

FCMAT

FISCAL CRISIS & MANAGEMENT
ASSISTANCE TEAM

Extraordinary Audit

August 11, 2025



Mountain View Whisman School District

Michael H. Fine
Chief Executive Officer

August 11, 2025

David M. Toston, Sr., Ed.D., Superintendent
Santa Clara County Office of Education
1290 Ridder Park Drive
San Jose, CA 95131

Dear Superintendent Toston:

In November 2024, the Santa Clara County superintendent of schools and the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement for FCMAT to conduct an extraordinary audit of the Mountain View Whisman School District to determine if fraud, misappropriation of funds or other illegal fiscal practices may have occurred in relation to the former district superintendent. Specifically, the agreement has the following scope and objectives:

1. The team will review and test the Subject Entity's expenditures and internal controls for vendor selection, contracted services and governing board approval to determine whether the district was involved in any undisclosed or inappropriate related-party transactions that were in conflict with state and local policies and standards, or that violated conflict of interest laws.
2. The team will review and test the Subject Entity's expenditures and internal controls related to the prior superintendent's travel, expenditure reimbursement and credit card use.
3. The team will sample associated transactions within fiscal years 2022-23 and 2024-25 to date. Disbursements selected for testing will be based on the Team's judgment as to sample size, sample selection technique and conclusion. Sample testing and review results are intended to provide reasonable but not absolute certainty about whether the Subject Entity's travel and credit card expenditures, vendor and contractor disbursements, expenditure reimbursements and related internal controls were sufficiently appropriate.

This draft report contains the study team's findings and recommendation. Please review the draft report for any factual inaccuracies and provide any suggested changes or revisions on or before August 4, 2025. If you have questions regarding the report, please contact me at jpotter@fcmat.org.

FCMAT appreciates the opportunity to serve you and extends thanks to the staff of the Santa Clara County Office of Education, the Mountain View Whisman School District, and Mountain View community members for their cooperation and assistance during this review.

Sincerely,



Michael H. Fine
Chief Executive Officer

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About FCMAT

Purpose and Services

FCMAT was created by the California Legislature to help California's transitional kindergarten through grade 14 (TK-14) local educational agencies (LEAs) avoid fiscal insolvency. Today, FCMAT helps LEAs identify, prevent and resolve financial, management, program, data, and oversight challenges; provides professional learning; produces and provides software, checklists, manuals and other tools; and offers other related school business and data services.

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

When FCMAT is asked for help with management assistance or a fiscal crisis, FCMAT management and staff work closely with the requesting LEA to meet their needs. Often this means conducting a formal study using a FCMAT study team that coordinates with the LEA for on-site fieldwork to evaluate specified operational areas and subsequently produces a written report with findings and recommendations for improvement.

For more immediate needs in a specific area, FCMAT offers short-term technical assistance from a FCMAT staff member with the required expertise.

To help meet the need for qualified chief business officials (CBOs) in LEAs, FCMAT offers four different CBO training and mentoring programs that consist of 11 or 12 diverse two-day training sessions over the course of a full year.

For agencies with professional learning needs, FCMAT offers workshops on specific topics. Popular topics include associated student body operations, use of FCMAT's Projection-Pro online financial forecasting software, use of FCMAT's Local Control Funding Formula (LCFF) Calculator, and data reporting for the California Longitudinal Pupil Achievement Data System (CALPADS). FCMAT staff and management also frequently make presentations at various professional conferences.

The California School Information Services (CSIS) service of FCMAT helps the California Department of Education (CDE) operate CALPADS; helps LEAs learn about CALPADS, resolve data issues and meet reporting requirements; and provides LEAs with training and leadership in data management. CSIS also developed and continues to host and improve the Standardized Account Code Structure (SACS) web-based financial reporting system for all California LEAs, and provides ed-data.org, which gives educators, policy-makers, the Legislature, parents and the public quick access to timely and comprehensive data about TK-12 education in California.

Since it was formed, FCMAT has provided LEAs with the types of help described above on more than 2,000 occasions.

FCMAT's administrative agent is the Kern County Superintendent of Schools. FCMAT is led by Michael H. Fine, Chief Executive Officer, and is funded by appropriations in the state budget and modest fees to requesting agencies.

Workshop schedules, manuals, presentation slide decks, Projection-Pro software, LCFF calculators, past reports, an online help desk, and many other resources are available for download or use at no charge on FCMAT's website.

History

FCMAT was created by Assembly Bill 1200 (Chapter 1213, Statutes of 1991) and Education Code 42127.8. Assembly Bill 107 (Chapter 282, Statutes of 1997) added Education Code 49080, which charged FCMAT with responsibility for CSIS and its statewide data management work, and Assembly Bill 1115 (Chapter 78, Statutes of 1999) codified CSIS' mission.

Assembly Bill 1200 created a statewide plan for county offices of education and school districts to work together locally to improve fiscal procedures and accountability standards. Assembly Bill 2756 (Chapter 52, Statutes of 2004) gave FCMAT specific responsibilities for districts that have received emergency state loans.

In January 2006, Senate Bill 430 (Chapter 357, Statutes of 2005) amended Education Code 42127.8, and Assembly Bill 1366 (Chapter 360, Statutes of 2005) amended Education Codes 42127.8 and 84041. These new laws expanded FCMAT's services to include charter schools and community colleges, respectively.

Assembly Bill 1840 (Chapter 426, Statutes of 2018) changed how fiscally insolvent districts are administered once an emergency appropriation has been made, shifting oversight responsibilities from the state to the local county superintendent to be more consistent with the principles of local control, and giving FCMAT new responsibilities associated with the process.

Introduction

Background

Located in northwestern Santa Clara County in the heart of Silicon Valley, the Mountain View Whisman School District has nine elementary schools, two middle schools and a preschool and is situated in an ethnically diverse suburban community. Total district enrollment in 2024-25 was 4,644 students, with 37% of those students being English learners, foster youth, or qualifying for free or reduced-price meals (this is known as the unduplicated pupil percentage).

In November 2024, the Santa Clara County superintendent of schools asked FCMAT to help the county office of education by conducting an Assembly Bill (AB) 139 extraordinary audit to determine if fraud, misappropriation of funds or other illegal fiscal practices may have occurred at the district. Specifically, the county superintendent requested that FCMAT review certain transactions specific to the district's former superintendent, who was employed in that capacity from July 1, 2015 until his resignation from the district in October 2024. The request followed allegations of questionable business relationships, contracts, transactions, and travel from various parents, community members and district employees.

The county superintendent and FCMAT jointly determined that the scope of transactions to be reviewed would include the district's expenditures and internal controls for vendor selection, contracted services and governing board approval, to determine whether the district was engaged in any undisclosed or inappropriate related-party transactions. Additionally, in December 2024, the scope was expanded to include a review of expenditures and internal controls related to the prior superintendent's travel, expenditure reimbursements, and credit card use. Review and testing covered contracts and transactions that occurred from July 1, 2022 through the end of the former superintendent's tenure in October 2024.

Study and Report Guidelines (AB 139 Audit Authority)

Education Code (EC) 1241.5(b) permits a county superintendent of schools to review or audit the expenditures and internal controls of any school district within the county if they have reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. This is known as an extraordinary audit.

The purpose of an extraordinary audit is to determine if sufficient evidence exists that fraud, misappropriation of funds, or other illegal fiscal practices may have occurred, and to document the findings for referral to the state controller, the state superintendent of public instruction and the local district attorney's office and further investigation by others if needed.

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.

Extraordinary Audit Procedures

An extraordinary audit is conducted based on the study team's experience and judgment. These audits have many components, including obtaining and examining available original source documents; corroborating documents and information through third-party sources when possible; interviewing potential wit-

nesses; gaining an understanding of internal controls applicable to the scope of the work; and assessing factors such as intent, capability, opportunity, and possible pressures or motives.

The audit consists of the following:

- Gathering adequate information about specific allegations.
- Establishing an audit plan.
- Performing audit test procedures, often based on sampling of transactions.
- Using the team’s judgment and experience to determine whether fraud, misappropriation of funds, or other illegal fiscal practices may have occurred.
- Quantifying and evaluating the loss, if any, that resulted from the alleged inappropriate activity.
- Determining who may have been involved and how it may have occurred.

FCMAT initially visited the district on February 5, 2025 to conduct interviews, collect data and review documents. Following fieldwork, FCMAT continued its review and analysis of available documentation. Sample testing procedures and the subsequent results are explained in each section of this report.

The FCMAT audit team reviews and evaluates the available information and documents that fall within an audit’s scope. The team then assesses this information to determine whether it contributes to a finding in the report. Other information may also be included when relevant.

Judgments Regarding Guilt or Innocence

The existence of fraud, misappropriation of funds and/or assets, or other illegal fiscal practices is solely the purview of the courts. FCMAT is not making statements that could be construed as a conclusion that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices have occurred. These terms are a broad legal concept, and auditors do not make legal determinations regarding whether illegal activity has occurred.

Study Team

The study team was composed of the following members:

Jeffrey B. Potter, CFE
Intervention Specialist

Tami Montero, CFE
Intervention Specialist

John Lotze
FCMAT Technical Writer

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

Fraud, Occupational Fraud and Internal Controls

Fraud can include an array of irregularities and illegal acts characterized by intentional deception and misrepresentations of material facts. Although all employees have some degree of responsibility for internal controls, the governing board, superintendent and senior management are ultimately responsible.

Occupational Fraud

Occupational fraud includes asset misappropriation, corruption, and fraudulent financial statements. Occupational fraud occurs when an organization's owners, executives, managers or employees use their position in the organization to deliberately misuse or misapply the employer's resources or assets for personal benefit.

Asset misappropriation includes the theft or misuse of local educational agency (LEA) assets and may include taking cash, inventory or other assets, and/or fraudulent disbursements. Asset misappropriation is the largest category of occupational fraud and includes numerous fraudulent disbursement schemes. Corruption schemes involve one or more employees and/or board members using their influence in business transactions to obtain a personal benefit that violates their duty to the employer or the organization; conflicts of interest fall into this category. Financial statement fraud includes intentionally misstating or omitting material information in financial reports.

