



FISCAL CRISIS & MANAGEMENT  
ASSISTANCE TEAM

CSIS California School Information Services

# Marin County Office of Education

## Management Review of the Sausalito Marin City School District

August 10, 2016

Joel D. Montero  
Chief Executive Officer







August 10, 2016

Mary Jane Burke, Superintendent  
Marin County Office of Education  
1111 Las Gallinas Avenue  
San Rafael, CA 94913

Dear Superintendent Burke,

In March 2016, the Marin County Office of Education and the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement for a management review of the Sausalito Marin City School District. Specifically, the agreement stated that FCMAT would perform the following:

1. Review the progress of the district toward meeting all recommendations made in FCMAT's Sausalito Marin City School District review dated April 10, 2012 [see the Documents Referenced section at the end of this report], with specific follow up in the following areas:
  - Budget Development Recommendations - Page 21, 22: Continue to seek legal counsel with expertise in the area of charter school law to evaluate the supplemental funding and services provided by the district to the WCA charter school.
  - Review the district's relationship with Willow Creek Academy Charter School, and the impact to the district's Bayside/MLK school site operations, for adherence to best practices and make recommendations for improvement, if any.
  - Qualified Zone Academy Bonds (QZABs) Recommendations-Page 67: Review the applicable lease costs associated with the space provided to WCA, if any.
  - Personnel Recommendations related to hiring practices – Page 62
2. Evaluation of the 2014-15 audit exception regarding the disallowance of the transitional kindergarten average daily attendance and determine the basis for the disallowed average daily attendance, including an evaluation of where the transitional kindergartners were served and why.

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

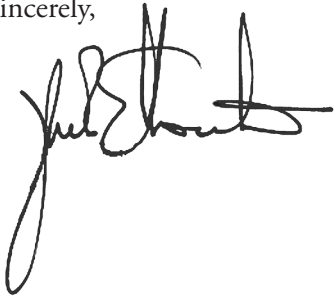
**FCMAT**

Joel D. Montero, Chief Executive Officer

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FCMAT appreciates the opportunity to serve the Marin County Office of Education and the Sausalito Marin City School District, and extends thanks to all the staff for their assistance during fieldwork.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joel D. Montero', with a stylized, cursive script.

Joel D. Montero  
Chief Executive Officer

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# About FCMAT

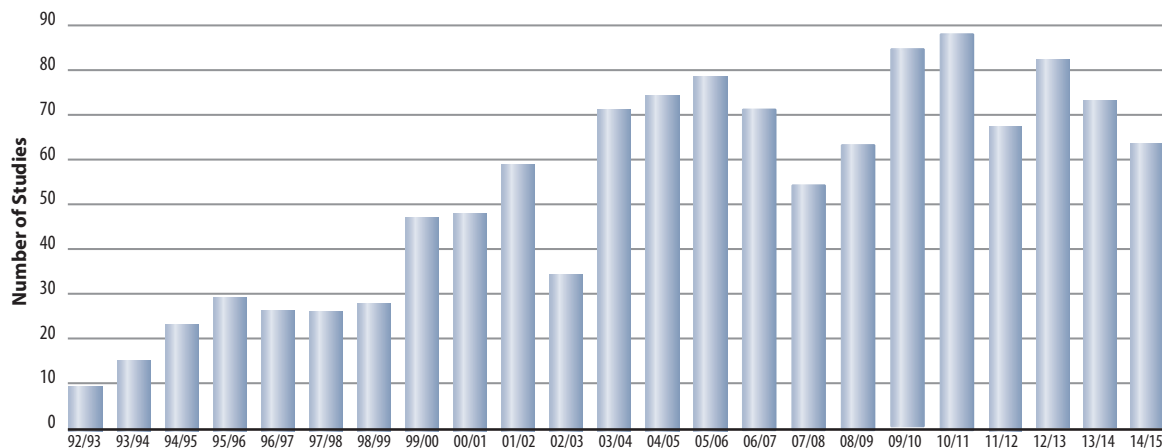
FCMAT's primary mission is to assist California's local K-14 educational agencies to identify, prevent, and resolve financial, human resources and data management challenges. FCMAT provides fiscal and data management assistance, professional development training, product development and other related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

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

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

FCMAT has continued to make adjustments in the types of support provided based on the changing dynamics of K-14 LEAs and the implementation of major educational reforms.

**Studies by Fiscal Year**



FCMAT also develops and provides numerous publications, software tools, workshops and professional development opportunities to help LEAs operate more effectively and fulfill their fiscal oversight and data management responsibilities. The California School Information Services (CSIS) division of FCMAT assists the California Department of Education with the implementation of the California Longitudinal Pupil Achievement Data System (CALPADS). CSIS also hosts and maintains the Ed-Data website ([www.ed-data.org](http://www.ed-data.org)) and provides technical expertise to the Ed-Data partnership: the California Department of Education, EdSource and FCMAT.

FCMAT was created by Assembly Bill (AB) 1200 in 1992 to assist LEAs to meet and sustain their financial obligations. AB 107 in 1997 charged FCMAT with responsibility for CSIS and its state-wide data management work. AB 1115 in 1999 codified CSIS' mission.



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

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

Since 1992, FCMAT has been engaged to perform more than 1,000 reviews for LEAs, including school districts, county offices of education, charter schools and community colleges. The Kern County Superintendent of Schools is the administrative agent for FCMAT. The team is led by Joel D. Montero, Chief Executive Officer, with funding derived through appropriations in the state budget and a modest fee schedule for charges to requesting agencies.



# Introduction

## Background

Located in Marin County, the Sausalito-Marin City School District has a governing board of five members who are elected at large. The district serves approximately 140 students in kindergarten through eighth grade at Bayside Martin Luther King Jr. Academy (Bayside MLK) in the unincorporated community of Marin City. The district is also the authorizing agency for the Willow Creek Academy Charter School (WCA), an independent, direct-funded charter school organized as a California nonprofit public benefit corporation and located in Sausalito. WCA serves approximately 380 students in kindergarten through eighth grade.

Over the past decade, the district has experienced declining enrollment, with a high of 177 in 2008-09 and a low of 130 in 2012-13. The enrollment increased to 160 in 2014-15. Almost all of its students (e.g., 146 in 2014-15) are considered disadvantaged: approximately 28.8 of its students are classified as English Learners, and 84.4% are classified as eligible for free or reduced-price meals (2014, Ed-Data.org and DataQuest). According to the results of the 2015 California Assessment of Student Performance and Progress (CASPP), only 17% of the students at Bayside MLK met or exceeded the standard in English language arts/literacy, and only 21% met or exceeded the standard in mathematics. By comparison, the California statewide averages for this same time were 44% and 33%, respectively, and the numbers at WCA were 49% and 39%, respectively.

In early January 2016, the district's governing board announced that the superintendent was on an indefinite paid leave of absence. In early February 2016, the district's superintendent resigned after being indicted for felony conflict of interest stemming from his previous school district employment in San Diego County and involvement with charter schools. The district is now being led by an interim superintendent. Both the principal and assistant principal at the district's school retired in June 2016.

In March 2016 the Fiscal Crisis and Management Assistance Team (FCMAT) received a request from the Marin County Superintendent of Schools for management assistance for the Sausalito-Marin City School District. The study agreement specifies that FCMAT will do the following:

Review the progress of the district toward meeting all recommendations made in FCMAT's Sausalito Marin City School District review dated April 10, 2012 [see the Documents Referenced section at the end of this report], with specific follow up in the following areas:

- Budget Development Recommendations - Page 21, 22: Continue to seek legal counsel with expertise in the area of charter school law to evaluate the supplemental funding and services provided by the district to the WCA charter school.
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2. Evaluation of the 2014-15 audit exception regarding the disallowance of the transitional kindergarten average daily attendance and determine the basis for the disallowed average daily attendance, including an evaluation of where the transitional kindergartners were served and why.

The study agreement is attached to this report as the appendix.

## Study and Report Guidelines

FCMAT visited the district on April 6-8, 2016 to conduct interviews, collect data and review documents. This report is the result of those activities and is divided into the following sections:

- Executive Summary
- Implementation of Prior Recommendations
- Independent Charter School
- Transitional Kindergarten
- Other Observations
- Appendices

In writing its reports, FCMAT uses the Associated Press Stylebook, a comprehensive guide to usage and accepted style that emphasizes conciseness and clarity. In addition, this guide emphasizes plain language, discourages the use of jargon and capitalizes relatively few terms.

## Study Team

The study team was composed of the following members:

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\*As members of this study team, these consultants were not representing their employers but were working solely as independent contractors for FCMAT.

# Executive Summary

The Sausalito-Marin City School District is in transition, replacing a superintendent who suddenly resigned in February 2016 and the principal of its only school who retired in June 2016. The district derives almost all of its funding from local property taxes, with little dependence on the state's general fund. Its annual revenue is approximately \$30,000 per student, one of the highest in California (2014-15, Ed-Data.org, general fund, resource codes 0000-1999).

The district serves two communities, Sausalito and Marin City, that differ significantly in their socioeconomic and ethnic makeup. Specifically, Sausalito is significantly wealthier and less diverse in its population, and Marin City has a far higher rate of poverty and more diversity. There are also significant demographic differences between the student populations at the district's Bayside Martin Luther King, Jr. Academy (Bayside MLK) in Marin City and the Willow Creek Academy Charter School (WCA) in Sausalito, for which the district is the authorizer. At these two schools, the percentage of students who qualify for free or reduced-price meals is 84.4% and 41.5%, respectively (Ed-data.org for 2014-15), the percentage of English learners is 35.7% and 24.9%, respectively, the percentage of African-American students is 43.6% and 11.7%, respectively, and the percentage of white students is 8.6% and 40.6%, respectively (DataQuest for 2015-16).

The district's governing board members are elected at large, meaning that each member is elected by all the voters in the district's boundaries. The California voting rights law requires districts to consider whether at-large voting denies minorities equal access to representation (Senate Bill 976 of 2002 and Elections Code Sections 14027-14032). The district's at-large elections process could be challenged.

The majority of the district's governing board members are closely allied with the board of WCA. Documents reviewed and individuals interviewed, including one governing board member, indicate that those involved in the leadership and promotion of WCA ensured the election of, and exercise control over, the majority of members of the district's governing board. Thus the majority of governing board members are beholden to those whose primary interest is the well-being of WCA. This is a clear detriment to the students at Bayside MLK. Interviews and a review of governing board meeting minutes confirm that the district's governing board is more supportive of WCA than of the district's own school.

## Implementation of Prior Recommendations

In 2012, FCMAT examined processes and procedures in the district's business office, such as personnel, payroll, purchasing and accounts payable, and found controls to be either nonexistent or significantly lacking. The district's central office has only three full-time employees (superintendent, chief business official, and assistant to the district office). This makes it difficult to segregate duties and provide proper internal controls. During both this review and FCMAT's 2012 review, FCMAT noted instances in which one employee handled an entire financial transaction from inception to completion. FCMAT's 2012 report provided step-by-step procedures to help the district strengthen its internal controls. Approximately 80% of the 100 recommendations made in 2012 have not been fully implemented, including significant recommendations regarding internal controls, board policies, budget development, financial reporting, payroll and position control, accounts payable and purchases, and personnel practices.

The review of personnel practices for this report revealed several new issues, including the fact that Bayside MLK has no teachers with single-subject credentials teaching courses for middle

school students, including math and science courses; and widely varying salaries for management and administrative staff, some of which are not comparable to those in similar districts.

The small number of central office staff makes it difficult to implement improvements while also maintaining the day-to-day operations. However, it is essential that the district invest the time and resources needed to build and maintain a strong internal control structure that includes up-to-date policies and procedures and cross-trained employees. The Local Control Accountability Plan (LCAP) process is powerful when followed and integrated as intended. Although the district has a history of developing its budget in isolation, the LCAP will be successful only when combined with open and collaborative budget development.

Willow Creek Academy occupies the site of a district elementary school that was closed and its students and staff moved to and combined with another school to form Bayside MLK. Qualified Zone Academy Bonds (QZABs) were used to improve both the closed elementary school site now occupied by the charter school and the former middle school site now operated as Bayside MLK, the district's sole K-8 school. The use of those funds to improve a site occupied by a charter school has been questioned by some district staff. The district owns the school and the expenditures are allowable under QZAB financing regulations.

### **Relationship with the Independent Charter School**

Willow Creek Academy is an independent charter school originally authorized by the district in 2000 and subsequently reauthorized several times, with the current charter expiring in 2019. By their own admission, leaders associated with WCA exercise significant control over the majority of the district's governing board members, resulting in an excessively close relationship between the governance of the two entities and, more importantly a clearly biased financial arrangement that benefits WCA while harming the students of the district's Bayside MLK school. Although the district's governing board made a decision to meet the Sausalito community's needs through extraordinary support for WCA, it has yet to make a similar decision to invest in the students of Marin City.

The district has not met the needs of students at Bayside MLK, and the result is that students are underachieving. Declining enrollment and small numbers of students at each grade level add to the financial burden and pose some challenges, but these are not insurmountable. The district also has questionable payments and costs associated with WCA. The district's 2016-17 adopted budget will divert to WCA, or not collect from it, between approximately \$1 million and \$1.9 million in excess of the district's legal requirement for in-lieu taxes. This excessive contribution to the charter school comes at the expense of the district's own school, which has many unmet needs.

Despite a sound board policy (BP 210) establishing a commitment to equity for all students, FCMAT found that the Bayside MLK students are not served equitably. Members of the governing board interviewed were effective in vocalizing their commitment and responsibility to all students in both Sausalito and Marin City; however, their actions are utterly inconsistent with their rhetoric and their own board policy: the board has chosen to provide more support to WCA than to the students at Bayside MLK. Board Policy 210 states, "Equity does not mean treating everyone in the same way. It means doing whatever it takes to get everyone to the same place." The district's governing board does not follow this policy.

The district has provided WCA with funds and uncompensated services that far exceed the standard formulaic funding provided for in statute, including the amount of property taxes in excess of the Local Control Funding Formula (LCFF) per-student formula for district students, as well

as uncompensated instructional and facility-related services for which WCA has refused to pay, is not obligated to pay, or that it has failed to acknowledge.

Section III of the memorandum of understanding (MOU) (see the Documents Referenced section at the end of this report) between the district and WCA provides at least five different formulas that are used to allocate or adjust the allocation of “excess” funds to WCA. The definitions and terms associated with these formulas are poorly crafted, leaving much to interpretation. Further, the district is not fully using the standardized account code structure in a manner that would foster a consistent calculation or compliance with the formulas. Despite the expectation set in law and the charter petition’s own language, the district’s governing board has agreed that WCA will pay nothing to compensate for the district’s contributions from its general fund to pay for special education. The concerns with this arrangement are amplified by the fact that 25% of the students enrolled in WCA are from other school districts. Thus funds are being diverted from student programs at Bayside MLK to pay not only for WCA’s direct and allocated special education costs, but also for special education costs for students from other districts.

The district does not charge WCA for facility-related costs, including utilities and grounds upkeep. It also is inconsistent in charging for other services provided to the charter school. In addition, the district does not charge WCA any rent or other facilities-related costs for the space provided for the 25% of WCA students who come from other districts.

The support the district provides to WCA far exceeds anything contemplated under current law and regulations, as well as what is reasonable and fair based on common practice. It benefits students from other districts who attend WCA, and results in harm to the district’s students at Bayside MLK. The financial arrangement between WCA and the district may go so far as to constitute a gift of public funds. Many employees and community members believe that the Bayside MLK students have a first right to these funds and to the instructional, social-emotional, athletic and activity programs they could help provide for the community’s neediest students.

Although a charter authorizer is required to provide oversight for its approved charter schools, FCMAT found that the district lacks any formal oversight process for WCA. This has resulted in potentially segregated schools and a possible federal civil rights violation, for which the district has no indemnity because its failure to provide oversight leaves it without the protections otherwise provided in law for charter authorizers. The differences between the racial and ethnic makeup of the student populations at WCA and that at Bayside MLK reveal a large imbalance that has increased over the years. The district’s governing board did not discuss racial/ethnic imbalance with the charter school and did not obtain an authentic commitment from WCA to address the imbalance before approving the most recent charter petition renewal and, as noted, completely lacks any annual oversight process such as those that competent and equitably-minded charter school authorizers use to address such concerns.

In addition, WCA will not enroll students who have an individualized education plan (IEP) that requires a special day class. The district’s governing board should have identified this illegal practice as a concern during normal oversight processes.

The district has not honestly examined how its actions and policies harm students at Bayside MLK. As long as the significant achievement gap remains between WCA and Bayside MLK students, financial support should not be diverted from the students at Bayside MLK and provided to WCA. Funds currently being transferred from Bayside MLK to WCA should be redirected to academic, social-emotional, athletic and activity programs to close the achievement gap for students at Bayside MLK.

### **Transitional Kindergarten**

FCMAT evaluated an audit exception described in the district's 2014-15 audit report regarding transitional kindergarten. The district did not offer transitional kindergarten at Bayside MLK as required by law. A program was offered through a separate independent study charter school, which employed the teacher and provided the curriculum in the 2014-15 school year, and which contracted for the teacher and other services through a third party partner in 2015-16. FCMAT could not determine whether the independent study charter school inappropriately collected apportionment from the State of California in 2015-16. However, the district did inappropriately provide free meals to the transitional kindergarten students in the independent study charter school, thus jeopardizing the district's eligibility to participate in the National School Lunch Program.

### **Additional Observations**

During fieldwork, the FCMAT study team also observed several items of interest that were not fully within the scope of the current study but that merit attention because each affects the quality of the educational program in the Sausalito-Marín City community. The observations include the lack of instructional leadership in the district, the potential overidentification of students requiring special education, an inconsistent and alarming trend regarding student discipline at both Bayside MLK and WCA, and a discussion of a future facility bond.



# Findings and Recommendations

## Implementation of Prior Recommendations

This section of the report references FCMAT's April 10, 2012 report on the district; readers would be best served by reading that report for background and context.

Specifically, this report revisits each of the operational areas reviewed in 2012 and provides an update on the status of the implementation of the recommendations made at that time, as well as any new observations made during the follow-up review. As shown in the chart below, approximately 80% of the 100 recommendations made in 2012 have not been fully implemented, including significant recommendations regarding internal controls, board policies, budget development, financial reporting, payroll and position control, accounts payable and purchases, and personnel practices.

Topic	Implemented	Partially Implemented	Not Implemented	No Longer Necessary
Internal Control (9)	0	3	6	0
Board Policies and Administrative Regulations (4)	1	3	0	0
Budget Development (15)	2	4	9	0
Financial Reporting (15)	5	6	2	2
Direct Service from the County Office (2)	2	0	0	0
Payroll (5)	2	3	0	0
Position Control (7)	1	6	0	0
Accounts Payable (8)	0	7	1	0
Purchasing (15)	1	8	6	0
Personnel (18)	6	9	3	0
Qualified Zone Academy Bonds (2)	0	0	2	0

(#) = total number of recommendations

## Internal Controls

In 2012, FCMAT made nine recommendations regarding internal controls. Each of those recommendations is included in *italics* below and is followed by a discussion of the current status of its implementation. None of the recommendations have been fully implemented: three are in varying stages of implementation, and six are not implemented.

### 2012 Recommendation

1. *Improve communication practices, identify measurable objectives and implement strategies to achieve those objectives.*

#### Status: Not Implemented

The information and communications component of internal controls requires systems that identify, gather and exchange information in a format and time frame that enables the district's employees and governing board to successfully perform their duties. Specific communication practices for internal and external parties should be developed, clearly articulated, and approved



by the board. Measurable objectives and implementation strategies, including timelines, monitoring and feedback techniques, should be included. When all interested and involved groups are authentically engaged in its development, the Local Control and Accountability Plan (LCAP) provides a mechanism and format for the governing board to use in setting measurable objectives, implementation strategies, monitoring, and feedback. Approaching the LCAP process as intended by the state board of education will benefit the district in significant ways.

The district failed to properly follow the regulations related to the development of an LCAP, as noted in the 2014-15 annual independent financial and audit report (schedule of findings and questioned costs #15-005).

FCMAT's 2012 report recommended that the district seek feedback on current communication practices; provide guidelines for effective communications within and between departments; establish a variety of communication avenues such as employee surveys, meetings and an e-mail suggestion box; develop an online presence for communication such as Facebook or Twitter; implement regular communication from the superintendent regarding the district's vision, plans, goals, and challenges; and encourage attendance at meetings or trainings outside of the district. Contact persons, such as a manager or a specific staff member, should be clearly designated for particular issues. Increasing opportunities for coordination among all the district's employees and with professional colleagues outside the district will promote a commitment to goals and objectives and an understanding of challenges that are common in districts throughout California.

Weak or nonexistent communication systems for most district practices were a subject of concern during recent interviews with district staff, district board members, and county office staff. District staff reported that the organization's culture is to be isolated, with a lack of both internal and external communication. Minutes from governing board meetings during the past two years show several instances of board, community and staff frustration over poor communication. Areas of concern include decision-making by the board and staff, allocation of resources between the district and WCA, personnel decisions, budget priorities, and financial transactions. Examples of this are detailed in FCMAT's April 10, 2012 report and below in this report.

In its 2012 report, FCMAT recommended that the district's governing board adopt budget goals and objectives each year as well as an ongoing set of guiding budget principles. Beginning in 2014-15, the State of California implemented the LCAP component of the LCFF (applicable to basic aid districts as well as state-funded districts), which is based on a set of goals and actions to meet students' needs. A detailed discussion of this can be found in the budget development section of this report.

## 2012 Recommendation

2. *Communicate to every employee the expectation of compliance with all policies and procedures, code of ethics and standards of conduct.*

### Status: Not Implemented

The tone of an organization shapes the control environment and is a cornerstone of internal controls. It can have a profound influence over the behavior of employees and is the foundation for all other components of internal control. The control environment, or 'tone at the top,' of any organization is defined, strengthened and reinforced through its communications. In 2012 FCMAT found that the district's control environment was not well defined and was deficient throughout the organization. This remains the case today.

The district has adopted board policies regarding a code of ethics and professional standards, but there is little evidence that these have been shared with or understood by district employees and other involved parties. The district needs to communicate formally to employees and consultants its expectations for compliance with all policies and procedures, code of ethics, and standards of conduct. The board's commitment to the following is essential:

- Personal and professional leadership based on the highest levels of integrity.
- A leadership philosophy and operating style that promotes internal control throughout the district.
- Accountability that is maintained by assigning authority and responsibility at the highest possible level.
- Formal district policies and procedures that define internal control objectives to be followed strictly.
- Ensuring that all employees know and follow district policies and procedures as well as those related to the schools or departments in which they operate.
- Ensuring that fraud (stealing, misappropriation, or inappropriate use of district assets or property) and conflicts of interest will not be tolerated.

## 2012 Recommendations

3. *Develop and implement ongoing employee fraud prevention training programs.*
4. *Develop and implement fraud detection methods.*

### Status: Not Implemented

These recommendations are for two components of internal controls: control and monitoring. Control activities help ensure that management directives are carried out, help prevent errors or irregularities from occurring, and help find them after they have occurred. Monitoring helps ensure compliance with rules and regulations, and assesses internal control performance over time. The opportunity for fraud varies depending on the duties assigned to an employee. Rationalization and lack of integrity both increase the chance of fraud and are more likely to be present in organizations that do not implement and promote fraud prevention policies.

