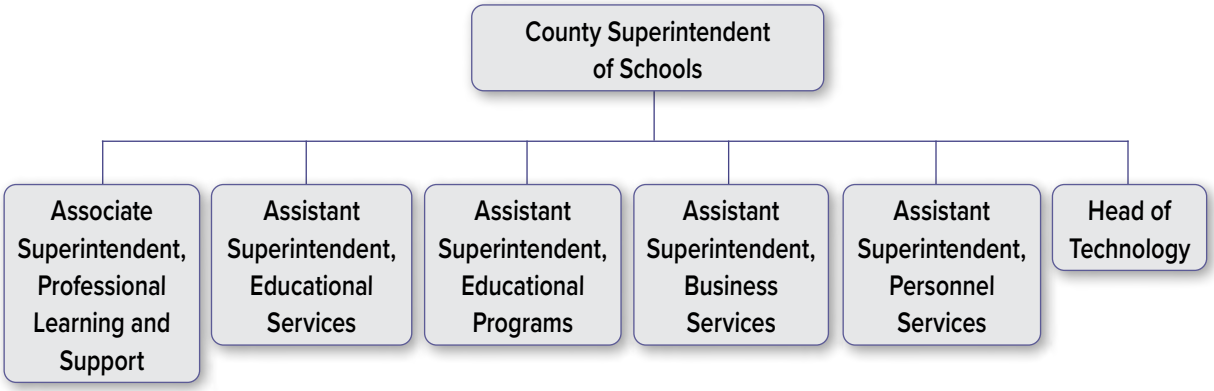
For an organization to function effectively, regular communication across the cabinet team is necessary. The best practice is for the cabinet to meet at least once a week to discuss current issues and upcoming events and maintain the organization's goals and mission. The lack of such meetings can result in wasted effort and an inability to remain focused on essential tasks. In addition, departments need to be able to communicate with each other for efficiency and collaboration. Departments should have physical access to each other as well so that issues that arise can be resolved.

Staff report that cabinet meetings occur regularly. Not only are the meetings productive, but they are also organized, and agendas are available for those who require access. The superintendent establishes the expectation that the meeting frequency and organization be maintained. This fosters communication among the cabinet, including the county superintendent, as well as healthy relationships and positive morale for this group of employees. In interviews, all cabinet members spoke highly of one another and their respective relationships with each other and with the county superintendent.

# Santa Clara County Office of Education Cabinet

The organizational chart for the cabinet at the county office includes six department leaders reporting to the county superintendent. This is a typical structure for a county office of education.

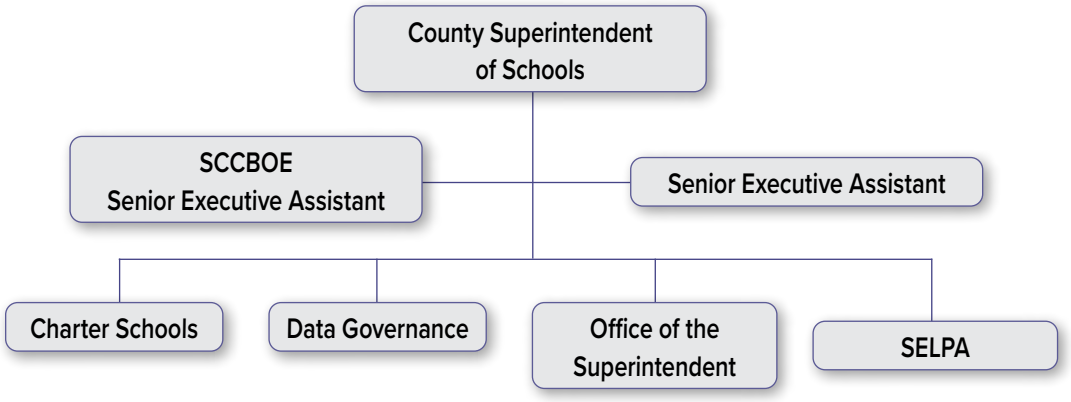
**Figure 1: Santa Clara County Office of Education Executive Leadership Organizational Chart**




Source: Santa Clara County Office of Education.

In addition to the cabinet members listed in the above organizational chart, the positions in the Executive Services Division also report directly to the county superintendent. Below is an organizational chart and summary of these positions:

**Figure 2: Santa Clara County Office of Education Executive Services Division Organizational Chart**




Positions in the Executive Services Division are as follows:

- Director – Charter Schools
- Director III – K-12 Data Governance
- Director III – Early Learning Data Governance
- Administrator – Superintendent's Projects
- Manager – Strategy and Implementation
- Director – Grants, Partnerships and Operations Office
- Executive Director – Government Relations
- Director – Policy Development and Administrative Programs
- Manager – Research Evaluation and Planning
- SELPA Executive Director

Under the Executive Services Division, there are 10 additional positions that report directly to the county superintendent. Excluding executive assistants, this brings the number of direct reports to 16. This is considerably more than the industry standard for county offices of education and can diminish the level of supervision and support between the superintendent and division leaders. Reassigning some positions to another cabinet member could resolve this issue.

# Recommendations

The county superintendent should:

1. Continue to hold cabinet meetings weekly, with agendas, and foster clear communication among the cabinet.

2. Consider reorganizing the Executive Services Division to reduce the number of positions that report directly to the county superintendent.

# Indicators of Risk Related to Governance

The Fiscal Crisis and Management Assistance Team (FCMAT) has created a list of Indicators of Risk or Potential Insolvency based on more than 30 years of experience with local educational agencies (LEAs) since the inception of Assembly Bill 1200 (Chapter 1213/1991). The list is revised periodically to ensure it remains relevant and helpful. Each indicator signifies a lack of function, commitment or attention to one or more critical elements of an LEA's operations. The existence of any one of these indicators increases the risk of insolvency and the need for assistance from outside agencies. Lack of attention to these critical areas will eventually lead to fiscal insolvency.

This document includes 20 indicators, one of which is "Weaknesses in Leadership and Stability." In this area, the indicators document identifies the following items:

- Frequent turnover in the CBO and/or superintendent positions (incumbents have been with the LEA less than two years).
- Lack of regular communication among the superintendent and all administrative cabinet members.
- Failure to provide timely training on financial management, budget and governance to the school and department administrators responsible for budget management and decision making.
- **Failure to follow, adopt, update, implement and/or communicate board policies and administrative regulations.**
- **Micromanagement by board members.**
- Systems fully or partially controlled by highly influential special interest groups.
- Failure to train board members in budget and governance at least every two years.
- Failure to perform the superintendent's evaluation according to the terms of their contract.

[Emphasis Added]

FCMAT evaluated the Santa Clara County Office of Education based on the indicators on this list and found that the only two indicators present in the county office were *Failure to follow, adopt, update, implement and/or communicate board policies* and *Micromanagement by board members.*

# Failure to Follow, Adopt, Update, Implement and/or Communicate Board Policies

The Santa Clara County Board of Education (BOE) has adopted bylaws regarding the role of the county board of education (Board Bylaw 9000), governance standards (Board Bylaw 9005), and code of conduct for the BOE (Board Bylaw 9006). Keeping board bylaws up to date is essential to proper governance. The bylaw regarding the role of the county board of education (Board Bylaw 9000) was last updated in 2011, and the other two were revised in 2019. Care should be taken to update the board bylaws to ensure that they comply with state laws and best practices. Also, reviewing board bylaws can remind the current board of the expectations regarding board behavior and other governance standards.

Board Bylaw 9322 states that the agenda for each board meeting is to be created jointly by the president of the board and the county superintendent, acting as the secretary of the board. It states the following:

Prior to placing an item on the Board agenda, the County Superintendent and the County Board President shall:

- Decide whether the request is within the subject matter jurisdiction of the County Board. Items not within the subject matter jurisdiction of the County Board may not be placed on the agenda.
- Determine if the item is merely a request for information or whether the issue is addressed by an existing County Board policy or administrative regulation before placing the item on the agenda.
- Decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item subject to County Board vote, an information item that does not require immediate action, or a consent item that is routine in nature and for which no discussion is anticipated.

