

EDUCATION CODE - EDC

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

(Title 2 enacted by Stats. 1976, Ch. 1010.)

DIVISION 3. LOCAL ADMINISTRATION [35000 - 45500]

(Division 3 enacted by Stats. 1976, Ch. 1010.)

PART 24. SCHOOL FINANCE [41000 - 43052]

(Part 24 enacted by Stats. 1976, Ch. 1010.)

CHAPTER 3. State School Fund [41300 - 41455]

(Heading of Chapter 3 amended by Stats. 1979, Ch. 373.)

ARTICLE 2. Emergency Apportionments [41320 - 41322]

(Article 2 enacted by Stats. 1976, Ch. 1010.)

41320.

As a condition to any emergency apportionment to be made pursuant to Section 41320.2, the following requirements shall be met:

- (a) The school district requesting the apportionment shall submit to the county superintendent of schools having jurisdiction over the school district a report issued by an independent auditor approved by the county superintendent of schools on the financial conditions and budgetary controls of the school district, a written management review conducted by a qualified management consultant approved by the county superintendent of schools, and a fiscal plan adopted by the governing board to resolve the financial problems of the school district.
- (b) The county superintendent of schools shall review, and provide written comment on, the independent auditor's report, the management review, and the school district plan. That written comment shall include the county superintendent's approval or disapproval of the school district plan. In the event the county superintendent disapproves the plan, the governing board shall revise the school district plan to respond to the concerns expressed by the county superintendent.
- (c) Upon his or her approval of the school district plan, the county superintendent of schools shall submit copies of the report, review, plan, and written comments specified in subdivision (b) to the Superintendent, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, the Director of Finance, the president of the state board or his or her designee, and the Controller.
- (d) The school district receiving the apportionment shall be eligible for assistance from the California Collaborative for Educational Excellence pursuant to Section 52074.
- (e) The county superintendent of schools, with the concurrence of the Superintendent, shall certify to the Director of Finance that the action taken to correct the financial problems of the school district is realistic and will result in placing the school district on a sound financial basis.
- (f) The school district shall develop a schedule to repay the emergency loan, including any lease financing pursuant to Article 2.7 (commencing with Section 41329.50), and submit it to the county superintendent of schools. The county superintendent of schools shall review and comment on the repayment schedule and submit it to the Superintendent for approval or disapproval. Upon the approval of the repayment schedule, and of the other reports, reviews, plans, and the appointment of the trustee

required by this article, the Superintendent shall request the Controller to disburse the proceeds of the emergency loan to the school district.

(g) The school district requesting the apportionment shall reimburse the county superintendent of schools for the costs incurred by the superintendent pursuant to this section.

(Amended by Stats. 2018, Ch. 426, Sec. 6. (AB 1840) Effective September 17, 2018.)

41320.1.

Acceptance by the school district of the apportionments made pursuant to Section 41320 constitutes the agreement by the school district to all of the following conditions:

(a) The county superintendent of schools, the Superintendent, and the president of the state board or his or her designee shall, by majority vote, appoint a trustee from a pool of candidates identified and vetted by the County Office Fiscal Crisis and Management Assistance Team pursuant to subdivision (b) who has recognized expertise in management and finance and may employ, on a short-term basis, staff necessary to assist the trustee, including, but not limited to, certified public accountants, as follows:

(1) The expenses incurred by the trustee and necessary staff shall be borne by the school district.

(2) The county superintendent of schools, with concurrence from both the Superintendent and the president of the state board or his or her designee, shall establish the terms and conditions of the employment, including the remuneration of the trustee. The trustee shall report directly to the county superintendent of schools. The county superintendent of schools shall provide regular updates to the Superintendent and the president of the state board or his or her designee regarding the work of the trustee.

(3) The trustee, and necessary staff, shall serve until the school district has adequate fiscal systems and controls in place, the Superintendent has determined that the school district's future compliance with the fiscal plan approved for the school district pursuant to Section 41320 is probable, and the county superintendent of schools, the Superintendent, and the president of the state board or his or her designee decide to terminate the trustee's appointment, but in no event for less than three years. The county superintendent of schools shall notify the Legislature, the Department of Finance, and the Controller no less than 60 days before the time that the county superintendent of schools expects these conditions to be met.

(4) Before the school district repays the loan, including interest, the recipient of the loan shall select an auditor from a list established by the Superintendent and the Controller to conduct an audit of its fiscal systems. If the fiscal systems are deemed to be inadequate, the county superintendent of schools, with concurrence from both the Superintendent and the president of the state board or his or her designee, may retain the trustee until the deficiencies are corrected. The cost of this audit and any additional cost of the trustee shall be borne by the school district.

