



Assembly Bill 139 Reviews (Education Code 1241.5)

California County Superintendents
October 16, 2023

Revised 01/2024

County Superintendent Authority

- Education Code (EC) 1241.5(a) has long maintained authority for county superintendents of schools to audit or review the expenditures and internal controls of school districts. This authority was expanded to include:
 - Charter schools – EC 1241.5(c).
 - When instances in which the county superintendent has reason to suspect the existence of fraud, misappropriation of funds, or other illegal fiscal practices – EC 1241.5(b) and (c).
 - Commonly referred to as AB 139 fraud reviews or AB 139 extraordinary audits
- Budget Act language supplements the Education Code by granting the State Board of Education (SBE) the authority to request that a county superintendent initiate such an audit for SBE-authorized charter schools.

County Superintendent Authority (Cont.)

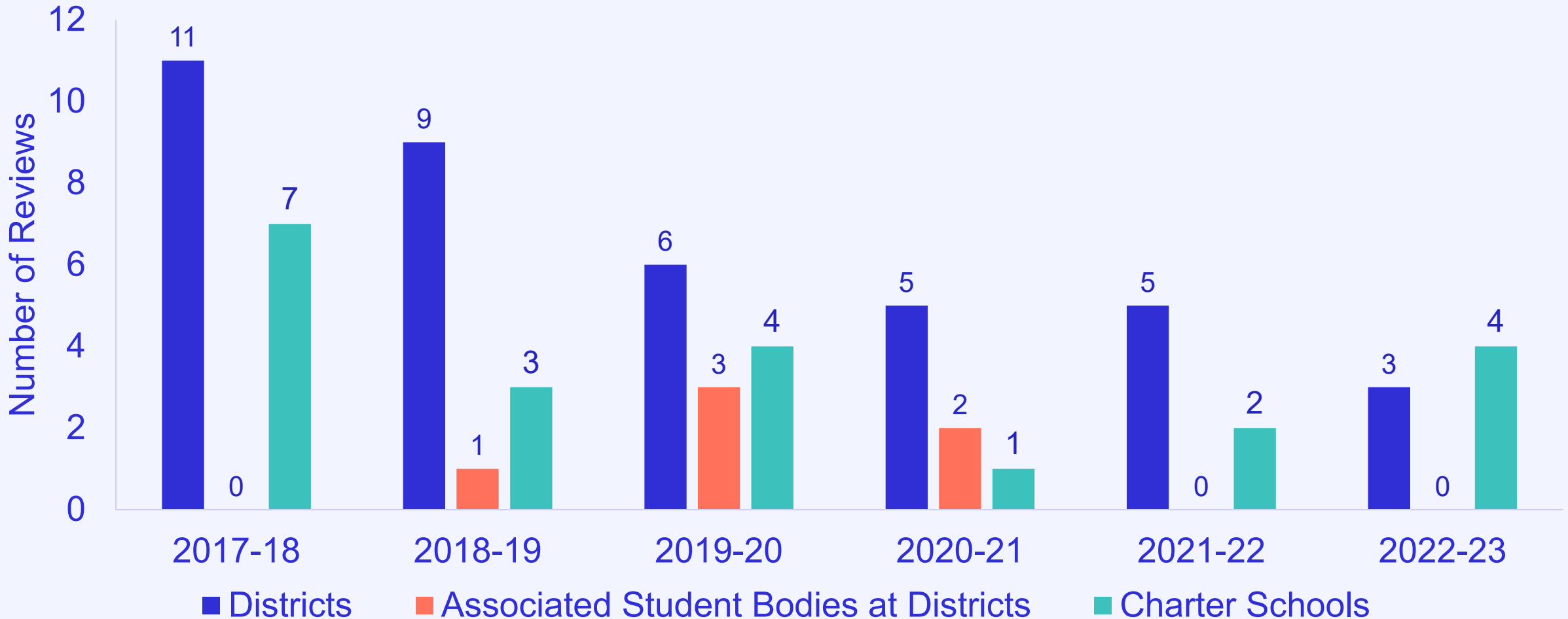
Education Code 1241.5(b): At any time during a fiscal year, the county superintendent may review or audit the expenditures and internal controls of any school district in his or her county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The review or audit conducted by the county superintendent shall be focused on the alleged fraud, misappropriation of funds, or other illegal fiscal practices and shall be conducted in a timely and efficient manner. The county superintendent shall report the findings and recommendations to the governing board of the school district at a regularly scheduled school district board meeting within 45 days of completing the review, audit or examination... [emphasis added].