Ongoing employee education can help prevent and detect occupational fraud. FCMAT's 2012 report recommended that the district develop an employee training and awareness program, with regular, in-depth employee training regarding what constitutes fraud, how it hurts everyone in the organization, widely found fraud schemes, and common behavioral signs. The report also recommended that employees have multiple avenues for reporting improprieties and be encouraged to not ignore warning signs, because this type of risk-awareness training helps create a districtwide culture that supports reporting.

It is important for the district to implement common fraud detection methods such as an anonymous hotline, surprise audits, and fraud risk assessments, because the knowledge that someone is checking or can anonymously report suspicious behavior can deter fraudulent activity.

## 2012 Recommendation

5. *Review and follow up on any audit exceptions or management letter findings or recommendations, descriptions of corrective actions or plans to correct items.*

**Status: Partially Implemented**

The risk assessment component of internal controls identifies and analyzes the risks that could prevent an organization from achieving its objectives and how these risks should be managed. As is common in smaller districts, the district's financial risk assessment has been assigned to its independent auditors as part of the annual audit. However, the scope of the auditors' review is limited to consideration of internal controls as a basis for designing audit procedures. Consequently, independent auditors do not express an opinion on the effectiveness of the district's internal controls and should not be the only means the district uses to monitor internal controls.

Most management letter findings and recommendations from the 2013 and the 2014 audit reports were implemented in either the next year or the year after that. However, the board needs to strengthen its commitment to eliminating recurring material weaknesses and significant deficiencies identified in the audit reports. FCMAT reviewed the district's independent audit reports for the past three fiscal years. All three years' audit reports identified instances of noncompliance that were required to be reported. Some of these instances reveal material weaknesses in internal controls for financial statement reporting and are identified in the 2013 and 2014 audit reports. Other instances of significant deficiencies in internal controls for financial reporting and significant deficiencies in internal controls for state programs were reported in all three years. These conditions may result in a material misstatement of the financial statements or in material noncompliance with a program requirement because the district's internal controls do not prevent, detect and correct problems in a timely manner.

Some findings and recommendations occur in more than one year, such as the 2014 and 2015 findings regarding unduplicated pupil counts. Findings and recommendations from the independent auditors require a district response, and California Education Code Section 41020.3 also requires a district's governing board to review any audit exceptions or management letter findings or recommendations, descriptions of corrective actions, or plans to correct items.

Staff stated that the board has a good understanding of audit report findings and recommendations. However, board meeting minutes for January 13, 2015 and March 8, 2016 did not include a detailed review or discussion of audit exceptions, findings and recommendations, or plans to correct deficiencies cited in the 2014 and 2015 audit reports. The board needs to review and approve the district's corrective action plan responses to the Marin County Office of Education prior to their submission. This will help strengthen the district's control, information and monitoring.

**2012 Recommendation**

6. *Ensure that employees are cross-trained in key areas of responsibility.*

**Status: Partially Implemented**

District staff stated that little cross-training has occurred since the 2012 study. Some individuals stated that opportunities for cross-training have been lacking; others reported that the district has provided opportunities but that staff have refused them.

The district continues to experience the departure of key employees in leadership positions who share responsibility for the district's instructional, business and administrative functions. At least one additional employee needs to be trained for each business office position so they can tempo-

rarily perform critical duties in case of illness, vacation or resignation. This will enable the district to continue essential business office functions without interruption.

The district's superintendent and chief business official (CBO) need to identify critical areas in which cross-training is needed to ensure uninterrupted services to students and staff, assign staff members to primary and backup roles for these responsibilities, and develop a training process with timelines for completion. Documenting business processes and procedures will facilitate cross-training and support consistent, high-quality business operations. Job descriptions may need to be updated and approved by the board to include these responsibilities.

## 2012 Recommendations

7. *Develop desk manuals of employee duties; ensure that each employee includes step-by-step procedures for all assigned duties in their desk manual.*
8. *Create a policies and procedures manual for the business department.*

### Status: Not Implemented

FCMAT's 2012 report identified the need for desk procedure and policy manuals. With today's technology, these can be in electronic format. However, during the current review, FCMAT found no evidence that these had been developed.

As discussed in the financial reporting, accounts payable and position control sections of this report, the district's management reassigns job responsibilities between staff members for a variety of reasons. This can compromise the integrity of the district's organizational structure. Desk procedures and policies can eliminate informal reassignments such as these and assist in cross-training.

## 2012 Recommendation

9. *Ensure that each employee understands their responsibility for records retention. Provide education and dedicated time, as needed, to ensure the district complies with the record retention requirements specified in Title 5, Sections 16020-16027.*

### Status: Partially Implemented

During interviews it became clear that the CBO understands business records retention requirements. However, further effort is needed to ensure that each employee who performs business-related functions understands the organization's obligations in this area. For example, staff indicated that some important business records are in multiple locations in the district and may not be properly secured. Interviews with staff confirmed that important records are housed at both Bayside MLK as well as at the district office. To protect the district, all Class 1 - permanent documents and other documents critical to the district's business operations, such as payroll and accounts payable records, need to be at one location and properly secured in a safe or lockable file cabinet. In light of the recent fire at the district office that destroyed some records, the district may wish to consider implementing a document imaging program.

## Board Policies and Administrative Regulations

In 2012, FCMAT made four recommendations regarding board policies and administrative regulations. Each of those recommendations is included in italics below and is followed by a discussion of the current status of its implementation. One recommendation has been fully implemented and three are in varying stages of implementation.

### 2012 Recommendation

1. *Take immediate board action to update BP 3100 to comply with Governmental Accounting Standards Board (GASB) Statement No. 54.*

#### Status: Implemented

The board has updated this policy.

### 2012 Recommendations

2. *Update all board policies and administrative regulations by the end of the fiscal year. Consider using CSBA's Policy Audit Program and policy development workshop to facilitate this endeavor.*
3. *Develop and implement a protocol to ensure future required changes to board policies and administrative regulations are adopted by the district in a timely fashion.*

#### Status: Partially Implemented

The 2012 study found that the district's board policies and administrative regulations were extensively updated in February 2010. However, because of subsequent legislation, many policies and regulations no longer complied with current laws and were out of date. The 2012 list of those policies and regulations is provided below. During the current review, FCMAT found that two of the policies have been updated since 2012; these are noted with an asterisk.

Reference Number	Description	Date Update Needed (2012)	Current Date Listed on Website
1250 BP & AR	Outside Visitors	7/10	2/10
1312.4 AR & E	Williams Uniform Complaint Procedures	11/10	2/10
2210 BP	Administrative Discretion Regarding Board Policy	7/11	2/10
3290 BP	Gifts, Grants and Bequests	7/11	2/10
3320 BP & AR	Claims and Actions Against the District	3/10	2/10
3516.3 AR	Earthquake Emergency Procedure System	3/11	2/10
3550 BP& AR	Food Service/Child Nutrition Program	3/11	2/10
4020 BP	Drug and Alcohol-Free Workplace	11/10	2/10
4158 BP	Employee Security	3/11	2/10
4257 BP	Employee Safety	3/10	2/10
5022 BP & AR	Student and Family Privacy Rights	3/11	2/10
5113.I BP	Truancy	11/10	2/10
5117 BP & AR	Interdistrict Attendance	11/10	2/10
6011 BP	Academic Standards	11/10	2/10
6111 BP	School Calendar	7/11	2/10

Reference Number	Description	Date Update Needed (2012)	Current Date Listed on Website
6158 BP & AR	Independent Study	7/10	9/10*
6161.I BP, AR & E	Selection and Evaluation of Instructional Materials	11/10	2/10
6164.4 BP & AR	Identification and Evaluation of Individuals for Special Education	11/10	2/10
9140 BB	Board Representatives	3/11	2/10
9323.2 BB	Actions by the Board	3/11	6/14*

\* Updated since FCMAT's 2012 review.

At the time of FCMAT's 2012 review, many of the district's administrative regulations regarding personnel (the 4000 series) were not available on its website because the superintendent and board have questioned whether it was appropriate to place these policies on the website. The question had been given to legal counsel to review.

As of this 2016 review, only a few administrative regulations in the 4000 series are available on the website. Board policies and administrative regulations are public documents, and FCMAT recommends that the district post all administrative regulations to its website, including those that are personnel-related.

In 2012, no board policies or administrative regulations regarding facilities (the 7000 series) were available on the website because of a board member's request to review them before posting.

Currently, board policies governing concepts and roles (7000), a facility master plan (7100) and facilities planning (7210) have been posted to the website. FCMAT recommends that the remaining board-approved facility-related policies and administrative regulations be made available on the district's website.

As of 2012, the district had contracted with the California School Boards Association (CSBA) for the use of the GAMUT online policy service but had not adopted some of the board policies and administrative regulations this service provided. Although some policies and regulations may not be needed, all should be reviewed for relevance. Examples include the following:

Reference Number	Description	Updated
1330.I BP	Joint Use Agreements	2/10
3430 BP & AR	Investing	3/05
4031 AR	Complaints Concerning Discrimination In Employment	3/10
5118 BP, AR & E	Open Enrollment Act Transfers	11/10
5119 BP	Students Expelled From Other Districts	3/07

As of this 2016 review, none of the above examples listed in the 2012 study report have been posted to the district's website.

## 2012 Recommendation

4. *Ensure that all board policies and administrative regulations are posted to its website.*

**Status: Partially Implemented**

As noted above, the district has made some progress in implementing this recommendation. Recent board meeting minutes show that on several occasions changes to board policies and administrative regulations were approved and the updated version posted to the district's website. However, Board Policies 3280 and 3513.3, and AR 4117.14, were approved during the January 2016 regular board meeting but not yet posted to the website. The district should ensure that changes to board policies and administrative regulations are all posted to its website in a timely fashion.



# Central Office and Administrative Functions

## Budget Development

In 2012, FCMAT made 15 recommendations regarding budget development. Each of those recommendations is included in italics below and is followed by a discussion of the current status of its implementation. Two recommendations have been fully implemented, four are in varying stages of implementation, and nine have not been implemented.

### 2012 Recommendations

1. *Annually adopt and communicate board approved budget goals and objectives.*
2. *Implement a set of board-approved guiding principles outlining the district's financial priorities for use in decision making.*

#### Status: Not Implemented

The district board does not take input from internal and external stakeholders regarding annual budget goals and objectives, nor does it take formal action to adopt them. The board has not adopted guiding principles.

Board goals and objectives can change annually in response to student and community needs or for economic reasons. Guiding principles are not designed to change as frequently since they usually express an unwavering stand on the use of taxpayer dollars, provide a framework for decisions, and reflect the district's financial commitments.

FCMAT's review of board meeting minutes revealed incidences of staff and community members expressing frustration regarding what they perceived as a lack of transparency surrounding some recent board decisions. Budget goals and objectives would provide district and school staff responsible for budget development, as well as the community, with valuable insight and information about the board's aspirations for district programs, services and use of financial resources. Guiding principles can focus discussions and related activities at all levels of the organization and are particularly helpful during difficult budget decisions.

FCMAT continues to recommend that the board make these commitments publicly after receiving input from all interested parties. These and other recommendations in the 2012 report predate the requirement to develop an LCAP but are even more important now that an LCAP is required. The success of any district's LCAP depends on an authentic and robust process for involving various individuals and groups; thoughtful and deep review and analysis of data and research-based best practices; establishment of goals, actions and services; measurement and allocation of all financial, human and facilities resources according to student achievement priorities; and evaluation of the district's success in achieving its LCAP goals. Successful LCAPs involve a fully integrated planning process that includes budget development activities formerly performed in isolation.

### 2012 Recommendation

3. *Prepare a formal budget development calendar, including critical tasks, deadlines and the staff member assigned. Obtain annual approval of the calendar from the governing board.*

### Status: Partially Implemented

The district has prepared a formal budget development calendar with dates and general activities. However, effective calendars include specific important tasks and their deadlines, and identify the staff member responsible for each task. An example of this is provided in the table below.

Date	Task	Person Responsible
3-8-12	Draft position control to CBO	Administrative Assistant
3-12-12	Position control revisions to assistant	CBO
3-15-12	Position control complete	Administrative Assistant
4-6-12	Budget reports to sites/departments	Administrative Assistant
4-27-12	Budget reports due from sites/departments	Administrators
5-18-12	Entry of budget lines into model	CBO
5-21/22-12	May Revise Workshop	CBO
6-1-12	Revisions to model and balance all resources	CBO
6-13-12	SACS forms complete	CBO
6-13-12	Publication of notice of inspection	Marin COE
6-14-12	Public hearings	CBO
6-18-12	Budget available for public inspection	Administrative Assistant
6-25-12	Board agenda posted	Administrative Assistant
6-28-12	Board meeting to adopt budget	Board

The district's governing board approved a 2016-17 budget development calendar at its March 2016 meeting.

### 2012 Recommendation

4. *Implement a budget development process that includes site administrators and department managers and holds them accountable to stay within their budget.*

### Status: Not Implemented

District and school site staff confirmed in interviews that the budget development process is isolated in the district office and that the district office provides neither the adopted nor periodic working budgets to staff members responsible for running programs for their review and adjustment.

It is a best practice to include school administrators and department managers in budget development and monitoring because it helps create a sense of shared ownership and responsibility and can reduce the number and size of material budget adjustments needed throughout the year. A district's school administrators and program managers have in-depth knowledge, past experience and expertise in their schools' and programs' needs and operations. They are also responsible for implementing programs and services and managing their results. For these reasons, the district should decentralize its budget development and monitoring. The LCAP process also depends on a more decentralized approach to budgeting.

This requires extra effort. A fully inclusive process would require the business office staff to develop and provide training materials and budget workshop content to all staff responsible for managing programs or services, and be available to help and answer questions as work progresses. Budget tools should be developed that allow school administrators and department managers to

be more involved in budget development and more accountable for the financial performance of the programs they lead. These include the following:

- Budget development worksheets by funding resource for the programs or departments that are the responsibility of the school administrator or department manager. Completed worksheets should include total projected revenues, personnel costs, all operating expenditures, and the source of funding for any program requiring a contribution from the general fund.
- Actual expenditure data for the past three to four years, by object code.
- Revenue estimates provided by the business office.
- Ongoing staffing expenditures provided by the business office. The school or department should be provided with position control reports that include a list of all employees charged to each funding source, their salaries, related statutory and health benefit costs, and full-time equivalent (FTE) assignment. School and department managers should review the staffing information for accuracy and immediately report any inconsistencies to the business office. This helps verify the position control data, which affects the personnel costs to be budgeted.
- If staffing adjustments are requested, an Excel spreadsheet should be provided to help calculate total salary and benefits.
- Indirect cost rate calculations of formulas would be provided by the business office.
- The school administrator or department manager should supply all remaining expenditures, including operating costs.
- A written explanation to accompany a request for increased expenditure.
- Online, read-only access to the financial software system and its current financial information.
- Initial and ongoing training for school administrators and department heads on accessing financial information electronically, reading and understanding financial information, effective use of categorical funding, and indirect cost rates.

## 2012 Recommendation

5. *Prohibit other fund or restricted program encroachment without the express support of the district's executive leadership and the governing board.*

### Status: Not Implemented

Programs that require contributions from the district's general fund (also known as encroachments) should be evaluated individually by the executive leadership team and the governing board against a set of consistently applied criteria in the board-approved annual budget goals and objectives and guiding principles. The governing board, working with the executive leadership team, should approve contributions of specified amounts, and the source of additional revenue, before budget adoption. The board should take similar action if contributions materially change during the year.

## 2012 Recommendation

6. *Prohibit the inclusion of carryover balances during budget development.*

### Status: Partially Implemented

In interviews, staff members stated that although this recommendation has been implemented, the practice is confusing for the board and others because carryover balances are included in the district's first period interim report and can noticeably alter the financial picture of the district after the budget has been adopted. Fundamental to effective budget development and monitoring is a districtwide culture in which the board and staff understand critical budget components and strive to maintain programs with a balanced budget. A best practice for budget development is to not consider estimated carryover balances from the current year, because the year that produces the carryover is still in progress, which makes these resources unavailable. Carryover balances are also one-time funds.

Further board training may be help ensure that the board is aware and understands this practice. In addition, once carryover balances are known (usually in early September), they can be presented before the first period interim report as a routine budget adjustment for the board's approval.

## 2012 Recommendation

7. *Ensure that the required public hearing regarding receipt of flexibility funding for the 2012-13 budget year and subsequent years is held prior to and independent of the annual public hearing for budget adoption, and that the explicit purposes for use of the Tier III funding is included in the board's agenda and minutes.*

### Status: Fully Implemented

This recommendation has been implemented but is no longer applicable under the LCFF.

## 2012 Recommendation

8. *Conduct budget study sessions for the governing board and all interested stakeholders during budget development and bring periodic updates to the board during the process.*

### Status: Partially Implemented

The board holds a budget study session at a special board meeting each spring. The CBO also prepares presentations for the board meetings at which the district's first and second period interim reports and the unaudited actuals report are presented. These presentation materials and the state-required reports submitted to the California Department of Education are made available with the board materials and on the district's website.

Interviews with board members and staff, and reviews of board minutes, showed that the governing board repeatedly requested additional information about financial transactions in specific areas such as field trips, and for clarifying information such as descriptions of account codes and expenditures included on warrant lists. Although documents and interviews indicate that the district responded to these, board members expressed frustration about the infrequency

with which information is provided about the district's fiscal stability, particularly in light of the fluctuations in operating deficits and the general fund contribution to special education.

The executive leadership and the governing board should identify information that is useful to the board, that staff can produce efficiently, and that can be provided monthly at each board meeting. Once this information is identified, changes to its format and content can be part of annual budget development.

## 2012 Recommendation

9. *Periodically assess its fiscal health to help ensure its viability.*

### Status: Partially Implemented

Budget adoption, first and second period interim reports, the unaudited actuals report and annual financial and audit reports all have components that assess the district's fiscal health. However, assessment is only the first step in ensuring the viability of any school district. The district does not have an integrated approach to using data for long-term planning to ensure its fiscal viability. FCMAT publishes two fiscal health tools that are available free on the FCMAT website at [www.fcmt.org](http://www.fcmt.org): a *Fiscal Health Risk Analysis* and the *FCMAT Indicators of Risk or Potential Insolvency*. Both are checklists that are similar to but more expansive than the standards and criteria included with the state's standardized account code structure (SACS) financial reporting software.

Because the district is small, with a total of approximately 140 students in grades K-8 at Bayside MLK, it lacks economy of scale, which could negatively affect its educational programs. The LCFF method the district uses internally to allocate funds to Bayside MLK ignores this circumstance.

In addition, the district provides financial support and resources to WCA in amounts that far exceed WCA's entitlement, which deprives the district of financial resources meant to serve the students of Bayside MLK. This support has also contributed to the district's 2014-15 actual and 2015-16 projected deficit, and is likely not sustainable given the district's financial position and the programs and services its students require. This excessive level of support is explored in more detail later in this report.

## 2012 Recommendation

10. *Assess all requests for expenditures for goods and services not included in the current governing board approved operating budget through a formal protocol using criteria such as annual goals, objectives, guiding principles, cost effectiveness, available resources, other district needs and performance expectations to ensure financial resources equitably support all district students.*

### Status: Not Implemented

Interviews with some district staff and governing board members revealed a conflicting set of protocols for expenditures not in the board-approved budget. Individuals reported instances in which employees failed to follow a chain of command, which resulted in expenditures occurring without regard to the district's board-approved budget. FCMAT was informed that this occurs frequently because of a pervasive perception that the district has large unrestricted reserves that can be accessed to cover unplanned expenditures. Conversely, staff reported that some expendi-

ture requests for essential supplies and services that fell within the board-adopted budget categories were denied, and that the reason given to the requester for the denial was a lack of funds.

Reacting to each request as it arises rather than assessing requests proactively based on the district's goals, objectives and guiding principles, as well as performance outcomes and cost effectiveness, makes it difficult to meet all students' needs equitably. This practice also makes it difficult to ensure that the operating budget reflects all expected financial activity and difficult to assess the district's financial solvency. The LCAP, if effectively implemented, will help address this condition.

## 2012 Recommendation

*11. Provide regular and frequent budget revisions to the governing board for approval.*

### Status: Not Implemented

The district includes budget revisions in its periodic financial reports, including interim reports and year-end statements. However, board members shared concerns about the fluctuations in the actual financial position at the end of the year compared to budget projections.

The Schedule of Revenues, Expenditures, and Changes in Fund Balances, Budget and Actual – General Fund in the district's annual financial and audit reports for 2012-13, 2013-14 and 2014-15 show that variances in total revenue and in salary, capital outlay and debt service expenditure categories did not exceed a reasonable threshold of 5% or \$50,000. Only in 2014 did the variance in employee benefits exceed a reasonable threshold.

The district needs to regularly review its budget expenditure projections and prepare budget adjustments for each board meeting. It should give particular attention to budget projections for the following line items:

- Books and Supplies
- Services and Other Operating Expenditures
- Other Expenditures
- Operating Transfers Out

As the following table shows, these categories of expenditures have variances greater than the threshold.

Description	2015 Variance in Dollars	2015 Variance as a Percent of Final Budget	2014 Variance in Dollars	2014 Variance as a Percent of Final Budget	2013 Variance in Dollars	2013 Variance as a Percent of Final Budget
Books and Supplies	(\$65,195)	(19.13%)	(\$104,897)	(32.63%)	(\$74,387)	(22.54%)
Services and Other Operating Expenditures	(\$222,713)	(16.61%)	(\$375,645)	(23.89%)	(\$235,738)	(14.24%)
Other Expenditures	(\$52,189)	(7.80%)	Less than threshold	Less than threshold	(\$31,675)	(5.46%)
Operating Transfers Out	(\$70,162)	(19.20%)	(\$35,827)	(11.49%)	\$24,258	8.09%

## 2012 Recommendation

*12. Consider online, read-only access to financial information by site administrators and department managers, training on budget monitoring techniques and prepa-*



*ration of budget transfers, electronic distribution of draft budget transfers to the business office, and a calendar of deadlines for budget revisions due to the business office.*

**Status: Not Implemented**

School administrators and department managers should be able to access financial information easily so they can frequently review pertinent financial information and determine adjustments needed to revenues and expenditures. They should also be responsible for communicating needed changes to the business office in a timely manner. Online, read-only access can help them do this. At a minimum, they should performed this type of review before preparation of the first and second period interim financial reports.

**2012 Recommendation**

- 13. Develop a multi-step plan, open to all stakeholders, to evaluate the advantages and disadvantages of different school site and district grade level configurations.*

**Status: Not Implemented**

Although the district moved all its K-8 instructional programs (except special day classes) to the Bayside MLK campus beginning with the 2013-14 school year, FCMAT did not find evidence of an open, publicized, multi-step planning process that evaluated the advantages and disadvantages of different school sites and district grade level configurations.

To locate almost all K-8 instructional programs at the Bayside MLK campus, the district had to purchase and install four relocatable classrooms at the school. On February 12, 2013, the Sausalito School District Financing Corporation issued certificates of participation (COPs) in the principal amount of \$3,675,000 to finance the “MLK Jr. Academy Classroom Construction Project” (*Official Statement, \$3,675,000 Certificates of Participation*, dated January 29, 2013). Annual principal and interest payments are approximately \$200,000. The COPs will be paid off in 2044, by which time the district will have paid an estimated \$5,613,871 in principal and interest for four relocatable classrooms that will be at the end of their useful lives.