Many different types of fraud exist; however, occupational fraud, including asset misappropriation and corruption, is more likely to occur when employees are in positions of trust and have access to assets. Embezzlement occurs when someone who is lawfully entrusted with property takes it for their personal use. Common elements in all fraud include the following:

- Intent, or knowingly committing a wrongful act.
- Misrepresentation or intentional false and willful representation(s) of a material fact.
- Reliance on weaknesses in the internal control structure, including when an individual relies on fraudulent information.
- Concealment of the act or facts.
- Damages, loss or injury by the deceived party.

This report presents findings regarding whether the district's former superintendent had the opportunity, incentive, rationalization/attitude, and capability to commit fraud, misappropriation of funds or other illegal fiscal practices.

Internal Controls

The accounting industry defines the term "internal control" as it applies to organizations, including school agencies. The Committee of Sponsoring Organizations of the Treadway Commission (COSO) gives organizations guidance on internal control, risk management, governance and fraud deterrence. COSO is recognized globally for its Internal Control – Integrated Framework (ICIF), which was updated in its 2023 publication, Achieving Effective Internal Control Over Sustainability Reporting (ICSR): Building Trust and Confidence Through the COSO Internal Control – Integrated Framework. This publication defines internal control as follows:

A process, effected by an entity's board of directors, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives relating to operations, reporting, and compliance.

The reference to achievement of objectives refers to an organization's work of planning, organizing, directing, and performing routine tasks related to operations, and monitoring performance. An organization establishes control over its operations by setting goals, objectives, budgets and performance expectations.

Several factors influence the effectiveness of internal control, including the social environment and how it affects employees' behavior, the availability and quality of information used to monitor an organization's operations, and the policies and procedures that guide an organization. Internal control helps an organization obtain timely feedback on its progress in meeting operational goals and guiding principles, producing reliable financial reports, and ensuring compliance with applicable laws and regulations.

Internal control is the primary mechanism for preventing and/or deterring illegal acts or fraud, which can include an assortment of irregularities characterized by intentional deception and misrepresentation of material facts. Effective internal control provides reasonable but not absolute assurance that operations are effective and efficient, that the financial information produced is reliable, and that the organization complies with all applicable laws and regulations.

Internal control provides the framework for an effective fraud prevention program. An effective internal control structure includes the policies and administrative regulations established by the board and operational procedures used by staff, adequate accounting and information systems, the work environment, and the professionalism of employees.

The Committee of Sponsoring Organizations of the Treadway Commission initially outlined the five components of internal control in an executive summary, *Internal Control – Integrated Framework*, published in 2013. Table 1 provides a summary of these components and their respective characteristics.

Table 1. Summary of Internal Control Components and Characteristics

Internal Control Component	Characteristics
Control Environment	The set of standards, processes and structures that provide the basis for carrying out internal control across an organization. Comprises the integrity and ethical values of the organization. Commonly referred to as the moral tone of the organization, the control environment includes a code of ethical conduct; policies for ethics; hiring and promotion guidelines; proper assignment of authority and responsibility; oversight by management, the board or an audit committee; investigation of reported concerns; and effective disciplinary action for violations.
Risk Assessment	Identification and assessment of potential events that adversely affect the achievement of the organization's objectives, and the development of strategies to react in a timely manner.
Control Activities	Actions established by policies and procedures to enforce the governing board's directives. These include actions by management to prevent and identify misuse of the LEA's assets, including preventing employees from overriding controls in the system.
Information and Communication	Ensures that employees receive information regarding policies and procedures and understand their responsibility for internal control. Provides opportunity to discuss ethical dilemmas. Establishes clear means of communication within an organization to report suspected violations.
Monitoring Activities	Ongoing monitoring to ascertain that all components of internal control are present and functioning; ensures deficiencies are evaluated and corrective actions are implemented.

Source: COSO's 2013 publication, *Internal Control – Integrated Framework*.

The five components of internal control are supported by underlying principles that help ensure an organization achieves effective internal control. Each of the five components listed in Table 1 above and their related principles must be present and function in an integrated manner to be effective. An effective system of internal control can provide reasonable but not absolute assurance that the organization will achieve its objectives.

Although an LEA's employees have some responsibility for internal control, the superintendent, board and other key management personnel have a higher ethical standard, fiduciary duty and responsibility to safeguard the LEA's assets.

Control Environment

The internal control environment establishes an organization's moral tone. It begins with the organization's leadership and encompasses employees' perception of the ethical conduct displayed by the governing board and executive management.

The control environment is the set of standards that enables other components of internal control to be effective in preventing and/or deterring fraud or illegal acts. It sets the tone for the organization, provides discipline and control, and includes factors such as integrity, ethical values and competence of employees.

The control environment can be weakened significantly by a lack of experience in fiscal management and internal control.

Control Activities

Control activities are a fundamental component of internal control and are a direct result of policies and procedures designed to prevent and detect misuse of an LEA's assets, including preventing any employee from overriding system controls. Examples of control and transaction activities include the following:

- **Performance reviews:** These compare actual data with expectations. In accounting and business offices, this most often occurs when budgeted amounts are compared with actual expenditures to identify variances and followed up with budget transfers to prevent overspending.
- **Information processing:** This includes the approvals, authorizations, verifications and reconciliations necessary to ensure that transactions are valid, complete and accurate.
- **Physical controls:** These are the processes and procedures designed to safeguard and secure assets and records.
- **Supervisory controls:** These assess whether the transaction control activities performed are accurate and follow established policies and procedures.
- **Segregation of duties:** This consists of processes and procedures that ensure no employee or group is placed in a position to be able to commit and conceal errors or fraud in the normal course of duties. In general, segregation of duties includes separating the custody of assets, the authorization or approval of transactions affecting those assets, the recording or reporting of related transactions, and the execution of the transactions. Adequate segregation of duties provides for separate processing by different individuals at various stages of a transaction, and for independent review of the work; these measures reduce the likelihood that errors will remain undetected.

Internal controls are effective in deterring and detecting fraud, and in mitigating financial errors. They help ensure that transactions are documented thoroughly and reconciled. Effective internal controls require the governing board, management and staff to discern system weakness.

Conflicts of Interest

FCMAT did not identify any conflicts of interest (as defined below) in this review. However, this section is included to help readers understand the types of situations FCMAT considers when reviewing for possible conflicts. These standards help promote transparency and accountability in public education.

Actual (or Appearance of) Impropropriety; Government Code 1090; Political Reform Act; and Common Law

In broad terms, a conflict of interest arises when a public official participates in a decision-making process about matters in which they have a personal interest that could influence their conduct, create the appearance of a conflict or impropriety, or be perceived as fostering divided loyalty.

Some conflict-of-interest laws focus on financial interests, such as contracts that come before an agency for approval when the official (or the official's spouse or registered domestic partner) has some financial connection to the transaction. An official is considered to be participating in making a contract not only by voting to approve it, but also by participating in the preliminary phases leading up to the vote, such as the earliest discussions about the contract, and planning, developing specifications, and soliciting for bids. The decision to hire an employee is considered an approval of a contract for purposes of conflict-of-interest law.

Conflicts of interest are addressed in common law, as reflected in court decisions, and in statute. Relevant statutes pertaining to LEAs include [EC 35107\(e\)](#); [California Government Code \(GC\) 1090](#), [GC 81000](#) and [following](#); and [California Corporations Code 5233](#), which applies to consultants serving LEAs.

Financial Conflicts

Government Code 1090

[California Government Code 1090](#) prohibits approval of contracts in which an official has a financial interest. Under [GC 1090](#), a “public official” includes board members, officers and certain designated employees and consultants of school districts, charter schools, and other governmental entities. It is the highest standard to meet, and violations of this law can lead to felony charges.

If a board member has an interest in a contract deemed to be a [GC 1090](#) violation, then the entire board is prohibited from entering into the contract unless an exception or safe harbor (i.e., a special provision that offers legal protection if certain conditions are met) applies. This is true even if the contract offers the best price and even if the board member with the conflict abstains from voting on the matter. In cases where a safe harbor applies, such as when a board member is considered to have a “remote financial interest” according to [GC 1091](#), or is not “deemed to be interested” under [GC 1091.5\(a\)](#), the board may vote on the contract provided the affected member abstains from discussion and voting on the matter.

[Government Code 1090](#) also applies to employees who prepare or negotiate contracts in which they have a financial interest and those who recommend the approval of such a contract. The prohibition is absolute absent a valid exception, and the contracts are voidable and have no legal effect.

The Fair Political Practices Commission (FPPC) published *An Overview of Section 1090 and FPPC Advice* in October 2020, which provides further clarification regarding conflicts of interest as follows:

In *Thomson v. Call* (1985) 38 Cal.3d 633, the California Supreme Court explained the purpose underlying Section 1090:

[E]xamination of the goals and policy concerns underlying section 1090 convinces us of the logic and reasonableness of the trial court's solution. In *San Diego v. S.D. & L.A.R.R. Co.*, *supra*, 44 Cal. 106, we recognized the conflict-of-interest statutes' origins in the general principle that 'no man can faithfully serve two masters whose interests are or may be in conflict': 'The law, therefore, will not permit one who acts in a fiduciary capacity to deal with himself in his individual capacity. . . . For even if the honesty of the agency is unquestioned. . . yet the principal has in fact bargained for the exercise of all the skill, ability and industry of the agent, and he is entitled to demand the exertion of all this in his own favor.' (44 Cal. at p. 113.) We reiterated this rationale more recently in *Stigall v. City of Taft*, *supra*, 58 Cal.2d 565: 'The instant statutes [§ 1090 et seq.] are concerned with any interest, other than perhaps a remote or minimal interest, which would prevent the officials from exercising absolute loyalty and undivided allegiance to the best interests of the city.' (58 Cal.2d at p. 569.)

Furthermore, Section 1090 is intended "not only to strike at actual impropriety, but also to strike at the appearance of impropriety." A contract that violates Section 1090 is void. The prohibition applies even when the terms of the proposed contract are demonstrably fair and equitable or are plainly to the public entity's advantage.