(5) Notwithstanding any other law, all reports submitted to the trustee are public records.

(6) To facilitate the appointment of the trustee and the employment of necessary staff, this section is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of

the Military and Veterans Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(7) If the trustee appointed pursuant to this section is an employee of the department, the salary and benefits of that employee shall be established by the Superintendent and paid by the school district. During the time of appointment, the employee is an employee of the school district, but shall remain in the same retirement system under the same plan as if the employee had remained in the department. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the department. The time served in the appointment shall be counted for all purposes as if the employee had served that time in his or her former position with the department.

(b) The County Office Fiscal Crisis and Management Assistance Team, when selecting the pool of candidates for trustee, shall consider candidates' expertise in management and finance, previous experience mitigating fiscal distress in school districts, and ability to meaningfully engage with the community that the school district serves, and shall provide an opportunity for public input on the selection of the pool of candidates for trustee.

(c) (1) The trustee appointed pursuant to this section shall monitor and review the operation of the school district. During the period of his or her service, the trustee may stay or rescind an action of the governing board of the school district that, in the judgment of the trustee, may affect the financial condition of the school district.

(2) After the trustee's period of service, and until the loan is repaid, the county superintendent of schools that has jurisdiction over the school district may stay or rescind an action of the governing board of the school district that, in his or her judgment, may affect the financial condition of the school district. The county superintendent of schools shall notify the Superintendent and the president of the state board or his or her designee, within five business days, if he or she stays or rescinds an action of the governing board of the school district. The notice shall include, but not be limited to, both of the following:

(A) A description of the governing board of the school district's intended action and its financial implications.

(B) The rationale and findings that support the county superintendent of school's decision to stay or rescind the action of the governing board of the school district.

(3) If the county superintendent of schools notifies the Superintendent and the president of the state board or his or her designee pursuant to paragraph (2), the county superintendent of schools shall report to the Legislature, pursuant to Section 9795 of the Government Code, on or before December 30 of every year, whether the school district is complying with the fiscal plan approved for the school district.

(4) The county superintendent of schools, with concurrence from the Superintendent, may establish timelines and prescribe formats for reports and other materials to be used by the trustee to monitor and review the operations of the school district. The trustee shall approve or reject all reports and other materials required from the school district as a condition of receiving the apportionment. The Superintendent, upon the recommendation of the trustee, may reduce an apportionment to the school

district in an amount up to two hundred dollars (\$200) per day for each late or unacceptable report or other material required under this part, and shall report to the Legislature a failure of the school district to comply with the requirements of this section. If the county superintendent of schools determines, at any time, that the fiscal plan approved for the school district under Section 41320 is unsatisfactory, he or she may modify the plan as necessary, with concurrence from the Superintendent, and the school district shall comply with the plan as modified.

(d) At the request of the county superintendent of schools, with approval from the Superintendent, the Controller shall transfer to the department, from an apportionment to which the school district would otherwise have been entitled pursuant to Section 42238.02, as implemented by Section 42238.03, the amount necessary to pay the expenses incurred by the trustee and associated costs incurred by the county superintendent of schools.

(e) For the fiscal year in which the apportionments are disbursed and every year thereafter, the Controller, or an auditor that is designated by the Controller as both active and able to perform K–12 local education agency audits, shall cause an audit to be conducted of the books and accounts of the school district, in lieu of the audit required by Section 41020. At the Controller’s discretion, the audit may be conducted by the Controller, his or her designee, an auditor that is designated by the Controller as both active and able to perform K–12 local education agency audits, or an auditor selected by the school district and approved by the Controller. The costs of these audits shall be borne by the school district. These audits shall be required until the Controller determines, in consultation with the county superintendent of schools and the Superintendent, that the school district is financially solvent, but in no event earlier than one year following the implementation of the plan or later than the time the apportionment made is repaid, including interest. The auditor selected pursuant to this subdivision, if any, the county superintendent of schools, a County Office Fiscal Crisis and Management Assistance Team representative, the Superintendent, and the school district superintendent, or their respective designees, shall meet before the audit to discuss the terms of the audit and the timeline under which it will proceed. In addition, the Controller shall conduct quality control reviews pursuant to subdivision (c) of Section 14504.2.

(f) For purposes of errors and omissions liability insurance policies, the trustee appointed pursuant to this section is an employee of the local educational agency to which he or she is assigned. For purposes of workers’ compensation benefits, the trustee is an employee of the local educational agency to which he or she is assigned, except that a trustee appointed pursuant to paragraph (7) of subdivision (a) is an employee of the department for those purposes.