**2012 Recommendation**

- 14. Consider commissioning a study to determine appropriate staffing levels for both certificated and classified employees.*

**Status: Not Implemented**

The district has recently experienced declining enrollment, staff reductions, consolidation of school programs onto one campus, the allocation of district staff time to WCA, and informal changes in the assignment of essential duties listed on some employees’ job descriptions. Because the district has a small number of staff, it is important to assign all critical district duties to appropriate staff. A study designed to determine staffing levels for certificated, classified and management employees is still warranted.



## 2012 Recommendation

15. *Continue to seek legal counsel with expertise in the area of charter school law to evaluate the supplemental funding and services provided by the district to the WCA charter school.*

### **Status: Implemented**

Although the district has followed this recommendation, this report contains new findings and recommendations regarding the relationship between the district and WCA. The district will need to continue working closely with specialized legal counsel for advice in this area.

## Financial Reporting

In 2012, FCMAT made 15 recommendations regarding financial reporting. Each of those recommendations is included in italics below and is followed by a discussion of the current status of its implementation. Five recommendations have been implemented, six are in varying stages of implementation, two have not been implemented, and two are no longer necessary.

### 2012 Recommendation

1. *Ensure that the board meeting calendar contains financial reporting deadlines to ensure compliance.*

#### Status: Partially Implemented

The current schedule of board meeting dates on the district's website lists the meetings at which there will be public hearings regarding the LCAP and budget, and the adoption of the LCAP and budget. However, the 2012 report cited other instances in which the board did not comply with financial reporting deadlines, including not approving the unaudited actuals report for the previous fiscal year until seven days after the statutory deadline of September 15, and a failure to provide information regarding the 45-day budget update, which is required by Education Code Section 42127(i)(4).

The district's annual financial and audit report for fiscal year 2013-14 contained a finding that the district did not hold the required public hearing for the instructional materials funding realignment program during the first eight weeks of school as required by Education Code Section 60119.

The intent of FCMAT's 2012 recommendation was for the district to review its board calendar in conjunction with all of its reporting deadlines to ensure compliance with all relevant code requirements. The district should revise the board meeting calendar to align with statutory financial reporting deadlines.

### 2012 Recommendation

2. *Survey the board regarding specific areas of interest or topics for which they would like additional explanation or training.*

#### Status: Not Implemented

Staff indicated that the board requests information from staff informally and that they have not surveyed board members. Implementing this recommendation would allow the district to address the board's requests proactively in a timely and coordinated manner. Further discussion and related recommendations can be found in the budget development section of this report and its recommendations 1, 2, 8 and 11.

### 2012 Recommendation

3. *Require all teachers to take daily attendance and ensure that clerical site staff retain and maintain records to substantiate excused student absences in accordance with AR 5113.*

### Status: Partially Implemented

The district's annual audit reports for the past three years contain no findings regarding missing teacher attendance records. However, in the audit for fiscal year 2014-15, the district received a finding and recommendation because seven transitional kindergarten students who were initially enrolled in the district transferred to another local education agency (LEA) but school site personnel did not properly indicate that the students were absent or no longer enrolled when they continued to appear on the weekly classroom rosters. Further discussion and related recommendations can be found in recommendation 6 below and in the discussion in the Transitional Kindergarten section of this report. The seriousness of the finding indicates that additional training, control and monitoring should be included in the district's attendance procedures.

## 2012 Recommendations

4. *Consider the financial pros and cons of engaging an independent auditor with Aeries software expertise to perform audit procedures and determine whether 2009-10 ADA as reported was reasonable.*
5. *Record the special education funding in question as a liability until the outcome of the EAAP appeal is known.*

### Status: Partially Implemented

On July 11, 2013, the district entered into a stipulation and settlement agreement regarding audit finding 10-3 in the controller's audit report for the fiscal year ended June 30, 2010. The agreement states that the district will pay \$1,396 through the reduction of special education local plan area (SELPA) funding by the California Department of Education (CDE); this has already occurred. In addition, the agreement states that the district could pursue recovery of the remaining amount of \$71,585 from CDE. During interviews, district staff stated that they learned from CDE staff that recovery of \$71,585 was not possible because the fiscal year had passed and CDE had already allocated all available funding from that year. However, CDE staff also shared contact information for the agency from which the district could pursue relief. The district has not pursued the issue further.

The district should contact the Victims Compensation and Government Claims Board (<http://www.vcgcb.ca.gov/claims/>) and file a claim. Based on the board's website, the claim process does not appear to be unduly complex or time-consuming. There is a filing fee of \$25, which can be waived in some circumstances. The district should make every effort to recover these funds for the benefit of its students.

## 2012 Recommendation

6. *Immediately train site staff regarding their roles and responsibilities in providing accurate student attendance recordkeeping. Closely monitor attendance accounting and take appropriate disciplinary action with any employee who circumvents or deviates from the district's requirements.*

### Status: Not Implemented

The district had one or more attendance-related findings in each of its last four annual audit reports. The findings reported incorrect student counts, misclassifications of students, incorrect calculations, and a lack of, or in some cases absence of, quality control procedures.

District staff stated that student attendance job duties were transferred recently from the school secretary to the student intervention facilitator to ensure accurate attendance recordkeeping. District staff stated that they made a conscious decision to leave student attendance as an essential duty in the job description for the school secretary, and to add “ability to access student data system” to the essential duties in the intervention facilitator’s job description.

The district needs to review all of its job descriptions for business-related positions. Job descriptions should be designed around the needs of the organization, including internal control, parity, and equity in the work force. Annual performance assessments should be completed based on the essential duties listed in the job descriptions, and employees should be held accountable for successfully performing those duties. Specifically, student attendance duties should include a timely review and reconciliation by another employee to ensure accuracy.

Further discussion and related recommendations are provided under recommendation 3 above. The district has less than 150 students at one school. Perfect attendance accounting is a goal that can be achieved easily with training and monitoring.

### 2012 Recommendation

7. *Present all adjustments resulting from the independent audit of the prior year’s financial records to the governing board for approval as audit adjustments and report them in the Board Approved Operating Budget or Projected Year Totals column on the SACS interim financial reports, depending on the board’s procedure for approving budget transfers.*

### Status: Partially Implemented

The district reports annual audit adjustments appropriately in its second interim reports; however, it does not present audit adjustments for the governing board’s approval.

The district should present all audit adjustments to its governing board for approval. This strengthens the board’s role in the district’s internal control protocols.

### 2012 Recommendation

8. *Incorporate adjustments to the cash flow worksheet in “Other Receipts/Non-Revenue” into the district’s budget to the extent possible.*

### Status: No Longer Applicable

District and county office staff confirmed that the cash flow worksheets are not currently required from the district. However, every LEA should closely monitor cash flow, including preparing annual cash flow projections and monitoring actual monthly cash flows against the projections. Cash flow for a basic aid district is different and often more risky than for districts funded primarily by the state.

## 2012 Recommendations

9. *Ensure that appropriate staff and the governing board observe the reporting requirements of GC 3547.5 once negotiations are complete.*
10. *Revise Criteria and Standards Item S7A to include the necessary information for the district's OPEB obligation during its next reporting period.*

### Status: Implemented

The district is observing the reporting requirements of GC 3547.5 after negotiations and has revised Criteria and Standards Item S7A to include OPEB information.

## 2012 Recommendation

11. *Review its processes for applying indirect costs and revise procedures beginning with fiscal year 2011-12 to ensure that all programs are charged the maximum allowable indirect cost rate.*

### Status: Partially Implemented

District staff confirmed that an indirect cost factor is applied but that past practice has been to charge less than the maximum allowable. Form ICR, 2014-15 Unaudited Actual Report indicates that the district's indirect cost rate is 7.08%. District staff indicated that an indirect cost rate of 5% was used consistently in the past.

Although past practice offers consistency for financial comparisons, continuing it should be re-evaluated periodically to ensure the practice still meets the goals, objectives and guiding principles of the board and district.

Indirect costs are real costs of the organization, and assessing restricted programs the maximum allowable rate provides cost centering of actual costs to reflect the true cost of operating a restricted program. If the district desires to subsidize restricted programs with unrestricted funds, it should do so after applying indirect costs so that the true cost of the subsidy is clear to all parties.

## 2012 Recommendations

12. *Ensure that staff members responsible for the unaudited actuals report are knowledgeable regarding all the required forms so that accurate financial information is reported.*
13. *Balance the Form CAT with the amounts reported in the district's general ledger.*

### Status: Implemented

Staff responsible for the unaudited actuals report are knowledgeable, and the Form CAT is balanced with the amounts reported in the general ledger.

## 2012 Recommendation

14. *Report a reserve for the revolving cash account in the ending fund balance as required by the California School Accounting Manual, Procedure 210.*

**Status: Implemented**

The district's 2014-15 unaudited actuals report showed a balance of \$1,000 in the revolving cash account (Object 9711).

**2012 Recommendation**

- 15. Consider contracting with an individual knowledgeable in school accounting to perform routine and backlogged tasks and to train current employees to perform these tasks.*

**Status: No Longer Applicable**

During the tenure of the current CBO, the backlogged tasks have been completed, and interviews and reviews of documentation indicate that the CBO is adequately trained and capable of performing these accounting tasks.

## Direct Service Options from the County Office

In 2012, FCMAT made two recommendations regarding direct services from the Marin County Office of Education. Each of those recommendations is included in italics below and is followed by a discussion of the current status of its implementation. Both recommendations have been implemented.

### 2012 Recommendation

1. *Determine whether it would be more beneficial and cost effective to hire personnel instead of contracting with the county office or independent contractors for services for the 2012-13 fiscal year.*

#### Status: Implemented

The district will need to regularly monitor the quality and cost-effectiveness of services provided by all independent contractors. The district contracted with the county office for the following services in 2014-15.

Internet Access Fees	\$900
Aeries Hosting Services	\$4,970
EdI Stop Web Portal	\$726
BTSA Induction Fee	\$1,590
School Services of California Membership	\$371
Data Processing	\$1,809
Legislative Consultant Services	\$643

### 2012 Recommendation

2. *Encourage the continued mentoring relationship between the county office and the district's business manager.*

#### Status: Implemented

The district and county office have encouraged this mentoring relationship.



## Payroll

In 2012 FCMAT made five recommendations regarding payroll. Each of those recommendations is included in *italics* below and is followed by a discussion of the current status of its implementation. Two recommendations have been fully implemented and three are in varying stages of implementation.

### 2012 Recommendations

1. *Implement payroll procedures that will provide a sound internal control structure.*
2. *Revise job descriptions as necessary among district office staff to accommodate revised payroll procedures.*

### Status: Partially Implemented

In the 2012 study, FCMAT provided a thorough list of activities needed for strong internal control procedures over payroll. The district can use this as a resource to help address its continuing lack of segregation of duties and weak accountability and security.

In recent years the district has reduced staffing from two assistant positions (one each for the superintendent and business manager) to one position of administrative assistant to the district office. Most of the district's payroll duties have been assigned to just two positions: the CBO and the administrative assistant to the district office. This makes it difficult to implement effective internal controls for all payroll transactions.

District staff indicated that the job descriptions for several business positions include some duties that individuals in those positions no longer perform, either because the duties have been formally assigned to other employees or because other employees have informally assumed them.

Job descriptions should accurately indicate the duties and responsibilities of each position so that managers can fairly assess employee performance and so that the integrity of the organizational structure can remain intact. Because job descriptions are commonly used to help determine whether internal control procedures are adequate, the district should review job descriptions for all positions with payroll and position control duties and either update the list of essential duties to reflect what is currently happening or reassign the duties to the individual in the position.

When making these adjustments, special attention and consideration should be given to ensure that they include proper segregation of duties and strong accountability and security protocols. In particular, one employee should not be responsible for creating new positions, attaching new employee information, preparing and updating online payroll and personnel data, and distributing paychecks.

Individuals should be held accountable for performance of the job duties listed on their job descriptions. Annual performance assessments should be completed based on the essential duties listed in the job descriptions. When a position performs functions under the supervision of several managers, as is the case with the administrative assistant to the district office, each manager should have equal input into the evaluation.

The discussion following recommendation 4 in this section details FCMAT's concerns regarding the security of employees' personal information.

## 2012 Recommendation

3. *Establish firm payroll submission deadlines as well as what constitutes a complete employee timesheet submission. Ensure that employees are notified in writing of these deadlines and requirements, and hold both the employer responsible for enforcing the policy and the employee violating the policy accountable for following them.*

### Status: Implemented

The district has established and communicated firm payroll deadlines and defined what constitutes a complete timesheet submission.

## 2012 Recommendation

4. *Establish an individual payroll file for each employee.*

### Status: Partially Implemented

During interviews, staff indicated that although the district has individual payroll files for each employee, some personnel-related records are maintained at the district office and others are maintained at the school because the CBO and superintendent work at the district office but the administrative assistant to the district office works at the school.

It is a best practice to maintain only one complete payroll file for each employee, in a secure location such as a locked file cabinet. This file should include, but not be limited to, initial hiring information, employment contracts, change of status forms, state retirement program elections, federal and state income tax withholding information, voluntary deductions, and wage garnishments.

Because the administrative assistant to the district office supports the superintendent and the CBO, this position should be relocated to the district office.

## 2012 Recommendation

5. *Continue efforts to provide more accurate vacation/personal/sick leave information on employee paychecks.*

### Status: Implemented

The district has continued to provide more accurate leave information on paychecks.

## Position Control

In 2012 FCMAT made seven recommendations regarding position control. Each of those recommendations is included in italics below and is followed by a discussion of the current status of its implementation. One recommendation has been fully implemented and six are in varying stages of implementation.

### 2012 Recommendation

1. *Take immediate steps to fully implement the QSS position control module, including the use of an outside consultant for the initial system setup to lessen the burden on district office staff.*

#### Status: Partially Implemented

District staff indicated that although they use the Quintessential School Systems (QSS) financial software's position control module, the module is not fully integrated and thus does not drive payroll. Staff also stated that they are not in favor of integrating position control at this time because of their concerns about the software's ability to produce special supplemental payroll calculations without some manual adjustment. Without a fully integrated position control module, regular manual reconciliation of position control with budget and payroll is required. FCMAT's review and interviews indicate that the current procedure produces timely and accurate payroll. However, if the specific calculation issues can be addressed and the position control module can be fully integrated, the time staff spend on reconciliation could be spent performing other necessary business functions.

### 2012 Recommendations

2. *Revise job descriptions of district office staff as necessary to ensure that adequate internal controls are established for maintenance of the position control system.*
3. *Ensure that one person does not have the ability to access both the demographic and payroll screens of employees in the position control module.*

#### Status: Partially Implemented

In the 2012 study, FCMAT provided a thorough list of activities to ensure strong internal control procedures over position control; these can be used as a resource to address any continuing deficiencies in segregation of duties, authorization and accountability. The district has assigned most position control duties to just two positions: the CBO and the administrative assistant to the district office. This makes it difficult to implement sufficient controls for all position control transactions.

When assigning position control duties among staff, districts should ensure that one employee is not responsible for both establishing (or changing) position and employee information and for processing payroll and distributing paychecks.

### 2012 Recommendations

4. *Review the change of status form to determine whether pre-numbered sections are applicable to each situation.*

5. *Include a check box or signature line reflecting verification of board approval if required for the personnel action on the change of status form.*

**Status: Partially Implemented**

The change of status personnel/payroll records form now indicates which prenumbered sections are applicable to each change in employee status, but not whether board approval is required and, if so, when the board took action regarding the specific change of status. Staff confirmed that the board does not involve itself in changes of status for existing positions but is involved in hiring and subsequent status changes for district office and administrative positions. Because the governing board is the employer for the school district, it should take action on all changes of status including, but not limited to, establishing new positions, all hiring decisions, and pay increases.

**2012 Recommendation**

6. *Establish the steps listed [in the 2012 report] above to process the district's position control transactions.*

**Status: Partially Implemented**

In the 2012 study, FCMAT provided a list of activities to create strong internal control procedures over position control; this can be used to address the issues identified in recommendations 2 and 3 of this section regarding segregation of duties and authorization and accountability. As indicated in the discussion of the implementation status of the preceding recommendations in the 2012 study, the best practices provided by FCMAT at the time have not been fully implemented.

**2012 Recommendation**

7. *Institute procedures for updating position control for each financial reporting period, including procedures to properly roll position control from one fiscal year to another.*

**Status: Implemented**

The district has implemented procedures for updating position control for each financial reporting period.

# Accounts Payable

In 2012 FCMAT made eight recommendations regarding accounts payable. Each of those recommendations is included in italics below and is followed by a discussion of the current status of its implementation. Seven recommendations are in varying stages of implementation and one is not implemented.

## 2012 Recommendation

1. *Implement the procedures outlined above [in the 2012 report] regarding accounts payable transactions to provide a sound internal control structure.*

### Status: Partially Implemented

In its 2012 report, FCMAT provided a list of activities to help create strong control procedures for accounts payable transactions; this can be used to help correct the continuing need for segregation of duties, authorization, accountability and security. Review and reconciliation procedures are sufficient.

Most duties related to accounts payable are performed by just two employees: the CBO and the administrative assistant to the district office. This makes it difficult to implement sufficient controls for all accounts payable transactions. It is especially important to ensure that one employee is not responsible for procuring and receiving materials and supplies, generating payments, and reviewing and reconciling vendor statements and financial records.

Staff indicated that materials and supplies are usually delivered to the school, where they are received by a school employee; however, proof of delivery is not always consistent, nor is the security of the materials and supplies delivered. Although just-in-time purchasing and drop shipping to user locations is common and is encouraged, procedures need to be developed and enforced to ensure proper controls are in place.

In addition, accountability procedures should be added to ensure that invoices are reviewed and approved for payment based on signed agreements, contract terms, and purchase orders. For example, staff stated that when they receive a bill from a contractor for work completed, the district has only an informal process (verbal or email) by which program managers confirm to the business office that payment is appropriate and should be processed.

## 2012 Recommendation

2. *Implement the procedures outlined above [in the 2012 report] regarding changes to vendor information and ensure that no employee has access to the QSS screens necessary to set up/change vendor demographic information and process vendor payments.*

### Status: Not Implemented

The administrative assistant to the district office is responsible for adding new vendors and changing vendor information, as well as for processing vendor payments. It is a best practice to ensure that the person who processes vendor payments is not also able to add new vendors or modify existing vendor information. Although the CBO reviews the accounts payable list before payment is made, the district should change its procedures in this area to conform to best practices.

## 2012 Recommendation

3. *Revise job descriptions as necessary among district office staff to accommodate the changes in procedures.*

### Status: Partially Implemented

As mentioned earlier, the district has assigned most accounts payable and purchasing duties to just two positions: the CBO and the administrative assistant to the district office.

As discussed under recommendations 1 and 2 in the payroll section of this report above, district staff indicated that some employees are no longer performing some of the duties in their job descriptions because those duties have been formally assigned to, or informally assumed by, other employees.

The district should review the job descriptions for all positions that have assigned accounts payable and purchasing duties, and either update the list of essential duties to reflect what is currently happening or return the duties to the position that has them in its job description, and hold the employees accountable for their performance. When reviewing and changing the job descriptions, careful attention should be given to including proper segregation of duties, authorization, accountability, and security procedures.

## 2012 Recommendation

4. *Provide the assistant to the business manager with outside training to assist with the assigned accounting duties, and hold the employee responsible for completing the assigned duties correctly.*

### Status: Partially Implemented

The position of assistant to the business manager is currently vacant. However, the administrative assistant to the district office has responsibilities and essential duties that require ongoing technical training. Training is part of this position's job description and should be directed by the supervisor in charge of those duties. Ongoing training should be an expectation of both the employer and employee. An employer's expectations regarding training and specific training sessions for the upcoming year can be identified and discussed during an employee's annual evaluation. The performance of any employee in this position should be evaluated based in part on the employer's training expectations.

## 2012 Recommendations

5. *Take immediate steps to construct separate travel request and reimbursement forms that more closely meet its needs.*
6. *Establish meal and mileage rates for use in employee travel.*
7. *Implement the procedures outlined above [in the 2012 report] regarding travel expenditures.*

### Status: Partially Implemented

The district's mileage claim and reimbursement request (RMC-03) form denotes mileage rates, and its conference attendance request or staff development activity (CARSD-01) form denotes the meal reimbursement rates.

FCMAT's 2012 study found no evidence that the board had taken formal action to establish reimbursement rates. During the current review, staff confirmed that this is still the case, and that meal reimbursement rates listed on CARSD-01 are not always used and that some employees have been reimbursed for the actual costs of meals.

Board Policy 3350 states in part, "The Board of Trustees shall authorize payment for actual and necessary expenses, including travel, incurred by any employee performing authorized services for the district," and, "Expenses shall be reimbursed within limits approved by the Board. The Superintendent or designee shall establish procedures for the submission and verification of expense claims."

To ensure consistent treatment of all employees, the board should formally define and approve the circumstances under which the district will reimburse employees based on established meal rates and those under which it will reimburse employees for the actual cost of meals.

In the 2012 study FCMAT provided a list of actions to strengthen internal control procedures over travel expenditures; this can be used to address any remaining issues in this area.

## 2012 Recommendation

8. *Implement the procedures outlined above [in the 2012 report] regarding revolving account transactions.*

### Status: Partially Implemented

During interviews, staff stated that the revolving account is used infrequently and only for emergencies. Because of the small number of business staff, the CBO performs almost all revolving account duties. To protect this employee, monthly bank statements and reconciliations should be reviewed by the superintendent, who should document the review by initialing and dating both the reconciliation and bank statement.



## Purchasing

In 2012 FCMAT made 15 recommendations regarding purchasing. Each of those recommendations is included in italics below and is followed by a discussion of the current status of its implementation. One recommendation has been implemented, eight are in varying stages of implementation, and six have not been implemented.

### 2012 Recommendation

1. *Implement the procedures outlined above [in the 2012 report] with regard to purchase orders.*

#### Status: Partially Implemented

In the 2012 study FCMAT provided a list of actions to ensure strong control procedures for purchasing transactions; this can be used to help address the continuing challenges in segregation of duties, authorization, accountability, security, review and reconciliation.

District staff estimated that purchase orders are prepared for only 30% to 40% of expenditure transactions and indicated that all purchase orders are prepared manually. This requires considerable staff time and effort to track outstanding commitments. It also may subject the district to significant risk of unauthorized or unnecessary purchases, excessive costs, violations of board policies and practices regarding conflicts of interest, or payments for items or services not provided.

The automated, integrated purchasing module in QSS can help ensure that timely and accurate financial information is available to support informed decisions. As discussed in recommendation 11 in the budget development section of this report, district audit reports for fiscal years 2012-13, 2013-14 and 2014-15 showed significant variations between the final district budget and actual district expenditures for books and supplies, services and other operating expenditures, other expenditures, and operating transfers out. These variations were on the audit reports' Schedule of Revenue, Expenditures and Changes in Fund Balances Budget and Actual - General Fund. Purchase orders that are integrated into the financial reporting system through encumbrances produce the information needed to easily assess whether budget line items are reasonable.

The district should implement the QSS purchasing module as soon as it is practical.

### 2012 Recommendation

2. *Provide extensive training for all employees involved in purchasing if the on-line QSS purchase order system is implemented.*

#### Status: Not Implemented

The district has chosen not to implement the online QSS purchase order system because of the estimated staff time and effort needed to implement it districtwide and to gain the training to use it effectively. This is shortsighted and reveals a weakness in the internal control structure. The district's current manual and inefficient process requires considerable employee time that could be better used if QSS was fully implemented. The district should work with the county office to develop a detailed integration plan that includes installation, training, and a post-integration assessment of the system; the district should then implement the plan as soon as practical.