Courts have recognized that Section 1090's prohibition must be broadly construed and strictly enforced. "An important, prophylactic statute such as Section 1090 should be construed broadly to close loopholes; it should not be constricted and enfeebled."

[Footnote case citations removed from the quoted information by FCMAT.]

Political Reform Act

The Political Reform Act, initially enacted by Proposition 9 in June 1974 and updated as needed, is another California law regarding financial conflicts. The stated intent of the act is to establish a process for most state and local officials, as well as for certain designated employees and consultants, to publicly disclose their economic interests. This disclosure of personal income and assets aims to identify potential areas of conflict that could influence the decisions and actions of these individuals.

The Political Reform Act's provisions are enforced by the FPPC and enumerated in the California Government Code. It requires every state and local governmental agency to adopt a conflict-of-interest code. The FPPC is the state agency responsible for interpreting the provisions of the law and issuing California [Form 700](#) – Statement of Economic Interests.

Because school governing board members are considered public officials and governing boards are considered legislative bodies, these members, as well as certain designated individuals involved in financial decisions for an LEA, must annually file a statement of economic interests (Form 700) by April 1 for the preceding calendar year. Among the individuals who must complete this form at school districts are superintendents, business officials, and board members. In addition, the Political Reform Act stipulates that a consultant to the organization "who makes, participates in making, or acts in a staff capacity for making governmental decisions" may be required to complete a Form 700.

Form 700 requires reporting the following:

- Sources of income (including gifts and honoraria).
- Investments (stocks, business interests).
- Interests in real property.
- Business positions held.
- Certain travel payments.

Form 700 must be filed, or refiled, at the following times:

- **Assuming Office Statement:** When taking a position that requires disclosure.
- **Annual Statement:** Filed by April 1 each year.
- **Leaving Office Statement:** When leaving a position that required filing.
- **Candidate Statement:** When running for an elected position.

Failure to follow FPPC Form 700 rules can result in fines, and, in extreme cases, deliberate failure to file can result in criminal charges by the attorney general or district attorney, or civil or administrative action by the FPPC.

The Political Reform Act concerns situations in which a public official participates in or attempts to influence a government decision that affects their economic interests. Failure to disclose information is a form of influence. If a conflict under the Political Reform Act exists, the public official must recuse themselves from every part of the decision-making process and abstain from voting. The FPPC has issued many detailed regulations about conflicts of interest, as discussed in the “Nonfinancial Conflicts” section below.

Nonfinancial Conflicts

Common Law

Court opinions lay out common law principles that require public officials to abstain from decisions in which they have a personal interest, even if their interest is not financial. The remedy for a common law conflict of interest is for the affected individual to disclose the conflict and abstain from discussion of and voting on the matter.

Appearance of Impropriety

Conflict of interest applies not only to economic interests but also to the appearance of impropriety, misconduct, or even indiscretion. Conflict of interest is about self-dealing, which occurs when a fiduciary, such as a government official, prioritizes their personal interests over the interests of the entity or individuals they are entrusted to serve. Often a government official may claim they did not benefit financially from a transaction and that therefore there was no conflict of interest. However, those who may commit improprieties can have hidden interests that are not always economic, such as when a board member’s actions are detrimental to the district because they provided a benefit to a friend, relative or romantic interest.

The Office of the Attorney General of California’s [Opinion No. 97-511](#), dated December 5, 1997, discusses the appearance of impropriety:

The Supreme Court has declared that the purpose of section 1090's prohibition 'is to remove or limit the possibility of any personal influence, either directly or indirectly, which might bear on an official's decision, as well as to void contracts which are actually obtained through fraud or dishonest conduct. . . .' (*Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569.) The statutory goal is 'not only to strike at actual impropriety, but also to strike at the appearance of impropriety.' (*City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 197.)

Limiting the possibility of any direct or indirect personal influence includes avoiding even the appearance of a conflict. Failure to do so can be dishonest and is a breach of a public official's fiduciary responsibilities. When a public official such as a board member, or even any government employee, conceals information about their personal interest in a decision, they are depriving the board or management of information that may be necessary for them to make an informed decision. By acting without disclosing their own personal interest (self-dealing), the board member or employee gains hidden influence over the outcome of other board members' decisions.

A board member can influence a governmental decision by concealing information from fellow board members or the public when, had that information been known, it would, or would have appeared to, alter the outcome of the decision. Failure to disclose information is a form of influence.

The FPPC has published many resources regarding conflicts of interest, including *An Overview of Section 1090 and FPPC Advice* in October 2020, *A Quick Guide to Section 1090* in October 2020, and *Recognizing Conflicts of Interest* in August 2015. These resources provide further clarification regarding conflicts of interest.

A Quick Guide to Section 1090 describes the purpose of GC 1090 as follows:

Section 1090 "Codifies the long-standing common law rule that barred public officials from being personally financially interested in the contracts they formed in their official capacities."

The prohibition is based on the rationale that a person cannot effectively serve two masters at the same time. Therefore, Section 1090 is designed to apply to any situation that "would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of the [public entity concerned]." Section 1090's goals include eliminating temptation, avoiding the appearance of impropriety, and assuring the public of the official's undivided and uncompromised allegiance.

Furthermore, Section 1090 is intended "not only to strike at actual impropriety, but also to strike at the appearance of impropriety."

[Footnote case citations removed from the quoted information by FCMAT.]

The Political Reform Act represents voters' recognition that conflicts of interest in government decision-making by public officials pose a significant danger. *Recognizing Conflicts of Interest* states:

Under the Act, a public official will have a statutory conflict of interest with regard to a particular government decision if it is foreseeable that the outcome of the decision will have a financial impact on the official's personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. In fact, preventing conflicts of interest was of such vital importance to the voters that the Act not only prohibits actual bias in decision-making but also "seeks to forestall ... the appearance of possible improprieties."

[Footnote case citations removed from the quoted information by FCMAT.]

The issue of the appearance of possible improprieties is discussed in the 1997 Fourth District Court of Appeal decision in *Witt v. Morrow* as follows:

Morrow asserts it is unconstitutional to automatically disqualify a public official from participating in decisions which may affect the investments of an entity which pays him However, the whole purpose of the Political Reform Act of 1974 is to preclude a government official from participating in decisions where it appears he may not be totally objective because the outcome will likely benefit a corporation or individual by whom he is also employed. [*Witt v. Morrow* (1977) Official California Appellate Reports, Third Series volume 70 pages 817, 822-823 (*Witt v. Morrow* [1977] 70 Cal.App.3d 817, 822-823)].

The Political Reform Act applies to all “public officials,” which GC 82048 defines as “every member, officer, employee or consultant of a state or local government agency.” In the 1962 case of *Stigall v. City of Taft*, the California Superior Court recognized that GC 1090’s prohibition against conflicts of interest must be broadly construed and strictly enforced (*Stigall v. City of Taft* (1962) Official California Reports, Second Series volume 58 page 565 [*Stigall v. City of Taft* (1962) 58 Cal.2d 565]).

Reasonably Foreseeable Financial Effect

In its implementation of the Political Reform Act, the FPPC enacts many regulations, including Title 2, California Code of Regulations 18700 (2 CCR 18700), the basic rule and guide to conflict-of-interest regulations. This regulation states, in part:

- (a). Basic Rule: A public official at any level of state or local government has a prohibited conflict of interest and may not make, participate in making, or in any way use or attempt to use the official’s position to influence a governmental decision when the official knows or has reason to know the official has a disqualifying financial interest. A public official has a disqualifying financial interest if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, directly on the official, or the official’s immediate family, or on any financial interest described in subdivision (c)(6)(A-F) herein. (Sections 87100, 87101, & 87103.)

Title 2, California Code of Regulations 18701 (2 CCR18701) determines whether a financial effect is reasonably foreseeable and states, in part:

- (a). Financial Interest Explicitly Involved: A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official’s agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).

Ethical Duty, Integrity, and Fiduciary Duty

It is not enough to evaluate a potential conflict of interest based on whether a public official has a direct financial interest. School managers and staff and the public should expect the highest level of ethics from all public officials. Public officials should show an ethical tone at the top and demonstrate the highest levels of integrity and fiduciary duty.

Board members are fiduciaries of the LEA. According to the [Legal Information Institute](#), a fiduciary is someone who has a fiduciary duty to conduct themselves in a way that financially benefits another person or persons (referred to as a beneficiary or principal). In other words, the fiduciary assumes responsibility for managing money or other assets on behalf of the beneficiary. Moreover, a fiduciary may hold a legal or ethical relationship of trust with one or more other parties (person or group of persons). Board members, administrators and managers have fiduciary responsibilities or a fiduciary duty to the LEA(s) they serve.

The Legal Information Institute asserts that fiduciaries are responsible for certain fiduciary duties. FCMAT has summarized these six duties and actively applies them to LEA fiduciaries as follows:

- **Duty of Care:** Collect all evidence and available information before making a decision. Do your due diligence and review all the information and evidence available – do not just accept the information as it is presented. Assess information with a critical eye and ask who, what, when and where. A fiduciary's responsibility is to protect the LEA's assets.
- **Duty of Loyalty:** Do not use your position in the organization to further your private interests. Avoid anything that might injure the LEA.
- **Duty of Good Faith:** Advance the LEA's interests. Do not violate the law. Fulfill your duties and responsibilities.
- **Duty of Confidentiality:** Keep confidential matters confidential, and never disclose confidential information for your own benefit or to avoid personal liability.
- **Duty of Prudence:** Be trustworthy, with the degree of care and skill that a prudent member of management, board member, or fiduciary would exercise. Prudent means acting with wisdom and care, including exercising good judgment.
- **Duty of Disclosure:** Act with complete candor. Be open, sincere, honest and transparent. Disclose all financial interests on Form 700, Statement of Economic Interests.

Board members must be loyal and serve in good faith, with prudence and full disclosure, in the best interest of the LEA, without any hint of self-dealing or personal interest in any transaction associated with the LEA. They also have a duty to ensure their business partners (e.g., consultants, contractors and vendors) do the same.

When faced with potential conflicts of interest on the part of a public official, such as a school board member, administrator or consultant, it is important to consider the legal and ethical standards and to review any applicable board policies that may be even more restrictive than the statutory mandates.