(g) Except for an individual appointed by the vote pursuant to subdivision (a) as a trustee described in paragraph (7) of subdivision (a), the trustee appointed pursuant to this section is a member of the State Teachers’ Retirement System, if qualified, for the period of service as trustee, unless the trustee elects in writing not to become a member. A person who is a member or retirant of the State Teachers’ Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the trustee chooses to become a member or is already a member, the trustee shall be placed on the payroll of the school district for the purpose of providing appropriate contributions to the system. The Superintendent may also require that an individual appointed as a trustee described in paragraph (7) of subdivision (a) be placed on the payroll of the school district for purposes of remuneration, other benefits, and payroll deductions. For purposes of

workers' compensation benefits, the state-appointed trustee is deemed an employee of the local educational agency to which he or she is assigned, except that a trustee who is described in paragraph (7) of subdivision (a) is an employee of the department for those purposes.

(Amended by Stats. 2018, Ch. 426, Sec. 7. (AB 1840) Effective September 17, 2018.)

41320.2.

(a) The governing board of a school district that determines during a fiscal year that its revenues are less than the amount necessary to meet its current year expenditure obligations may request an emergency apportionment through the Superintendent of Public Instruction subject to the requirements and repayment provisions of this article and Article 2.7 (commencing with Section 41329.50).

(b) It is not the intent of the Legislature that this section authorize emergency loans to school districts for the purpose of meeting cashflow requirements pending the receipt of local taxes and other funds.

(c) It is the intent of the Legislature that emergency apportionments, as described in this section, not occur, unless funds have been specifically appropriated therefor by the Legislature.

(Amended by Stats. 2004, Ch. 263, Sec. 3. Effective August 23, 2004.)

41321.

(a) On or before October 31 of the year following receipt of an emergency apportionment, and each year thereafter, until the emergency apportionment, including interest, is repaid, the governing board of the school district shall prepare a report on the financial condition of the school district. The report shall include, but not necessarily be limited to, all of the following information:

(1) Specific actions taken to reduce expenditures or increase income, and the cost savings and increased income resulting from those actions.

(2) A copy of the adopted budget for the current fiscal year.

(3) Reserves for economic uncertainties.

(4) Status of employee contracts.

(5) Obstacles to the implementation of the adopted recovery plan.

(b) The school district shall submit the report to the trustee for review. Upon the trustee's approval of the report, the school district shall transmit copies to the county superintendent of schools, the Superintendent, the president of the state board or his or her designee, and the Controller.

(Amended by Stats. 2018, Ch. 426, Sec. 8. (AB 1840) Effective September 17, 2018.)

41322.

(a) If a trustee has been appointed over a school district pursuant to Section 41320.1, the trustee may stay or rescind the actions of the personnel commission of the school district if a personnel commission exists.

(b) If an administrator has been appointed over a school district pursuant to Section 41326, the administrator shall suspend the actions of the personnel commission of the school district if a personnel commission exists.

(Added by Stats. 1993, Ch. 924, Sec. 7. Effective January 1, 1994.)

ARTICLE 2.5. Conditions on Emergency Apportionments [41325 - 41329]

(Article 2.5 added by Stats. 1991, Ch. 1213, Sec. 10.)

41325.

(a) The Legislature finds and declares that when a school district becomes insolvent and requires an emergency apportionment from the state in the amount designated in this article, it is necessary that the county superintendent of schools, under the supervision of the Superintendent, assume control of the school district in order to ensure the school district's return to fiscal solvency.

(b) It is the intent of the Legislature that an administrator, appointed pursuant to Section 41326, do all of the following:

(1) Implement substantial changes in the school district's fiscal policies and practices, including, if necessary, the filing of a petition under Chapter 9 of the federal Bankruptcy Code for the adjustment of indebtedness.

(2) Revise the school district's educational program to reflect realistic income projections, in response to the dramatic effect of the changes in fiscal policies and practices upon educational program quality and the potential for the success of all pupils.

(3) Encourage all members of the school community to accept a fair share of the burden of the school district's fiscal recovery.

(4) Consult, for the purposes described in this subdivision, with the school district governing board, the exclusive representatives of the employees of the school district, parents, and the community.

(5) Consult with and seek recommendations from the county superintendent of schools and the Superintendent for the purposes described in this subdivision.

(c) For purposes of this article, the county superintendent of schools, the Superintendent, and the president of the state board or his or her designee may also appoint a trustee with the powers and responsibilities of an administrator, as set forth in this article.

(Amended by Stats. 2018, Ch. 426, Sec. 9. (AB 1840) Effective September 17, 2018.)

41326.