The County Superintendent shall determine the impact of the item request on the operations of the office and assess the time required of staff and the fiscal impact on the office prior to placing the item on the agenda. If the item is determined to be within the Board's jurisdiction, the County Superintendent will report back to the Board and notify the requestor of the decision. The Board has the option of requesting an expedited process for time sensitive agenda item request. The Board President shall have the final approval authority for all agenda items so long as the agenda items approved are permitted by Education Code, Brown Act, and other applicable rules and regulations.

There have been several instances since February 2024, in which the board has added items to the agenda in closed session and not informed the county superintendent of the details. For example, the agenda for May 15, 2024 included an item in closed session, added by the board without details of the issue, that states four cases of employee discipline, dismissal, or release would be discussed. The board does not have statutory authority to discipline, dismiss or release any employees. The board has not been following Board Bylaw 9322, which states that the agenda should be created jointly with the superintendent, because the county superintendent has not been informed of the details of items that are added to the agenda, including some for which the board has no jurisdiction.

In addition, as made evident in a board meeting (described later in the report), one board member violated Board Bylaw 9011, Disclosure of Confidential/Privileged Information, by sharing sensitive personnel information about an administrator in the Head Start program.

The board has not been regularly updating or following bylaws, which is an indicator of risk related to governance.

# Micromanagement by Board Members

County boards of education have different roles and responsibilities than those at a school district in California. Many of the areas that the county board of education is attempting to control are those in which it has no jurisdiction. This topic is discussed further in the section of this report titled, County Board of Education Statutory Authority.

The issues raised by the board's micromanagement are multifaceted. The amount of time staff spend responding to board member requests is extensive and takes resources away from services to districts. One staff member reported not being able to attend countywide meetings to provide updates to the district attendees because of the volume of board requests and the time it takes to respond to them.

The amount of time spent responding to board requests is also negatively affecting the culture of the senior staff at the county office. Many staff reported working excessive hours attempting to respond to board requests. This is a departure from the mission and vision of the organization and its staff, who desire to focus their time and energy on supporting children. Resources are being spent on responding to board requests when they could be directed toward services for children and districts in the county.

Staff also indicate that in addition to micromanagement there is a lack of professionalism in how the board interacts with staff and the county superintendent. This can be seen in recorded board meetings when, during board committee reports, board members ask the county superintendent and staff questions and engage in discussions that are not relevant to the update but rather are about past and/or unrelated decisions that have been made. This type of dialogue is not provided for by or in accordance with the California Open Meetings Act (Ralph M. Brown Act).

## Board Meetings

Example evidence of questionable board behavior can be seen in two recent recorded board meetings. Based on interviews with staff, even more unprofessional behavior occurs outside of board meetings. Instances of this behavior are detailed below.

### June 5, 2024 Board Meeting: Board Member Calls a Head Start Policy Council Meeting without County Office Staff

The first example of the board acting with lack of authority can be seen at the 4:21 hour mark in the June 5, 2024 board meeting. At this time a Trustee was delivering a report from her position as policy council liaison for the Head Start Program. She stated that she was asked to call a special meeting by Head Start Policy Council members and that it was properly noticed 24 hours in advance. She used her own personal Zoom link, created the agenda herself, and conducted the meeting in the absence of county office staff. She shared that Superintendent Dewan notified her via text shortly before the beginning of the meeting with a message to cease and desist and terminate the meeting. The trustee continued in complete disregard of the cease-and-desist request. She proceeded to share details of the meeting and that it was primarily to discuss the "vote of no confidence" in the current interim executive director of the Head Start program and to direct the appointment process to fill the position of executive director of the Head Start program. She noted that there was not a quorum for this meeting, so no votes could be made. She also shared that the former executive director of the Head Start program was not only on leave but was placed on paid administrative leave, which violated confidentiality of a personnel matter, which should not be disclosed in an open meeting of the county board. She then asked Superintendent Dewan to explain who made the decision to put the former interim director on leave. Superintendent Dewan explained that this was a personnel matter and that it could not be discussed in the open meeting of the county board. The trustee then asked for a board discussion at the next board meeting in an effort to seek support from the board majority for her actions related to the policy council. Two board members responded, stating that they were uncomfortable: one was concerned about the actions of the fellow trustee; the other felt that, because no action was taken by the policy council, there was nothing to report at the board meeting, and asked to move to the next agenda item.

Thus, a board member acted without authority to hold and run a meeting without the participation of county office staff, continued with the meeting after being asked to cease and desist, and both shared details about a personnel matter and attempted to assert authority over the hiring of Head Start executive staff, which is an area in which the board has no authority. The role of Head Start liaison does not include authority for these actions. These micromanaging actions have the potential to create significant liabilities for the county office, which could result in fiscal implications for the board and/or the county superintendent.

In addition, sharing personnel information obtained in closed session is a violation of the county board of education's own Board Bylaw 9011, Disclosure of Confidential/Privileged Information.

## September 4, 2024 Board Meeting: Training on Head Start Program Provisions and Shared Governance Discussion

During this board meeting, the board was struggling with the statutory authority of the county superintendent as the employer of record for all staff at the county office. Several board members questioned county office staff regarding the process for hiring employees in the Head Start division and the role of the county superintendent in the process.

One board member implied that training on Head Start program provisions was only being offered as a result of the board member activities during the June 5, 2024 meeting. Staff refuted this comment and stated that this training is required at the start of each grant cycle.

During this meeting, board members questioned the structure of a shared governance system. The county board believes that the adopted Head Start policies provide more authority over the program than what is provided for in education code.

An excerpt of Board Policy 9020 is provided below. Items in bold are those which the county board of education has interpreted differently, as evidenced by comments and behavior at this board meeting. The Head Start agenda item and related policies and attachments are available online here.

> The Santa Clara County Board of Education (County Board) is **legally and financially responsible for the oversight of the Santa Clara County Office of Education (SCCOE) Head Start and Early Head Start grant**. Federal Regulations Title 45 CFR Part 1301.1 require an agency receiving a Head Start grant to maintain a formal structure for program governance that includes a governing body (County Board) and a policy council. Federal guidelines for Head Start programs call for the establishment and maintenance of a Head Start Policy Council. The Head Start program operated through the SCCOE shall establish and maintain such a Policy Council. **The Head Start Policy Council shares governance responsibility with the Santa Clara County Board of Education regarding decisions about program goals and plans, setting program policies and procedures, and budget allocations**.
>
> [Emphasis added.]

First, the board believes that the responsibility of oversight provides the basis for the board to have control over the hiring and release of staff. The policy clearly states that the board is responsible for oversight only. The Merriam-Webster Dictionary's definition of oversight is "watchful and responsible care." The second item in bold above clearly defines the shared governance responsibilities. Program goals and plan, setting policies and procedures, and budget allocations are all shared responsibilities. Board Policy 9020 does not provide for the board to be involved in hiring or firing program staff.

## Discussion on Shared Governance

The Head Start program has its own bylaws, independent of the county board of education's bylaws. In the Head Start program bylaws, the shared governance authority for the human resources functions is defined as follows:

> The policy council shares responsibility with the SCCOE Superintendent and Human Resources department to approve or disapprove the following for the Early Head Start and Head Start program:

- Program personnel policies and subsequent changes to those policies, including standards of conduct for the PC [policy committee], staff, consultants and volunteers
- Decisions to hire or terminate the Head Start director of the grantee
- Decisions to hire or terminate any person who works primarily for the Early Head Start or Head Start program of the grantee

[Clarity added by FCMAT]

These decisions are made by the Head Start Policy Council, the county superintendent and the Human Resources Department. Despite various interpretations, the county board of education has no direct authority in this shared governance structure.

The micromanagement by the board creates significant risk for the Santa Clara County Office of Education and has been a pervasive problem for more than a decade.

# Governance Standards

Boards of Education often self-regulate. When one board member is acting outside of professional governance standards, other board members sometimes step in and assist. A review of recorded board meetings indicates that this is not happening enough to prevent actions from being taken that exceed or violate professional governance standards and the county board's own bylaws.