Corruption

Corruption does not have to involve two or more parties; a single individual in a position of trust can exercise authority for their own personal gain. Personal gain can include, but is not limited to, helping a significant other or personal acquaintance get a job, promotion or pay raise. And when the relationship is not disclosed to the public, management, or all fellow board members, and the interested board member votes or abstains on the matter but fails to explain their reasons for abstaining, these actions may be considered a conflict of interest. Every conflict of interest requires one party to be in a position of trust, and every instance of corruption requires both a conflict of interest and a breach of that trust.

Transaction Sampling

FCMAT developed and conducted audit procedures to analyze and evaluate allegations and identify potential outcomes. The audit scope, objectives, and substantive transaction testing were based on the FCMAT study team's experience and professional judgment. Often, transaction testing does not include testing or evaluating all available transactions and records, as such an approach can be unnecessary and overly time consuming.

However, as stated in each report section, FCMAT chose not to select a sample for each area reviewed but instead tested all transactions within the identified scope. This decision was based on the number of applicable transactions identified within the time specified in scope of the audit, which was July 1, 2022 through October 7, 2024.

Transactions selected, when applicable, are analyzed and compared to applicable statutes, board policies, administrative regulations, operational procedures, and industry standards or best practices. They are then evaluated for proper authorizations and reasonableness based on the team's judgment and technical expertise in school business operations, internal controls, and accounting best practices.

Testing and examination of results are intended to provide reasonable but not absolute assurance that the transactions and financial activity are accurate, and/or to identify whether fraud, misappropriation of funds, or other illegal fiscal practices may have taken place during the period under review.

Gift of Public Funds

FCMAT did not identify any concerns related to the gift of public funds in this review. This section is included to help readers understand the standards used to evaluate whether certain expenditures serve a valid public purpose as determined by the district's board of education. These guidelines support the lawful use of public resources.

Standards for Determining a Gift of Public Funds

Article 16, Section 6 of the California Constitution specifies that the state Legislature cannot authorize any county, city, or other political subdivision to make any gift of public funds to an individual or corporation. This prohibits making any gift of public money or items of value to any individuals (including public employees), corporations, or other government agencies. This constitutional prohibition is designed to prevent the misuse of public money.

Expending public funds for a direct and substantial public purpose, with only an incidental benefit to an individual, is unlikely to violate this constitutional prohibition. The existence, lack of, or absence of a direct and substantial public purpose is the primary factor in determining whether an expenditure is a gift of public funds.

To justify an expenditure of public funds, a governing board must determine that it directly benefits the education of the LEA's students. Expenditures that most directly and demonstrably benefit students' education are more likely justified, but expenditures driven by personal motives are not, even if they have been a longstanding local custom or are based on benevolent intentions. If the LEA's governing board has determined that a particular type of expenditure serves a public purpose, courts will almost always defer to that finding. Therefore, if the LEA has a board policy stating that specific items are allowable, such as scholarships and awards, the expenditure will likely be considered allowable.

County Superintendent of Schools' Responsibilities

In accordance with EC 42638(b), action by the county superintendent of schools shall include the following:

If the county superintendent determines that there is evidence that fraud or misappropriation of funds has occurred, the county superintendent shall notify the governing board of the school district, the State Controller, the Superintendent of Public Instruction, and the local district attorney.

In accordance with EC 1241.5(b), the county superintendent is required to report the findings and recommendations in this report to the district's governing board at a regularly scheduled board meeting within 45 days of completing the audit (the date of this report). Within 15 days of receipt of the report, the district's governing board is required to notify the county superintendent of its proposed actions regarding the county superintendent's recommendations.

Findings

Contracts and Vendor Selection

FCMAT developed and conducted audit procedures to analyze and evaluate the district's contracts and vendor selection process. The audit scope, objectives, and substantive transaction testing were based on the FCMAT study team's experience and professional judgment.

FCMAT reviewed all contracts listed in the board agendas during the period specified in the audit scope; however, some small or routine contracts were disregarded, as noted below. Transactions were analyzed and compared to applicable statutes, board policies, administrative regulations, operational procedures, and industry standards or best practices. They were evaluated for proper authorizations and reasonableness based on the team's judgment and technical expertise in school business operations, internal controls, and accounting best practices.

Local educational agencies (LEAs) are required to follow the California School Accounting Manual (CSAM) and to record revenues and expenditures using the standardized account code structure. Part of this account code structure is the four-digit object field, which classifies expenditures according to the types of items purchased or services obtained. LEAs are required to code their transactions to at least the minimum object level required by the California Department of Education (CDE). According to the CSAM, objects 5000-5999 are for recording "expenditures for services, rentals, leases, maintenance contracts, dues, travel, insurance, utilities, and legal and other operating expenditures. Expenditures may be authorized by contracts, agreements, purchase orders, and so forth." Objects 6000-6999 are for recording "expenditures for land, buildings, equipment, capitalized complements of books for new libraries, and other intangible capital assets, such as computer software, including items acquired through leases with option to purchase."

For the period under review, FCMAT requested information from the district's financial system, including a purchase order report for objects 5000-6999. FCMAT disregarded general service contracts such as those for utilities and those with other government agencies for required services (e.g., health insurance, fire inspections).

During interviews, FCMAT asked district staff open-ended questions to help gain an understanding of the district's operational procedures and internal controls for procurement and vendor payments and to evaluate the adequacy of controls in general. Although interviewees indicated that processes and procedures for procurement and bidding had been established and were being followed, the district provided no formal written procedures or procedural manual in response to FCMAT's request.

For contracts, documentation of all procurement activities is required. Education Code 35250(b) states that the governing board of every school district shall, "Keep an accurate record of the receipts and expenditures of school moneys." Documents were provided for every transaction sampled during this audit.

Procurement

Maintaining transparency in public contracting by meeting competitive bidding requirements and using other standard procurement procedures is one of the essential characteristics of public institutions. Although some flexibility may be sacrificed, such requirements and procedures are designed to reduce favoritism and corruption in the expenditure of public funds. Numerous statutes, policies, procedures, regulations and legal interpretations must be followed in school district procurement processes. A school

district will enter into a variety of contracts to purchase goods and services, and each type will likely have different rules that must be followed for the procurement process and/or contract to be valid.

The board of trustees is a body of elected individuals who have the responsibility to govern their schools within the context of the law. The board's role is to be responsive to the values, beliefs and priorities of the community by developing and approving the district's mission and strategic goals and objectives, and by ensuring accountability to the public.

School boards provide policy direction and oversight for the professionals who manage the district's day-to-day operations by adopting board policies and administrative regulations. Through these policies, day-to-day operating decisions are delegated to competent staff with the expectation that their actions will comply with the related laws while maximizing efficiency and effectiveness.

Board members have a responsibility to adhere to the standards of responsible governance and uphold the policies they have adopted. The district's Board Policy 3312 – Contracts, states:

The Governing Board recognizes its responsibility to enter into contracts on behalf of the district for the acquisition of equipment, supplies, services, and other resources necessary for the achievement of district goals. In exercising this authority to enter into a contract, the Board shall ensure that the district's interest is protected and that the terms of the contract conform to applicable legal standards, including the bidding requirements in Public Contract Code 20111.

The Board may, by a majority vote, delegate to the Superintendent or designee the authority to enter into contracts on behalf of the district. To be valid or to constitute an enforceable obligation against the district, all such contracts must be approved and/or ratified by the Board the approval or ratification to be evidenced by a motion of the board duly passed and adopted (Education Code section 17604) or reviewed by the Board (Education Code section 17605), as applicable.

Every contract entered into on behalf of the district shall be made available for public inspection, except when the law prohibits disclosure. No contract shall prohibit a district employee from disparaging the goods or services of any contracting party,

Contracts for Personal Services

In order to achieve cost savings, the district may enter into or renew a contract for any personal service that is currently or customarily performed by classified employees, if the contract does not displace school district employees and meets other conditions specified in Education Code 45103.1. To enter into or renew such a contract, the Board shall ensure that the district meets the numerous conditions specified in Education Code 45103.1.

In addition, the district may enter into or renew any contract for personal service without meeting the conditions described above, if any of the following conditions exists: (Education Code 45103.1)

1. The contract is for new district functions and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.
2. The services contracted are not available within the district, cannot be performed satisfactorily by district employees or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the district.

3. The services are incidental to a contract for the purchase or lease of real or personal property, including, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.
4. The district's policy, administrative, or legal goals and purposes cannot be accomplished through the utilization of persons selected pursuant to the regular or ordinary district hiring process.
5. The nature of the work is such that the criteria for emergency appointments, as defined in Education Code 45103.1, apply.
6. The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the district in the location where the services are to be performed.
7. The services are of such an urgent, temporary, or occasional nature that the delay that would result from using the district's regular or ordinary hiring process would frustrate their very purpose.

Bid Thresholds

The state superintendent of public instruction (SPI) is required to adjust the \$50,000 bid threshold amount specified in Public Contract Code (PCC) 20111(a) annually to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce, Bureau of Economic Analysis (BEA) for the 12-month period ending in the prior fiscal year. The inflation adjustment is rounded to the nearest one hundred dollars.

Table 2 shows bid thresholds used for transactions in this report.

Table 2. Annual Bid Thresholds for School District Contracts

Calendar Year	Bid Threshold
2022	\$99,100
2023	\$109,300
2024	\$114,500

Sources: California Department of Education and School Services of California, Inc.

Legal exceptions exist to the formal bidding requirement. The following is an example of procurement not subject to the usual competitive bidding requirements:

- Emergency resolutions for emergency conditions when a prescribed approval process is followed.

Conditions that commonly qualify as emergencies include situations with a risk of immediate harm to persons or property or that prevent school classes from being held. For example, the failure of a water pump affecting the delivery of water to a school would be an emergency. When an emergency occurs, the district is permitted to select a contractor of its choice; no advertisement, job walk, or bid is necessary. However, the governing board's unanimous vote and the county superintendent of schools' review and approval are required.