County Superintendent Authority (Cont.)

- County superintendent has sole authority to call for an AB 139 review.
- Impetus for review is “having reason to believe.”
- The allegation and the review must be specific:
 - “...shall be focused on the alleged fraud, misappropriation of funds or other illegal fiscal practices...” (EC 1241.5(b) and (c))
- Only school districts and charter schools are subject to AB 139 reviews.
 - County superintendents and their offices, and community colleges are not covered in the applicable Education Code statutes.

AB 139 Review Activity

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



Considerations for AB 139 Reviews

- Assembly Bill 139 reviews are designed to prevent further losses and/or minimize local educational agencies' (LEAs') exposure to risk; establish and secure evidence necessary for assisting in criminal or disciplinary actions; recover losses; strengthen internal controls; and promote an anti-fraud culture.
 - One of the greatest roles an AB 139 review plays is to provide a narrative of facts and events based on subject matter expertise, which enhances the understanding of local, state and federal law enforcement, prosecutors and regulators.
 - The determination of wrongdoing falls exclusively within the jurisdiction of the judicial process.

Considerations for AB 139 Reviews (Cont.)

- FCMAT examiners must recognize and distinguish between deficiencies and exceptions that constitute wrongful acts involving elements of misrepresentation, concealment and other deceitful practices from those that are simply poor practices with no intent of malice.
- Assembly Bill 139 reviews lead to a single conclusion:
 - There is not sufficient evidence to demonstrate that fraud, misappropriation of funds/assets or other illegal fiscal practices may have occurred.
 - There is sufficient evidence to demonstrate that fraud, misappropriation of funds/assets or other illegal fiscal practices may have occurred.
 - In such cases, a single recommendation is made consistent with statute.

FCMAT's Role in AB 139 Reviews

- FCMAT is not explicitly mentioned in EC 1241.5.
 - Through the annual budget act, FCMAT is tasked with administering the AB 139 process including the funding for cost reimbursements.
- Overtime, FCMAT developed the expertise to conduct AB 139 reviews.
 - Over 80% of FCMAT intervention specialists are certified fraud examiners (CFEs) who regularly engage in professional development related to detecting and investigating allegations of fraud.
 - FCMAT has unique LEA-related subject matter expertise not found with typical third-party fraud examiners.

Initiating an AB 139 Review

County superintendent requests that FCMAT conduct an AB 139 review due to suspicions of fraud, misappropriation of funds, or other illegal fiscal practices.

County superintendent performs due diligence to ensure the allegation or concern is credible.

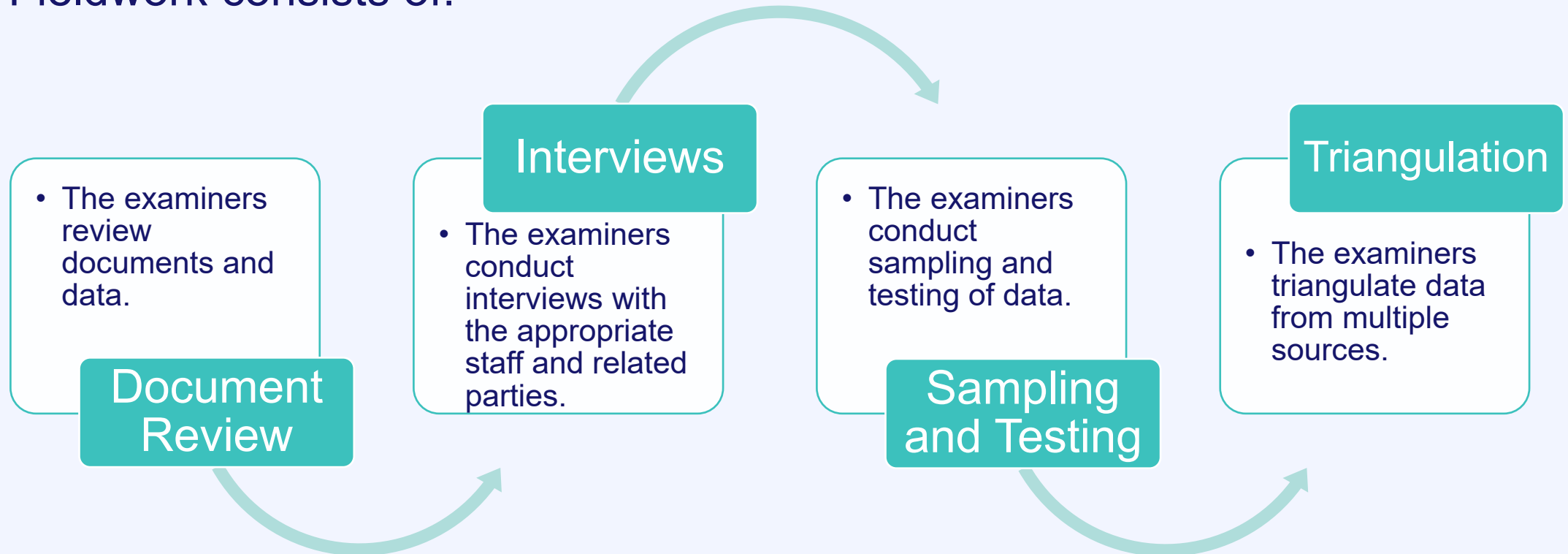
A scope of work is developed that is specific to the allegation, concern, time frame and elements to be reviewed during the examination.