## 2012 Recommendation

3. *Utilize open purchase orders for ongoing purchases of inexpensive items from the same vendor. Issue the open purchase orders quarterly in compliance with BP 3300.*

### Status: Not Implemented

Board policy 3300 states in part, the following:

In order to eliminate the processing of numerous small purchase orders, the Superintendent or designee may create a 'blanket' or 'open' purchase order system for the purchase of minor items as needed from a vendor. He/she shall ensure that the 'open' purchase order system details a maximum purchase amount, the types of items that can be purchased under this order, the individuals authorized to approve purchases, and the expiration date of the 'open' order.

During interviews, staff stated that the open purchase order recommendation from the 2012 report was abandoned shortly after it was implemented. Because of the districtwide practice of using requisitions instead of purchase orders, employees would routinely process requisitions even though open purchase orders for those vendors existed. This resulted in duplicate expenditure information on the financial reports and caused confusion for staff. Once the online QSS purchase order system has been implemented, the district should once again implement open purchase orders to reduce the number of small purchase orders.

## 2012 Recommendations

4. *Consult with legal counsel regarding its July 2011 award of its contract for the food service program.*
5. *Immediately contact legal counsel with questions regarding bidding.*
6. *Seek competitive bids on public works projects over \$15,000 and equipment, materials or supplies to be furnished, sold or leased in excess of \$81,000 (\$87,800 for 2016).*
7. *Meet with legal counsel to obtain a complete set of competitive bidding documents.*
8. *Provide the business manager with additional training in bidding requirements and procedures.*

### Status: Partially Implemented

In 2012 the district was experiencing difficulty regarding a request for bids for its food service program. Since that time, the issue has been resolved.

Because the district is small, it will not frequently purchase services or products with a dollar value high enough to require it to use a formal bidding process. Employees indicated that the last time the district used such a process was in 2012-13 when it had four relocatable classrooms placed on the Bayside MLK campus to enable consolidation of programs to that school. The district superintendent at that time was the primary contact for this activity.

Because the superintendent is no longer with the district, and because the CBO's job description includes responsibility for these duties, the district should assign responsibility for any future

competitive bids on public work projects to the CBO, who should also develop and implement a plan to ensure that all projects subject to bidding under Public Contract Code Sections 20111 and 22002 comply with the requirements in those code sections. The plan will require steps to ensure that the CBO receives adequate initial and ongoing training.

## 2012 Recommendation

9. *Establish a policy requiring three quotes to be obtained when items exceed a specified amount.*

### Status: Partially Implemented

The CBO stated that she routinely obtains three quotes before procuring most items. The governing board should formally establish a policy that defines the criteria for determining when formal quotes are required, including types of purchases and specific dollar amounts. The policy should also state the number of quotes required. The district should then develop and use a simple form to document staff members' research and final purchase decision; the completed form should become part of the procurement record.

## 2012 Recommendation

10. *Issue district credit cards in both the individual's name and the district's name.*

### Status: Partially Implemented

Staff confirmed that the district has only one credit card and it is issued in the names of both the district and the CBO. However, it is an American Express card and is tied to the credit profile of the employee, not the district. The district should obtain a Cal Card or other credit card that is tied to the district's credit profile so that it does not place the employee's credit and financial wellbeing at risk.

## 2012 Recommendation

11. *Establish reasonable credit limits on each credit card.*

### Status: Implemented

The district has a reasonable credit limit on its credit card.

## 2012 Recommendation

12. *Ensure that each person issued a credit card signs a usage agreement that provides specifics of the credit card program.*

### Status: Not Implemented

The district lacks a credit card usage agreement. The district should develop such an agreement, ensure that it identifies and defines the specific elements of the credit card program including acceptable use as defined by the board, and ensure that every cardholder signs the agreement.

## 2012 Recommendation

13. *Require a purchase order for all purchases of goods and services via credit card, with the exception of some travel expenses.*

**Status: Not Implemented**

The CBO stated that she does not currently prepare a purchase order when using the American Express card because the card is used only for emergencies.

The district should develop procedures for emergency purchases and communicate them to staff so that emergencies are dealt with consistently and effectively. The use of credit cards without an accompanying purchase order may be an appropriate solution if the structure governing their use includes proper segregation of duties, accountability, security, review and approval.

**2012 Recommendations**

- 14. Obtain the equipment listings from its independent contractor and director of maintenance and operations to verify completion of the equipment inventory.*
- 15. If the inventory is incomplete, consider changing vendors to perform a complete equipment inventory and provide the district with procedures to maintain an inventory system.*

**Status: Not Implemented**

The district provided FCMAT with an Excel spreadsheet entitled “SMCSD Technology Inventory,” which listed more than 350 items including Chromebooks, iPad2s, iPad3s, projectors, cameras, MacBooks, Dell Latitude D630s, Dell Optiplex 960, and HP Compaq 8200 Elites. However, the spreadsheet contained no information about each item’s location or about the staff member or student to whom each is assigned. Many items also lacked information about their cost or acquisition date. Other items normally subject to inventory, such as musical instruments, were not included. FCMAT was unable to determine the status of the district’s inventory. However, district staff confirmed that the inventory is maintained by an outside vendor.

Because inventory lists protect district assets from misappropriation and misuse, the district should obtain or perform a complete inventory as soon as practical.

## Personnel

In 2012 FCMAT made 18 recommendations regarding personnel practices. Each of those recommendations is included in italics below and is followed by a discussion of the current status of its implementation. Six recommendations have been implemented, nine are in varying stages of implementation and three have not been implemented.

A district's personnel department manages the recruitment, selection, retention, and separation of both certificated and classified employees. Personnel department staff must also be knowledgeable about the district's agreements with employee collective bargaining groups. The district has entered into agreements with the Sausalito District Teachers Association (SDTA) and with California School Employees Association Chapter No. 394 (CSEA).

The CBO manages the district's human resources functions with assistance from one shared administrative support employee.

## Employment Processes

### 2012 Recommendations

1. *Implement the procedures outlined above [in the 2012 report] for employee recruitment / selection.*
2. *Submit the certificated and classified employment application forms to legal counsel for evaluation.*
3. *Adopt standardized forms for use in the employee selection process.*
4. *Consider obtaining the book entitled Adverse Impact and Test Validation: A Practitioner's Guide to Valid and Defensible Employment Testing, 2nd Edition by Dan Biddle, which provides specific instructions for meeting selection requirements.*
5. *Provide annual notice to each employee to confirm their vacation and personal necessity/sick leave balances [was recommendation 12].*
6. *Implement the procedures outlined above (in the 2012 report) for employee resignations and retirements [was recommendation 13].*

### Status: Partially Implemented

In January 2012 the district developed processes for hiring, changes in status, setting pay rates, and hours of employment. These processes were outlined in a document titled "Hiring Procedures," which references approval by the superintendent, personnel department, and business department, as well as two forms that were to be developed.

Currently, employment forms, including the employment requisition form, interview forms, and application forms, are easily accessible on the district's website. The employment requisition form is used to request that a position be filled, request a new position, or request that a job opportunity be posted. The form includes pull-down menus for key information and requires information regarding screening and interviewing committees, budget codes, and district-level authorization. In interviews, administrators explained the hiring process in a manner consistent with the processes outlined in January 2012 and with the online forms. Although the documents

reference a human resources and personnel department, the personnel functions are performed by the CBO.

The district's website has employment application forms for both certificated and classified positions. The 2012 FCMAT review noted that the employment application forms lacked the following:

- A notice that applicants will have to undergo fingerprint clearance per Education Code Section 45125(a).
- A requirement that applicants certify under penalty of perjury that the statements made in the application are true and correct.
- A requirement that applications agree to a physical examination should one be required upon hiring.
- A statement providing for employment consequences should false statements be made.

The application forms for both certificated and classified positions currently on the district's website still do not follow the guidelines provided in 2012. The 2012 recommendations remain pertinent and will ensure that the employment application forms met legal requirements and protect the district. The district's website does include a nondiscrimination statement, which applicants are asked to read; however, applicants are not asked to verify that they have read it.

Postings for open certificated positions on the district's website direct applicants to EdJoin, an on-line application system that includes the language and items discussed in the 2012 review. For classified positions, applicants are directed to complete the district application form that lacks these important items.

The district has implemented many of the revisions to personnel processes recommended in FCMAT's 2012 report. Those revisions have improved consistency across processes, but some forms and procedures remain inconsistent with their intended objective. Specifically, the concerns regarding the employment application forms have not been fully addressed. In addition, although employees are receiving their sick leave and vacation balances annually, it is more appropriate to provide that information each pay period. The retirement/resignation processes and forms recommended in 2012 are also not evident on the district's website.

To ensure consistency and mitigate legal concerns, the district should use EdJoin for both certificated and classified employment applications. If the district determines that EdJoin is not suitable for its classified employment application process, then it should update its application forms so they are current and follow best practices.

## Personnel Files

### 2012 Recommendations

7. *Provide explicit direction to any employee releasing employment information that this violates district procedure, and take any necessary disciplinary action should this reoccur* [was recommendation 5 in the 2012 report].
8. *Purchase locking, fireproof cabinets for personnel files, and review each employee's files for completeness* [was recommendation 16 in the 2012 report].

9. *Consider an independent consultant arrangement to assist with the review and cleanup of employee personnel files* [was recommendation 17 in the 2012 report].

### **Status: Implemented**

Administrators explained that changes in employment screening and hiring have limited the copying of applicant files and resolved the issue of releasing hard copies of applicant information to numerous parties involved in making hiring recommendations.

Personnel files are kept in locked, fireproof cabinets, and the CBO has reviewed and organized employee personnel files, created subfolders, and checked files for completeness. The employee associations participated in the process. As noted in the payroll section above, some payroll and accounts payable files are kept at the school; this does not provide appropriate security. The superintendent should direct employees to secure payroll and accounts payable files in accordance with district procedures and directives.

## **Employee Evaluation**

### **2012 Recommendations**

10. *Implement a calendaring system in the Personnel Department to track the deadlines for employee evaluations* [was recommendation 7 in the 2012 report].
11. *Provide sites/departments with notifications from the Personnel Department regarding deadlines for employee evaluations, and track compliance with the evaluation deadlines* [was recommendation 8 in the 2012 report].
12. *Provide district administrators/department heads with training in documenting employee performance* [was recommendation 9 in the 2012 report].

### **Status: Not Implemented**

The collective bargaining agreement (CBA) for certificated employees states that the purpose of employee evaluations is to maintain or improve the quality of education in the district. The district revised the certificated employee evaluation process in September 2012, and the process is included in the *SMCSD Certificated Continuous Improvement Handbook*. The evaluation format is based on the California Standards for the Teaching Profession (CSTPs) and is aligned with the evaluation process outlined in the CBA with SDTA. The classified employee evaluation process, which includes timelines, is included in the collective bargaining agreement with CSEA. For classified employees, the stated purposes of the evaluation are to give employees both positive feedback and constructive criticism, and to advise employees about whether standards had been met.

During FCMAT's fieldwork, administrators commented that site evaluations had not been completed for either certificated or classified personnel. The lack of current evaluations hampers the district's ability to hold employees accountable for their work, help employees to improve their skills and work performance, and ensure that new employees who pass probation have the knowledge, abilities, and commitment required to be successful. The lack of evaluations also has implications for the recommendation in the April 2012 FCMAT study to "Seek advice from legal counsel regarding dismissal or progressive discipline action against an employee." Progressive



disciplinary action is difficult to accomplish without regular, consistent assessment of an employee's work performance.

It is critical to provide administrators with training regarding evaluation instruments and process. The superintendent should monitor and evaluate administrators to ensure that they follow timelines and evaluate employees in accordance with the CBAs, legal requirements, and district procedures.

## Compliance with state and federal regulations

### 2012 Recommendations

13. *Send personnel staff members to training conducted by CODESP and/or CPS on a variety of pertinent subjects* [was recommendation 6 in the 2012 report].
14. *Perform annual and periodic duties to ensure compliance with state and federal regulations with regard to:*
  - a. *Annual employee notices.*
  - b. *Annual completion of the Form 700, Statement of Economic Interests (for designated employees only).*
  - c. *TB testing.*
  - d. *Credential renewals for certificated employees.*
  - e. *Sexual harassment training for supervisory employees every two years (GC Section 12950.1)* [was recommendation 10 in the 2012 report].
15. *Ensure that the required current state and federal legal employment notices are posted in staff lounges* [was recommendation 11 in the 2012 report].

### Status: Partially Implemented

The district reported that some requirements are documented and up to date while other information it is required to post is either not being acquired or has been acquired but not provided to the supervisor at the site to post. Managing federal and state legal requirements should be a non-negotiable element of any district office employee's assignments. Documentation that legal requirements are being followed should be easily accessible to the district manager responsible for ensuring compliance. The district reported that training has been offered to appropriate employees; however, not all have attended.

The district should structure responsibilities for federal and state requirements so that managers responsible for compliance are able to attest to the completeness and accuracy of compliance. Attendance at district-arranged training to ensure that all personnel practices are legally defensible and consistent should be mandatory. Failure to follow directives may be cause for disciplinary action. As previously noted, the district should follow the 2012 FCMAT recommendation to consult legal counsel if disciplinary action is considered.

## Other

### 2012 Recommendations

16. *Work with legal counsel in the event of personnel layoffs for guidance on timelines, board agenda items, notices, hearings and any other necessary procedures* [was recommendation 14 in the 2012 report].
17. *Seek advice from legal counsel regarding dismissal or progressive discipline action against an employee* [was recommendation 15 in the 2012 report].
18. *Review all the FCMAT Personnel Standards to help develop best practices for personnel operations* [was recommendation 18 in the 2012 report].

### Status: Implemented

The district works with its legal counsel regarding personnel matters when needed and has reviewed FCMAT's personnel standards.

During FCMAT's follow-up review, several new topics came to light and were explored with district staff. The following sections discuss these topics and include FCMAT's recommendations for each.

## Teacher Credentials

The CBO has established a process to ensure that teachers are properly credentialed and renew their credentials on time. Currently all of the district's teachers have multiple-subject credentials.

In an article titled "The Subject Matter Preparation of Teachers" (*Issue Paper 89-4*, National Center for Research on Teacher Education, Michigan State University, East Lansing, MI, May 1989), Deborah Loewenberg Ball and G. Williamson McDiarmid discuss the importance of subject matter preparation for teachers. Key points include: because teaching entails helping others learn, understanding what is to be taught is a central requirement of teaching; and tasks of teaching, such as selecting worthwhile learning activities and evaluating students' learning, depend upon the teacher's understanding of what students are to learn. In California, teachers are required to demonstrate competence in the subject matter they teach. Subject matter preparation programs must meet the state standards set by the Commission on Teacher Credentialing, which are aligned with California K-12 content standards. To demonstrate subject matter competence for a single-subject credential, teachers must complete a Commission-approved subject matter preparation program or pass a Commission-approved examination. To satisfy the subject matter requirement for a multiple-subject credential, candidates must pass a Commission-adopted examination that does not require the same in-depth knowledge of specific subject areas.

Individuals FCMAT interviewed expressed concerns that although all teachers hold credentials that allow them to teach their assigned classes, no teachers with single-subject credentials are teaching courses for middle school students. As a result, teachers without subject matter expertise are teaching subjects such as math and science.

Middle school curricula typically transition students to increasingly subject-specific learning, reasoning and application. Without subject matter expertise, the district's middle school teachers may have difficulty providing the in-depth instruction required to maximize student success.

The district could remedy this situation by funding and employing part-time teachers with single-subject credentials to teach middle school science and math, or partnering with a neighboring school district to share an itinerant teacher in these and other subjects. Another solution could be to partner with neighboring school districts in which the students will later attend high school to have them operate a middle school program as well.

## Recommendation

*The district should:*

1. Provide subject matter instruction for middle school students. Realign funding priorities as needed to ensure that this occurs.

## Staffing

Bayside MLK, the district's only school, has approximately 140 students. As enrollment has decreased, the district has reduced staff. For example, the district reduced staffing by 2.5 full-time equivalent (FTE) teaching positions in 2014, and again by 1.5 FTE teaching positions and 1.0 FTE counselor position in 2015. During the FCMAT's fieldwork, employees reported that the district eliminated a classified position responsible for custodial and grounds maintenance because of declining enrollment. Board agendas and minutes indicate that these reductions were made legally and appropriately, consistent with the recommendation in FCMAT's 2012 report to "Work with legal counsel in the event of personnel layoffs for guidance on timelines, board agenda items, notices, hearings and any other necessary procedures."

At least one individual interviewed commented that the district loses good teachers because after they are laid off they find other jobs and do not return, even if a position opens later.

At the time of FCMAT's fieldwork the district had 38 certificated and classified employees. This includes seven classroom teachers, one intervention teacher, two resource specialist program teachers, and two special day class teachers. Bayside MLK has seven paraprofessionals: two in regular education, one bilingual, and four in special education.

In addition, there is one school secretary, one student intervention facilitator, and one program assistant. Other employees include a part-time special education director, a school psychologist, and a speech pathologist; contracted workers include one school nurse. One cafeteria employee who works with the contracted Conscious Kitchen meal provider, one lead custodian/maintenance/grounds/driver, and one custodian/maintenance/grounds/driver support both the district's Bayside MLK school and WCA.

Employees stated that instructional assistants provide physical education instruction because there is no money to hire a physical education teacher. The instructional assistants are under the direction of the assistant principal, who serves as the teacher of record and is credentialed in physical education. The California Department of Education guidelines state that physical education must be taught by a credentialed teacher, and that instructional assistants may only assist with instruction. Teachers use the time when students are in physical education for collaborative planning.

*The district should:*

1. Review the instructional and program needs for its students and adjust staffing accordingly.
2. Ensure that properly credentialed teachers are providing all subject area instruction, including physical education.

## Salary Schedules

In addition to their salaries, all administrative and confidential positions discussed below receive a \$100 monthly mileage stipend, a \$75 monthly telephone stipend, and health and welfare benefits.

### Principal

The principal of Bayside MLK was scheduled to retire at the end of the 2015-16 school year. The position announcement states that the principal serves as the educational leader and chief administrative officer of the school, and assumes responsibility for direction of the instructional program, operation of the school plant, and participation in staff and student activities and community leadership.

The district's salary schedule for certificated principals for the 2016-17 school year shows that a principal's salary begins at \$125,000 (step 1) and goes to \$147,000 (step 8) for a 212-day work year. Longevity stipends are included beginning at step 4: if a principal serves for three consecutive years, the step salary is increased by \$3,000; if a principal serves for six consecutive years, the step salary increases an additional \$3,000. These stipends increase the step 8 salary to \$153,000.

There is an assistant principal at Bayside MLK but no published salary schedule for the position. This is inconsistent with requirements set forth by the California State Teachers Retirement System (CalSTRS).

### Classified Management

This salary schedule includes the CBO and the director of facilities. Both positions have a 246-day work year. The salary for the CBO ranges from \$105,000 at step 1 to \$143,294 at step 8. The salary for the director of facilities ranges from \$70,587 to \$97,910. No longevity stipends are included in this salary schedule. The director of facilities position on this schedule has the same stipends for academic degrees as the confidential salary schedule. The director of facilities is listed as the director of maintenance, operations, and transportation on the district's organizational chart. The employee in this position reports to the CBO and oversees the lead custodian/maintenance/grounds/driver and the custodian/maintenance/grounds/driver.

### Superintendent

The 2015-16 salary schedule for the superintendent lists a salary of \$300,000 for a full-time superintendent and \$120,000 for a 0.4 FTE superintendent. The work schedule is listed as 210 days per year, which is less than in most districts for a full-time superintendent but certainly greater than what would be required of a 0.4 FTE position.

There is a wide range in the district's salaries for management and administrative staff. This is particularly evident when comparing the daily rates of the principal (\$722 maximum) and the CBO (\$583 maximum). In addition, a salary of \$300,000 for a superintendent of one school with a full time principal and assistant principal is not comparable to similarly-sized districts. The most common practice among comparable districts is to combine the roles of superintendent and principal in one position.

## Recommendations

*The district should:*

1. Consider reconfiguring staffing to align with the number of students being served.
2. Review the need for both a superintendent and a principal; consider combining these roles in one position.
3. Depending on the leadership structure, review the need for other positions such as director of facilities and assistant principal.
4. Conduct a salary study of its management positions to ensure equity both within the district and with comparable districts.
5. Consider using any salary savings to staff part-time teaching positions to provide targeted student intervention, core instruction in math and science, and/or enrichment classes in areas such as art, music, and technology.

## Classified Confidential

This salary schedule includes four positions: business office secretary, superintendent's secretary, administrative assistant 1, and administrative assistant 2. All positions have a 246-day work year. There are four salary ranges, one for each position. The business office secretary position is on range 1, the lowest range; the superintendent's secretary is on range 2; the administrative assistant 1 is on range 3; and the administrative assistant 2 is on range 4, the highest range. These positions also receive annual stipends of \$450 for an associate degree and \$900 for a bachelor's degree. No longevity stipends are included. California Government Code Section 3540.1 states that positions are considered confidential when in the course of their duties employees have access to or possess information relating to employer-employee relations or negotiations. The job descriptions for these positions do not include employer-employee responsibilities such as those described in this code section.

None of these positions are currently filled; however, the district has created and filled a new confidential classified position of assistant to the district office, which serves multiple administrators. This position is an administrative assistant 2 at range 4.

## Recommendations

*The district should:*

1. Review confidential employees' work responsibilities to ensure they meet Government Code Section 3540.1 requirements.
2. Revise its confidential employee job descriptions (and classifications) as needed.

## Teachers

The district's certificated SDTA salary schedule begins at \$50,722 for a first-year teacher with a bachelor's degree plus 30 units. The top salary is \$96,413 for 21 years of experience and a bachelor's degree plus 75 units or a master's degree plus 30 units.

By comparison, the teachers' salaries for WCA range from \$58,000 to \$72,626.

## Grant-Funded Positions

At the time of FCMAT's fieldwork, some employees and board members stated that the district has more than 30 grants funding services for the district's students; other interviewees were not aware of all the grant-funded services. Staff members explained that these services are not always coordinated with students' needs, and are sometimes scheduled at times that interrupt core instruction. Several cited a lack of coordination of community services at the school.

The district lacks a clear processes for aligning grant services with student needs and ensuring that staff in grant-funded programs are properly screened and cleared for working with students. The lack of clear, consistent processes has a potential to hinder student learning and to create a financial and legal liability for the district.

Under the SDTA CBA, full-time district teachers are entitled to a daily 40-minute preparation (prep) period. The principal is responsible for ensuring that each teacher's schedule includes this prep period. Employees mentioned that some of the grant-funded services are scheduled to enable teachers to have their prep periods throughout the school day. Thus the district's permanent contractual obligation to provide a prep period is funded by grants that vary widely each year. In addition, the grant funds may not be providing credentialed teachers, thus creating an environment in which a noncredentialed volunteer is supervising students during the instructional period while the teacher is away from the students during the teacher prep period.

Board policy 1240 and its associated administrative regulations address volunteers and the requirements for volunteering. The administrative regulations include guidelines regarding duties of volunteers, volunteer qualifications, and volunteer facilities projects. The district's board policy 3290 regarding gifts, grants, and bequests states that before it accepts a gift the board must consider whether the gift has a purpose consistent with the district's vision and philosophy, begins a program that the board would be unable to continue when the donated funds are exhausted, entails undesirable or excessive costs, or implies endorsement of any business or product.