(a) Notwithstanding any other provision of this code, the acceptance by a school district of an apportionment made pursuant to Section 41320 that exceeds an amount equal to 200 percent of the amount of the reserve recommended for that school district under the standards and criteria adopted pursuant to Section 33127 constitutes the agreement by the school district to the conditions set forth in this article. Before applying for an emergency apportionment in the amount identified in this subdivision, the governing board of a school district shall discuss the need for that apportionment at a regular or special meeting of the governing board of the school district and, at that meeting, shall receive testimony regarding the apportionment from parents, exclusive representatives of employees of the school district, and other members of the community. For purposes of this article, "qualifying school district" means a school district that accepts a loan as described in this subdivision.

(b) The county superintendent of schools shall assume all the legal rights, duties, and powers of the governing board of a qualifying school district. The county superintendent of schools, with concurrence

from both the Superintendent and the president of the state board or his or her designee, shall appoint an administrator from a pool of candidates identified and vetted by the County Office Fiscal Crisis and Management Assistance Team pursuant to subdivision (c) to exercise the authority described in this subdivision in accordance with all of the following:

(1) The administrator shall serve under the direction and supervision of the county superintendent of schools, with concurrence from both the Superintendent and the president of the state board or his or her designee, until terminated by the county superintendent of schools, with concurrence from both the Superintendent and the president of the state board or his or her designee, at their discretion.

(2) The administrator shall have recognized expertise in management and finance.

(3) To facilitate the appointment of the administrator and the employment of necessary staff, this section is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(4) Notwithstanding any other law, if an employee of the state or the office of the county superintendent of schools is appointed to act as administrator pursuant to this section, the administrator, if he or she is an employee of the state or the office of the county superintendent of schools, is an employee of the qualifying school district during the tenure of his or her appointment, but shall remain in the same retirement system under the same plan that has been provided by his or her employment with the state or the office of the county superintendent of schools. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the state or the office of the county superintendent of schools. The time served in the appointment shall be counted for all purposes as if the administrator had served that time in his or her former position with the state or the office of the county superintendent of schools.

(5) Except for an individual appointed as an administrator by the county superintendent of schools who is described in and subject to paragraph (4), the administrator shall be a member of the State Teachers' Retirement System, if qualified, for the period of service as administrator, unless he or she elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the administrator chooses to become a member or is already a member, the administrator shall be placed on the payroll of the qualifying school district for purposes of providing appropriate contributions to the system. The Superintendent may also require the administrator to be placed on the payroll of the qualifying school district for purposes of remuneration, other benefits, and payroll deductions.

(6) For purposes of workers' compensation benefits, the administrator is an employee of the qualifying school district, except that an administrator described in and subject to paragraph (4) may be deemed an employee of the state or office of the county superintendent of schools, as applicable.

(7) The qualifying school district shall add the administrator as a covered employee of the qualifying school district for all purposes of errors and omissions liability insurance policies.

(8) The salary and benefits of the administrator shall be established by the county superintendent of schools, with concurrence from both the Superintendent and the president of the state board or his or her designee, and paid by the qualifying school district.

(9) The county superintendent of schools or the administrator may employ, on a short-term basis and at the expense of the qualifying school district, any staff necessary to assist the administrator, including, but not limited to, a certified public accountant.

(10) The administrator may do all of the following:

- (A) Implement substantial changes in the fiscal policies and practices of the qualifying school district, including, if necessary, the filing of a petition under Chapter 9 (commencing with Section 901) of Title 11 of the United States Code for the adjustment of indebtedness.
- (B) Revise the educational program of the qualifying school district to reflect realistic income projections and pupil performance relative to state standards.
- (C) Encourage all members of the school community to accept a fair share of the burden of the fiscal recovery of the qualifying school district.
- (D) Consult, for the purposes described in this subdivision, with the governing board of the qualifying school district, the exclusive representatives of the employees of the qualifying school district, parents, and the community.
- (E) Consult with, and seek recommendations from, the Superintendent, the county superintendent of schools, and the County Office Fiscal Crisis and Management Assistance Team authorized pursuant to subdivision (c) of Section 42127.8 for purposes described in this article.
- (F) Upon approval by the county superintendent of schools, enter into agreements on behalf of the qualifying school district and, subject to any contractual obligation of the qualifying school district, change existing school district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plans referred to in Sections 41327 and 41327.1.
- (G) Request the advice and assistance of the California Collaborative for Educational Excellence.
- (c) The County Office Fiscal Crisis and Management Assistance Team, when selecting the pool of candidates for administrator, shall consider candidates' expertise in management and finance, previous experience mitigating fiscal distress in school districts, and ability to engage meaningfully with the community that the school district serves, and shall provide an opportunity for public input on the selection of the pool of candidates for administrator.
- (d) (1) Except as provided for in paragraph (2), the period of time during which the county superintendent of schools exercises the authority described in subdivision (b), the governing board of the qualifying school district shall serve as an advisory body reporting to the administrator appointed pursuant to subdivision (b), and has no rights, duties, or powers, and is not entitled to any stipend, benefits, or other compensation from the qualifying school district.
- (2) (A) After one complete fiscal year has elapsed following the qualifying school district's acceptance of an emergency apportionment, the governing board of the qualifying school district may conduct an annual advisory evaluation of an administrator for the duration of the administratorship.
- (B) An advisory evaluation of an administrator shall focus on the administrator's effectiveness in leading the qualifying school district toward fiscal recovery and improved academic achievement. Advisory evaluation criteria shall be agreed upon by the governing board of the qualifying school district and the administrator before the advisory evaluation. The advisory evaluation shall include, but not be limited to, all of the following:
 - (i) Goals and standards consistent with Section 41327.1.
 - (ii) Commendations in the areas of the administrator's strengths and achievements.
 - (iii) Recommendations for improving the administrator's effectiveness in areas of concern and unsatisfactory performance.
- (C) An advisory evaluation of an administrator conducted by the governing board of a qualifying school district shall be submitted to the Governor, the Legislature, pursuant to Section 9795 of the Government Code, the Superintendent, the president of the state board or his or her designee, the county superintendent of schools, and the County Office Fiscal Crisis and Management Assistance Team.
- (3) Upon the appointment of an administrator pursuant to this section, the district superintendent of schools is no longer an employee of the qualifying school district.
- (4) A determination of the severance compensation for the district superintendent of schools shall be made pursuant to subdivision (k).