As discussed in the previous section, FCMAT reviewed all contracts approved during the period covered by this audit. This totaled 578 contracts. Per board policy, the board agendas delineated the contracts that were above and below the bidding threshold (until early January 2024, when all the contracts were combined into one list). The board reviewed items that were below the bidding threshold, and ratified those above the threshold. These contracts were listed on each meeting's consent agenda. Only larger public works documents were listed separately on the board agendas rather than on the consent agenda.

Review of this information provided reasonable indication that the district generally followed the described standard process for awarding contracts during the period of FCMAT's audit scope. FCMAT noted that the board policy for contracts (Board Policy 3312) was changed in January 2024: the district made a slight change in how it was placing items on the board agenda for approval at that time, but it was not significant and did not obscure the board's ability to review and approve contracts with confidence. All information regarding the contracts remained intact and available for review.

Before FCMAT's audit, several vendors and contracts were questioned by either the district or the community with regard to the vendor selected, the purpose of the contract, or other concerns; these required additional review. Among these contracts and services was a vendor called Blue Violet Energy, a meditation and holistic healing service provider retained by the district beginning in August 2023. The company offers corporate coaching programs for small and large groups that provide different methods of meditation and stress management. In interviews, staff indicated that the former superintendent selected the company to manage or reduce workplace stress and anxiety. Meditation services were offered to various employees and administrators at the schools and the district office, though some staff members indicated they did not participate or did not see the value of such a service.

Although meditation services are an unusual employee benefit for a school district, it is not uncommon for an organization to identify a need to manage workplace stress. Ways to address it could include staff retreats, team-building exercises, or other collaborative activities to help improve staff morale and overall emotional health. Using certain meditation services, therefore, could conceivably help in this regard. Accordingly, FCMAT determined that, although somewhat unconventional, the retention of meditation services can best be classified as a local decision, subject to review and approval by the district's governing board but not otherwise specifically prohibited.

In addition, concerns were expressed about contracts with parties assumed to be related to the former superintendent. One of these alleged related parties was the search firm responsible for selecting the former superintendent. The same firm also provided coaching and mentoring services to the former superintendent. It is not uncommon for search firms to offer mentoring services to the candidates they have placed in various positions, or for the service provider to be someone a superintendent or the district knows or has worked with in the past.

For all contracts reviewed, FCMAT determined that each contract was brought to the board for approval, and board policy was followed. The board approved the contracts as presented. Although the majority of these contracts were on the consent agenda in open session, there is evidence that the board would occasionally identify items on the consent agenda for which additional information or discussion was needed, such as for the aforementioned Blue Violet Energy contract. In these instances, the item was identified and discussed in open session.

Fair Political Practices Commission (FPPC) Form 700

As discussed earlier in this report, FPPC Form 700 is designed to identify and prevent conflicts of interest among designated public officials and employees by making their financial interests transparent. FPPC Form 700 is a key tool for promoting ethical governance and ensuring public trust.

FCMAT reviewed forms 700 filed for all designated positions, which are required by the district's conflict of interest policy that was adopted in 2022 and updated in 2024. These forms were filed during the period covered by the study agreement for employees in most leadership and administrative positions, as well as certain other district employees, board members, and consultants, if any. FCMAT found no issues with the forms submitted or with the vendors the district used and contracted with.

Travel

In accordance with the audit scope, FCMAT reviewed travel expenses incurred by the former superintendent between July 1, 2022 and the end of his tenure with the district in October 2024. The purpose of the review was to determine whether there was a valid educational purpose for each trip, and whether internal controls were followed regarding advance approval of travel in accordance with the former superintendent's employment agreement.

During the former superintendent's employment, various changes and renewals were made to the employment agreement. The employment contract in effect as of July 1, 2022, which was the start of FCMAT's audit scope, stated the following regarding expense reimbursements, travel, and professional development.

6. Professional Support
 - a. Support for Duties. Superintendent will be provided with such facilities, equipment, supplies, and clerical assistance as appropriate and financially feasible for the adequate performance of Superintendent's duties. Superintendent will be provided with the appropriate technology that will assist the Superintendent in the performance of his job duties.
 - b. Professional Membership Fees. The Board agrees to pay Superintendent's annual professional membership fees to belong to the Association of California School Administrators (ACSA), the International Society for Technology in Education (ISTE), the Association for Supervision and Curriculum Development (ASCD), and other mutually agreed upon organizations.
 - c. Expense Reimbursement. The District shall reimburse Superintendent for actual and reasonable expenses incurred within the scope of the Superintendent's employment, so long as such expenses are permitted by District policy or incurred with prior approval of the board. For reimbursement, Superintendent shall submit an expense claim in writing supported by appropriate written documentation. The District shall provide Superintendent with a District credit card for actual and reasonable expenses incurred within the scope of employment in compliance with District policy.
 - d. Professional Development, Conferences and Meetings. The Board supports the concept of life-long learning and encourages the professional growth of the Superintendent through attendance at professional conferences, seminars, and meetings at local and state levels. Prior approval of Board shall be obtained when

the Superintendent attends a function outside the state. To the extent authorized by law, the District shall pay expenses related to attendance at all such meetings, including mileage or other travel expenses, as set forth above.

Subsequent to this employment agreement, on June 13, 2024, the district and former superintendent jointly executed an amendment to the agreement (titled, Fourth Amendment to the Mountain View Whisman School District Agreement for Employment of Superintendent), which changed items b. and d., above. The amendment was in place for the remainder of the former superintendent's tenure, with these two items revised as shown below. Note that, under Professional Membership Fees, the two parties added "Digital Promise" to the allowable membership fees paid by the school district on behalf of the former superintendent. This was the only change to the employment agreement under Professional Membership Fees. For Professional Development, Conferences and Meetings; the two parties jointly agreed to change the agreement to not require board approval when the former superintendent was attending an event held by any of the professional organizations included in section b., Professional Membership Fees. The amended sections are shown below.

4. The following provision shall replace section 6.b. (Professional Membership Fees) in the Employment Agreement:
 - b. Professional Membership Fees. The Board agrees to pay Superintendent's annual professional membership fees to belong to the Association of California School Administrators (ACSA), the International Society for Technology in Education (ISTE), the Association for Supervision and Curriculum Development (ASCD), Digital Promise, and other mutually agreed upon organizations.
5. The following provision shall replace section 6.d. (Professional Development, Conferences and Meetings) in the Employment Agreement:
 - d. Professional Development, Conferences and Meetings. The Board supports the concept of life-long learning and encourages the professional growth of the Superintendent through attendance at professional conferences, seminars, and meetings at local and state levels. The Superintendent is encouraged to attend, without prior board approval, professional development opportunities provided by the organizations referenced in section 6.b. above. Prior approval of Board shall be obtained when the Superintendent attends a function outside the state that is not provided by the organizations referenced in section 6.b. above. To the extent authorized by law, the District shall pay expenses related to attendance at all such meetings, including mileage or other travel expenses, as set forth above.

Travel by the former superintendent was identified through interviews with district staff members, and from the former superintendent's reimbursement requests, credit card charges and other supporting documents. Because of the relatively short time period specified in the audit scope, FCMAT chose not to select a sample for testing but instead identified and reviewed all travel by the former superintendent that could be identified as occurring during that time period.

For auditing purposes, "travel" was determined to include any trip or activity attended by the former superintendent either outside of Santa Clara County or that included an overnight stay. Using these criteria, FCMAT identified 17 trips taken by the former superintendent from July 1, 2022 through the remainder of his tenure with the district, and for which the district paid the expenditures. All travel identified by FCMAT was domestic. As shown in Table 3 below, the destinations for eight of the 17 trips were within California.

Table 3. Travel by the Former Superintendent, July 2022–October 2024

Date(s) of Trip	Trip Destination	Educational Purpose
2022 (July – December)		
10/19 -10/25/22	National Harbor, MD	ASCD Leadership Summit
11/30 - 12/3/22	San Diego, CA	CSBA Conference
2023 (January – December)		
2/15 - 2/18/23	San Antonio, TX	AASA Conference
3/30 - 4/3/23	Denver, CO	ASCD Conference
4/23 - 4/27/23	Birmingham, AL	League of Innovative Schools Conference
7/9 - 7/13/23	Napa, CA	CABSE Conference
8/31 - 9/1/23	Santa Cruz, CA	SCCOE Superintendents' Conference
10/12 - 10/15/23	Dallas-Fort Worth, TX	ASCD Conference on Educational Leadership
10/15 - 10/20/23	Washington, D.C.	Chiefs for Change Conference
11/29 - 12/3/23	San Francisco, CA	CSBA Annual Conference
2024 (January – October)		
1/17/24	Sacramento, CA	SSC 2024 Governor's Budget Workshop
1/24 - 1/26/24	Palm Springs, CA	2024 ACSA Superintendents' Symposium
2/15 - 2/17/24	San Diego, CA	AASA Conference
2/18 - 2/26/24	New York, NY	Research for "Re-Imagining Castro"
3/15 - 3/19/24	New York, NY	League of Innovative Schools Conference
3/19 - 3/24/24	Washington, D.C.	ASCD Annual Conference
4/30/24	Claremont, CA	Green Ribbon Awards

Source: Adapted from district-provided documents.

Notes: Acronyms Used

ASCD – Association for Supervision and Curriculum Development.

CSBA – California School Boards Association.

AASA – American Association of School Administrators.

CABSE – California Association of Black School Administrators.

SCCOE – Santa Clara County Office of Education.

SSC – School Services of California, Inc.

ACSA – Association of California School Administrators.

FCMAT did not identify any travel by the former superintendent for which an educational purpose could not be determined. Once an educational purpose was identified and verified, FCMAT did not further evaluate each event's agenda, the actual attendance of the former superintendent at each event, any meals provided by the event coordinator, or otherwise assess the value of each trip to the school district. Nine of the 17 entries on Table 3 were for educational purposes identified in the former superintendent's employment agreement or are routine conferences attended by a California school superintendent.

During interviews and fieldwork, one of the trips identified as needing further review was a trip in February 2024 to New York City. The trip included seven attendees: three district administrators, a teacher, two board members, and the former superintendent. According to staff members, the purpose of the trip was to conduct research for the district's ongoing Re-Imagine Castro initiative. Mariano Castro Elementary is a district school with a unique demographic, including a percentage of unduplicated students that is approximately twice that of other schools in the district, which means the school serves a larger population of students who qualify for free or reduced-price meals, are English learners, or are foster youth.