## Recommendations

*The district should:*

1. Review grant proposals and implementation details to ensure that services align with the district's goals and follow board policy.
2. Create school schedules that prioritize core instructional programs that maximize student learning and comply with the CBA. Ensure that convenience for grant programs is secondary to these priorities.
3. Ensure that all volunteers, and employees in grant-funded positions, follow board policies and administrative regulations.

4. Ensure that a comprehensive written agreement between each granting organization and the district is prepared, approved by the board, and includes certification that grant program employees and or volunteers have completed all applicable clearances.



## Qualified Zone Academy Bonds

In December 2002, the district issued \$1 million in authorized Qualified Zone Academy Bonds (QZABs). The bonds were for capital improvements at the district's two schools operating at that time: Bayside Elementary School on Nevada Street in Sausalito, and Martin Luther King Jr. Academy on Phillips Drive in Marin City.

QZABs are United States debt instruments created by Section 226 of the Taxpayer Relief Act of 1997. QZABs allow certain qualified schools to borrow funds at nominal interest rates, which can be as low as zero percent, for costs incurred in connection with establishing special programs in partnership with the private sector. Public schools (K-12) located in empowerment zones or enterprise communities, and public schools in which 35% or more of students are eligible for free or reduced-price meals under the National School Lunch program, are eligible to participate.

A zone academy must be created for a school district to participate. The academy must create programs to enhance the curriculum, increase graduation rates, improve employment opportunities, and better prepare students for the workplace or higher education. Funds can be used for renovation and rehabilitation projects, as well as equipment purchases, which can include computers. QZABs are not approved for new building construction. The school district must obtain matching funds from a private-sector partner equal to at least 10% of the cost of the proposed project.

In the past, district administrators questioned the spending plan, the legal authority to use QZAB funding at the Bayside Elementary School because the Willow Creek Academy Charter School occupied the same facility, and why the total bond proceeds were not expended on much-needed facilities at the Martin Luther King Jr. Academy.

In 2012 FCMAT reviewed the QZAB financing and determined that bond proceeds were appropriately spent on district projects that qualified for them under the zone academy requirement for facilities at the former Bayside Elementary School (now WCA) and Martin Luther King Jr. Academy (now Bayside MLK). Although WCA is a direct-funded charter school and the district had no financial or legal obligation to improve the facilities originally planned to be leased to the charter school, the district owns the school buildings and surrounding property and therefore improvements to them qualify as an allowable expenditure under QZAB financing.

Upon the receipt of funds after the sale of the bonds, the district was required to complete the approved projects on district-owned facilities and to enter into a partnership with a private party to receive an in-kind contribution of services valued at no less 10% of the bond proceeds. FCMAT found in its 2012 review that the district complied with both requirements by completing the planned projects at Bayside Elementary School and Martin Luther King Jr. Academy, and entered into a partnership with and received services from Cyber Learning, a project of the National Education Foundation.

## 2012 Recommendations

1. *Develop a five-year facilities master plan that incorporates demographics, student enrollment, facility capacity, capital improvements and funding methodologies to support student housing needs.*
2. *Review the applicable lease costs associated with the space provided to WCA, if any, each fiscal year with data derived from the annual independent auditor's report.*

**Status: Not Implemented**

The district has begun discussing a proposed general obligation bond program for 2016. Most districts approach such general obligation bond programs by developing a multiyear facilities master plan as recommended in 2012; however, no one interviewed by FCMAT would affirm that such a plan exists or is being developed. Based on interviews and observations, FCMAT found that the facilities at Bayside MLK are inadequate and that the district has no plan to change this. Comments employees made during interviews indicated that installing two drinking fountains and possibly making repairs to the physical education field are the only facility improvement plans being considered for Bayside MLK.

As noted in detail below, the district provides the Nevada Street property (formerly Bayside Elementary School) to WCA rent-free. Although this is allowable under California law, it is not required; the district is neglecting to recover any costs, including the cost of debt service on the QZAB funds used to improve the facilities now occupied by WCA.



# Independent Charter School

## Background

The district authorized the Willow Creek Academy charter school in 2000, and the school began operation on September 1, 2001. Subsequently, renewal petitions were submitted and approved as required. The most recent charter renewal request was submitted by WCA on December 20, 2013 (see the Documents Referenced links at the end of this report), and the district authorized the renewal on July 8, 2014; this was after the expiration of WCA's previous five year charter renewal and more than six months after submission of the renewal petition.

In addition, the district's governing board minutes do not indicate that the board held the required public hearing before granting the renewal petition and thus did not properly seek public input on the renewal. The current charter petition expires on June 30, 2019. The relationship between the district and WCA is outlined in part in a memorandum of understanding (MOU) that was signed on November 23, 2015 but covers the period from July 1, 2014 through June 30, 2019.

Until WCA's most recent charter renewal authorization request, the district operated two schools: Bayside Elementary School on Nevada Street in Sausalito, and Martin Luther King Jr. Academy on Phillips Drive in Marin City. In 2013-14, the district consolidated its two schools into one K-8 campus called Bayside Martin Luther King Jr. Academy (Bayside MLK) at the Marin City campus. Some historical references are to two district schools, while others are to one district school (the combined Bayside MLK). WCA was initially located on the Nevada Street campus with the district's Bayside Elementary School. After consolidation, WCA occupied all of Bayside Elementary School as its own campus except for a few classrooms the district uses for special programs.

## Relationship with the Charter School

The relationships among the school district, the school district governing board, and the charter school was described by a WCA representative as, "a very unusual relationship that Willow Creek Academy was very happy with." FCMAT concurs with this assessment. The representative has prior charter school experience, which provided sufficient background to recognize just how unique and favorable the arrangements with WCA are for the charter school.

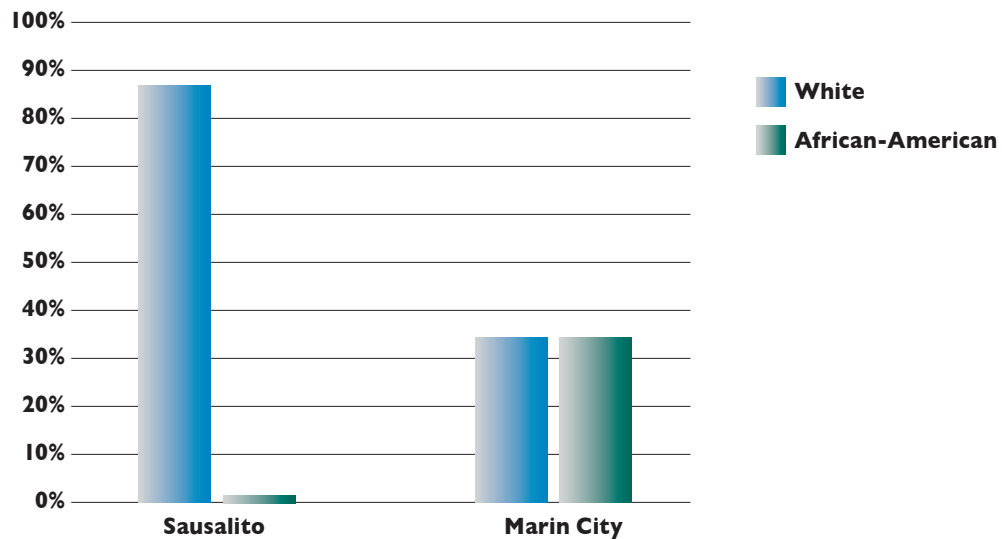
Had FCMAT relied solely on its interviews with two district governing board members and with district-level administrators, it could easily have concluded that WCA was simply another school in the district with no difference in the district's governing board's responsibility for it, authority over it, financial obligations to it, or other considerations normally reserved for district-operated schools. The district's governing board feels confident about the relationship with WCA, and the district's administration is following this lead, which contributes to making this a part of the district's culture.

The district's former superintendent's clearly biased position in support of WCA is relevant because the former superintendent played an instrumental role in developing the current MOU between the district and WCA that is identified as problematic in this report. Although the relationship between the district and WCA began years before the previous superintendent's tenure, his documented history of failure to understand the proper and legal relationship between a

charter school and its authorizing agency contributed to and fostered the increasingly unique and unusual nature of that relationship.

The president of the district's governing board described WCA as the district's vehicle to address the needs of the Sausalito community, which had historically been dissatisfied with the public school offerings. The exact nature of this dissatisfaction was not spelled out. It is noteworthy that the demographics of the Sausalito community and the Marin City community are significantly different, as demonstrated in the chart below.

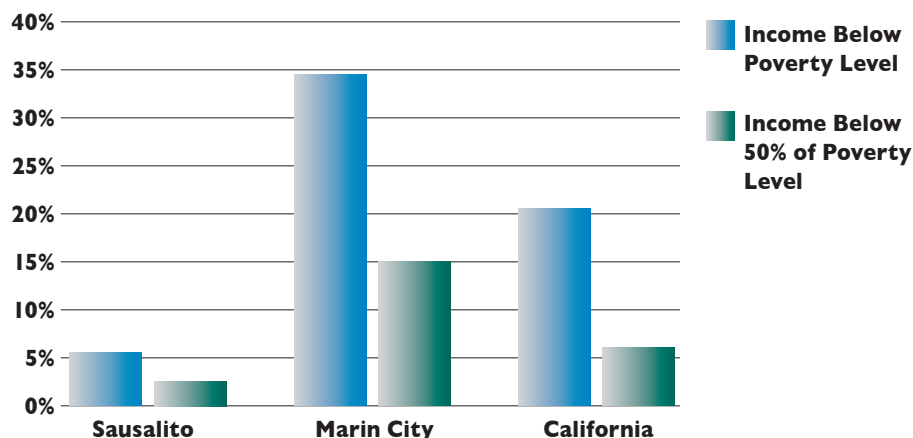
*Percent of White and African American Population  
Sausalito and Marin City Comparison*



Source: 2010 U.S. Census

As discussed in the following sections of this report, the Marin City community also has cause for dissatisfaction, as it has experienced segregation, low expectations for student performance, and resulting low student achievement for multiple generations. The district's governing board minutes reveal this dissatisfaction as expressed by parents of district students and by Marin City community members. Although the district's governing board made a historical decision to meet the needs of the Sausalito community through its extraordinary level of support for WCA, it has not yet made a similar decision to invest in the students of Marin City.

*Residents with Incomes Below Poverty Level, 2013*



As evidenced in the two charts above, the two communities the district serves have markedly different demographic and socioeconomic characteristics. These factors have significant implications for education.

The district's Board Policy 210 – Equity, adopted in 2013, makes numerous commitments to the success of every student. The policy states in part, “We implement practices in order to achieve and maintain equity in education. Equity focuses on outcomes,” and it goes on to provide the following model definition of equity:

Equity consists of using extra and different measures to bring about the state of equality – specifically, equality in achievement outcomes.

Equity does not mean treating everyone in the same way. It means doing whatever it takes to get everyone to the same place.

The district's governing board does not practice the priorities or accountability set forth in its own policy. In fact, the governing board's practices are contrary to the commitment made in the board policy, to the detriment of students enrolled at Bayside MLK. The terms and commitments in the MOU with WCA are also in conflict with the governing board's policy.

Other board policies reinforce the governing board's commitment to follow its own policies, including:

Board Bylaw 9000 – Role of the Board – 3.c. “Upholding Board policies.” (Listed as one of the board's major responsibilities.)

Board Bylaw 9005 – Governance Standards – “Govern within Board-adopted policies and procedures.”

## Documented Definitions of the Relationship

The current MOU between the district and WCA was signed in November 2015 by the school district superintendent, the president of the district's board of trustees, the charter school head of school and president of the charter school's board of directors. Page 15 of the MOU states the following:

**INDEPENDENT STATUS.** WCA is a separate legal entity. WCA shall not represent itself or its programs or activities as a District program or activity. Nothing in this Agreement shall be construed as creating an employment or agency relationship between the District and WCA or District and WCA's employees and agents.

Other items in the MOU that define the relationship include the following:

- The Parties recognize that WCA operates as a non-profit public benefit corporation ... and therefore WCA is a separate legal entity from the District. *(Page 6)*
- The District and WCA agree that the District shall not act as fiscal agent for WCA. *(Page 7)*
- WCA shall not be part of the annual District fiscal auditing process. *(Page 8)*
- WCA will maintain at its own expense its own policies of comprehensive, liability insurance and property damage coverage ... *(Page 11)*

The most recent charter petition also includes language throughout that indicates the independent nature of WCA, including the following:

The Willow Creek Academy Board of Directors may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which charter schools were established. (*Page 77*)

California Education Code Section 47601 states, “It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils and community members to establish and maintain schools that operate independently from the existing school district structure ...”

Although the above documents and statutes describe, and prescribe, WCA and the district as independent entities, actual practices and the relationship described by individuals interviewed do not indicate independence. The appearance and practice of dependence, and the differences between documentation and practice, raise concerns about the basis upon which the district makes decisions that affect the students at Bayside MLK.

## **Commitment to the District School(s) and the Charter School**

The perception by the district governing board and administration that WCA can be treated as another school within the district provides a foundation for actions on their part that lead to many questionable practices, such as the inequitable allocation of funds addressed later in this report. In addition, the governing board president stated that WCA had undergone “a recent movement that changed the makeup of the charter,” and that WCA was a way to meet the needs of the Sausalito community. A majority of the district governing board’s five members have children enrolled in WCA or are otherwise associated with WCA, but there was no mention of governing board members enrolling their students in the district’s own K-8 school.

Information from interviews, data and documents reviewed indicates that the district does not serve all students equitably. Although the members of the governing board interviewed were practiced and poised when asserting and describing their great commitment and responsibility to all students in Sausalito and Marin City, their actions as a board are demonstrably and irrefutably inconsistent with their rhetoric. They have chosen to provide more support to WCA than to the students at Bayside MLK. Details of this inequity are presented later in this report.

Based on the district’s adopted budget, the total transfer of funds from the district to WCA in fiscal year 2016-17 is projected to be more than \$1 million and possibly as high as approximately \$1.9 million, even though there is no specific entitlement or legal justification for such a diversion of funds from Bayside MLK’s students.

## **Recommendations**

*The district should:*

1. Recognize that its primary responsibility is to the students enrolled in the district’s Bayside Martin Luther King, Jr. Academy.
2. Honor the commitments made in board bylaws and policies.
3. Abide by charter school documents and the law’s intent. Specifically, by treating WCA and the district as independent legal entities and recognizing that its relationship with WCA is that of a charter school authorizer.



## Charter School Oversight

Charter authorizers are responsible for ensuring that the charter schools they authorize comply with all applicable laws and the terms of their charter. Education Code Section 47604.32 identifies the duties of the charter authorizing entity, which include:

1. Identify at least one staff member as a contact person for the charter school.
2. Visit each charter school at least annually.
3. Ensure that each charter school under its authority complies with all reports required of charter schools by law.
4. Monitor the fiscal condition of each charter school under its authority.
5. Provide timely notification to the department [CDE] if the charter is revoked or if the charter school will cease operation for any reason.

Oversight also includes providing the charter school with general guidance and assistance on various issues, such as funding and compliance. A charter school may also choose to contract with the charter authorizer or another provider for additional services such as administrative functions, insurance, maintenance, payroll, or others, on a fee-for-service basis.

Although one of the important functions of a charter authorizer is to provide oversight for their approved charter schools, FCMAT found that the district has no formal oversight process for WCA.

This finding was based on numerous interviews as well the fact that FCMAT's request for charter school oversight documents resulted in none being available for review. Individuals interviewed claimed that there is an informal oversight process because the majority of the district's governing board members have children enrolled in WCA or are otherwise associated with WCA, and thus are close to and aware of WCA's operations. However, this awareness does not satisfy the statutory requirements for oversight found in California Education Code.

California Education Code repeatedly refers to the oversight responsibilities of a charter authorizer. Section 47604(c) states, "An authority that grants a charter . . . is not liable for debts or obligations of the charter school . . . if the authority has complied with all oversight responsibilities required by law . . ." The document, *Charter Schools – A Manual for Governance Teams*, published by the California School Boards Association (CSBA), states on page 56, "The authorizing board is also obligated to monitor charter school performance to determine whether the charter school: . . . Has implemented the provisions of the charter as approved by the board. . . . Is meeting all legal requirements of IDEA . . ." The current MOU between the district and WCA states on page 16, "Oversight and monitoring of WCA shall be in conformance with District Board policy, State and Federal law and the terms of the approved charter." However, governing board members interviewed were not able to produce a policy or describe a formal oversight review process when requested.

FCMAT found little detail regarding fiscal monitoring and review of WCA in either the charter petition or the MOU, and no clarifying detail regarding how the district is to monitor WCA's progress in meeting the goals established in the petition, including enrollment and average daily attendance projections, which ultimately determine the amount of funding the charter should receive. FCMAT found no evidence that the district conducted any routine monitoring of WCA's

student recruitment activities, issues related to racial and ethnic balance, student performance, or other commitments in the charter petition.

## Results of Insufficient Oversight

### Racial and Ethnic Imbalance

California Education Code Section 47605(b)(5)(G) requires a charter petition to state “The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.” The current charter petition for WCA states on page 46, “Willow Creek Academy has implemented and will continue to follow a student recruitment strategy that includes, but is not necessarily limited to, the following elements or strategies to ensure a racial and ethnic balance among students that is reflective of the District.” (Emphasis added.)

California Education Code Section 47601 states:

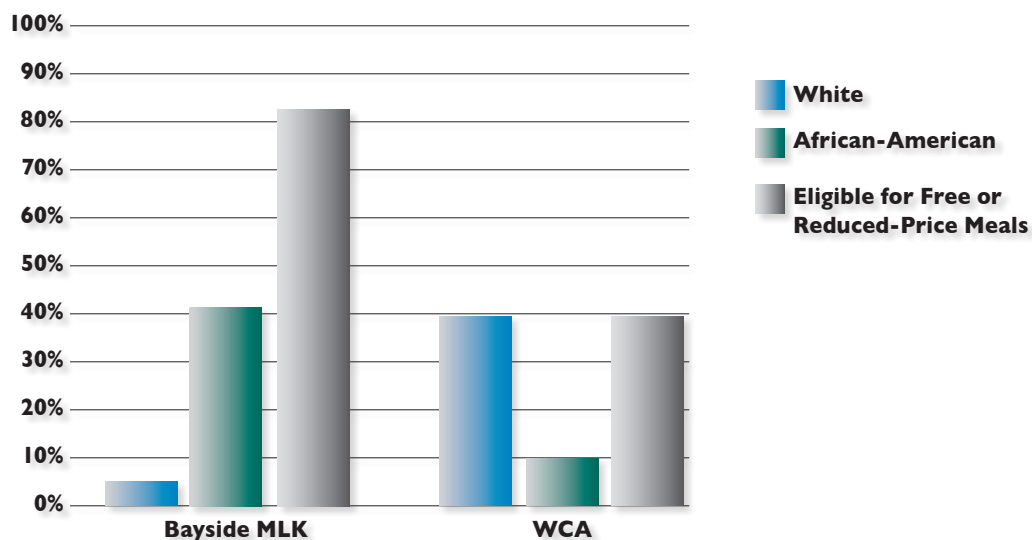
It is the intent of the Legislature ... to provide opportunities ... to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following: . . . Increase learning opportunities for all pupils, with special emphasis on expanding learning experiences for pupils who are identified as academically low achieving.

An initial review of WCA enrollment data raised concerns about WCA’s commitment to meet the above-referenced California Education Code requirements, the associated legislative intent, and the stated commitment in WCA’s own charter petition. The enrollment patterns for white students, African-American students, and students eligible for free and reduced-price meals are troubling and clearly inconsistent with California Education Code and the terms of the charter.

As shown in the graph below, the differences between Bayside MLK and WCA in these three demographic groups of students are so significant that enrollment cannot be described as reflective of the district under any circumstance.

### Willow Creek Academy – Sausalito Marin City School District Enrollment Data Analysis

Ethnicity data: 2015-16; Free or Reduced-Price Meal data: 2014-15



Sources: [www.ed-data.org](http://www.ed-data.org) and DataQuest

To ensure the data above was not an anomaly, FCMAT completed a further analysis of data from the past seven years, as shown in the table below.

*Willow Creek Academy – Sausalito Marin City School District  
Seven-Year Enrollment Data Analysis*

	2014-15				2013-14				2012-13				2011-12			
	District*		Charter		District*		Charter		District*		Charter		District*		Charter	
	Enr.	%	Enr.	%	Enr.	%	Enr.	%	Enr.	%	Enr.	%	Enr.	%	Enr.	%
<b>Total</b>	160		357		145		322		120		289		147		247	
<b>F/R P M</b>	135	84%	148	41%	132	91%	164	51%	120	100%	164	57%	129	88%	133	54%
<b>White</b>	7	4%	140	39%	8	6%	118	37%	5	4%	96	33%	8	5%	88	36%
<b>African-American</b>	80	50%	36	10%	76	52%	41	13%	68	57%	54	19%	84	57%	39	16%
<b>Hispanic</b>	51	32%	106	30%	38	26%	99	31%	25	21%	86	30%	33	22%	87	35%
<b>Asian</b>	10	6%	38	11%	11	8%	32	10%	10	8%	27	9%	7	5%	21	9%
<b>Other</b>	12	8%	37	10%	12	8%	32	10%	12	10%	12	4%	15	10%	12	5%

	2010-11				2009-10				2008-09			
	District*		Charter		District*		Charter		District*		Charter	
	Enr.	%	Enr.	%	Enr.	%	Enr.	%	Enr.	%	Enr.	%
<b>Total</b>	168		216		172		188		177		147	
<b>F/R P M</b>	157	93%	114	53%	152	88%	106	56%	159	90%	91	62%
<b>White</b>	10	6%	66	31%	6	3%	56	30%	3	2%	35	24%
<b>African-American</b>	98	58%	39	18%	96	56%	35	19%	111	63%	33	22%
<b>Hispanic</b>	34	20%	81	38%	45	26%	67	36%	40	23%	41	28%
<b>Asian</b>	10	6%	18	8%	10	6%	21	11%	9	5%	19	13%
<b>Other</b>	16	10%	12	6%	15	9%	9	5%	14	8%	19	13%

Source: Ed-Data and Data-Quest

The data shows that the racial and ethnic imbalance has been longstanding and that it has increased over the past seven years. The average percentage of white students enrolled at WCA was 7.65 times higher than (or 765%) the percentage at the district's school(s) over the seven-year period and is now 9.75 times higher than (or 975%) the percentage at Bayside MLK. The average percentage of African-American students enrolled at WCA was only three-tenths (or 30%) of the percentage at the district's school(s) over the seven year period and is currently only one-fifth (or 20%) of the percentage at Bayside MLK. The average percentage of students at WCA who qualify for free or reduced-price meals was a little under six-tenths (58.9%) of the percentage at the district's school(s) over the seven-year period and is now less than half (48.8%) of the percentage at Bayside MLK.

Because expectations for racial and ethnic balance are included in California Education Code and the charter petition, FCMAT asked district board members and WCA's representative if racial and ethnic balance had been identified as a concern or if any effort had been made to identify the source and causes of the imbalance. The response was that it had not been identified, no process

had been completed to identify the cause or the growing magnitude of the problem, and that the authorizing agency and WCA has had no formal discussion about this enrollment pattern.

WCA's enrollment pattern was clearly communicated in a chart on page 10 of WCA's renewal petition, which was presented to the school district's governing board in December 2013. However, no action was taken during the renewal process, even though page 46 of the renewal petition described the actions WCA would take "... to ensure a racial and ethnic balance among students that is reflective of the District." Although the actual enrollment data on page 10 does not show a racial and ethnic balance reflective of the district, FCMAT could not identify any actions to remedy the situation. The failure of the district to provide oversight has resulted in increasingly segregated schools and a possible federal civil rights violation for which the district has no indemnity because a failure to provide oversight removes the protections otherwise provided in law for charter authorizers.