(e) Notwithstanding Section 35031 or any other law, the administrator, after according the affected employee reasonable notice and the opportunity for a hearing, may terminate the employment of a deputy, associate, assistant superintendent, or other school district level administrator who is employed by a qualifying school district under a contract of employment signed or renewed after January 1, 1992, if the employee fails to document, to the satisfaction of the administrator, that before the date of the acceptance of the emergency apportionment he or she either advised the governing board of the qualifying school district, or his or her superior, that actions contemplated or taken by the governing board of the qualifying school district could result in the fiscal insolvency of the qualifying school district, or took other appropriate action to avert that fiscal insolvency.

(f) The authority of the county superintendent of schools, the Superintendent, the president of the state board or his or her designee, and the administrator, under this section shall continue until all of the following occur:

(1) (A) After one complete fiscal year has elapsed following the qualifying school district's acceptance of an emergency apportionment as described in subdivision (a), the administrator determines, and so notifies the county superintendent of schools, the Superintendent, and the president of the state board or his or her designee, that future compliance by the qualifying school district with the recovery plans approved pursuant to paragraph (2) is probable.

(B) The county superintendent of schools, with concurrence from both the Superintendent and the president of the state board or his or her designee, may return power to the governing board of the qualifying school district for an area listed in subdivision (a) of Section 41327.1 if performance under the recovery plan for that area has been demonstrated to the satisfaction of the county superintendent of schools, with concurrence from the Superintendent.

(2) The county superintendent of schools, with concurrence from the Superintendent, has approved all of the recovery plans referred to in subdivision (a) of Section 41327 and the County Office Fiscal Crisis and Management Assistance Team completes the improvement plans specified in Section 41327.1 and has completed a minimum of two reports identifying the qualifying school district's progress in implementing the improvement plans.

(3) The administrator certifies that all necessary collective bargaining agreements have been negotiated and ratified, and that the agreements are consistent with the terms of the recovery plans.

(4) The qualifying school district has completed all reports required by the county superintendent of schools and the administrator.

(5) The county superintendent of schools, with concurrence from the Superintendent, determines that future compliance by the qualifying school district with the recovery plans approved pursuant to paragraph (2) is probable.

(g) When the conditions stated in subdivision (f) have been met, and at least 60 days after the county superintendent of schools has notified the Legislature, pursuant to Section 9795 of the Government Code, the Department of Finance, the Superintendent, the president of the state board or his or her designee, and the Controller that he or she expects the conditions prescribed pursuant to this section to be met, the governing board of the qualifying school district shall regain all of its legal rights, duties, and powers, except for the powers held by the trustee provided for pursuant to Article 2 (commencing with Section 41320). The parties specified in Section 41320.1 shall appoint a trustee under that section to monitor and review the operations of the qualifying school district until the conditions of subdivision (b) of that section have been met.