The California School Boards Association (CSBA) has published professional governance standards for county boards of education. These standards describe the commonly agreed upon principles for the effective local governance of California's public schools. The standards reflect the consensus of hundreds of elected board members, superintendents and policy experts and are part of the California School Boards Association Effective Governance System and Masters in Governance curriculum. Following is an excerpt from the CSBA brochure on professional governance standards:

- Keep focused on student learning and achievement, as well as the role of the county office of education in providing services to school districts and the community.
- Work collaboratively with the county superintendent.
- Communicate a common vision.
- Operate openly, with trust and integrity.
- Govern in a dignified and professional manner, treating everyone with civility and respect.
- Govern within board-adopted policies and procedures.
- Take collective responsibility for the board's performance.
- Periodically evaluate its own effectiveness.
- Ensure opportunities for the diverse range of views in the community to inform board deliberations.

Based on recorded board meetings, several of these governance standards are not being followed.

The California School Boards Association has created a professional governance brochure specifically for county boards of education, which identifies the main responsibilities of county boards of education and the statutory areas of authority and tasks. It states the following:

> The primary responsibilities of the county board are to work with the superintendent to establish the direction and priorities for the county office of education through its budgetary responsibilities, and to provide leadership to support the success of public education. To fulfill these responsibilities, there are a number of specific jobs that effective boards must carry out.
>
> EFFECTIVE COUNTY BOARDS:
>
> - Maintain a cooperative and supportive working relationship with local school districts, their school boards and the community.
> - Collaborate with the superintendent so that the shared vision, goals and policies of the county office of education can be implemented.
> - Adopt, evaluate and update policies consistent with law and the county board's vision and goals.

- Maintain accountability for student learning in schools and programs operated by the county office of education.
- Adopt the annual budget and review interim reports of the county superintendent of schools.
- Approve the salary of the county superintendent.
- Review the real property audit and acquire or dispose of real property as necessary for county office of education schools and programs.
- Adopt policies to ensure that a safe and appropriate educational environment is provided for all its students.
- Conduct appeals on student expulsions and inter-district transfers.
- Conduct public hearings when appropriate.
- Fulfill statutory responsibilities in connection with charter schools.
- Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state and federal levels.

Based on interviews with staff, recorded board meetings, and agenda items from county board of education meetings, the county board is neither functioning in a manner aligned with the CSBA guidelines for governance standards nor performing within the boundaries of the primary responsibilities of a county board. Rather, board members are taking actions that have the potential to cause fiscal risks for the county office of education. In addition, the poor relationship between the board and the administration at the county office is diminishing the productivity of both entities, which in turn is diverting valuable resources away from the students of Santa Clara County.

# Comparison with Similar County Offices of Education

County superintendents provide a support system for school districts and charter schools, and have statutory responsibility to provide fiscal oversight, professional development opportunities, services to certain students that the LEAs cannot effectively or efficiently serve, and a variety of services to support LEAs and the students in their county. County superintendents are positioned to provide local services to address the specific and unique needs of the students in their county. County superintendents have the autonomy to use their resources to build a structure for oversight and services that meets the needs of their districts and of the students in their county. In addition, some counties provide additional support regionally and even statewide.

Each of the 58 counties in California is unique in the number of students served, the number and types of LEAs served, the challenges each student and district faces, and their needs for successful advancement and education. County offices of education are funded mainly by the Local Control Funding Formula, which provides a base funding amount for each county office, funding determined by the number of districts served, and funding for the total average daily attendance in the county. In addition, county offices of education offer and/or coordinate special and alternative education services that districts are unable to offer effectively and efficiently because of their unique and specialized nature. They receive funding for the population of alternative education students served, which include those in the juvenile justice system, probation referred, on probation, or under mandatory expulsion. County offices also often seek competitive funding for providing specialized services to their county as well as for regional needs and statewide initiatives.

Because they provide oversight and support for districts, superintendents need to attract and retain knowledgeable and adept personnel. Optimally, these staff have advanced experience and specialized expertise to provide the oversight, support and enrichment for the LEAs and students they serve.

To evaluate the executive leadership structure of the Santa Clara County Office of Education, FCMAT used the structure of five similarly sized county offices as a comparison. The number of students in the county, the number of local education agencies in the county, the unduplicated pupil percentage,[3] and funding were used as points to evaluate the executive structure of the county office.

Whether appointed or elected, county superintendents have the authority to align their leadership to their preferred organizational structure. Each superintendent organizes, labels and staffs their county office in an effort to best meet their needs and opportunities. Some county superintendents prefer to have a greater span of control and practice greater direct authority than others. All county offices reviewed had the same core departments, including business/fiscal, human resources/personnel, educational/student services, and instructional support services, with cabinet representation from each department. In addition, technology, communications and state governmental relations were commonly found. Some county offices also had cabinet-level representation for other significant services such as charter schools, alternative education, and community and local governmental relations.

The scope and span of leadership differ from county to county, complicating a direct comparison. In addition, the county offices reviewed use various titles for superintendent support positions: deputy, associate and assistant superintendent, as well as senior chief, chief and head are used to indicate top support leadership, while executive director and director titles are used to identify the next level of leadership. In addition, most counties have a legal counsel position in their senior leadership ranks.

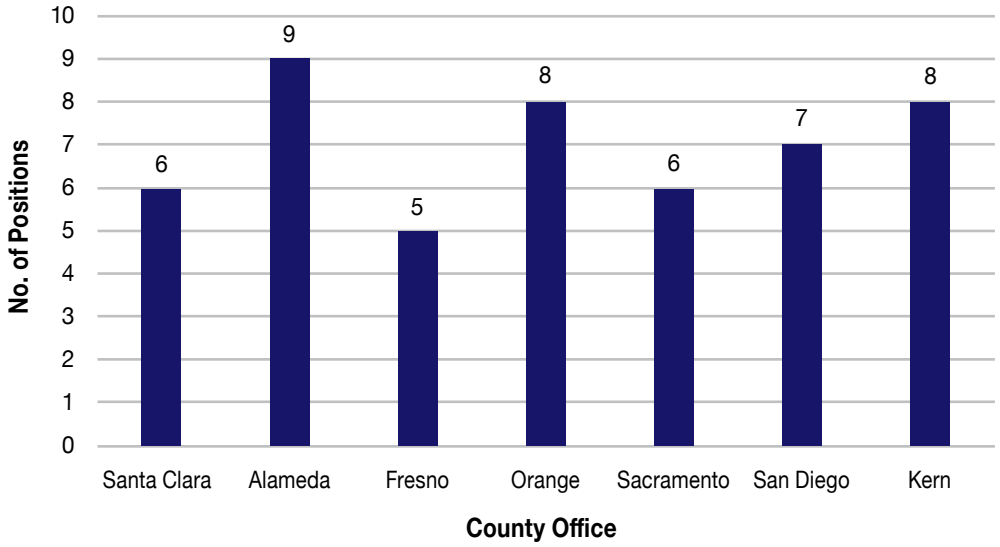
3. This is the percentage of students who qualify for free or reduced-price meals, are foster youth, or are English learners. Each student is counted only once, even if they fall into more than one of these categories.

# Cabinet Positions

For this review, executive leadership was limited to cabinet support leadership as identified in the previous paragraph and excludes the county superintendent. At the superintendent's preference, the superintendent's responsibilities are either distributed among these leadership positions or retained by the superintendent for direct involvement and oversight.

The comparison counties have from five to nine cabinet positions that report directly to the county superintendent, as shown in the chart below:

**Figure 3: Number of Cabinet Positions in Comparison County Office of Education**




Sources: County office of education websites, publications and organizational charts.

The average number of cabinet positions is seven. The Santa Clara County Office of Education maintains six cabinet positions, which is in the range of the comparable county offices and may or may not be adequate depending on the authority and support given to those positions. The Santa Clara County superintendent, in a unique format, chooses to maintain direct oversight of several programs labeled "executive services" that other county superintendents delegate to their top leadership.