### **Discrimination Against Students with Disabilities**

If the district had a functioning and effective oversight process, it would likely have identified as discriminatory and as a concern WCA's practice of not enrolling students with individualized education plans (IEPs) that require special day class (SDC) instruction.

Multiple individuals FCMAT interviewed stated that WCA will not allow a student with a disability to enroll in WCA with an IEP that requires an SDC. Rather, WCA requires the parents to enroll their student elsewhere, such as at the district's school. It is not clear what direction was given to the out-of-district special needs students who were also not allowed to enroll in WCA. When WCA's representative was asked about this practice, the answer given was, "That is probably accurate and to the best of my knowledge those students are not enrolled in the charter school, but are enrolled in the district school." Slide eight in the "Sausalito Marin City School District Special Education Report – April 5, 2016" PowerPoint presentation contains an organizational chart that shows 15 special education students enrolled at Bayside MLK who receive SDC services but none at WCA. The evidence consistently supports the claim that WCA refuses to enroll students with IEPs that require an SDC.

Students enrolled in Bayside MLK who are in an SDC are served in district-operated classrooms located at the Nevada Street campus where WCA is located. Those classrooms are supervised by the district's principal and special education administrators.

Page one of WCA's charter petition states, "... the Charter School ... Shall not discriminate on the basis of ... actual or perceived disability ..." The MOU states, "It is understood that all children will have access to WCA and no student shall be denied admission due to disability." California Education Code Section 47605(d) states, "... a charter school ... shall not discriminate against a pupil on the basis of the characteristics listed in Section 220." Section 220 states, "No person shall be subjected to discrimination on the basis of disability."

Because approximately 25% of WCA's students are from outside the district, it is unclear whether WCA's practice is simply to refuse enrollment in the charter school for out-of-district students who require an SDC, or whether they are referred to the district school and enroll there.

Prohibiting special education students who require an SDC from enrolling in the charter school is a clear violation of the MOU, the charter petition, California Education Code, and federal laws; it is consistent with the pattern established at WCA to create a segregated school.

## Lottery for Admission

California Education Code Section 47605(b)(5)(H) requires a charter petition to state its admission requirement, if applicable. WCA's current charter petition includes a section on admission requirements, application process, admission preferences, and how lotteries and wait lists shall occur (page 47 and following).

Charter schools must ensure that any admission practice or preference does not unlawfully favor or discourage any particular student or parent group. Because WCA's enrollment data on white students, African-American students, and students eligible for free or reduced-price meals are inconsistent with California Education Code and the terms of the charter, FCMAT reviewed WCA's lottery process used for admission when the number of students interested in attending the school exceeds the school's capacity.

Written policies and explanations from staff indicate that WCA implements its policies and practices in accordance with their intent. However, the outcome has not increased diversity or resulted in services to a larger share of the communities' disadvantaged student groups.

The United States Department of Education has published a Charter Schools Program Non-Regulatory Guidance handbook, which was revised in January 2014 ([www2.ed.gov/programs/charter/nonregulatory-guidance.html](http://www2.ed.gov/programs/charter/nonregulatory-guidance.html)). This handbook provides directives regarding admissions and preferences. Specifically, it states that charter schools may provide admissions preferences only in limited circumstances:

A charter school may provide an exemption from the lottery only for those students who are deemed to have been admitted to the charter school already and, therefore, do not need to reapply. This includes the following categories of applicants:

- Students who are enrolled in a public school at the time it is converted into a public charter school;
- Students who are eligible to attend, and are living in the attendance area of, a public school at the time it is converted into a public charter school;
- Siblings of students already admitted to or attending the same charter school;
- Children of a charter school's founders, teachers, and staff, so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment;
- Children of employees in a work-site charter school, (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment).

WCA's petition largely follows the Non-Regulatory Guidance handbook, including stating that admission preferences can be given to children of a charter school's founders, teachers, and staff. However, the total number of students allowed under this exemption may constitute more than a small percentage of WCA's total enrollment. The reason for this is that the petition lists more detailed categories of those who receive admissions preference than many other charter petitions FCMAT has reviewed, and there are numerous students in these categories, which are listed as follows on page 47 of the petition

- Children of the Board of Directors residing in-district;
- Children of school staff members;

- In-district children of members of the Sausalito Marin City School District Board of Trustees;
- Children of Board of Directors residing out of district; and
- Out-of-district children of members of the Sausalito Marin City School District Board of Trustees.

WCA's petition lists "children of school staff members," but WCA's website gives in-district children of school staff members higher priority than out-of-district children of school staff members. The petition and the website should communicate the same information.

WCA provided spreadsheets listing students who declined offers of admission for 2016-17 (to date), 2015-16, and 2014-15. The lists included families who withdrew their applications before a lottery was held as well as families who either did not respond to an offer of admission or received an offer of admission and declined it. Without a systematic tracking system that includes clear notes stating why families do not enroll, and without a record of attempts to contact for a second time families that do not immediately respond to an offer of admission, it is difficult to ascertain the reason those parents are not enrolling their students in WCA. WCA needs to clearly document the reason parents of students who are granted admission through the lottery choose not enroll their students; this would provide a better understanding of the impact of community outreach and help ensure that the lottery supports diversity and does not contribute to a deficiency in diversity or in services to disadvantaged students.

The district's lack of oversight of WCA and the absence of any process for providing such oversight has led to the issue discussed above, which are significant violations of the law and are harmful to students. These issues were discovered in the course of FCMAT's fieldwork even though it did not include an-depth analysis of oversight issues. It is possible that if the district had an effective and comprehensive oversight process, more issues could be identified.

The district's governing board must begin providing adequate, formal oversight of WCA and take action to correct the charter school's shortcomings identified above. Priority should be given to the issues of racial and ethnic imbalance, discrimination against special needs students, and the lottery process for admission.

## Recommendations

*The district should:*

1. Establish a formal charter school oversight review process consistent with the requirements in the California Education Code. Ensure that the process gives the governing board the ability to evaluate whether the charter is complying with the terms of its charter, the MOU, and all applicable state and federal laws.
2. Revise the current MOU to correct inconsistencies with requirements in the California Education Code and Title 5, California Code of Regulations.
3. Be specific about the form and frequency of oversight practices; ensure that expectations are clearly defined in policy and/or the MOU.

4. Routinely monitor WCA's student recruitment, issues related to racial and ethnic balance, and implementation of other items in the charter petition to ensure compliance.
5. Initiate a comprehensive review of WCA's enrollment practices that have led to the significant demographic differences between the charter school and the district school(s), including differences in race and ethnicity, and socioeconomic levels.
6. Immediately require the charter school to cease refusing enrollment to special needs students so that it is no longer violating the terms of the charter, the MOU, and state and federal laws.
7. Begin a comprehensive review of the charter school's enrollment practices, particularly those that violate the charter, the MOU, and state and federal laws regarding students with disabilities.
8. Ensure that the total percentage of WCA students allowed because of the enrollment priority for children of a charter school's founders, teachers and staff is small.
9. Ensure that WCA's charter petition and its website provide the same information regarding admission priority order and classifications.
10. Ensure that the charter school develops a systematic tracking system, with improved follow-up and notes, to record why families of students granted admission to WCA through the lottery are not enrolling their students. Ensure that the charter school contacts for a second time any families that do not initially respond to an offer of admission.
11. Ensure that all students have equal access to WCA, regardless of race, ethnicity, socio-economic level, or disability.



## Fiscal Support for the Charter School

### State standard based on Local Control Funding Formula

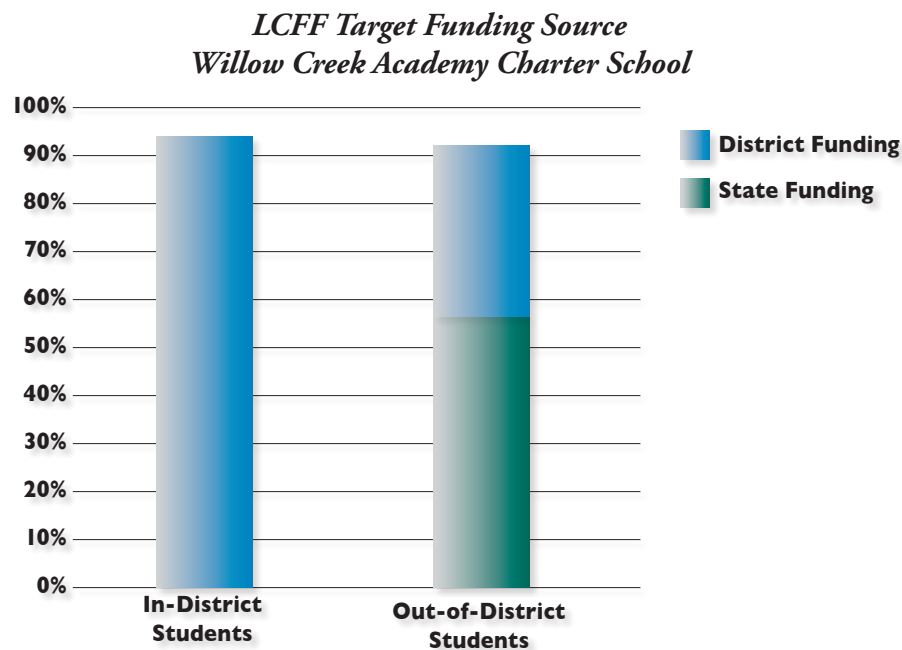
Charter schools authorized by basic aid school districts like the Sausalito Marin City School District are unique in how they are funded. California Education Code states that these charter schools must receive a fair level of funding, and it provides protection for basic aid school districts from charter school petitioners who might attempt to get more funding than charter schools in state-funded districts.

In the early years of the charter school movement, all charter schools were provided with the same funding level, which was based on the statewide average funding per student, broken down into four grade spans.

The LCFF replicates that former charter school funding model for school districts.

To protect basic aid school districts from attempts by charter school petitioners to get more funding than in state-funded districts, the charter school funding model entitles a charter school authorized by a basic aid district to funding equal to that of a charter school authorized by a state-funded district. (i.e., the LCFF).

The following chart shows the funding for WCA:



In a charter school authorized by a basic aid district, a much larger percentage of funding comes from the district than in state-funded schools, and sources of funding for in-district students and out-of-district students differ. Specifically, for out-of-district students from state-funded districts, the state provides 70% of what would have been their LCFF entitlement in their home district. The remaining amount is covered by local district funding. Out-of-district students whose school of residence is also a basic aid district do not generate any state aid under LCFF; they depend entirely on the local district funding, the same as in-district students. The total amount of funding to which the charter school is entitled is determined in the LCFF calculation based on

the average daily attendance earned by the charter school. There is no obligation for or expectation that the school district will contribute funds to the charter school that exceed that amount.

Individuals FCMAT interviewed stated that there is a casual attitude about the transfer of funds between the school district programs and WCA, and that the district views the transfer of funds between the district and WCA as similar to transfers within the district. In reality, they are not. Transfers to WCA take funds from the district's high-needs programs and students at Bayside MLK to provide WCA with a level of funding that exceeds that to which it is entitled.

The MOU between the district and WCA includes a section on funding that states, "It is the policy of the District to allocate resources equitably and without regard to which public school (charter or traditional) students attend, or where students live within the District." Section III of the MOU, paragraph B defines terms and components of several formulas used to divert district funds to WCA in excess of the entitlement. . The definitions and terms are poorly crafted, leaving much to interpretation. In addition, separate formulas are built on top of other formulas, creating conflicts with one another and in some cases diverting the same dollar twice. The MOU also lacks clarity regarding district financial data. The district is not using the standardized account code structure (SACS) in a way that enables a consistent calculation or compliance with the formulas. The district is also not documenting internal allocations in sufficient detail to support the tracking of certain costs; this leaves only general information, such as number of students and size of faculty, as a basis for any analysis.

Several of the formulas included in the MOU are discussed below.

### **Basic Aid Excess (MOU, Section III, B.2.)**

This is the first formula called out in the MOU and appears designed to share equally (based on average daily attendance, or ADA) any remaining financial resources after following state allocation methods based on the LCFF and allowing for district restricted programs, district facilities costs, district overhead, and special education expenses. If the result is a positive number, this formula removes any benefit Bayside MLK students may have otherwise accrued by being in a wealthy basic aid district. If the result is a negative number (as is likely to be the case for 2016-17), the formula affords some protection for the district; however, it also inappropriately prescribes that students at Bayside MLK be further penalized in the process.

FCMAT asked four school finance or charter school experts to review the basic aid excess formula and provide an analysis. All four experts produced different conclusions based on their interpretations. Two experts then worked through the formula together, making informed and experienced interpretations where clarity was needed, but always in keeping with the intention of the provision. The result was a negative number, which activated the safeguard in Section III, H, which states:

Notwithstanding, if Basic Aid Excess for any fiscal year is anticipated to be zero or negative . . . the District will work with WCA and Bayside/MLK to determine ways to cover Special Education Costs, District Overhead and District Facilities Costs with the express understanding that both schools will contribute an amount of their respective LCFF allocations to cover these District wide expenses. [Emphasis added.]

Basic Aid Excess formula (based on 2016-17 adopted budget) is shown below:

Total Revenue*	\$5,538,363
Less:	

“State Mandated LCFF” – WCA*	(\$351,758)
“State Mandated LCFF” – Bayside/MLK	(1,901,951)
Special Education Costs	(1,438,790)
District Overhead	(1,160,107)
District Facilities Costs and Capital Exp.	(604,431)
Restricted Funding Grants	<u>(1,205,017)</u>
Sub-Total	<u>(\$6,662,054)</u>
<b>Basic Aid Excess</b>	<b><u>(\$1,123,691)</u></b>

\*Total Revenue and WCA LCFF are net of in-lieu property taxes provided by the district. Both WCA and Bayside MLK LCFF are based on the FCMAT LCFF Calculator.

Based on projected ADA for 2016-17, Section III, H of the MOU indicates that WCA’s portion of the negative \$1,123,691 would be 72.2% or \$811,305 owed to the district.

The MOU further commits that the “District will endeavor to minimize all Facilities Costs and District Overhead, and to expend funds for special education as efficiently as possible...” WCA imposed, and the district’s governing board agreed, that the district would minimize expenditures for district and MLK Bayside operations and efficiently expend its funds to maximize the amount provided to WCA under the basic aid excess formula.

### **Minimum Funding Formula (MOU, Section III, C)**

This formula provides WCA with a minimum of \$7,100 annually per ADA in LCFF funding for 2014-15 and 2015-16. WCA is entitled to the LCFF funding amount; however, the district’s governing board determined this minimum regardless of the computed LCFF entitlement following the established state formula. LCFF funding amounts vary among districts (and charter schools) depending on each district’s computation of its funding target and funding floor, grade span and ADA per grade level, and student demographic information. The LCFF is not intended to be equalized across districts and charter schools; it was designed to help achieve equity in student outcomes.

The result of the minimum funding formula is that the district paid WCA an additional \$298,000 in 2014-15 and approximately \$69,000 in additional funding in 2015-16. The 2015-16 additional amount computed by the district appears to be based on \$7,113.52 per ADA instead of \$7,100.00. Neither the basis nor the authority for the additional amount is clear. During this same time period, services were eliminated or not provided to students attending Bayside MLK.

### **Out-of-District Kindergarten Adjustment (MOU, Section III, D)**

This is an adjustment to the basic aid excess formula when enrollment of out-of-district kindergarten students at WCA exceeds 10% of the total in-district kindergarten enrollment. The MOU states that this adjustment is intended to be “a good faith approximation of the amount the District has not been reimbursed by the student’s district of residence.” As noted above, out-of-district students who are from state-funded districts generate state aide equivalent to 70% of what would have been their LCFF entitlement in their district of residence. This is paid

as state aid to the basic aid district. The remaining amount is covered by local district funding. Out-of-district students whose school of residence is also basic aid do not generate any additional funding; rather, they depend on the local district funding, the same as in-district students.

The design of this formula is not relevant for funding for out-of-district students in basic aid districts. The funding limits for out-of-district students apply to all grade levels, not just kindergarten. In addition, the 10% cap has no discernable relationship to either the 30% gap (100% less 70% state aid funding) or the 100% gap (for out-of-district students from other basic aid districts).

There was insufficient data for FCMAT to determine whether this formula provision has been implemented. However, the differences in kindergarten enrollment between WCA and Bayside MLK are significant: Bayside MLK has lost enrollment between kindergarten and first grade in three of the past four years, while WCA has increased enrollment between kindergarten and first grade by 65% and 41%, respectively, in two of the last four years.

### **Excess Revenue (MOU, Section III, G)**

This formula requires the district to divert any year-over-year increase in property taxes in excess of 2% to WCA based on WCA's proportionate share of ADA compared to Bayside MLK. WCA must use a portion of the funds received from this formula for facility improvements at the Nevada Street school (WCA determines which facility improvements it will make). As written in the MOU, this formula was straightforward, and its applicability was confirmed by the district's governing board president in a December 1, 2015 email to the CBO. This formula appears to be applied for only 2014-15 and 2015-16.

Excess revenue formula (as of 2015-16 second interim financial reporting period)

2014-15 (second interim) property taxes	\$5,218,260
2015-16 (adopted budget) property taxes	<u>5,464,182</u>
Year-over-year growth	245,922
2% allowance	<u>104,365</u>
Excess Revenue	141,557
Projected ADA	503.18
Excess per ADA	\$281.32
Excess revenue allocation to WCA @ 358.91 ADA	\$100,970

This excess revenue formula allocates funds to WCA from some of the same resources that are allocated in the basic aid excess and the minimum funding guarantee formulas described above. For example, the basic aid excess formula uses total revenue, which includes all property taxes, not just those that have increased by 2% per year or less. Thus property tax revenues that have increased by more than 2% per year are allocated twice, to the benefit of WCA.

FCMAT could not confirm the consistent implementation of the funding provisions of the MOU. As written, the formulas benefit WCA. As noted, the basic aid excess formula has a protection provision for the district, which projections indicate will be triggered but which is not

accounted for in the adopted 2016-17 budget. Depending on the application of the formula, the safeguard provision could require WCA to pay more than \$800,000 to the district in 2016-17.

The concept of equitable distribution of funds for K-12 education in California is not intended to require equal distribution and does not support the redistribution of the district's resources in the manner prescribed by the MOU. The use of ADA only, without regard to demographics, ignores equity. Contrary to what board members stated during interviews, the formulas in the MOU are not designed to ensure equity.

As alluded to above, the district is not breaking out funding and resource allocations in a manner that allows for easy analysis. The district's budget presentations and materials present its operating budget net of the resources provided to WCA in such a way that details are not readily apparent to stakeholders. Terms such as "total revenue" and "total revenue net of in lieu property tax transfers," have different meanings or have little meaning to interested parties unless they have significant familiarity with and expertise in school finance.

None of the formulas above include an evaluation or review to determine whether the needs of Bayside MLK's students and programs are adequately met before funds are diverted to WCA; indeed interviews, observations and data indicate that the needs of students at Bayside MLK are not being met. Similarly, there is no evaluation or review to determine whether WCA needs the funds. This is consistent with the stated purpose of these formulas, which is to provide equality of funding rather than strive for equity by meeting all students' needs as is the intent of the LCFF, the California Education Code, and many of the district's and charter school's own guiding documents.

## **Agreements for Services**

The district's governing board has established agreements that provide significant fiscal benefits to WCA at the expense of students and programs at Bayside MLK.

### **General Fund Contribution to Special Education**

Special education services are paid for by a combination of federal, state, and local funding. Federal Individuals with Disabilities Education Act (IDEA) funding and some state funds are provided through categorical grants. The largest source of special education funding is from the state and is determined by the state's Special Education Master Plan (Assembly Bill 602); this funding comprises both state general fund money and local property tax revenues. The local contribution is money from local educational agencies' unrestricted general funds to cover the difference between the federal and state sources and the actual cost of serving special education students. This local contribution from the general fund is also referred to as encroachment because it encroaches on the unrestricted general fund.

For the purpose of special education services, WCA has chosen to be deemed a public school of the LEA that granted the charter (page 25 of the charter petition). The charter petition further states:

... the Charter School shall comply with the Memorandum of Understanding ("MOU") between the district and the Charter School which spells out in detail the responsibilities for provision of special education services and the manner in which special education funding will flow to the students of the Charter School. (page 27)

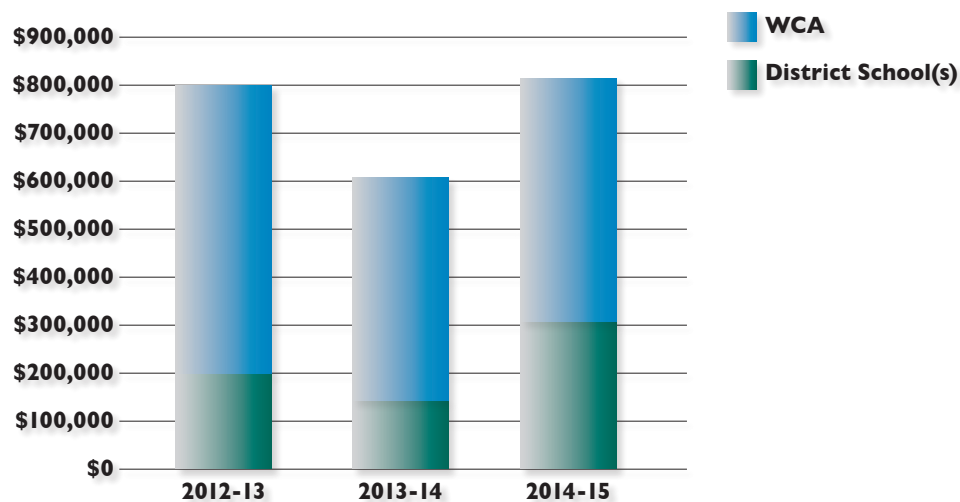
And it states, “To summarize, the language of the MOU follows the language and intent of Education Code Section 47646 and 20 U.S.C. 1413 as follows: ... The Charter School pays the District, a pro-rata share of the overall District encroachment for special education.”

California Education Code Section 47646(c) states:

... the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education also contributes an equitable share of its charter school block grant funding to support districtwide special education instruction and services ...

Like most districts, the Sausalito-Marín City School District has a special education encroachment because of the unfunded costs of providing special education services. Because WCA operates as a school within the district for purposes of special education, the district’s encroachment amount is generated by both WCA and Bayside MLK. Section 47646(c) of California Education Code establishes the expectation that the charter school contribute its equitable share of this contribution.

### *General Fund Contribution to Special Education and Source History*



Source: Ed-Data and Data-Quest (California Department of Education, Data Reporting Office)

As the chart above shows, the majority of the costs that necessitated special education encroachment, which totaled more than \$2.3 million over the past three years, were generated by WCA. This is because the encroachment is computed on a per-ADA basis and WCA has significantly higher ADA than Bayside MLK. The most current MOU states, “Special Education Costs ... will be paid by the District ...” The general fund contribution for the 2016-17 school year is \$1,043,981. The result of this arrangement is that even though 70% of the costs that necessitate the general fund contribution to special education (based on ADA) are attributed to WCA, none of the encroachment is paid by WCA, resulting in a loss of funds available for the instructional program at Bayside MLK.