(h) Notwithstanding subdivision (g), if the qualifying school district violates a provision of the recovery plans approved by the county superintendent of schools, with concurrence from the Superintendent, pursuant to this article within five years after the trustee appointed pursuant to Section 41320.1 is removed or after the emergency apportionment is repaid, whichever occurs later, or the improvement plans specified in Section 41327.1 during the period of the trustee's appointment, the county

superintendent of schools, with concurrence from both the Superintendent and the president of the state board or his or her designee, may reassume, either directly or through an administrator appointed in accordance with this section, all of the legal rights, duties, and powers of the governing board of the qualifying school district. The county superintendent of schools, with concurrence from both the Superintendent and the president of the state board or his or her designee, shall return to the governing board of the qualifying school district all of its legal rights, duties, and powers reassumed under this subdivision when he or she determines that future compliance with the approved recovery plans is probable, or after a period of one year, whichever occurs later.

(i) Article 2 (commencing with Section 41320) shall apply except as otherwise specified in this article.

(j) It is the intent of the Legislature that the legislative budget subcommittees annually conduct a review of each qualifying school district that includes an evaluation of the financial condition of the qualifying school district, the impact of the recovery plans upon the qualifying school district's educational program, and the efforts made by the state-appointed administrator to obtain input from the community and the governing board of the qualifying school district.

(k) (1) The district superintendent of schools is entitled to a due process hearing for purposes of determining final compensation. The final compensation of the district superintendent of schools shall be between zero and six times his or her monthly salary. The outcome of the due process hearing shall be reported to the Superintendent and the public. The information provided to the public shall explain the rationale for the compensation.

(2) This subdivision applies only to a contract for employment negotiated on or after June 21, 2004.

(l) (1) When the county superintendent of schools assumes control over a qualifying school district pursuant to subdivision (b), the County Office Fiscal Crisis and Management Assistance Team shall review the fiscal oversight of the qualifying school district by the county superintendent of schools. The County Office Fiscal Crisis and Management Assistance Team may consult with other fiscal experts, including other county superintendents of schools and regional fiscal teams, in conducting this review.

(2) Within three months of the county superintendent of schools assuming control over a qualifying school district, the County Office Fiscal Crisis and Management Assistance Team shall report its findings to the Legislature, pursuant to Section 9795 of the Government Code, and shall provide a copy of that report to the Department of Finance, the Superintendent, and the president of the state board or his or her designee. This report shall include findings as to fiscal oversight actions that were or were not taken and may include recommendations as to an appropriate legislative response to improve fiscal oversight.

(3) In the year following the completion of the report required in paragraph (2), the County Office Fiscal Crisis and Management Assistance Team shall begin annual reviews of the effectiveness of the oversight of the qualifying school district by the county office of education.

(4) If, after performing the duties described in paragraphs (1), (2), and (3), the County Office Fiscal Crisis and Management Assistance Team determines that the county superintendent of schools failed to carry out his or her responsibilities for fiscal oversight as required by this code, the Superintendent, with the concurrence of the president of the state board or his or her designee, may exercise the authority of the county superintendent of schools who has oversight responsibilities for a qualifying school district. The Superintendent and the president of the state board or his or her designee shall further require the county superintendent of schools to demonstrate remediation of deficiencies identified in reports required in paragraphs (2) and (3). If the Superintendent finds, based on the reports required in paragraphs (2) and (3), that the county superintendent of schools failed to appropriately take into account particular types of indicators of financial distress, or failed to take appropriate remedial actions in the qualifying school district, the Superintendent shall further investigate whether the county superintendent of schools failed to take into account those indicators, or similarly failed to take appropriate actions in other school districts with negative or qualified certifications.

(Amended by Stats. 2018, Ch. 426, Sec. 10. (AB 1840) Effective September 17, 2018.)

41326.1.

Within 30 days of assuming authority, an administrator who has control over a school district pursuant to Section 41326 shall discuss options for resolving the fiscal problems of the district with all of the following groups and shall consider, on a monthly basis, or more frequently if so desired by the administrator, information from one or more of the following groups:

- (a) The governing board of the school district.
- (b) Any advisory council of the school district.
- (c) Any parent-teacher organization of the school district.
- (d) Representatives from the community in which the school district is located.
- (e) The district administrative team.
- (f) The County Office Fiscal Crisis and Management Assistance Team.
- (g) Representatives of employee bargaining units.
- (h) The county superintendent of schools.

(Amended by Stats. 2005, Ch. 22, Sec. 36. Effective January 1, 2006.)

41327.