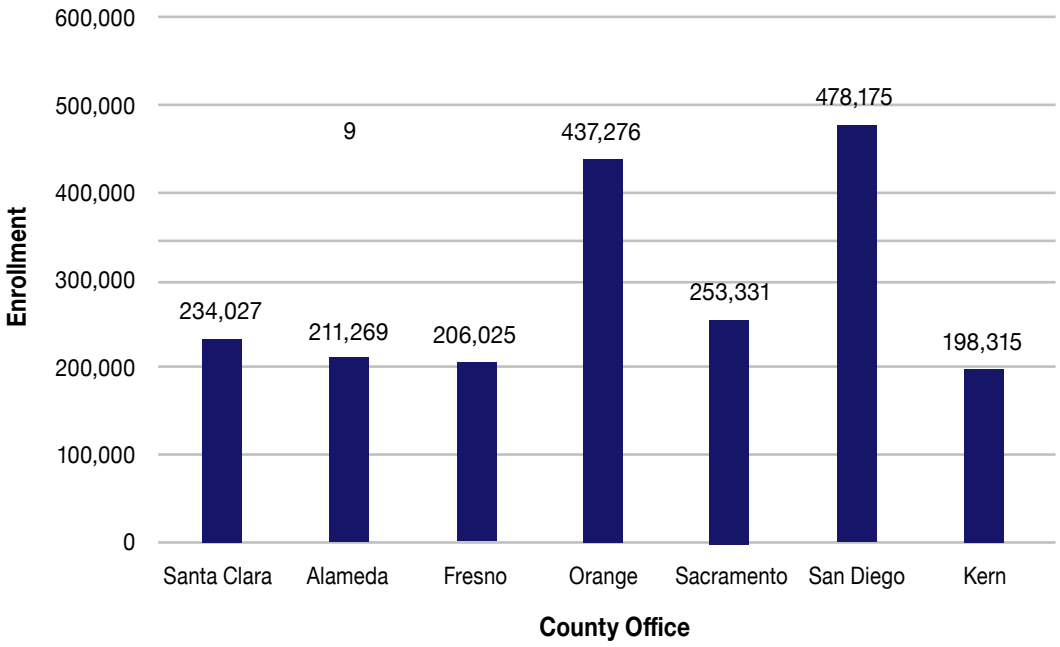
A review of the demands on the county office may help determine the adequacy of this structure, with the assumption that more students and LEAs in the county creates more need for services based on student demographics, and that the more revenue the county receives, the more leadership support the superintendent needs.

# County Enrollment and LEAs

The enrollment of students and the services to LEAs in the county can provide an indication of the scope and size of oversight and support needed.

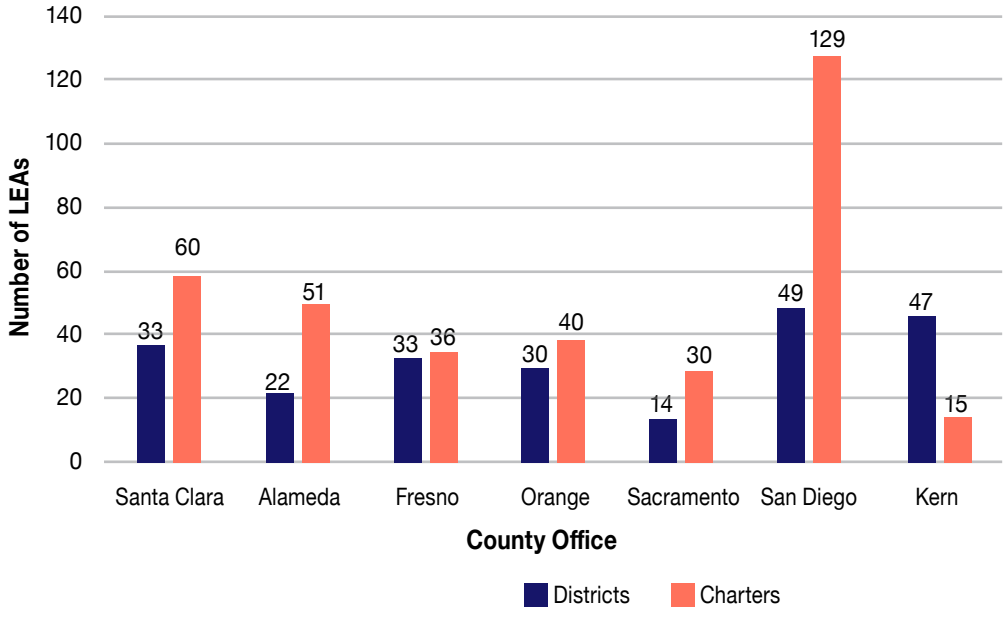
The following chart shows countywide enrollment for the comparison county offices.

**Figure 4: Countywide Enrollment for Comparison County Offices of Education**




Source: Ed-data.org Census day enrollment 2023-24.

**Figure 5: Number of LEAs in Comparison County Offices of Education**




Source: Ed-data.org LEAs 2023-24.

As shown in the charts above, Santa Clara County LEAs serve approximately 234,000 students in 33 school districts and 60 charter schools. This indicates that the Santa Clara County Office of Education is serving in the midrange of the comparison county offices in terms of both students served and districts

served. Santa Clara serves the second-highest number of charter schools and total LEAs in the comparison group.

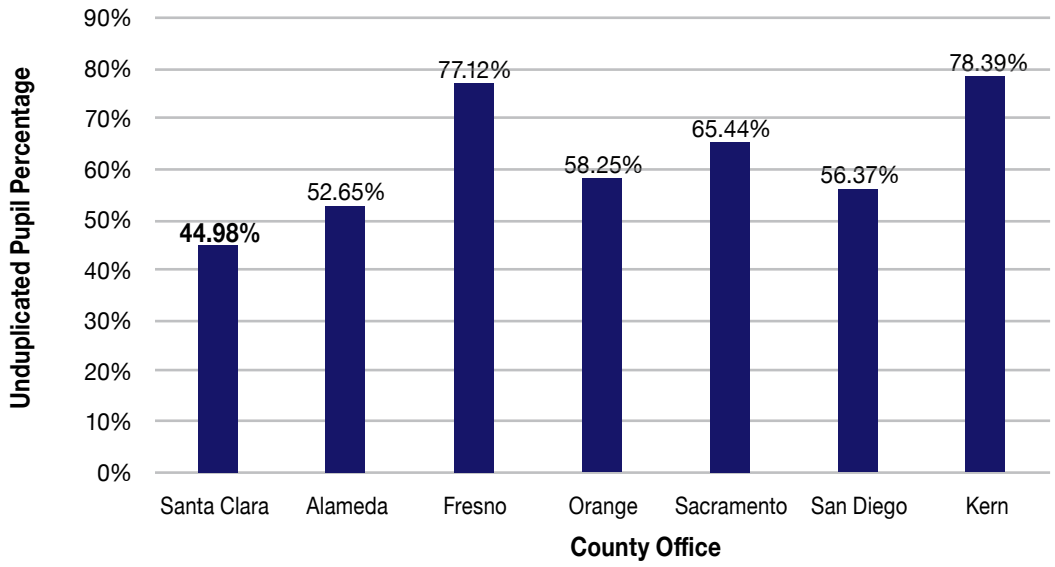
In general, the more students and LEAs a county office serves, the greater the demands on it are, and therefore the more leadership support it may need.

# Demographics

Student demographics typically drive student need. This is why the Local Control Funding Formula (LCFF), by which state-funded LEAs receive a base level of funding that varies by grade span, also includes supplemental grant and concentration grant funding that is calculated based on the number and concentration of students identified as socioeconomically disadvantaged, English learners, and foster youth. The unduplicated pupil percentage (UPP) which is the percentage of these identified pupils, is a measure used to qualify LEAs for additional LCFF funding. A higher percentage indicates that an LEA is serving more students in these categories and is thus providing a greater level of service.

The chart below shows the UPP for the comparison county offices.

**Figure 6: Unduplicated Pupil Percentage in Comparison County Offices of Education**




Source: Ed-data.org 2023-24.

The unduplicated pupil percentage (UPP) in Santa Clara County is 44.98%; this is the lowest percentage in the comparison group. The lower UPP indicates that the support for its student population is expected to be less demanding than those with a higher UPP. As such, Santa Clara County's student population may require less additional support compared to the other county offices, resulting in less demands on leadership.