Despite the expectation set in law regarding equitable contribution and the charter petition’s own language, the district’s governing board has agreed that WCA will pay for none of the special education encroachment. This raises significant concerns, which are made even greater by the fact that 25% of the students enrolled in WCA are from other school districts. As a result, not

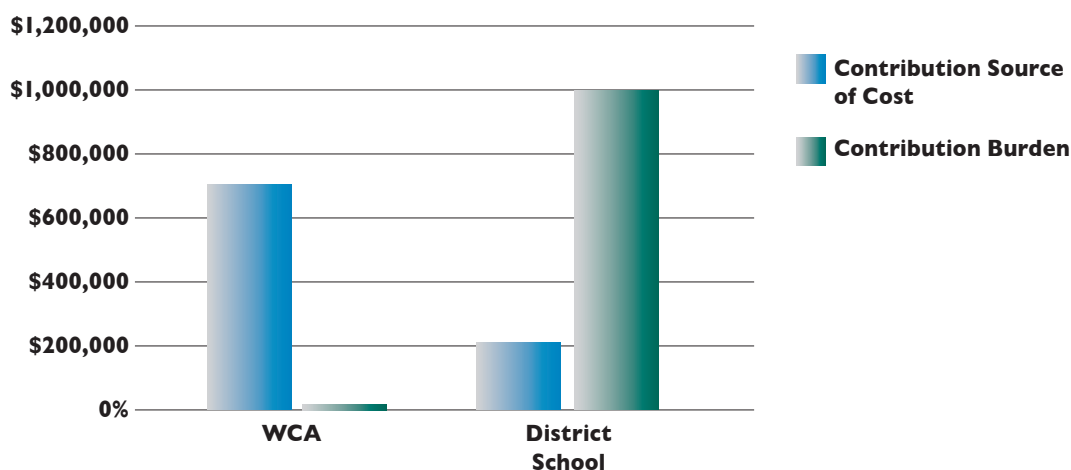


only are funds being taken from the students and programs at Bayside MLK to pay for special education costs attributable to WCA, but they are also being used to pay the special education costs of students from outside the district and its community. The current arrangement requires the approximately 140 students at Bayside MLK to carry the entire fiscal burden of the special education encroachment; this violates California Education Code and the terms of the charter, and is contrary to common and best practice in school districts statewide.

A June 17, 2015 budget memorandum from WCA to the district stated, “Special Education Encroachment expense is eliminated ...” Individuals interviewed revealed that WCA resisted requests that it pay its fair share of special education encroachment in past years, and had its debt forgiven by the district’s governing board, in spite of what the charter petition or the prior MOU stated. Forgiveness of the debt may constitute a gift of public funds by the governing board to WCA.

The MOU carries the governing board’s intention forward to the current period. For the 2016-17 school year, based on the adopted budget, \$761,874 of the total general fund contribution of \$1,043,981 is attributable to WCA, but the district is slated to pay the full amount. WCA’s portion includes \$36,456 that is directly attributable to special education services at WCA, and another \$181,164 attributed to out-of-district students who attend WCA. In all, the 2016-17 adopted budget shows that the governing board’s additional contribution to WCA is \$761,874, which makes these funds unavailable for services to the neediest students who attend Bayside MLK.

*General Fund Contribution to Special Education  
Source of Cost and Burden of Contribution*



## Other Services

The MOU, budget documents, and information from individuals interviewed indicate that the district provides other services to WCA including nursing services, after-school programs (using a pass-through After School Education and Safety program grant), and a world language program. Despite commitments in the MOU to the contrary, district staff also provide WCA with attendance accounting services.

## Nurse

The district uses a nurse from the Marin County Office of Education part time. Nursing services for both WCA and Bayside MLK cost the district approximately \$24,800 per year. Dividing



this cost between the two schools evenly means that WCA is receiving half that amount in free services; doing so on a per-student basis shows that the district is providing WCA with approximately \$18,000 per year in nursing services at no charge.

## Facilities

For charter schools with at least 80 units of in-district ADA, California Education Code requires that the district in which that charter school is located make available to it facilities that will be sufficient to accommodate all of the charter's in-district students, and that the facilities be "reasonably equivalent" to the district's other classrooms, buildings, or facilities.

Education Code Section 47614(b)(1) states that a school district may charge a charter school a pro-rata share of the facilities costs the school district pays for with unrestricted general fund revenues. The pro-rata share is based on the ratio of space allocated to the charter school divided by the district's total space, with no other charges for use of the facilities. The district may also charge for the actual costs of supervisory oversight of a charter school, not to exceed 1% of the charter school's revenue, unless the district is able to provide substantially rent-free facilities to the charter school, in which case the district may charge for the actual costs of supervisory oversight, up to 3% of the charter school's revenue (Education Code Section 47613).

The current MOU between the district and WCA establishes a payment of up to 3% for actual oversight costs, which is in accordance with the law because the district is providing substantially rent-free facilities. However, there is no requirement that the district provide rent-free space for the more than 25% of WCA's students who are from outside the school district's boundaries. Yet the governing board is providing all WCA facilities at no charge.

California Code of Regulations, Title 5 Section 11969.4(b) makes the school district responsible for deferred maintenance and for replacement of furnishings and equipment supplied by the school district in accordance with school district schedules and practices. It also states, "The ongoing operations and maintenance of facilities and furnishings and equipment is the responsibility of the charter school." The district is bearing these costs for WCA, and thus WCA is not complying with this regulation.

The district's 2016-17 adopted budget indicates that it is spending more than \$235,000 for maintenance and upkeep at WCA, excluding custodial time that WCA provides. By comparison, the difference between the 1% and 3% oversight fee (assuming actual oversight costs can be justified at those levels) is estimated to be \$56,400. This is insufficient to offset the cost of maintenance and upkeep. The district should charge WCA the full cost of providing maintenance, utilities, alarm services, refuse services and maintenance materials (\$235,895 or more in 2016-17).

Providing WCA with facilities at no charge, and failure to charge WCA for ongoing operations and maintenance costs, means that the level of uncompensated service the school district provides to WCA far exceeds what would be provided had it used a balanced, reasonable and fair approach based on common practice and regulatory guidance.

This arrangement, similar to others between the district and WCA, has a significant negative fiscal impact on the students at Bayside MLK.

## Memorandum of Understanding

The current MOU allows WCA to receive funds and services from the district that far exceed what it is entitled to under the law. As discussed above, this is contrary to the guidance in Title 5, California Code of Regulations Section 11969.9 (facility agreements), California Education

Code Section 47646(c) (fair share of special education costs), and California Education Code Section 47613(d) (cost for administrative or other services). The current MOU diverts considerable financial resources and provides costly services to WCA at no cost, at the expense of the students at Bayside MLK.

The maximum 1% or 3% oversight fee allowed by the Education Code is based on actual costs of supervisory oversight and administration; it is not intended to pay for other services or provisions. California Education Code Section 47613(d) states, “This section does not prevent the charter school from separately purchasing administrative or other services from the chartering authority or any other source.” (Emphasis added.) The current MOU identifies the 3% fee and the facilities for in-district students. However, the MOU intentionally does not include any provisions for WCA to pay the district for its fair share of the general fund contribution to special education, facility space for out-of-district charter school students, maintenance of facilities and equipment, utilities, grounds upkeep, or many other administrative or other services from the chartering authority. Rather, the district provides WCA with all of these services at no charge.

Board members and the charter school representative interviewed are inappropriately combining the oversight fee with other items such as facility costs and other services. The concepts should be separate and distinct: paying the maximum oversight fee of 3% does not entitle the charter school to free utilities, facilities upkeep, nursing services and other services.

Based on the district’s 2016-17 adopted budget, FCMAT’s estimate of funds diverted to WCA in excess of the LCFF entitlement, and uncollected reimbursements for services the district is not required to provide, are as follows:

General fund contribution to special education — directly attributable to WCA	\$36,456
General fund contribution to special education — WCA per-ADA share	725,418
Facility costs directly attributable to WCA	235,895
Nurse (50% share)	12,400
2015-16 Excess Revenue Formula (paid in 2016-17)	<u>100,970</u>
<b>Subtotal</b>	<b>\$1,111,139</b>
Basic Aid Excess Formula — WCA share of negative*	\$811,305
<b>Total</b>	<b>\$1,922,444</b>

\*The district’s 2016-17 adopted budget does not include any reimbursement for this provision. There is no indication that WCA’s 2016-17 budget includes any provision for this cost either.

As indicated earlier in this report, the interpretation of data needed to compute the basic aid excess formula can be debated because there is impurity in the formula as written, especially when considered in the total context of MOU and the data. However, FCMAT’s computation is reasonable given the circumstances and the details of school finance, and with or without the formula the reallocation of funds to WCA from Bayside MLK remains significant.

WCA is entitled to the funding determined through the LCFF. Because the district is basic aid, all of the LCFF entitlement for in-district students comes from local property taxes.

The funding structure created by the district's governing board also allocates funds to Bayside MLK using the same LCFF approach. However, through a series of formulas in the MOU (described above) the district's governing board divides the funds the district receives in excess of the LCFF entitlements between WCA and the district on a per-ADA basis, including for out-of-district students. This approach ignores the small size and enormous academic challenges at Bayside MLK. The result of this approach is that WCA is allocated the majority of the funding the district receives rather than only the funding to which it is entitled.

It is not clear whether parents and teachers of students enrolled in the district, taxpayers and other interested parties are aware of the district's current arrangements with WCA or the diversion of significant funds from Bayside MLK to WCA. The public should be aware and should be given the opportunity to offer input, especially because of the detriment the current arrangements cause for the students at Bayside MLK. The LCAP development process and the related budget development and adoption process are two mechanisms the district could use to become more transparent and accountable for its use of funds. Community input is also the purpose of the legal requirement that the district hold a public hearing when considering a charter petition for renewal. The district's governing board meeting minutes do not indicate that the governing board held such a public hearing during the 2014 petition renewal process.

## Recommendations

*The district should:*

1. Examine its MOU with WCA and consider a revision to make it consistent with the spirit, intent, and letter of the law regarding the fair and appropriate fiscal and practical relationship that should exist between a chartering authority and a charter school. Specifically, the district should revise the following items:
  - Various excess revenue sharing formulas
  - General fund contribution to special education (encroachment)
  - Facility and grounds maintenance, and utilities
  - Arrangement affected by the number of in-district and out-of-district students
2. Fully use the standardized account code structure and other well-documented internal allocation methods to assign costs in a manner that facilitates calculation of the computations and formulas established in the MOU.
3. Ensure that its budget presentations and materials are clear and concise about its total resources before and after resources are provided to WCA so that this information clear to all parties.
4. Faithfully implement the provisions of the MOU, even when they are not favorable to WCA.
5. Provide the public and all interested parties an opportunity to hear and give input on the financial arrangements between the district and WCA.
6. Establish a clear separation between a) the operational and fiscal structures of the agreement for facilities and b) the purchasing, administrative and other

services it provides to the charter school, in accordance with Proposition 39, Title 5 Section 11969.9 and California Education Code Section 47613(d).

7. Adhere to the provisions of California Education Code Section 47605(b) that require it to hold a public hearing about the provisions of the charter within 30 days after receiving a petition.

# Charter School Facilities

## Charter School Site Selection

California Education Code and Title 5 regulations provide a framework for the challenging task of ensuring that students in charter schools have reasonably equivalent school facilities; however, this task also requires judgments about what is fair to students.

The district provided WCA with facilities sufficient for all of WCA's students, including in-district and out-of-district students, at the district's former Bayside Elementary School in the affluent and predominantly white community of Sausalito. This was done at the charter school's request and after closing Bayside Elementary School and moving the district's students at that school to the district's smaller school campus, Marin Luther King, Jr. School, in less affluent Marin City in 2013-14. Martin Luther King, Jr. School was renamed Bayside Martin Luther King, Jr. Academy (Bayside MLK) and became the district's only school.

Two statutory guidelines support the district's governing board's decision to provide the Sausalito campus to the charter school: California Education Code Section 47614 states, "Each school district shall make available ... facilities sufficient for the charter school to accommodate all of the charter school's in-district students..." and "... shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate ...".

However, the campus provided to the charter school meets all of the charter school's needs with considerable room to spare, while the school campus provided for Bayside MLK was consistently described in interviews as inadequate to meet the needs of the district students. That description was reinforced by the fact that it was necessary for the district's governing board to purchase and install four relocatable classrooms at Bayside MLK to ensure that it had the minimum amount of classroom space required for students. Even with these added facilities, the district has moved its special day class students off the Bayside MLK campus and operates an early childhood education program off campus, both because of a lack of space. Before the consolidation, the district's administrative offices were located at the Bayside MLK campus; afterward, there was not sufficient space for the administrative operations, so they were co-located on the property occupied by WCA.

Operating special day classes at a location away from Bayside MLK because of the lack of space at that campus may violate the federal requirement to serve students in the least restrictive environment. It certainly makes it difficult to administer these services and provide oversight because the principal and assistant principal are not located at the Sausalito campus where the services are provided.

California Education Code and state regulations are intended to ensure that charter schools are given fair and reasonable access to equitable school facilities, but the concern in the district's case is that the district's students at Bayside MLK do not have fair and equitable facilities that meet their needs.

In addition, although the recent decision to combine the two district schools to form a single K-8 school is justified from a fiscal and operational perspective, the decision to consolidate at the Marin City campus likely increased the already-existing problem of racial and ethnic imbalance discussed earlier in this report. WCA, with a far higher percentage of white students and a far lower percentage of African-American students than Bayside MLK, was provided almost exclusive use of the Sausalito campus in a community that is more than 90% white and less than

1% African-American. Further the governing board did not discuss racial and ethnic imbalance with the charter school and did not obtain an authentic commitment from WCA to address the imbalance before deciding on school locations. It is likely that these decisions increased the racial and ethnic differences in enrollment between the two schools and will continue to do so.

## Compensation for District-Provided Facilities

As discussed above, California Education Code Section 47614 requires school districts to provide sufficient facilities for all of a charter school's in-district students; there is no similar requirement for a charter school's students from other districts.

Enrollment information the district provided for the first reporting period in 2015-16 indicates that 79 of WCA's 315 students (or 25.1%) reside in districts other than the Sausalito-Marín City School District. Consequently, 25% of the facility space provided by the district is used by these students. The district charges no rent for this space.

In contrast to Title 5, California Code of Regulations Section 11969.4(b) calling for the ongoing operations and maintenance of facilities and furnishings and equipment to be the responsibility of the charter school, the current MOU states "The District shall pay for utilities for WCA ...", and, "The following services shall be provided by the District to WCA in accordance with the terms described herein: Maintenance ...", and "District Facilities Costs: includes ... ongoing and deferred maintenance, utilities ..." Individuals interviewed also referred to an arrangement under which WCA received additional services including district staff time to coordinate Saturday volunteer day activities at the charter school, and grounds upkeep. For 2016-17, the estimated unreimbursed cost of these services is projected to be \$235,895.

## Facilities Requests and Reimbursements

Title 5, California Code of Regulations, establishes a clear structure that charter schools and authorizers are required to follow to reach a fair agreement for reasonably equivalent facility space for in-district students enrolled in a charter school. Section 11969.9(b) states:

To receive facilities during a particular fiscal year, a charter school must submit a written facilities request to the school district on or before November 1 of the preceding fiscal year, and subdivision (c) details what must be included in that request. (Emphasis added.)

Section 11969.9(h) states:

On or before April 1 ... the school district shall submit in writing a final notification of the space offered to the charter school." (Emphasis added.) Section 11969.9(k) states, "The school district and the charter school shall negotiate an agreement regarding use of and payment for the space. (Emphasis added.)

FCMAT submitted multiple requests for copies of facilities requests, responses and negotiated agreements for the past five years, but received only one facilities request, which was dated October 30, 2015 and was for the 2016-17 fiscal year. Based on the lack of documentation, for the facility and services arrangement that has been in place for the past five years both WCA and the school district have failed to follow the required process described in Section 11969.9(b).

In addition, the current MOU is inconsistent with and contradicts the above-referenced requirements. Page 13 of the MOU establishes facilities requirements that extend for the full five-year term of the MOU and limits the school district's ability to make changes to the facilities agree-

ment annually based on changing conditions. This arrangement once again provides guarantees to WCA without any comparable guarantees for the students at Bayside MLK, and eliminates flexibility.

Section 11969.9(c)(3) requires, "... copies of the written facilities request for review by other interested parties, such as parents and teachers, or to otherwise make the request available for review." There is no evidence that the teachers and parents of students enrolled in Bayside MLK (or prior to consolidation, the district's elementary school and middle school) realize the significant benefits the charter school has received through these facilities agreements.

## Recommendations

*The district should:*

1. Examine the current MOU and, in addition to the recommendations above, revise it to be consistent with the spirit, intent, and letter of the law as it relates to providing fair and appropriate facilities. Specifically, revise the MOU terms for facility use, including annual modifications that satisfy the requirements found in Section 11969 of Title 5 Regulations.
2. Re-evaluate the facility use provisions annually in a public setting to ensure complete openness to the district's stakeholders. The evaluation should include the effect on students at Bayside MLK.



## Leadership's Inadequate Support for District School

As detailed throughout this report, the support the district provides to WCA far exceeds that which is required by law or that adheres to best and common practice, and in doing so disadvantages and harms students who attend Bayside MLK. Many individuals FCMAT interviewed believe that Bayside MLK students have a first right to these funds and that they should be used to provide instructional, social-emotional, athletic and activity programs that meet the needs of the community's neediest students.

Although a representative of WCA stated that they were "extremely pleased" with the structure, financial arrangements, and relationship between WCA and the district, district staff did not share this view. Many indicated that Bayside MLK's requests for supplies, standard school office equipment, transportation for field trips, instructional materials, and staff are regularly denied. The district's executive leadership stated that there were no funds in the budget for these requests. FCMAT found that this is not the case and that sufficient funds are available through the district's general fund revenues; however, the governing board has determined that the priority for those funds is to support WCA, not Bayside MLK.

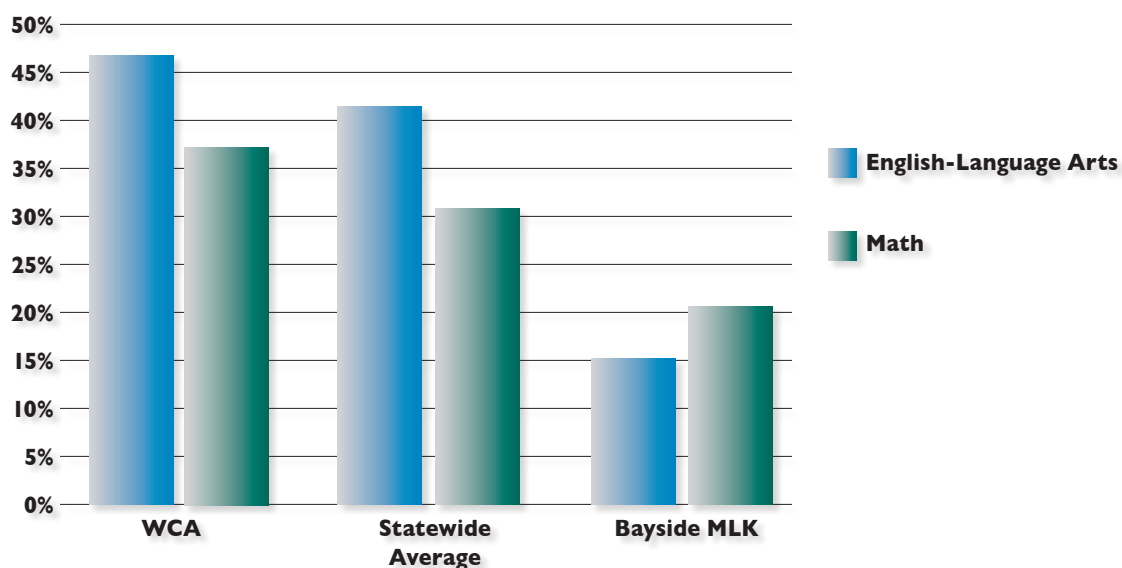
Based on these and other actions and arrangements, FCMAT found the governing board's commitment to WCA to be far greater than its commitment to the students enrolled in Bayside MLK.

## Student Achievement

One outcome that could be a sign of inadequate support to Bayside MLK is the lower academic performance of its students. The chart below depicts the substandard results of Bayside MLK students when compared to WCA and statewide averages for the 2015 California Assessment of Student Performance and Progress (CAASPP).

*2015 California Assessment of Student Performance and Progress  
Percent of Students that Met or Exceeded the Standard*

California Department of Education Analysis, Measurement and Accountability Reporting Division



## Staffing

Staff at Bayside MLK indicated that the district's executive leadership denies staffing requests because of inadequate funds. One request was for a math coach at a cost of approximately \$40,000 per year.

Staff also expressed concern about Bayside MLK's lack of a music program, leadership's denial of a request for a family night facilitator position, a physical education program facilitated by a noncertificated employee, the lack of a transitional kindergarten program on campus, the lack of single-subject experts for middle school students, and a student body that is struggling academically and in desperate need of additional instructional support.

During approximately the same period of time when Bayside MLK's requests were being denied, the district's governing board was reviewing and approving WCA's charter renewal petition and MOU. The renewal petition lists accomplishments including the following:

- Created new administrative position of Assistant Head of School ...
- Hired a Literacy Specialist to focus on improving our reading and writing programs ...
- Hired a Math Specialist to teach all middle school math sections and support elementary teacher's instruction ...
- Developed two successful afterschool programs: Afterschool Enrichment Program and Afterschool Tutoring Program ...
- Developed a K-8 music program with all classes.

This contrast in programs is evidence of the governing board's lack of commitment to the students and programs at Bayside MLK. Bayside MLK staff and others described inadequate custodial staffing at Bayside MLK, while WCA staff and others stated that custodial staff from Bayside MLK were taken to WCA during the day to perform grounds maintenance, transport students to WCA, and clean the district-operated classrooms at WCA's location. The staffing structure at Bayside MLK is inadequate to meet its students' needs for both instruction and other support.

## Other

Other examples of the district's governing board's biased support for WCA and lack of commitment to the students at Bayside MLK are detailed in other sections of this report. They include:

- Provision of facility space that fully satisfies the request and need of WCA while providing inadequate facility space for the instructional program at Bayside MLK.
- Provision of funding to WCA that far exceeds the amount to which it is entitled while regularly denying funding requests from Bayside MLK.
- Provision that WCA is not required to pay its fair share of costs of services including special education, facility-related and other services, leaving those burdens to be borne by the students at Bayside MLK

The district must examine honestly the extent of harm being caused to students at Bayside MLK as a result of its funding of WCA in excess of the amount to which WCA is entitled without receiving compensation from WCA. As long as the significant achievement gap between WCA and Bayside MLK remains, financial support should not be diverted from students at Bayside MLK and provided to WCA. Funds currently being diverted should be redirected to academic,

social-emotional, athletic and activity programs to close the achievement gap for students at Bayside MLK. This would be a change in the right direction and would be consistent with the State of California's funding and planning models and other policies regarding equity.

## Recommendations

*The district should:*

1. Use the LCAP process and the professional knowledge of staff to determine the needs of students at Bayside MLK and an adequate level of funding to meet those needs.
2. Allocate its resources to meet the identified needs, acknowledging that some priorities may have to be established if funds are insufficient. This allocation should be done before any excess funds or unreimbursed services are given to WCA. Under no condition should funds be diverted from Bayside MLK to WCA without informing Bayside MLK stakeholders of the negative consequences to the students at their school.