A study agreement (or other agreement with a third-party vendor) is crafted that includes the scope of work, cost estimate and engagement details. County superintendent notifies district/charter school of pending AB 139 review.

Audit procedures are developed and planned based on the scope of work.

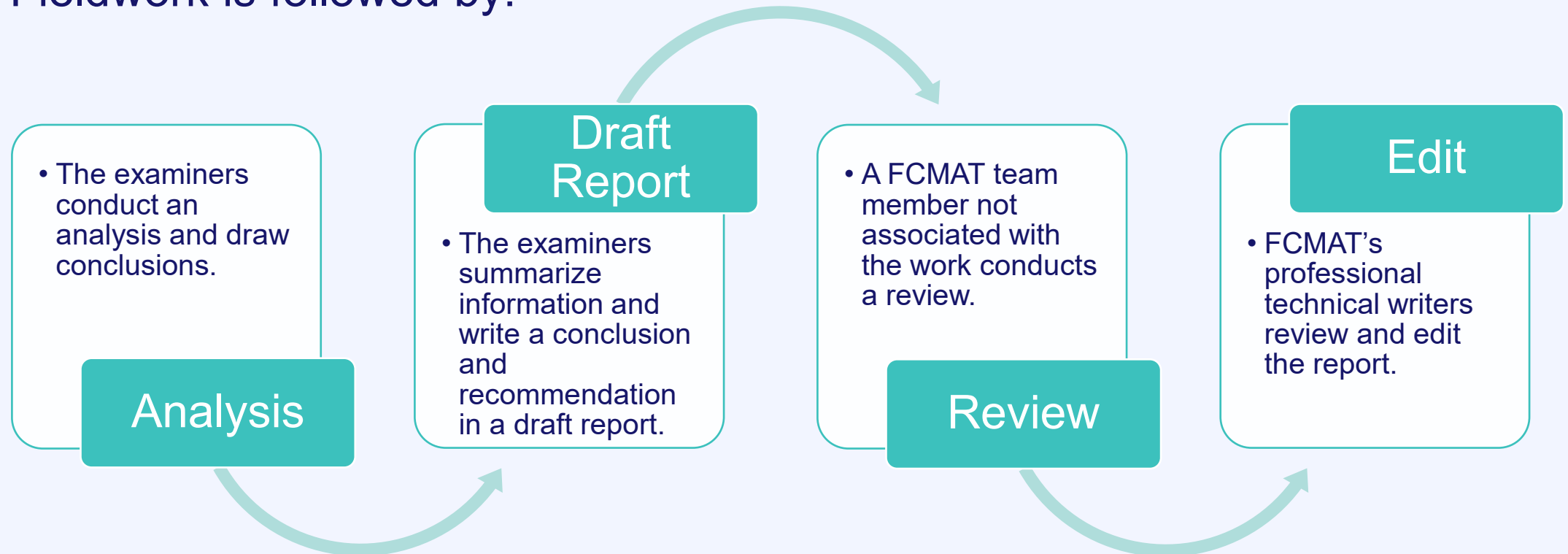
Process of AB 139 Reviews

- Fieldwork consists of:



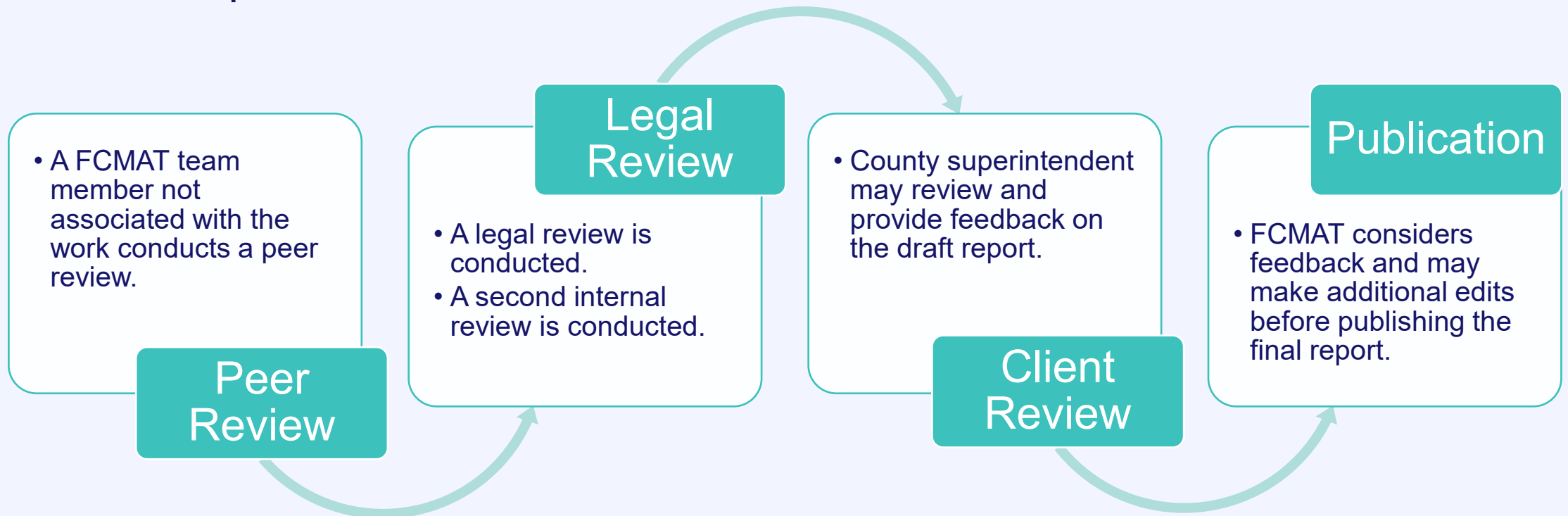
Process of AB 139 Reviews (Cont.)

- Fieldwork is followed by:



Process of AB 139 Reviews (Cont.)

- Before a report is finalized:

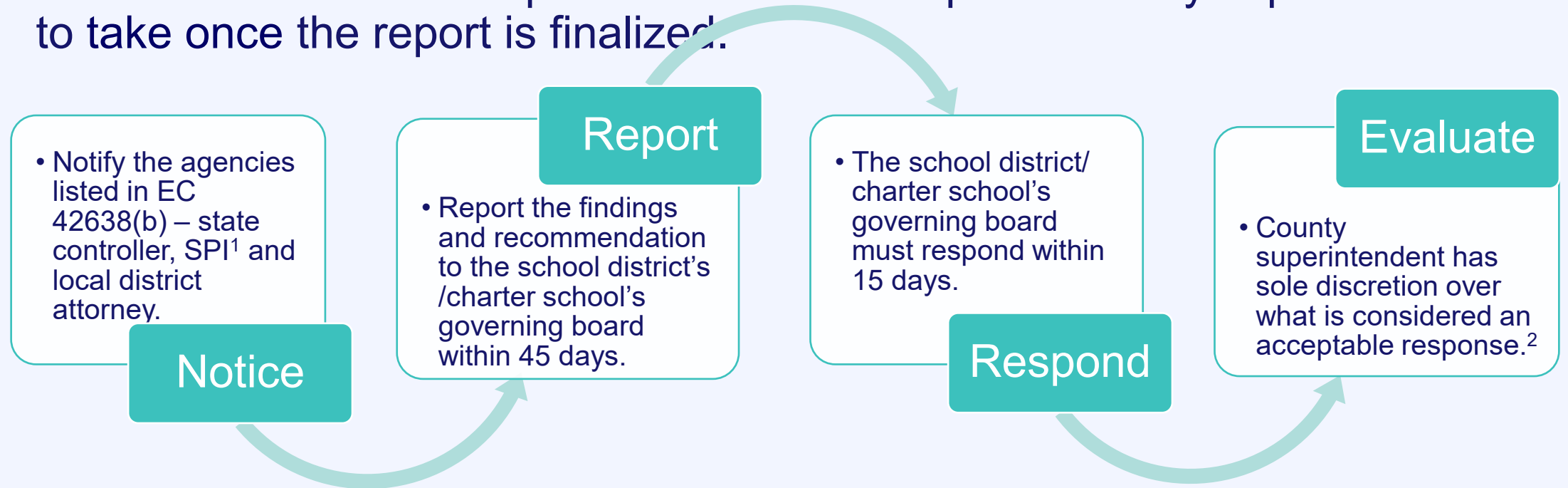


Operational Considerations for AB 139 Reviews

- FCMAT does not have the authority to interview parties under penalty of perjury, nor does it have the power to issue subpoenas.
 - FCMAT often devotes considerable effort to persuading individuals to participate in interviews or contribute to the review process.
 - Extra skill, judgement, patience, skepticism, fairness and experience-based intuition play large roles in conducting AB 139 reviews.
- The nature of AB 139 reviews requires double and triple checking of facts, nuanced remarks, or other evidence.
 - Given the potential for legal or disciplinary consequences for involved parties, FCMAT does not sacrifice accuracy and fairness for speed.

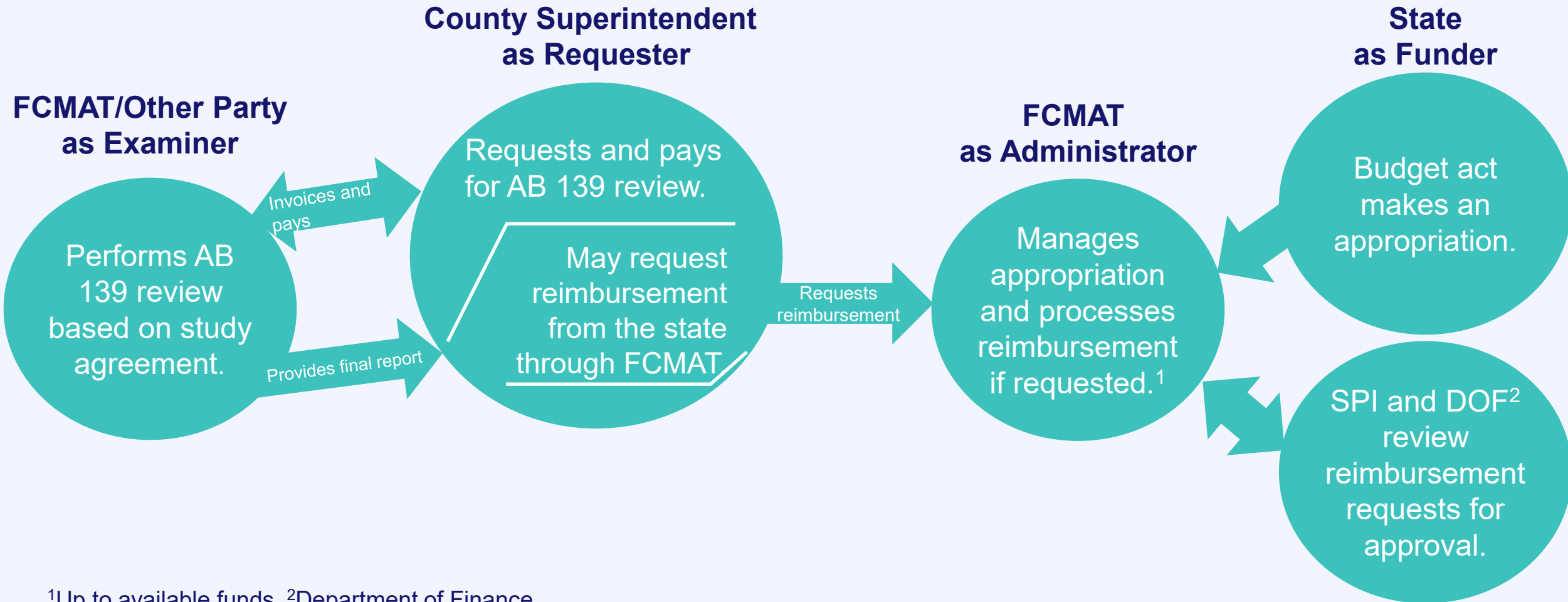
County Superintendent's Role Following Issuance of Report

- Education Code 1241.5 provides the next steps for county superintendents to take once the report is finalized.



¹State superintendent of public instruction. ²Respond is also considered a corrective action plan.

Funding Process for AB 139 Reviews



¹Up to available funds. ²Department of Finance.