# Revenues

The state and other funding agencies make great efforts to align funding with the expected work required. The LCFF revenue for county offices is based on a calculation that includes districts and students served

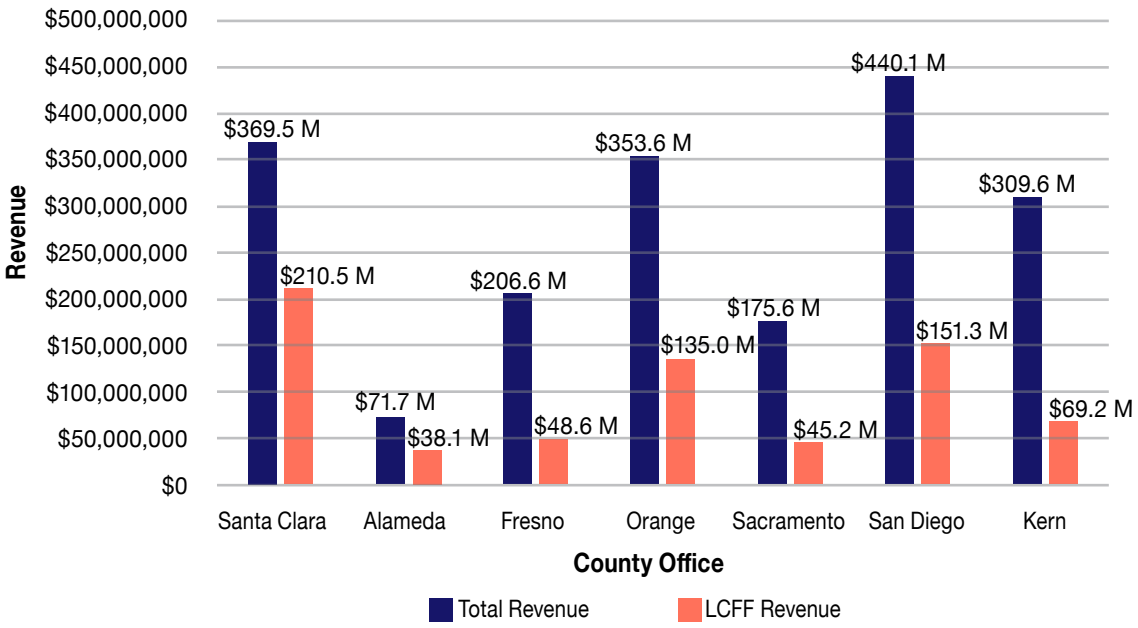
and is supplemented by identified additional needs. Competitive grant funding is sized by the efforts needed to complete the services requested.

County offices of education also provide programs to local and regional LEAs using a fee-for-service model. The cost of local services must be commensurate with the services received; if they are not, it is likely that LEAs will seek alternative providers.

Under this framework, the amount of revenue a COE receives should somewhat align with the support, services and programs it provides. Hence, the greater the revenue, the more effort required and the more support the superintendent needs.

The chart below shows the total revenue of each comparison county office and the amount of that revenue that is derived from LCFF sources:

**Figure 7: Comparison County Office Total Revenue and LCFF Revenue**




Source: County office of education websites, 2024-25 budgets, and 2022-23 local control and accountability plan (LCAP) for Fresno.
Note: dollar figures within the chart are in millions.

As shown in the chart above, Santa Clara County Office of Education is the second-highest funded county office in the comparison. It also receives the greatest amount of LCFF funding because of a hold-harmless provision provided when LCFF was implemented. The revenue in addition to LCFF shows to some degree the county office's support activity beyond its statutory role, which requires additional staffing, coordination and, ultimately, leadership. This differential for Santa Clara County Office of Education is approximately $159 million annually, which is the third lowest out of the comparison group, indicating that the activities beyond the statutory services are less than those of four of the COEs in the comparison.

**Table 1: Santa Clara County Office of Education Ranking Among Comparison Districts**

| Comparative | Rank out of Seven | Executive Need |
|---|---|---|
| Student enrollment | 4 | Average |
| Districts | 3 | Average |

| | | |
|---|---|---|
| Charters | 2 | Greater |
| Demographics | 7 | Lesser |
| Revenues – base | 1 | Greater |
| Revenues – supplemental | 5 | Lesser |

As shown in the table above, the Santa Clara County Office of Education's staffing of its cabinet is greater than that of two comparison COEs and less than that of two comparison COEs. The base revenue received and the number of charters served indicate a greater need, while the student demographics and supplemental revenues indicate a lesser need than other county offices. With its current staffing level of six positions, the Santa Clara County Office of Education cabinet has one position less than the average.

# County Board of Education Statutory Authority

The county superintendent of schools and the county board of education are each constitutionally provided for and have separate duties and responsibilities. This is true whether the superintendent is elected, as is the case in most counties, or appointed, as is the case in Santa Clara County. The responsibilities and authority of the county board of education remain the same regardless of whether the county superintendent is elected or appointed.

The Indicators of Risk Related to Governance section of this report discussed issues related to the board assertion of authority over staffing decisions and staff discipline or dismissal. This section will address those topical areas first and then discuss more broadly a county superintendent of schools' authority versus a county board of education's authority.

## Staffing Decisions, Discipline and Dismissal

There is a significant difference between the role of county board of education and that of a school district governing board. The county superintendent of schools is the employer charged with managing county office of education personnel. This includes all staffing determinations, including setting the salary and the need for current and new staff positions. Numerous statutory references confirm that the superintendent, not the county board, is the employer of record, including Education Codes (EC) 1703, 1730, 1740, and 1750 for certificated employees, and 1311 for classified employees. In contrast, district governing boards have responsibility for staffing, personnel, collective bargaining, and many other matters related to staff.

Decisions regarding discipline, dismissal, layoff, evaluation and leave for employees are the responsibility of the county superintendent, with the exception of sabbatical leave for certificated employees, which requires county board approval (EC 1294). Discipline and dismissal of classified employees is also the responsibility of the county superintendent, subject to rules and procedures created by a personnel commission (if there is one), collective bargaining agreements, and state law. The county superintendent is in charge of evaluations and layoffs, subject to any collective bargaining agreement.[4]

The Santa Clara County Board of Education has often stated that their authority comes from the title of "governing board." This is a title and does not afford the board any authority greater than what is provided for by law. The title of governing board does not denote authority; it is simply a commonly used term that describes a body of persons in that role. It does not convey any additional authority.

4 Source: California County Superintendents' publication titled, *Statutory Functions of County Superintendents of Schools and County Boards of Education*, page 22

# County Superintendent and County Board Authority

A county superintendent of schools and county board of education have some independent and some overlapping areas of authority. The California Constitution, Education Code, and Government Code delineate their respective powers and responsibilities. The law here does not distinguish between county superintendents who are elected and those who are appointed — it has no impact on the scope of a county superintendent's authority and duties.