(a) In accordance with timelines, instructions, and a format established by the county superintendent of schools, with concurrence from the Superintendent, the administrator appointed pursuant to subdivision (b) of Section 41326 shall prepare or obtain the following reports and plans:

- (1) A management review and recovery plan.
- (2) A multiyear financial recovery plan. The multiyear financial recovery plan shall include a plan, to be submitted annually on or before July 1, to repay to the state any and all loans owed by the school district.
- (3) During the period of service by the administrator appointed pursuant to subdivision (b) of Section 41326, an annual report on the financial condition of the school district, including, but not necessarily limited to, all of the following information:
 - (A) Specific actions taken to reduce school district expenditures or increase income to the school district, and the amount of the resulting cost savings and increases in income.
 - (B) A copy of the adopted school district budget for the current fiscal year.
 - (C) The amount of the school district budgetary reserve.
 - (D) The status of employee contracts.
 - (E) Any obstacles to the implementation of the recovery plans described in paragraphs (1) and (2).
- (b) Each of the reports or plans required under this section, or under any other law that requires the school district to prepare reports or plans, shall be submitted to the county superintendent of schools for approval, with concurrence from the Superintendent. The county superintendent of schools may accept and approve, for the purposes of this section, any reports or plans that were prepared by or for the school district prior to the school district's acceptance of a loan as described in subdivision (a) of Section 41326.
- (c) With the approval of the county superintendent of schools, the administrator appointed pursuant to subdivision (b) of Section 41326 may enter into agreements on behalf of the school district and, subject to any contractual obligation of the school district, change any existing school district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plans referred to in subdivision (a).
- (d) The County Office Financial Crisis and Management Assistance Team shall do an annual review of the progress made with regard to the recovery plans required by subdivision (a), and submit that review to

the county superintendent, the Superintendent, and the president of the state board or his or her designee.

(Amended by Stats. 2018, Ch. 426, Sec. 11. (AB 1840) Effective September 17, 2018.)

41327.1.

(a) The state board shall adopt and may periodically update by regulation a comprehensive list of professional and legal standards that all school districts are encouraged to use as a guide to conduct a good educational program and fiscal and management practices that shall be used as the basis of evaluating the improvement of qualifying school districts pursuant to this article. These standards shall, at a minimum, address all of the following areas:

- (1) Financial management.
- (2) Pupil achievement.
- (3) Personnel management.
- (4) Facilities management.
- (5) Community relations.

(b) If an administrator is appointed pursuant to Section 41326, the County Office Fiscal Crisis and Management Assistance Team established pursuant to Section 42127.8 shall conduct comprehensive assessments in the five areas specified in subdivision (a).

(c) After the assessments specified in subdivision (b) are completed, the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, the Superintendent, and the president of the state board or the president's designee, shall determine, based upon the school district's particular needs and circumstances, the level of improvement needed in the standards adopted pursuant to subdivision (a) before local authority will be returned pursuant to subdivision (g) of Section 41326. Based upon this determination, the County Office Fiscal Crisis and Management Assistance Team shall complete improvement plans in the five areas specified in subdivision (a) that focus on the agreed upon standards, and that are consistent with the financial improvement plan.

(d) Beginning six months after an emergency loan is approved, and annually thereafter until local authority is returned pursuant to subdivision (g) of Section 41326, the County Office Fiscal Crisis and Management Assistance Team shall file a written status report with the appropriate fiscal and policy committees of the Legislature, the Members of the Legislature that represent the qualifying school district, any advisory council of the school district, the Superintendent, the county superintendent of schools, and the Director of Finance. The reports shall indicate the progress that the school district is making in meeting the recommendations of the improvement plans developed pursuant to this section.

(e) If the County Office Fiscal Crisis and Management Assistance Team indicates in writing that it has insufficient resources to complete the comprehensive assessments, improvement plans, and progress reports required pursuant to this section, the county superintendent of schools shall request proposals to complete these tasks, and subject to the approval of the Department of Finance, select an entity to complete the tasks assigned to the County Office Fiscal Crisis and Management Assistance Team pursuant to this section.

(Amended by Stats. 2020, Ch. 24, Sec. 21. (SB 98) Effective June 29, 2020.)

41327.2.

(a) The appointment of an administrator pursuant to Section 41326 does not remove any statutory rights, duties, or obligations from the county superintendent of schools. The county superintendent of schools retains the responsibility to superintend school districts under his or her jurisdiction.

(b) The county superintendent of schools shall submit reports to the Superintendent, the president of the state board or his or her designee, the appropriate fiscal and policy committees of the Legislature, and the Director of Finance subsequent to review by the county superintendent of schools of the school district's budget and interim reports in accordance with subdivision (d) of, and paragraph (1) of subdivision (f) of, Section 42127, and paragraph (2) of subdivision (a) of, and subdivision (e) of, Section 42131. These reports shall document the fiscal and administrative status of the qualifying school district, particularly in regard to the implementation of fiscal and management recovery plans. Each report shall also include a determination of whether the revenue streams to the school district appear to be consistent with its expenditure plan, according to the most recent data available at the time of the report. These reports are required until six months after all rights, duties, and powers are returned to the school district pursuant to this article.