The travel group planned to visit several schools in the New York City area that closely resemble the demographic at Castro Elementary to better understand how to best serve this student population. According to interviewees, several of the schools the group had planned to visit were ultimately closed for winter break at the time of their intended visit. However, they were able to visit at least one charter school in the New York City area for research purposes, as well as additional, similar charter schools in California separate from this trip.

While in New York City, the group stayed at a hotel adjacent to Central Park called the JW Marriott Essex House, at the approval of the former superintendent. Room rates per night varied among the attendees, presumably depending on when each reservation was made and the method used to make it. For some attendees, the supporting documents indicated a rate as low as \$455 per night (not including taxes and fees), while other rates were as high as \$709 per night.

FCMAT determined that the trip did have a stated educational purpose and that the Re-Imagine Castro initiative was indeed a district objective. As with other trips and expenditures made for certain professional purposes, FCMAT did not further assess whether the stated purpose of the trip was accomplished or whether the Re-Imagine Castro initiative was a valid educational priority for the district.

FCMAT also determined that, given the location of the JW Marriott Essex House in Manhattan and its proximity to Central Park, the nightly rates were similar to those of other large hotels in the immediate area. FCMAT asked the former superintendent about the selection of this hotel, and he stated that the hotel was chosen because of its proximity to various cultural venues that could enhance the educational purpose of the trip.

Similarly, for the CSBA conference in 2023, the former superintendent stayed at the St. Regis hotel in San Francisco, another luxury hotel for which FCMAT requested more information from the former superintendent. He stated that, because of the early start times on the conference agenda, he chose to stay in San Francisco to maximize participation and engagement with the district board members who were also in attendance. He indicated that the primary conference hotel was sold out and that other events were occurring at the same time in the city. The St. Regis hotel was therefore selected as the most cost effective hotel among the remaining available options.

FCMAT identified nine out-of-state trips for which the superintendent's employment agreement required board approval. However, FCMAT was unable to identify board approvals for any trips outside of California. Staff interviewed indicated that the board did not formally approve any trips in accordance with the employment agreement; rather, the board was informed of the trips during weekly updates and verbal conversations with the former superintendent.

In the final months of the former superintendent's tenure, as indicated above, the district's governing board and the former superintendent together determined that board approval was no longer necessary for any travel associated with the professional organizations outlined in the employment agreement (see item 4.b. of the employment agreement above). This included any travel outside of California, though FCMAT did not identify any such trips, likely because the revisions to the agreement were made less than four months before the former superintendent's separation from the district.

Expenditure Reimbursements

In accordance with the audit scope, FCMAT reviewed reimbursements submitted by the former superintendent from July 1, 2022 through his departure from the district in October 2024. Because of the limited timeframe specified in the study scope, FCMAT chose not to select a sample of the transactions but instead to review all reimbursements made by the district to the former superintendent during this time.

Allowable reimbursements were described in multiple sections of the former superintendent's employment agreement. These sections of the employment agreement remained unchanged during the time period reviewed. Any changes to other sections of the agreement, such as those related to travel, are discussed in other sections of this report. Sections describing permissible reimbursements are shown below.

5. Fringe Benefits.
 - d. Automobile, Mileage. Superintendent shall be responsible for mileage and out of pocket District-related travel expenses outside of Santa Clara County at the current rate and in accordance with district policy.
6. Professional Support
 - a. Support for Duties. Superintendent will be provided with such facilities, equipment, supplies, and clerical assistance as appropriate and financially feasible for the adequate performance of Superintendent's duties. Superintendent will be provided with the appropriate technology that will assist the Superintendent in the performance of his job duties.
 - b. Professional Membership Fees. The Board agrees to pay Superintendent's annual professional membership fees to belong to the Association of California School Administrators (ACSA), the International Society for Technology in Education (ISTE), the Association for Supervision and Curriculum Development (ASCD), Digital Promise, and other mutually agreed upon organizations.
 - c. Expense Reimbursement. The District shall reimburse Superintendent for actual and reasonable expenses incurred within the scope of the Superintendent's employment, so long as such expenses are permitted by District policy or incurred with prior approval of the board. For reimbursement, Superintendent shall submit an expense claim in writing supported by appropriate written documentation. The District shall provide Superintendent with a District credit card for actual and reasonable expenses incurred within the scope of employment in compliance with District policy.
 - d. Professional Development, Conferences and Meetings. The Board supports the concept of life-long learning and encourages the professional growth of the Superintendent through attendance at professional conferences, seminars, and meetings at local and state levels. Prior approval of Board shall be obtained when the Superintendent attends a function outside the state. To the extent authorized by law, the District shall pay expenses related to attendance at all such meetings, including mileage or other travel expenses, as set forth above.

Section 6.d. was modified in 2024 as described in the Travel section of this report. The revised section is provided below for reference.

- d. Professional Development, Conferences and Meetings. The Board supports the concept of life-long learning and encourages the professional growth of the Superintendent through attendance at professional conferences, seminars, and meetings at local and state levels. The Superintendent is encouraged to attend, without prior board approval, professional development opportunities provided by the organizations referenced in section 6.b. above. Prior approval of Board shall be obtained when the Superintendent attends a function outside the state that is not provided by the organizations referenced in section 6.b. above. To the extent authorized by law, the District shall pay expenses related to attendance at all such meetings, including mileage or other travel expenses, as set forth above.

The district provided FCMAT with all reimbursement requests submitted by the former superintendent during the time period specified in the audit scope. Supporting documents for reimbursement requests typically included invoices, receipts, or other documents from the vendor. When a reimbursement request included travel-related expenses, the request was usually submitted on a district form titled, "Travel Expense Claim Reimbursement Form."

Most requests for reimbursement appear to have been prepared by the former superintendent's executive administrative assistant. Approval signatures evident on all reimbursement requests, invoices, or other supporting documents were typically those of the former superintendent himself, and his executive administrative assistant. Signature approval was not obtained from other district employees or board members on the supporting documents FCMAT reviewed; however, interviewees indicated that the district's financial system requires electronic approvals for all reimbursements. The approvers include the director of fiscal services, the chief business officer, and the Purchasing Department.

When FCMAT requested additional information, district staff informed FCMAT that the former superintendent's executive administrative assistant was not an approver of reimbursement requests but simply prepared the documents. The governing board provided approval through their regular review of the district's warrant reports but did not otherwise approve each reimbursement individually.

For the period under review, FCMAT identified 58 items submitted for reimbursement by the former superintendent. FCMAT determined that most reimbursement requests included the former superintendent's monthly cell phone charges from Verizon as well as monthly home internet charges from Xfinity. The monthly cell phone charges varied slightly but were usually around \$110 per month. Monthly home internet charges were approximately \$290, having increased from \$232 per month during the time specified by the study scope.

FCMAT found that both the cell phone and home internet reimbursements were reasonable and allowable in accordance with the former superintendent's employment agreement, which stated the following:

Superintendent will be provided with such facilities, equipment, supplies, and clerical assistance as appropriate and financially feasible for the adequate performance of Superintendent's duties. Superintendent will be provided with the appropriate technology that will assist the Superintendent in the performance of his job duties.

In FCMAT's experience, reimbursement of reasonable monthly cell phone charges is common for district superintendents. In addition, FCMAT's experience indicates that reimbursement for home internet is also reasonable and allowable, though somewhat less common than reimbursement for cell phone charges.

FCMAT was unable to determine from the Xfinity invoices whether the monthly charges also included other packaged residential services provided by Xfinity, such as cable television or home security monitoring, which would not be reimbursable. FCMAT's research indicates that most residential service pack-

ages offered by Xfinity do not itemize or otherwise separate charges for each individual service provided, making the cost of any single service difficult to quantify or determine.

In addition to monthly cell phone and internet charges, other common reimbursements requested by the former superintendent included expenses related to travel, such as mileage expenses, that could not be paid by the former superintendent using his district credit card (expenditures associated with travel are also included in the Travel section of this report).

Following testing, FCMAT did not identify any reimbursement requests by the former superintendent that lacked an educational purpose, either stated or presumed (such as monthly cell phone charges and home internet), or that did not otherwise contain an explanation for the expense that FCMAT determined was a reasonable use of district funds.

Credit Card Use

The former superintendent was provided with a district credit card in accordance with his employment agreement with the district, which stated, “The District shall provide Superintendent with a District credit card for actual and reasonable expenses incurred within the scope of employment in compliance with District policy.”

The district provided FCMAT with all credit card statements from July 2022 through the end of the former superintendent’s tenure with the district. As with the expenditures related to both travel and reimbursements as previously discussed, FCMAT elected not to select a sample of the credit card transactions but instead to review all charges made by the former superintendent during the time specified in the audit scope. The objective of the review was to determine whether each charge had a valid educational purpose, as well as to review the documentation, approval and oversight of credit card charges.

FCMAT determined that the district credit card issued to the former superintendent was used exclusively by him or by his executive administrative assistant at his request. Upon receipt of each month’s credit card statement, the executive administrative assistant would reconcile the statement and attach receipts for all charges, if they had been received from the former superintendent. In many but not all cases, an explanation for each charge was included in the supporting documents. FCMAT reviewed approximately 337 credit card charges by the former superintendent that occurred during the period of time covered by FCMAT’s audit. FCMAT identified 27 charges for which an educational purpose was not provided or for which FCMAT could not otherwise determine the justification for the charge. After requesting additional information from the district, all 27 charges were adequately explained by additional documents or other means.

Once testing was completed, FCMAT did not identify any charges on the former superintendent’s credit card statements for which an educational purpose could not be identified. As with travel and reimbursements, FCMAT reviewed the stated educational purpose and examined the purpose for validity and reasonableness. However, FCMAT did not otherwise assess the educational value and necessity of each expenditure.