## The County Office of Education as an Educational Agency

| Citation | Summary |
|---|---|
| *Cal. Const., Article IX, Section 3.* | *In each county, a superintendent of schools may be elected at each gubernatorial election or may be appointed by the county board of education.* |
| *Cal. Const., Article IX, Section 3.1* | *The Legislature must prescribe the qualifications required for the office of county superintendent.* |
| *Cal. Const., Article IX, Section 3, Article IX; Educ. Code § 1621* | *The county superintendent is a constitutional officer with the authority to administer the county office of education and its budget.* |
| *Educ. Code § 1010* | *The county superintendent of schools is the ex officio secretary and executive officer of the county board of education.* |
| *Educ. Code § 1290* | *The county superintendent may appoint a deputy superintendent if he or she wishes.* |
| *Educ. Code § 1240* | *The county superintendent of schools is required to superintend the schools of the county, visit the schools of the county, distribute all laws and reports received for the use of school officers, keep all reports from the Superintendent of Public Instruction, maintain a record of the proceedings of the county board of education, enforce the course of study, enforce the use of state textbooks, preserve carefully all reports of school officers and teachers, deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the CDE, submit to the county board of education two interim reports each fiscal year, act, when requested, as agent for the purchase of supplies for the city and high school districts of his or her county, and report to the California Commission on Teacher Credentialing (CTC) false reports of expenditures.* |
| *Educ. Code §§ 1293, 1294* | *A county superintendent may enter into contracts of employment.* |
| *Educ. Code § 1302* | *The county superintendent may not increase the salary or provide a bonus of any county office of education employee by $10,000 or more or increase the retirement benefits unless the matter is brought to the attention of the county board of education for discussion at a regularly scheduled meeting.* |
| *Gov. Code § 24000* | *The county superintendent of schools is considered a county officer.* |
| *Gov. Code § 24100* | *A county superintendent may utilize their powers through deputies.* |
| *Gov. Code § 24101* | *A county superintendent may appoint as many deputies as necessary for prompt and faithful discharge of the duties of the office.* |
| *Gov. Code § 24105* | *If the office of the county superintendent of schools is vacant, the duties of the office may temporarily be discharged by chief, assistant or deputy of such officer as the case may be next in line in authority to such county officers at the time the vacancy occurs.* |
| *Educ. Code §§ 1008, 5090* | *The county superintendent accepts district trustee and county board of education member resignations.* |
| *Educ. Code §§ 5091, 5302* | *The county superintendent calls district trustee and county board of education member elections, including elections to fill vacancies.* |
| *Educ. Code § 1605* | *The county superintendent has the authority to enter into contracts and make purchases of personal property.* |
| *Educ. Code § 1279* | *The county superintendent may dispose of personal property pursuant to certain restrictions.* |

| Citation | Summary |
|---|---|
| *Educ. Code §§ 42636, 42639* | *The county superintendent shall examine pay orders and issue warrants for school districts.* |
| *Educ. Code § 12400* | *County superintendents are authorized to: (1) perform acts necessary to receive the benefits and spend funds provided by an act of Congress, and (2) cooperate with, or enter into agreements with, the federal government or any agency thereof, the State Board of Education, school districts, and private or public nonprofit organizations in order to receive the benefits and spend funds provided by the act of Congress.* |
| *Cal. Const., Article IX, Section 7* | *The Legislature is required to provide for the appointment or election of a county board of education in each county or for the election of a joint county board of education for two or more counties.* |
| *Cal. Const. Article IX, § 3.1(b)* | *County boards of education are also required to "fix the salary of the county superintendent of schools" subject to enumerated restrictions.* |
| *Educ. Code § 1000* | *The county board of education must consist of five or seven members each elected from a trustee area which the member represents. In charter counties, the selection of members of the county board of education is prescribed in the county charter or by the board of supervisors. In a county with one unified school district or elementary school district which includes all of the territory over which a county superintendent has jurisdiction, the governing board of the district shall serve as the county board of education.* |
| *Educ. Code § 1040* | *A county board of education is required to adopt rules and regulations consistent with the laws of the state for their own government, keep a record of their proceedings and approve the annual budget of the county superintendent of schools.* |
| *Educ. Code § 1042* | *County boards of education may adopt and use an official seal, adopt rules and regulations governing the administration of the office of the county superintendent of schools, review the annual estimate of revenues and expenditures, acquire, lease-purchase and convey real property if these duties and functions have been transferred from the county board of supervisors and contract for special services.* |
| *Educ. Code §§ 1043, 1080* | *A county board of education may have transferred from the county board of supervisors some or all duties and functions previously performed by the board of supervisors (which makes the county office "fiscally independent" of the board of supervisors; 55 of the 58 county offices, including Santa Clara, are fiscally independent).* |
| *Educ. Code §§ 1294* | *Sabbatical leave must be approved by the county board of education.* |
| *Educ. Code § 1295* | *Certificated employee leaves of absence must be approved by the county board of education, but leave is a subject of collective bargaining.* |
| *Educ. Code §§ 1040, 1042* | *The Education Code outlines only three circumstances where the county board of education has the authority to enter into contracts: (1) to acquire, lease, lease-purchase, hold and convey real property; (2) to appoint outside counsel in limited situations, and (3) to retain specially trained person to provide special services and advice in the areas of finance, economics, accounting, engineering, law, or administrative matters.* |
| *Educ. Code § 5094* | *The county board of education fills by appointment of the Board President, any seat(s) on a school or community college district governing board with a member(s) of the county board of education when a majority of those seats are vacant.* |
| *Educ. Code § 1081* | *In fiscally independent counties, the county board of education adopts regulations for the county superintendent to pay, in accordance with the regulation, the travel expenses incurred by the county superintendent and by county office staff.* |
| *Educ. Code § 1090* | *The county board of education establishes the compensation of county board of education members, pursuant to restrictions established by county board of supervisors.* |
| *Gov. Code §§ 53821-53822.* | *The county board of education approves any short-term borrowing by the county office.* |
| *Educ. Code § 1000 (b).* | *Upon receipt of a petition from 500 or more public high school students, or not less than 10 percent of public high school students within the county, the county board of education appoints one or more pupils to serve as nonvoting county board of education members. This authority is optional until July 1, 2023, and mandatory as of that date.* |

| Citation | Summary |
|---|---|
| *Educ. Code § 44332* | *The county board of education issues temporary certificates that authorize the payment of salary to teachers or children's center personnel whose credentials or permits are being processed if certificated persons meet the conditions specified in Education Code Section 44332. The county board of education is responsible for canceling said certificates upon notification that the certificate holder does not meet the requirements for the credential.* |

# Oversight Over School Districts

| Citation | Summary |
|---|---|
| *Educ. Code § 41020* | *Commencing with the 2004-2005 audit of local educational agencies, each county superintendent of schools shall include in their review of audit exceptions performed, those audit exceptions related to the use of instructional materials program funds, teacher misassignments, information reported on the school accountability report card, and shall determine whether the exceptions were either corrected or an acceptable plan of correction was developed.* |
| *Educ. Code § 42127.6* | *The county superintendent of schools shall report to the Superintendent of Public Instruction on the financial condition of school districts unable to meet their financial obligations, and may assign the Fiscal Crisis and Management Assistance Team (FCMAT) to review teacher hiring practices, teacher retention rates, the percentage of highly qualified teachers, and the extent of teacher misassignment in the school district, and provide the district with recommendations to streamline and improve the teacher hiring process, teacher retention rate, extent of teacher misassignment, and percentage of highly qualified teachers. If a review team is assigned to a school district, the district must follow the recommendations of the team, unless the district shows good cause for failure to do so.* |
| *Educ. Code § 44258.9* | *The county superintendent of schools is required to annually monitor and review school district certificated employee assignment practices and give priority to schools that are likely to have problems with teacher misassignment and teacher vacancies based on past experience or other information, and to give priority to schools ranked in deciles 1-3, inclusive, if those schools are not currently under review in a state or federal intervention program. Each county superintendent of schools is required to investigate school and district efforts to ensure that any credentialed teacher working with limited English proficient students has completed the required training.* |
| *Educ. Code § 42131* | *As to any school district having a negative or qualified certification, the county superintendent of schools must exercise his or her budget oversight authority as necessary.* |
| *Educ. Code § 42103* | *Publish notice of the date, time and location of the negative or qualified certified district's board meeting to adopt the proposed budget and where it may be inspected.* |
| *Educ. Code § 1241.5* | *The county superintendent may audit the expenditures and internal controls of school districts and charter schools if he or she suspects fraud or a lack of fiscal accountability.* |
| *Gov. Code § 3540.2* | *County superintendents are required to review and comment on any proposed collective bargaining agreement of a qualified or negative certified district to determine if the agreement would endanger the fiscal well-being of the district.* |
| *Educ. Code § 41320* | *County superintendents are required to review emergency loan requests from school districts within their jurisdiction to the state.* |
| *Educ. Code § 47604.4* | *County superintendents may investigate and monitor the operations of a charter school based upon written complaints by parents or other information that justifies the investigation.* |
| *Educ. Code § 2600* | *County superintendents must inquire and ascertain whether the boundaries of the school districts and community college districts in their county are definitely and plainly described in the records of the county board of supervisors, and to keep a full and correct transcript of the boundaries in his or her office.* |
| *Educ. Code § 1244* | *By July 15 of each year, the county superintendent submits a complete report to the SPI of the attendance credited to public schools in the county for the school year ending June 30.* |
| *Educ. Code § 52055.740* | *The county superintendent reviews all schools in the county receiving Quality Education Investment Act (QEIA) funding to determine whether the school has met all of the QEIA program requirements by the end of the third full year of funding.* |