# Transitional Kindergarten

## Background

The district's 2014-15 annual independent financial and audit report contained finding #15-002 regarding average daily attendance for transitional kindergarten (TK) students. Specifically, the district claimed apportionment days for seven TK students who were no longer enrolled in the district, resulting in an overstatement of 6.88 average daily attendance (ADA). Although the error was small, it justified further inquiry because the district did not offer a TK program in 2014-15 or in 2015-16, which created confusion about why there was an audit finding regarding such a program.

Transitional kindergarten is the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age- and developmentally-appropriate. Each elementary or unified school district must offer TK for all children who have their fifth birthday between September 2 and December 2 (Education Code 48000[c]). Based on the audit finding, the district had at least seven students in TK in 2014-15. Individuals interviewed indicated that closer to 24 TK students were enrolled and that the district decided to close its TK (which was originally established as a combination TK and traditional kindergarten class) in favor of a single-grade traditional kindergarten program. Staff indicated that the decision was made because the district could not afford to serve the TK students.

According to staff, the superintendent at the time called upon friends at the Academy of Arts and Sciences Charter School (AAS) to offer TK for the district's students. The superintendent told staff he had a friend who owed him a favor and would create a standalone TK class. The AAS is a Los Angeles-based independent study charter school that operates in Cotati-Rohnert Park School District in adjacent Sonoma County and therefore is eligible to offer instructional services to students in Marin County through its independent study program. However, teachers and other staff involved indicated that the TK operating in Marin City was classroom-based, not an independent study program.

This classroom-based TK program was a collaborative with several partners including Community Action Marin (CAM), a local nonprofit. In both 2014-15 and 2015-16, CAM provided classroom space in their child care facility across the street from Bayside MLK.

Another partner was the district's existing Pre-K-3 grant that was designed to promote educational opportunities for pre-kindergarten, TK and kindergarten students. In the first year, the grant funded an instructional aide for the TK classroom, music, and field trips. In the second year, the grant provided funding for the TK teacher to have 1.5 hours per day for preparation and setup, ultimately matching the district's teacher workday. In the second year, the grant split the cost of the instructional aide with CAM. The extra time supported by the grant for the TK teacher is documented by a time card submitted to the district and paid using grant funds.

There is no evidence of a written agreement among the partners for the first year. However, AAS and CAM did enter into a written agreement dated October 8, 2015 for the second year. The agreement provides for AAS to give CAM \$65,000 "in order to pay for necessary staff as outlined above to support the program." The agreement further requires CAM to do the following

- ... comply with 5 California Code of Regulations ... Sections 11960 and 11700 and California Education Code ... Sections 47612.5 and 51747.5 related to the calculation and recording of charter school attendance, both while each student is present in an

amount not to exceed 80% of his/her instructional time in a Resource Center and on a day on nonclassroom-based independent study.

The district provided students in the TK program with free breakfast and lunch without cost to either AAS or CAM. However, none of the students were enrolled in the district.

## Compliance

Offering TK is not optional. According to the California Department of Education's website's Transitional Kindergarten FAQs, if an LEA provides kindergarten, it must also provide TK. The CDE website also makes it clear that the law applies equally to all districts, whether they receive state LCFF funding or are basic aid. Simply referring parents to a nearby charter school option for TK is insufficient and is a violation of state regulations. The district must offer the program, and it should have provided parents with the option to either attend the district's TK program or to enroll in the charter school TK program.

The teacher selected to teach TK was a CAM employee who also provided child care services in the CAM-owned relocatable building across the street from Bayside MLK. Without exception, all individuals interviewed about TK praised the teacher as outstanding. In the first year, the teacher was an employee of the AAS charter school (and simultaneously employed by CAM to provide child care services). In the second year, an agreement was made for CAM to be the teacher's sole employer for both the collaborative TK program and the CAM child care program. This arrangement allowed for employee benefits and other employment conveniences.

According to those involved with the program, the AAS charter school collected student attendance data and allegedly submitted it to the CDE for apportionment purposes, collecting funding based on ADA. FCMAT was unable to verify whether AAS submitted attendance and collected apportionment for TK. The AAS Sonoma County staff indicated they were unaware of the program and unable to track any attendance back to the program.

If apportionment was received by AAS, it was the source of funding for the AAS portion of the collaborative, mainly the cost of the teacher and curriculum. If AAS did not receive apportionment from the state, then the contribution made by AAS was from another source. If apportionment was received by AAS in the first year, there is no compliance concern because AAS was the teacher's employer. However, if apportionment was received by AAS in the second year, there is a compliance concern because the teacher was no longer an employee of AAS.

Education Code Section 47612.5(e)(1) states:

Notwithstanding any other provision of law, and as a condition of apportionment, "classroom-based instruction" in a charter school, for the purposes of this part, occurs only when charter school pupils are engaged in educational activities required of those pupils and are under the immediate supervision and control of an employee of the charter school who possesses a valid teaching certification in accordance with subdivision (l) of Section 47605. For purposes of calculating average daily attendance for classroom-based instruction apportionments, at least 80 percent of the instructional time offered by the charter school shall be at the schoolsite, and the charter school shall require the attendance of all pupils for whom a classroom-based apportionment is claimed at the schoolsite for at least 80 percent of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a) of Section 47612.5. [Emphasis added.]

The concern about apportionment claimed for attendance when the teacher of record was not the claiming LEA's employee is that it creates liability for AAS, though not for the district.

Further, the October 2015 agreement between AAS and CAM specifically refers to the program as an independent study charter school, with a resource center to be provided close to the CAM student population. The stated purpose of the resource center was to

... support student learning through intervention resources and small group instruction; provided, however, that no more than 80% of any one student's instructional time may occur at one of the resource centers in conformance with California ... law."

FCMAT interviewed individuals directly involved in the delivery and supervision of the TK instructional program, and all described it as a classroom-based program appropriate for TK students, without any division of the students' time or any independent study.

The district failed to offer a TK program in compliance with state regulations, and provided free, breakfast and lunch for non-enrolled students. The latter violates federal provisions regulating the district's participation in the National School Lunch Program (NSLP) and jeopardizes the district's eligibility and funding for that program districtwide for all of its students. The NSLP is a federally-funded program, and food paid for with these funds may not be given away for non-eligible students. The only acceptable way to provide TK meals would have been through a catering arrangement under which the TK provider reimbursed the district's cafeteria fund for the full unsubsidized cost of the meals. The district will need to compute the unsubsidized cost of the meals provided for the two years and reimburse its cafeteria fund from its general fund, or charge and collect from AAS or CAM for the meals provided.

The district and CAM indicated to FCMAT that they planned to end the collaborative at the end of the 2015-16 school year. The district has also indicated that its 2016-17 staffing plan includes a district-provided TK program. Notably, WCA provided a TK for its students during the school years that the district did not.

## Recommendations

*The district should:*

1. Offer a district-operated TK program in compliance with state law and consistent with its own school calendar, instructional days, and other operations.





## Other Observations

During fieldwork, the FCMAT study team also observed several items of interest that were not fully within the scope of the current study but that merit possible follow-up by the district or the Marin County Office of Education.

### Instruction/Learning/Curriculum

It was not clear which person functions as the district's curriculum/learning/instructional leader. The organizational chart provided to FCMAT does not identify a position or person responsible for this leadership role, and evidence indicates there is no instructional leadership in the district.

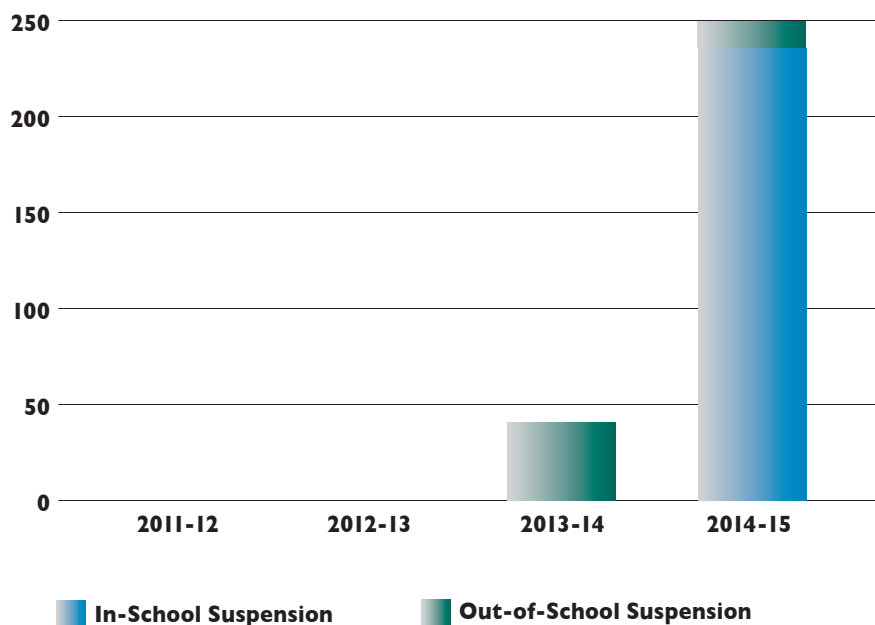
### Special Education

The interim superintendent stated that 17% of the district's students have been identified as needing special education services. The statewide average identification rate is approximately 10%. The district may be overidentifying students for special education services. It is also possible that students with academic and/or social-emotional challenges are being identified for special education services instead of a less restrictive option such as instruction and support or a multi-tiered system of interventions in the general education setting.

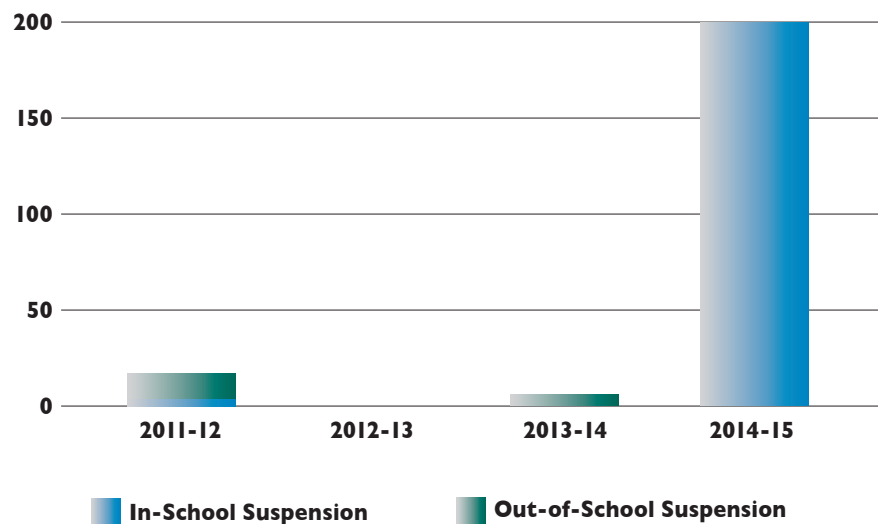
### Student Discipline –

FCMAT's attention was drawn to student discipline by a March 10, 2015 board report that there had been eight cases of out-of-school suspensions and 400 cases of in-school suspensions at Bayside MLK so far at that time for the 2014-15 school year. The reasons listed for discipline were disruption, defiance, and unruly behavior. A review of state-reported student discipline data for 2014-15 from Ed-Data.org and Dataquest for 2014-15 revealed that the district had 18 out-of-school suspensions and 239 in-school suspensions at Bayside MLK that year, and that 198 of the in-school suspensions were for defiance under Education Code 48900(k).

*Bayside MLK Total Suspensions*



*Bayside MLK Suspensions for Defiance under Education Code Section 48900(k)*



Of the 198 suspensions for defiance, 92% involved students who were Hispanic or African-American; none were for white students. The racial composition of the student population at Bayside MLK in 2014-15 was 82% Hispanic or African-American and 4% white.

The defiance suspension data for WCA shows 19 out-of-school suspensions in 2014-15 (there were no in-school suspensions), 84% of which were given to students who were Hispanic or African American. The student population at WCA in that year was 38% Hispanic or African American and 41% white. In both schools, it appears that a disproportionate share of students of color were suspended.

Discipline data from 2011-12 and 2012-13 was so insignificant that the California Department of Education redacted the details and did not report it to avoid personal identification, pursuant to federal privacy regulations. Data for 2013-14 shows that the district had a total of 41 out-of-school suspensions and no in-school suspensions. This raises questions about the significant change in discipline practices between 2013-14 and 2014-15 at Bayside MLK.

Classes at Bayside MLK are relatively small, which raises further concerns about the high rate of suspensions reported. Although the reported number of suspensions may or may not be due to ineffective discipline practices, there is no indication that the superintendent was monitoring or seeking to address the high number suspensions, or that the governing board engaged in any policy review or action regarding this. At WCA, proper oversight by the district would have included review of discipline data for conformity with the charter petition, and it is likely the disproportionate rate of suspension for students of color could have been addressed. However, this did not occur.

A more robust LCAP process could also be used to focus attention on this data and the social-emotional needs of the district's students and address them in a more productive and proactive manner. Reclassifying the director of special education position to director of student services could also help provide support and oversight in this area.

### Facility Bond

During interviews and conversations, district and WCA staff raised the subject of a possible 2016 general obligation bond being presented to voters. One person interviewed indicated that the

conversation to date (April 2016) indicated that plans were to add a couple of drinking fountains and maybe improve the physical education field at Bayside MLK in Marin City, while spending the bulk of the potential \$29 million in bond funds at WCA in Sausalito. Some indicated that there was a desire to solicit joint facility funds from other agencies to repair the physical education field so that bond funds would not be needed for that purpose.

FCMAT observes in this report that the facilities at Bayside MLK are inadequate. In addition to an unusable physical education field, the facility lacks an adequate number of classrooms for special education programs and other support facilities. Also, when Bayside MLK was created through the consolidation of two schools, the district's administrative facilities were moved to WCA's location.

Locating the special day class program and the district offices at the Marin City campus would support a more efficient administrative and instruction program, including providing options for different organizational structures that the governing board should consider, such as combining the role of superintendent and principal.

The district does not have a multiyear facilities master plan. A capital improvement plan is a prerequisite to a general fund obligation bond. If the district adopts a capital improvement plan that calls for spending a significant amount of the bond proceeds at WCA, it will be yet another sign of the governing board's biased support of the charter school, to the further detriment of the students at Bayside MLK.

It is a best practice to use bond proceeds to eliminate any non-voter-approved debt, in part because non-voter-approved debt has higher interest rates than a voter-approved general obligation bond and the district's non-voter-approved debt is paid for by the general fund as opposed to a separate tax levy. The district incurred non-voter-approved debt to add relocatable classrooms at Bayside MLK when it was created. The annual debt service for that debt is borne by the school's general fund allocation; this reduces the amount of unrestricted funds available to meet instructional needs. Failing to use the bond proceeds to pay this debt and free funds for instruction would constitute a failure of the district's fiduciary responsibilities to prioritize instructional needs.



# Documents Referenced

**FCMAT 2012 Management Review, April 20, 2012**

<http://fcmat.org/wp-content/uploads/sites/4/2014/02/SausalitoMarinCitySDfinalrep.pdf>

**Willow Creek Academy Charter Renewal Petition, December 20, 2013**

<http://fcmat.org/wp-content/uploads/sites/4/2016/08/WCA-Charter-Petition-Renewal-12-20-13.pdf>

**Memorandum of Understanding between Sausalito Marin City School District and Willow Creek Academy (approved 11/10/15)**

<http://fcmat.org/wp-content/uploads/sites/4/2016/08/SMCSD-and-WCA-MOU-11-10-15.pdf>

**Board Policy 0210 – Equity**

[www.gamutonline.net/district/sausalitomarin/DisplayPolicy/1025161/0](http://www.gamutonline.net/district/sausalitomarin/DisplayPolicy/1025161/0)



# Appendix

## Study Agreement







**CSIS** California School Information Services

**FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM  
STUDY AGREEMENT  
March 15, 2016**

The Fiscal Crisis and Management Assistance Team (FCMAT), hereinafter referred to as the team, and the Marin County Office of Education, hereinafter referred to as the COE, mutually agree as follows:

**1. BASIS OF AGREEMENT**

The team provides a variety of services to local educational agencies (LEA). The COE has requested that the team assign professionals to study specific aspects of the county operations. These professionals may include staff of the team, county offices of education, the California State Department of Education, school districts, or private contractors. All work shall be performed in accordance with the terms and conditions of this agreement.

**2. SCOPE OF THE WORK**

**A. Scope and Objectives of the Study**

The Marin County Office of Education is requesting FCMAT to conduct a review of the Sausalito Marin City School District in the following areas:

1. Review the progress of the district toward meeting all recommendations made in FCMAT's Sausalito Marin City School District review dated April 10, 2012, with specific follow up in the following areas:
  - a. Budget Development Recommendations - Page 21, 22: Continue to seek legal counsel with expertise in charter school law to evaluate the supplemental funding and services provided by the district to the Willow Creek Academy (WCA) charter school.
    - i. Review the district's relationship with WCA, and the impact to the district's Bayside/MLK school site operations, for adherence to best practices and make recommendations for improvement, if any.

- b. Qualified Zone Academy Bonds Recommendations - Page 67: Review the applicable lease costs associated with the space provided to WCA, if any.
  - c. Personnel Recommendations related to hiring practices – Page 62
- 2. Evaluate the 2014-15 audit exception regarding the disallowance of the transitional kindergarten average daily attendance and determine the basis for the disallowed attendance, including an evaluation of where the transitional kindergartners were served and why they were served in this way.

B. Services and Products to be Provided

- 1. Orientation Meeting - The team will conduct an orientation session at the COE to brief COE management and supervisory personnel on the team's procedures and the purpose and schedule of the study.
- 2. On-site Review - The team will conduct an on-site review at the COE office and at school sites if necessary.
- 3. Exit Meeting - The team will hold an exit meeting at the conclusion of the on-site review to inform the COE of significant findings and recommendations to that point.
- 4. Exit Letter – Approximately 10 days after the exit meeting, the team will issue an exit letter briefly memorializing the topics discussed in the exit meeting.
- 5. Draft Report - Electronic copies of a preliminary draft report will be delivered to the COE's administration for review and comment.
- 6. Final Report - Electronic copies of the final report will be delivered to the COE's administration following completion of the review. The final report will be published on the FCMAT website. Printed copies are available from FCMAT upon request.
- 7. Follow-Up Support – If requested by the COE within six to 12 months after completion of the study, FCMAT will return to the COE at no cost to assess the COE's progress in implementing the recommendations included in the report. Progress in implementing the recommendations will be documented to the COE in a FCMAT management letter. FCMAT will work with the COE on a mutually convenient time to return for follow-up support that is no sooner than eight months and no later than 18 months after the completion of the study.

### 3. PROJECT PERSONNEL

The study team will be supervised by Michael H. Fine, Chief Administrative Officer, Fiscal Crisis and Management Assistance Team, Kern County Superintendent of Schools Office. The study team may also include:

- |           |                         |                         |
|-----------|-------------------------|-------------------------|
| <i>A.</i> | <i>To Be Determined</i> | <i>FCMAT Staff</i>      |
| <i>B.</i> | <i>To be determined</i> | <i>FCMAT Consultant</i> |
| <i>C.</i> | <i>To be determined</i> | <i>FCMAT Consultant</i> |
| <i>D.</i> | <i>To be determined</i> | <i>FCMAT Consultant</i> |

### 4. PROJECT COSTS

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

- A. \$500 per day for each staff team member while on site, conducting fieldwork at other locations, presenting reports and participating in meetings. The cost of independent FCMAT consultants will be billed at their actual daily rate for all work performed.
- B. All out-of-pocket expenses, including travel, meals, and lodging.
- C. The COE will be invoiced at actual costs, with 50% of the estimated cost due following the completion of the on-site review and the remaining amount due upon COE's acceptance of the final report.

**Based on the elements identified in section 2A, the total not-to-exceed cost of the study will be \$26,800.**

- D. Any change to the scope will affect the estimate of total cost.

Payments for FCMAT services are payable to Kern County Superintendent of Schools - Administrative Agent.

## 5. RESPONSIBILITIES OF THE COE

- A. The COE will provide office and conference room space during on-site reviews.
- B. The COE will provide the following if requested:
  - 1. Policies, regulations and prior reports that address the study scope.
  - 2. Current or proposed organizational charts.
  - 3. Current and two prior years' audit reports.
  - 4. Any documents requested on a supplemental list. Documents requested on the supplemental list should be provided to FCMAT only in electronic format; if only hard copies are available, they should be scanned by the COE and sent to FCMAT in electronic format.
  - 5. Documents should be provided in advance of fieldwork; any delay in the receipt of the requested documents may affect the start date and/or completion date of the project. Upon approval of the signed study agreement, access will be provided to FCMAT's online SharePoint document repository, where the COE shall upload all requested documents.
- C. The COE's administration will review a preliminary draft copy of the report resulting from the study. Any comments regarding the accuracy of the data presented in the report or the practicability of the recommendations will be reviewed with the team prior to completion of the final report.

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

## 6. PROJECT SCHEDULE

The following schedule outlines the planned completion dates for different phases of the study and will be established upon the receipt of a signed study agreement:

<b><i>Orientation:</i></b>	<b><i>to be determined</i></b>
<b><i>Staff Interviews:</i></b>	<b><i>to be determined</i></b>
<b><i>Exit Meeting:</i></b>	<b><i>to be determined</i></b>
<b><i>Preliminary Report Submitted:</i></b>	<b><i>to be determined</i></b>
<b><i>Final Report Submitted:</i></b>	<b><i>to be determined</i></b>
<b><i>Board Presentation:</i></b>	<b><i>to be determined, if requested</i></b>
<b><i>Follow-Up Support:</i></b>	<b><i>if requested</i></b>

7. **COMMENCEMENT, TERMINATION AND COMPLETION OF WORK**

FCMAT will begin work as soon as it has assembled an available and appropriate study team consisting of FCMAT staff and independent consultants, taking into consideration other jobs FCMAT has previously undertaken and assignments from the state. The team will work expeditiously to complete its work and deliver its report, subject to the cooperation of the COE and any other 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 preliminary draft report and a final report. Prior to completion of fieldwork, the COE may terminate its request for service and will be responsible for all costs incurred by FCMAT to the date of termination under Section 4 (Project Costs). If the COE does not provide written notice of termination prior to completion of fieldwork, the team will complete its work and deliver its report and the COE will be responsible for the full costs. The COE understands and agrees that FCMAT is a state agency and all FCMAT reports are published on the FCMAT website and made available to interested parties in state government. In the absence of extraordinary circumstances, FCMAT will not withhold preparation, publication and distribution of a report once fieldwork has been completed, and the COE shall not request that it do so.

8. **INDEPENDENT CONTRACTOR**

FCMAT is an independent contractor and is not an employee or engaged in any manner with the COE. 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 COE in any manner without prior express written authorization from an officer of the COE.

9. **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 COE, automobile liability insurance in the amount required under California state law, and workers compensation as required under California state law. FCMAT shall provide certificates of insurance, with additional insured endorsements, indicating applicable insurance coverages upon request.

10. **HOLD HARMLESS**

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

**11. CONTACT PERSON**

Contact person: Terena Mares, Deputy Superintendent  
Telephone: (415) 499-5805  
E-mail: [tmares@marinschools.org](mailto:tmares@marinschools.org)

Mary Jane Burke 3/15/16  
Mary Jane Burke, Superintendent Date  
Marin County Office of Education

Michael H. Fine March 15, 2016  
Michael H. Fine Date  
Chief Administrative Officer  
Fiscal Crisis and Management Assistance Team