During testing, FCMAT reviewed certain credit card charges that were identified as questionable by the community, during interviews, or in documents reviewed. These included charges for the Ameswell Hotel and Shoreline Golf Links in Mountain View, the St. Regis Hotel in San Francisco (see the Travel section of this report), and the Cigar Bar in New York, NY. Charges for the Ameswell Hotel and Shoreline Golf Links were related to local leadership retreats for district administrators. Leadership retreats are not uncommon; however, as with travel and reimbursements, FCMAT did not determine whether other suitable venues may have been available at that same time and at a lower cost. The stay at the St. Regis Hotel was for a profes-

sional conference in San Francisco, and purchases at the Cigar Bar in New York City were for food only. No tobacco or alcohol purchases using district funds were identified.

FCMAT also identified an unknown item on a Hertz rental car receipt for a trip in January 2024 to Palm Springs, California. The trip, as identified in the Travel section of this report, was for the 2024 ACSA Superintendents' Symposium. The receipt included an item identified as an upgrade, for which the additional charge by Hertz was \$300.00. Figure 1 shows a snapshot of the receipt, which was included as part of a total charge of \$1,119.33 on the former superintendent's February 2024 credit card statement.

Hertz Rental Car Receipt Showing \$300 Upgrade Charge, 2024

RENTAL DETAILS			
Rate Plan:	IN: FFRD4	OUT: FFRD4	
Rented On:	01/23/2024 16:29	LOC# 111812	
	PALM SPRINGS, CA		
Returned On:	01/27/2024 15:00	LOC# 111812	
	PALM SPRINGS, CA		
Car Description:	SIRSNHIGHLNDR2S	9JNU698	
Veh. No.:	8717191		
CAR CLASS Charged:	F	MILEAGE In: 800	
Rented:	K6	Out: 674	
Reserved:	F	Driven: 126	
RENTAL CHARGES			
DAYS	4 @	128.77	515.08
SUBTOTAL			515.08
DISCOUNT		5.00%	-25.75
UPGRADE			300.00
SUBTOTAL			789.33
FUEL PURCHASE OPTION			72.72
CONCESSION FEE RECOVERY			96.95
FF SURCHARGE			0.64
CA TOURISM FEE			27.63
LICENSE & TAX REIMBURSEMENT			10.00
CUSTOMER FACILITY CHARGE			36.00
REFUEL SALES TAX		4.25%	3.09
TAX		9.25%	82.97
AMOUNT DUE			1119.33 USD

Figure 1. Excerpt from the district-provided receipt for a January 2024 trip to Palm Springs, California, showing a \$300 charge for a vehicle upgrade. This expense was part of a total charge of \$1,119.33 on the former superintendent's February 2024 credit card statement.

Source: District-provided document.

Note: Red arrow added by FCMAT.

FCMAT requested additional information from the former superintendent regarding the unidentified upgrade. He stated that, upon arrival, the vehicle initially provided by Hertz was too small to comfortably accommodate both him and his luggage, especially given his height. The upgrade was to a larger vehicle he requested upon arrival after discovering that the car originally reserved was insufficient. FCMAT requested independent clarification of this matter from the district and received the same response regarding the additional charge. This coincides with the receipt, which indicates a full-size vehicle ("F") was originally reserved, while a larger vehicle, such as an SUV ("K6"), was actually rented. Accordingly, FCMAT determined that, although such an explanation was not definitive and the upgrade could have been for other purposes, this was sufficient to explain the additional cost. Additionally, FCMAT noted that similar upgrades were not included on other rental car receipts reviewed.

During the time specified in the audit scope, of the 337 charges reviewed by FCMAT, the former superintendent did not provide receipts for 44 credit card purchases. This represents approximately 13% of the transactions reviewed. Rather, these charges were submitted using a district form titled, "Receipt Declaration," which is an affidavit that requires the claimant's signature and states, "I am completing this document in lieu of receipt. A receipt cannot be submitted because it has been lost, accidentally destroyed, misplaced, or it is not an itemized receipt. I certify that no alcoholic beverages or tobacco products were purchased." The form further states,

I certify that the amount shown is the amount actually paid, that I have not and will not submit a duplicate claim, and that I have not and will not seek a claim for these expenses from any other source. I understand that a Receipt Declaration may not be completed on a routine basis and that overuse may revoke the privilege of providing a Declaration in lieu of a receipt.

The form requires a brief explanation of the charge for which no receipt was provided. FCMAT compiled this information about the 44 charges in Table 4, including the explanation provided for each item by the former superintendent. Most of the charges for which no receipt was provided were for either food or parking, and most also occurred during the former superintendent's travel. As stated in the Travel section, FCMAT identified an educational purpose for each trip taken by the former superintendent.

Table 4. Credit Card Charges Without Receipts as Reported on Receipt Declaration Forms, 2022–2024

Date	Vendor	Amount (\$)	Stated Purpose on Receipt Declaration Form
7/16/22	Chipotle	50.81	Working lunch
7/19/22	Shoreline Golf	222.23	Cabinet retreat staff lunch
7/26/22	Shoreline Golf	3,830.31	Room rental for leadership retreat (July 26-28)
7/26/22	Shoreline Golf	360.00	Leadership team food for retreat
8/24/22	Starbucks	15.55	Meeting with candidate for MVLA board
10/20/22	ASG - parking	19.00	Parking for ASCD conference
10/21/22	NH Mariner Garage	29.00	Parking for ASCD conference
10/21/22	NH Mariner Garage	29.00	Parking for ASCD conference
10/23/22	LAZ Parking	34.00	Parking for ASCD conference
10/21/22	DoorDash - McDonalds	26.99	"To feed my hunger." (sic) (Presumed to occur during travel.)
10/23/22	DCA Reagan	54.00	Parking for ASCD conference
10/23/22	Colpark LOC	11.00	Parking facility (during travel to Maryland)
10/23/22	NH Fleet Garage	15.00	Parking facility (during travel to Maryland)
10/23/22	NH Mariner Garage	20.00	Parking facility (during travel to Maryland)
10/24/22	NH Fleet Garage	24.00	Parking facility (during travel to Maryland)
10/25/22	NH Mariner Garage	20.00	Parking facility (during travel to Maryland)
10/25/22	NH Fleet Garage	24.00	Parking facility (during travel to Maryland)
10/26/22	Westin National Harbor	72.54	Breakfast (during travel to Maryland)
2/18/23	High Flying Foods	31.82	Lunch items

Date	Vendor	Amount (\$)	Stated Purpose on Receipt Declaration Form
4/23/23	English Pub	20.00	Conference meals
4/24/23	English Pub	20.00	Conference meals
4/25/23	English Pub	56.00	Conference meals
8/28/23	Amazon & Red Rock Coffee	17.46	Whistle and coffee
11/30/23	John's Grill	241.05	Dinner with trustees at CSBA conference
12/21/23	Red Rock Coffee	13.80	Coffee with MVEF board member [sic]
1/12/24	Priority Parking	15.00	Parking at the Governor's workshop in Sacramento
1/24/24	Palm Springs Airport	3.00	Parking
2/23/24	Jay Suites NY	1,000.00	Hotel stay for Re-imaging Castro trip
3/8/24	Amy's Drive Thru	31.39	Food
3/17/24	Cigar Bar NY	49.49	Food
3/18/24	Cigar Bar NY	64.24	Food
3/18/24	Halal Boys	13.54	Food
3/20/24	DoorDash HChicken (sic)	41.53	Food
3/20/24	SmartTrip	20.00	Metro fare for Innovative Schools conference
3/21/24	DoorDash Insomniac	49.58	Food
3/21/24	Apple	18.99	Cable charger
3/24/24	Exxon	63.74	Gas for conf. rental car
3/22/24	TG Cigars	76.00	Lunch
3/31/24	Apple	37.95	MS scheduling research
4/20/24	Eureka Restaurant	61.02	Dinner
4/20/24	Apple	9.99	MS scheduling research
4/23/24	Cascal Restaurant	75.00	Interview and work related expenses
5/1/24	Apple	37.95	Interview and work related expenses
8/28/24	Roger's Deli & Donuts	31.19	Food
	TOTAL	6,957.16	

Source: Adapted from district-provided documents.

Note: Parenthetical notations in the table were added by FCMAT.

Credit card statements and the supporting documents appear to have been reconciled by the former superintendent's executive administrative assistant. Signature approval by other district employees or board members was not obtained on the supporting documents FCMAT reviewed; however, interviewees indicated that, after the executive administrative assistant prepares credit card transactions for reimbursement, they are reviewed by Accounts Payable and a Budget Analyst for accuracy, and subsequently released for payment by the Director of Fiscal Services. District staff indicated that the former superintendent's executive administrative assistant was not an approver of the credit card charges but simply

prepared the documentation. The governing board provided approval through their regular review of the district's warrant reports but did not otherwise approve each credit card charge individually.

Conclusion

Potential for Fraud, Misappropriation of Funds, or Other Illegal Fiscal Practices

Recommendation

The county superintendent should:

1. Notify the Mountain View Whisman School District governing board at a regularly scheduled board meeting within 45 days of the audit's completion (the date of this report) that insufficient evidence exists to indicate that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices may have occurred, and that the Santa Clara County superintendent of schools has concluded their review.

Appendix

Study Agreement and Amendment to Study Agreement



FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM STUDY AGREEMENT FOR AB 139 REVIEW

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 or county superintendent of schools; collectively, Team 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

The Team provides a variety of services to local education agencies (LEAs). Pursuant to the provisions of Education Code (EC) 1241.5(b), county superintendents may review or audit the expenditures and internal controls of any school district in their county if they have reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. Furthermore, pursuant to the provisions of EC 1241.5(c), county superintendents may review or audit the expenditures and internal controls of any charter in their county if they have reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination.

The county superintendent of schools has requested that FCMAT assign professionals to conduct an Assembly Bill (AB) 139 review consistent with EC 1241.5 (b) or (c), as applicable. Such AB 139 review is in fulfillment of the county superintendent of school's authority under EC 1241.5(b) or (c), as applicable. The review 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 assigned 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.

The county superintendent of schools has received information regarding possible fraud, misappropriation of funds or other illegal fiscal practices at the Mountain View Whisman School District, hereinafter referred to as Subject Entity.