| Citation | Summary |
|---|---|
| *Pub. Cont. Code § 20113* | *The county superintendent reviews and approves emergency contracts approved by district boards that were not subject to the public bidding process.* |
| *Educ. Code § 17150.1* | *The county superintendent reviews and comments on all district non-voter-approved debt, such as certificates of participation.* |
| *Educ. Code § 42127.01 (b)* | *The county superintendent considers a waiver request submitted by a district subject to the 10% cap on general fund reserves in any year where the reserve cap is triggered.* |
| *Educ. Code § 35700.1* | *County superintendents have authority to provide assistance in connection with school district reorganizations through the services of the county committee on school district organization.* |
| *Educ. Code § 46601* | *Pupils may appeal the denial of interdistrict transfers to the county board of education.* |
| *Educ. Code §§ 47605, 47607* | *The county board of education may hear appeals by charter petitioners who have had their petitions denied, not renewed, or revoked by a district board within the county board of education's jurisdiction.* |
| *Educ. Code §§ 4020-4021* | *In more than 30 counties, the county board of education serves as the county committee by order of the State Board of Education.* |

# Budget

| Citation | Summary |
|---|---|
| *Educ. Code § 1240* | *The county superintendent of each county, to the extent that funds are appropriated, to annually present a report to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county, describing the state of the schools in the county that are ranked in deciles 1-3, which shall include observations while visiting the schools. The visits must be conducted at least annually while the reports are made quarterly. At least 25 percent of the visits must be unannounced.* |
| *Educ. Code §§ 1621, 14050.* | *In fiscally independent counties, the county superintendent of schools submits the proposed budget to the county board of education in the form prescribed by the Superintendent of Public Instruction.* |
| *Educ. Code § 1240* | *The county superintendent is required to prepare two interim financial reports for board approval.* |
| *Educ. Code §§ 1040, 1602* | *The county superintendent is responsible for the administration of the budget after approval by the Superintendent of Public Instruction.* |
| *Educ. Code §§ 1280, 1281* | *The county superintendent can spend within major budget categories without further approval; however, budget funds cannot be transferred from unappropriated fund balance without approval of the county board of education. A budget revision by the county superintendent in excess of $25,000 or a consultant contract for $25,000 or more is required to be incorporated in the next interim financial report or other board report when the report is submitted to the county board of education for discussion and approval at a regularly scheduled public meeting.* |
| *Educ. Code § 44258.9* | *The county superintendent monitors credentials of employees in districts within the county.* |
| *Educ. Code § 52066* | *Each county superintendent of schools must develop a county local control and accountability plan (LCAP) for the schools and programs directly generating LCFF funding for the county office and present the LCAP to the county board of education for adoption by July 1.* |
| *Educ. Code § 52064.1.* | *The county superintendent prepares the LCFF budget overview for parents on the template provided by the Superintendent of Public Instruction.* |
| *Educ. Code § 52060* | *The county superintendent receives the LCAP of school districts and must either approve or deny the LCAP on or before October 8 of each year.* |
| *Educ. Code § 1040 (c).* | *In fiscally dependent counties, the county superintendent submits a proposed annual budget for approval to the county board of education. The county board of education must approve the proposed budget prior to its submission to the county board of supervisors for final approval.* |
| *Educ. Code §§ 1040, 1620* | *On or before July 1 of each year, the board holds a public hearing on the proposed budget and county office LCAP. The county board of education is directed to adopt and approve an annual budget and file the budget with the Superintendent of Public Instruction.* |

| Citation | Summary |
|---|---|
| *Educ. Code § 1622* | *On or before September 8, the county board of education is required to revise the budget to reflect changes made necessary by revised projections of income and expenditures and to file that budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. Alternatively, the county board may adopt a single adoption procedure.* |
| *Educ. Code § 1042* | *The county board of education is permitted, but not required, to review the county superintendent of schools' annual itemized estimate of anticipated revenue and expenditures before it is filed with the county auditor and make any revisions, reductions or additions it deems advisable and proper.* |
| *Educ. Code § 1240* | *The county board of education is required to review two interim financial reports submitted by the superintendent. Both reports must be reviewed by the board and approved by the county superintendent within 45 days of the close of the reporting period.* |
| *Educ. Code § 1040* | *The county board of education is required to review the report of the annual audit prepared by the county superintendent.* |
| *Educ. Code § 1629* | *The county board of education must annually adopt a resolution on or before October 15, identifying the estimated appropriations limit (Gann Limit) for the current fiscal year and the actual appropriations limit for the prior fiscal year.* |
| *Educ. Code § 1621 (c)* | *The county board of education may designate a fund balance for a specific purpose. If a designated fund balance is created, a majority vote of the county board of education is required to appropriate funds from the balance.* |
| *Educ. Code § 1622* | *On or before October 8, the county superintendent and the county board shall review and respond to the Superintendent of Public Instruction's recommendations regarding the budget at a regularly scheduled meeting.* |
| *Educ. Code §§ 1040, 1620, 1622 (a).* | *On or before July 1 of each year, the county board of education holds a public hearing on the proposed budget. The hearing must be held prior to budget adoption by the board, and no sooner than three days after the proposed budget is made available for public inspection. The budget must be approved and filed with the Superintendent of Public Instruction.* |
| *Educ. Code § 1622* | *The LCAP must be adopted by the county board of education prior to the approval of the budget. Every budget must include the expenditures identified in the LCAP that will be effective for the budget year.* |

# Educational Programs

| Citation | Summary |
|---|---|
| *Educ. Code § 1260* | *A county superintendent may, with the approval of the county board of education, conduct educational studies, maintain exhibits of educational programs and subscribe for membership in organizations whose purpose is the advancement of public or private education.* |
| *Educ. Code § 52301* | *The county superintendent, with the consent of the State Board of Education, has the discretionary authority to establish and maintain a regional occupational center/program (ROC/P) for vocational education.* |
| *Educ. Code § 1720* | *The county superintendent is authorized, with approval of the county board of education, to provide coordination of the educational programs among school districts, and to provide professional and financial assistance to school districts.* |
| *Educ. Code §§ 1983, 1986* | *The county superintendent may elect to administer county community schools for expelled students, while the county board of education adopts the curriculum.* |
| *Educ. Code § 48321 (a) (4).* | *County superintendents shall appoint district members to a county student attendance review board (SARB) following their nomination by their respective governing boards. All other persons or group representatives shall be appointed by the county board of education. For county SARBs, the county superintendent must convene a meeting at the beginning of each school year for the purpose of promoting interagency and community cooperation.* |
| *Educ. Code §§ 56000 et seq.* | *The county superintendent may operate special education classes under the special education local plan area (SELPA) Local Plan and participate in the individualized educational program (IEP) process in order to develop programs suited to individual needs.* |

| Citation | Summary |
|---|---|
| *Educ. Code § 1278* | *County superintendents are authorized to conduct teacher institutes for the professional development of teachers employed by school districts within the county, and to select the speakers and materials to be presented at such institutes.* |
| *Educ. Code §§ 8763-8765.* | *County superintendents of schools may, with approval of the county board of education, enter into agreements with school district governing boards or private schools to provide outdoor science and conservation education programs to students.* |
| *Educ. Code §§ 8320-8321, 8203.5* | *County superintendents may, with approval of the county board of education and the Superintendent of Public Instruction, contract with the Superintendent of Public Instruction to establish and maintain child development centers and programs which meet the developmental needs of children and offer childcare and developmental alternatives to parents/guardians in the community.* |
| *Educ. Code § 54444* | *The Superintendent of Public Instruction is authorized to contract with county superintendents to provide services to migrant children residing in specified geographical regions.* |
| *Educ. Code §§ 47605, 47605.5, 47605.6* | *The county board of education may establish a countywide charter school in certain circumstances.* |
| *Educ. Code § 48919* | *Pupils who are expelled by a local school district governing board may appeal the expulsion to the county board of education.* |
| *Educ. Code § 51749.5(a)(4)(A)* | *The county board of education annually certifies that county office independent study courses are aligned with content standards and have the same rigor and educational quality as equivalent classroom-based courses.* |
| *Educ. Code § 48645.2* | *The county board of education shall provide for the administration and operation of juvenile court schools either by the county superintendent or by contract with the respective governing boards of the school districts in which the juvenile court schools are located.* |