(Amended by Stats. 2018, Ch. 426, Sec. 13. (AB 1840) Effective September 17, 2018.)

41328.

The qualifying district shall bear 100 percent of all costs associated with implementing this article, including the activities of the County Office Fiscal Crisis and Management Assistance Team or the regional team. The Superintendent of Public Instruction shall withhold from the apportionments to be made from the State School Fund to the district the amounts due pursuant to this section.

(Amended by Stats. 2005, Ch. 22, Sec. 37. Effective January 1, 2006.)

41329.

(a) A school district under financial distress, as defined in subdivision (b), shall do all of the following before approving the closure or consolidation of a school of the school district:

(1) In deciding what schools to close or consolidate, the governing board of the school district shall conduct an equity impact analysis in its consideration of school closures or consolidations. The governing board of the school district shall develop a set of metrics for the development of the equity impact analysis and make those metrics public at a regularly scheduled meeting of the governing board of the school district so that the public can provide input regarding the metrics being used to conduct the analysis. The metrics shall include, but are not limited to, all of the following:

(A) The condition of a school facility.

(B) The operating cost of a school and the associated savings resulting from a closure or consolidation.

(C) The capacity of a school to accommodate excess pupils.

(D) Special programs available at the schools being considered for closure or consolidation and whether those programs will be provided at the same current level at the schools to which pupils will be diverted.

(E) Environmental factors, including, but not limited to, traffic and proximity to freeway access.

(F) Balance of pupil demographics, including race or ethnicity, pupils with disabilities, English learners, foster youth, and homeless youth, in the schools being considered for closure or consolidation, and the resulting demographic balance of pupils after placement in other schools, in order to determine if the decision to close or consolidate will have a disproportionate impact on any particular demographic group.

(G) Transportation needs of pupils.

(H) Aesthetics and the opportunity for blight and negative impact on the surrounding community.

(I) Impact on feeder school attendance patterns with the closure of any particular school and whether the closure will attenuate attendance at other schools or specialized programs as a result.

(2) (A) The governing board of the school district shall provide its recommendations regarding school closures and consolidations to the public at a regularly scheduled meeting and share how it prepared its list and include, at a minimum, all of the following information:

(i) Factors used to identify the list of school closures or consolidations.

(ii) Equity impact analysis findings for each school closure or consolidation.

(iii) Plan for the use of the schools proposed for closure or consolidation once it becomes a vacated facility.

(iv) Criteria used to assign displaced pupils to other schoolsites, or a description of the process of reassignment that will be used by the school district.

(v) Options and timeline for transitioning pupils to their new schools, including improving safe routes to schools and home-to-school transportation needs.

(B) The governing board of the school district shall review and consider the feedback presented at the public meeting and make its decision on any school closures or consolidations at a subsequently scheduled regular meeting.

(C) At the subsequent regularly scheduled meeting, the governing board of the school district shall present its final recommendation for school closures or consolidations, which shall include a review of how public input was incorporated into the final recommendation. Any affirmative action by the governing board of the school district to implement a school closure or consolidation shall be made only after it adopts a resolution concluding that the community engagement process required pursuant to this section has been completed.

(D) (i) Upon an affirmative action by the governing board of the school district to implement a school closure or consolidation, the school district shall provide information to parents and pupils in multiple formats, including, but not limited to, email and paper notifications.

(ii) Notifications to parents shall be translated into their primary language pursuant to Section 48985.

(iii) The information shall include all of the following:

(I) The date of the approved closure or consolidation.

(II) The pupil's new school assignment, as applicable.

(III) School district resources for pupils and parents to support the pupil's transition.

(IV) School district contacts for additional information.

(b) For purposes of this section, "financial distress" means a school district with an emergency apportionment pursuant to Article 2 (commencing with Section 41320) or this article, a trustee appointed pursuant to Article 2 (commencing with Section 41320), or an administrator appointed pursuant to this article.

(c) For purposes of this section, "governing board of a school district" includes a trustee appointed pursuant to Article 2 (commencing with Section 41320), or an administrator appointed pursuant to this article.

(d) This section does not apply to a school district's closure of a school due solely to the unsafe condition of the school's facilities.

(e) The process outlined pursuant to this section shall not take more than 12 months from the initiation of the equity impact analysis pursuant to paragraph (1) of subdivision (a) to the notification to parents of the final determination of the governing board of the school district pursuant to subparagraph (D) of paragraph (2) of subdivision (a).

(f) This section shall become inoperative on July 1, 2028, and, as of January 1, 2029, is repealed.

(Amended by Stats. 2023, Ch. 131, Sec. 28. (AB 1754) Effective January 1, 2024. Inoperative July 1, 2028, by its own provisions. Repealed as of January 1, 2029, by its own provisions.)