2. SCOPE OF THE WORK

A. Scope and Objectives of the Review

1. The focus of this AB 139 review is to determine, based on sample testing performed and auditors' judgment, whether fraud, misappropriation of funds, or other illegal fiscal practices may have occurred at the Subject Entity.
2. Based on that assessment, either recommend or not recommend that the county superintendent of schools notify the governing board of the Subject Entity, the State Controller, the state superintendent of public instruction, and the local district

attorney that sufficient evidence exists to indicate that fraud, misappropriation of funds or other illegal fiscal practices may have occurred, and that the county superintendent of schools has concluded its review.

3. The team will review and test the Subject Entity's expenditures and internal controls for vendor selection, contracted services and governing board approval to determine whether the district was involved in any undisclosed or inappropriate related-party transactions that were in conflict with state and local policies and standards, or that violated conflict-of-interest laws.
4. The team will sample associated transactions within fiscal years 2022-23, 2023-24 and 2024-25 to date. Disbursements selected for testing will be based on the Team's judgment as to sample size, sample selection technique and conclusion. Sample testing and review results are intended to provide reasonable but not absolute certainty about whether the Subject Entity's disbursements and related internal controls were sufficiently appropriate.

B. Services and Products to be Provided

1. **Orientation Meeting for Client**
The Team will conduct an orientation session at the Client's location to brief the Client on the Team's procedures and the purpose and schedule of the review. This orientation meeting shall be held prior to commencing fieldwork for the study.
2. **Orientation Meeting for Subject Entity**
The Team will conduct an orientation session at the Subject Entity's location to brief the Subject Entity's superintendent or head of school, as applicable, on the Team's procedures and the purpose and schedule of the review. This orientation meeting is normally held at the beginning of fieldwork for the review.
3. **Fieldwork**
The Team will conduct fieldwork at the Subject Entity and/or the Client's office and/or school site(s), or other 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.
4. **Progress Reports**
The Team will provide periodic written and/or verbal updates to the Client on any material issues as the review progresses. Such updates will normally be provided at the conclusion of fieldwork and the conclusion of the initial report writing phase but prior to the release of a draft report. Updates will also be provided at any time the Client requests.
5. **Draft Report**
An electronic copy of a preliminary draft report will be delivered to the Client's point of contact for review and comment.

6. Final Report

An electronic copy of the final report will be delivered to the Client's point of contact following completion of the review. FCMAT's work products are public and all final reports are published on the FCMAT website.

7. Follow-up Support

The Team will meet with the Client and/or the Subject Entity to discuss the findings, conclusion and recommendation in the final report after the final report has been issued.

3. PROJECT PERSONNEL

The personnel assigned to the review 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 AB 139 reviews shall be as follows:

- A. \$1,400 per day for each FCMAT staff member while conducting activities associated with the review. This includes, but is not limited to, planning, on-site or virtual document collection and review, interviews, conducting fieldwork at other locations, conducting analysis, preparing reports, or participating in meetings. The cost of independent FCMAT consultants will be billed at their daily rate for all work performed.
- 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 review 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 (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 review, the total not-to-exceed cost of the review will be \$65,000.

- 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.
- F. The Client may be eligible for full or partial reimbursement from the State of California for the costs of this review under EC 1241.5(b) or (c). Further information and the reimbursement request form are available on the FCMAT website at: [Reimbursements to COEs 2024.pdf](#).

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

The Parties recognize that the Subject Entity is not a party to this Agreement. The Parties further recognize that many of the responsibilities outlined below are best fulfilled by the Subject Entity. The Client shall take responsibility to secure the Subject Entity's full cooperation with this AB 139 review and to facilitate the performance of each of the following responsibilities.

- A. Notify the Subject Entity in writing that an AB 139 review has been requested and will commence. Provide FCMAT with a copy of this notice.
- B. Return current organizational chart(s) that show the Subject Entity's management and staffing structure with the signed copy of this Agreement. Organizational charts should be relevant to the scope of this Agreement.
- C. Provide private office or conference room space for the Team's use during fieldwork at the Subject Entity's facility or other facilities that FCMAT may agree to.
- D. Provide for a Client and/or a Subject Entity 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.
- E. 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 and/or the Subject Entity will upload all requested documents and data.

- F. Ensure appropriate senior-level staff are available for the orientation meetings for both the Client and the Subject Entity.
- G. Facilitate access to requested Subject Entity's board members, officers and staff for interviews.
- H. Facilitate access to requested information and facilities to include, but not be limited to, files, sites, classrooms and operational areas for observation.
- I. 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. The Team will review this feedback in a timely manner and make any adjustments it deems necessary before issuing the final report. This is a Client only responsibility; the Subject Entity is not provided a copy of the draft report.
- J. Follow the recommendation of the report and make all necessary notifications as outlined in the report.
- K. 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 review 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, or facilitating the provision of, 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 Client with a draft Agreement.	Draft Agreements are usually provided within 30 business days Client's initial request for services.
Client returns partially executed Agreement to FCMAT along with the applicable Subject Entity organizational charts and the name and email of the person who will be responsible for collecting and uploading documents requested by FCMAT.	Draft Agreements are valid for 30 business days.
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 and/or the Subject Entity uploads	Within 20 business days of the Client's

ACTION	TIMELINE
initial requested documents and data to FCMAT's online SharePoint repository.	receipt of the FCMAT document and data request list.
Fieldwork	Mutually agreed upon; usually, to commence within 20 business days of FCMAT's receipt of requested documents and data.
Orientation meeting for the Client	Prior to commencing fieldwork
Orientation meeting for the Subject Entity	First day of fieldwork at the Subject Entity's location.
Initial follow up fieldwork, if needed (e.g., rescheduled interview, additional interviews).	Mutually agreed upon; usually, within five business days of FCMAT's request.
Additional follow-up fieldwork, if needed (e.g., additional interviews).	Mutually agreed upon; usually, within five business days of FCMAT's request.
Client and/or the Subject Entity uploads supplemental documents and data to FCMAT's online SharePoint site 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 90 days 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 or the Subject Entity does not provide requested documents and data by the specified date, the fieldwork may not be able to proceed as originally planned.

The Parties acknowledges that the Subject Entity 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 review 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 review 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, the Subject Entity 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 report once fieldwork has been completed.

Upon written notice to FCMAT, the Client may terminate its request for service at any time up to the issuance of the draft report 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 issuance of the draft report, 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 or the Subject Entity 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 or the Subject Entity. 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 or the Subject Entity in any manner without prior express written authorization from an officer of the Client or the Subject Entity.

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 and the Subject Entity 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 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 contemplates sending 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 review.

Name: Stephanie Gomez, Assistant Superintendent of Business Services
 + Charles Hinman, Ed.D., Interim County Superintendent of Schools

V01262024

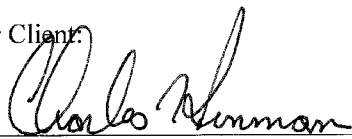
Telephone: (408) 453-6519
(408) 453-6511
Email: sgomez@sccoe.org
chinman@sccoe.org

FCMAT will ask the Subject Entity to also establish a contact person for FCMAT to use in communicating with the Subject Entity on matters related to the review.

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:



11/5/24

Dr. Charles Hinman, Interim County Superintendent
Santa Clara County Office of Education

Date

For FCMAT:

Michael H. Fine

Digitally signed by Michael H. Fine
Date: 2024.11.15 09:23:19 -08'00'

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

Date

DocuSign Envelope ID: BC1D56DF-E619-4A15-AD17-144E5E5D9889



**FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM
STUDY AGREEMENT
FOR MANAGEMENT ASSISTANCE
AMENDMENT No. 1**

This Amendment No. 1 to the 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 Amendment No. 1 shall become effective from the date of execution hereof by FCMAT.

RECITALS

- A. On November 15, 2024, FCMAT and Client entered into an Agreement for management assistance (Original Agreement).
- B. FCMAT and Client desire to amend the Agreement as provided herein.

AGREEMENT

1. ORIGINAL AGREEMENT

Except as herein modified, the Original Agreement between the parties shall remain in full force and effect.

2. SCOPE AND OBJECTIVES OF THE STUDY

The scope and objectives of the study are amended to include a new item #4 and a revised #5 as follows:

- 1. The focus of this AB 139 review is to determine, based on sample testing performed and auditors' judgment, whether fraud, misappropriation of funds, or other illegal practices may have occurred at the Subject Entity.
- 2. Based on that assessment, either recommend or not recommend that the county superintendent of schools notify the governing board of the Subject Entity, the State Controller, the state superintendent of public instruction, and the local district attorney that sufficient evidence exists to indicate that fraud, misappropriation of funds or other illegal fiscal practices may have occurred, and that the county superintendent of schools has concluded its review.
- 3. The team will review and test the Subject Entity's expenditures and internal controls for vendor selection, contracted services and governing board approval to determine whether the district was involved in any undisclosed or inappropriate related-party transactions that were in conflict with state and local policies and standards, or that violated conflict of interest laws.

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4. The team will review and test the Subject Entity's expenditures and internal controls related to the prior superintendent's travel, expenditure reimbursement and credit card use.
5. The team will sample associated transactions within fiscal years 2022-23, 2023-24 and 2024-25 to date. Disbursements selected for testing will be based on the Team's judgment as to sample size, sample selection technique and conclusion. Sample testing and review results are intended to provide reasonable but not absolute certainty about whether the Subject Entity's travel and credit card expenditures, vendor and contractor disbursements, expenditure reimbursements and related internal controls were sufficiently appropriate.

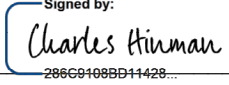
3. **PROJECT COSTS**

Based on the revised scope and objectives of the study, the revised total not-to-exceed cost of the study will be \$103,000.

4. **SIGNATURES**

Each individual executing this Amendment No. 1 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 Amendment No. 1 on behalf of such party and does so with full legal authority.

For Client:

Signed by:  12/19/2024 | 3:45 PM PST
 286C9108BD11428...
 Charles Hinman, Ed.D., Superintendent Date
 Santa Clara County Office of Education

For FCMAT:

Michael H. Fine Digitally signed by Michael H. Fine
 Date: 2024.12.22 10:46:33 -08'00'

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