# Appendix

## Study Agreement

FCMAT
FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

**FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM**
**STUDY AGREEMENT**
**FOR MANAGEMENT ASSISTANCE**

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

## 1. BASIS OF AGREEMENT

FCMAT provides a variety of services to local education agencies (LEAs) as authorized by Education Code (EC) 42127.8(d). The Client has requested that the FCMAT assign professionals to study specific aspects of the Client's operations. The professionals will include FCMAT staff and may include professionals from county offices of education, school districts, charter schools, community colleges, other public agencies or private contractors. All professionals assigned shall work under the direction of FCMAT. All work shall be performed in accordance with the terms and conditions of this Agreement.

## 2. SCOPE OF THE WORK

A. Scope and Objectives of the Study

1. Review the organizational structure, operational relationship and efficiency of the Client's executive leadership. Include any mandated or voluntary advisory committees or commissions within the structure. Identify and address any indicators of risk related to the governance and leadership process (refer to FCMAT's Indicators of Risk of or Potential Insolvency, Fiscal Health Risk Analysis, and Standards for Comprehensive Reviews). Using FCMAT's judgment, compare the Client's executive leadership organizational structure with similarly situated class II county offices. Make recommendations for improvements and restructuring, if any.

2. Review and discuss statutory authority distinctions, if any, for a county office with an elected versus an appointed county superintendent. Review and discuss any impacts from this form of governance on the operational relationship and efficiency of the Client's executive structure.

B. Services and Products to be Provided

1. Orientation Meeting
   The Team will conduct an orientation session at the Client's location to brief the Client's management and supervisory personnel on the Team's procedures and the purpose and schedule of the study. This orientation meeting is normally held at the beginning of fieldwork for the study.

2. Fieldwork
   The Team will conduct fieldwork at the Client's office and/or school site(s), or other

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locations as needed. Limited fieldwork may also be conducted remotely via telephone or videoconferencing services, in addition to the Public Safety Considerations outlined in Section 13 below.

3. Exit Meeting
   The Team will hold an exit meeting at the conclusion of the fieldwork to inform the Client of the status of the study. The exit meeting will include a review of the scope of work; outstanding items, including documents, data and interviews not yet received or held; and the estimated timeline for a draft report. The meeting will not memorialize details regarding findings because the Team's conclusions may change after a complete analysis is finished. Exceptions to this will be findings of immediate health and safety concerns for students or staff, and other time-sensitive items that include the potential for risk or exposure to loss.

4. Exit Letter
   Approximately 10 business days after the exit meeting, the Team will issue an exit letter briefly memorializing the topics discussed in the exit meeting.

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

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

7. This paragraph intentionally left blank.

8. Follow-Up Review
   If requested by the Client within six to 12 months after completion of the study, FCMAT, at no additional cost, will assess the Client's progress in implementing the recommendations included in the report. This follow-up support is primarily a document review-based study. Progress in implementing the recommendations will be documented to the Client in a FCMAT management letter. FCMAT will work with the Client on a mutually convenient time to return for follow-up support that is no sooner than eight months and no later than 18 months after the date of the final report.

## 3. PROJECT PERSONNEL

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

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

## 4. PROJECT COSTS

The cost for studies requested pursuant to EC 42127.8(d)(1) and 84041 shall be as follows:

A. $1,100 per day for each FCMAT staff member while on site conducting fieldwork. The cost of independent FCMAT consultants will be billed at their daily rate for all work performed. On-site is defined as either 1) physically at the Client's office or school site(s), or 2) in a scheduled virtual meeting with the Client's personnel, representatives or others associated with the scope of work pursuant to Section 13 below.

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

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

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

   **Based on the scope and objectives of the study, the total not-to-exceed cost of the study will be $46,000.**

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

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

## 5. RESPONSIBILITIES OF THE CLIENT

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

B. Provide private office or conference room space for the Team's use during fieldwork.

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

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

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

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

E. Ensure appropriate senior-level staff are available for the orientation and exit meetings.

F. Facilitate access to requested board members, officers and staff for interviews.

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

H. Review a draft of the report and return it to FCMAT by the date FCMAT requests with any comments regarding the accuracy of the report's data or the practicability of its recommendations. The Team will review this feedback in a timely manner and make any adjustments it deems necessary before issuing the final report.

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

## 6. PROJECT SCHEDULE

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

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

| ACTION | TIMELINE |
|---|---|
| FCMAT provides the Client with a draft Agreement. | Draft Agreements are usually provided within 20 business days of the Client's initial request for services. |
| Client returns partially executed Agreement to FCMAT along with the applicable organizational chart and the name and email of the of person who will be responsible for collecting and uploading documents requested by FCMAT. | Draft Agreements are valid for 30 business days. |

| ACTION | TIMELINE |
|---|---|
| FCMAT returns a fully executed Agreement to the Client and identifies the project schedule and the lead and other personnel assigned to the job. | Within five business days of the Client's return of the signed Agreement. |
| Client uploads initial requested documents and data to FCMAT's online SharePoint repository. | Within 10 business days of the Client's receipt of the FCMAT document and data request list. |
| Fieldwork | Mutually agreed upon; usually, to commence within 10 business days of FCMAT's receipt of requested documents and data. |
| Orientation meeting | First day of fieldwork. |
| Exit meeting | Last day of fieldwork. |
| Follow up fieldwork, if needed (e.g., rescheduled interview, additional interviews). | Mutually agreed upon; usually, within five business days of FCMAT's request. |
| Client uploads supplemental documents and data to FCMAT's online SharePoint repository. | Within two business days of the Client's receipt of FCMAT's supplemental document and data request(s). |
| Draft report submitted to the Client. | To be determined, usually, within eight weeks of the conclusion of fieldwork and receipt of all documents and data requested. |
| Client comments on draft report | Within 10 business days of FCMAT providing a draft report to the Client. |

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

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

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

## 7. COMMENCEMENT, TERMINATION AND COMPLETION OF WORK

FCMAT will commence work as soon as it has assembled an available and appropriate study team, taking into consideration other jobs FCMAT has previously undertaken, assignments

from the state, and higher priority assignments due to fiscal distress. The Team will work expeditiously to complete its work and deliver its report, subject to the cooperation of the Client and any other related parties from which, in the Team's judgment, it must obtain information. Once the Team has completed its fieldwork, it will proceed to prepare a report. In the absence of extraordinary circumstances, FCMAT will not withhold preparation, publication and distribution of a final report once fieldwork has been completed.

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

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

## 8. INDEPENDENT CONTRACTOR

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

## 9. RECORDS

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

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

## 10. CONTACT WITH PUPILS

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

## 11. INSURANCE

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

## 12. HOLD HARMLESS

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

## 13. PUBLIC SAFETY CONSIDERATIONS

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

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

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

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

## 14. FORCE MAJEURE

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

## 15. EVALUATION

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

## 16. CLIENT CONTACT PERSON

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

Name: Stepahanie Gomez, Assistant Superintendent of Business Services

Telephone: (408) 453-6500

Email: SGomez@sccoe.org

**17. SIGNATURES**

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

For Client:

Mary Ann Dewan 7/10/2024

Mary Ann Dewan, Ph.D., Superintendent — Date
Santa Clara County Office of Education

For FCMAT:

Michael H. Fine Digitally signed by Michael H. Fine
Date: 2024.07.11 18:07:22 -07'00'

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