



CSIS California School Information Services

# **Riverside County Office of Education regarding the Coachella Valley Unified School District Extraordinary Audit**

March 29, 2018

Michael H. Fine  
Chief Executive Officer







March 29, 2018

Judy D. White, Ed.D., County Superintendent  
Riverside County Office of Education  
3939 Thirteenth Street  
Riverside, CA 92501

Dear Superintendent White:

On July 13, 2017, the Fiscal Crisis and Management Assistance Team (FCMAT) and the Riverside County Office of Education entered into a study agreement to provide an Assembly Bill 139 extraordinary audit of the Coachella Valley Unified School District located in Thermal. Specifically, the agreement states that FCMAT's audit objectives include:

1. Evaluating the establishment, implementation and effectiveness of policies, procedures and internal control activities of the district's use of credit cards and expenditure of funds for personal or other non-district business purposes.

This final report contains the study team's findings and recommendations in the above areas of review. FCMAT appreciates the opportunity to serve the [district name], and extends thanks to all the staff for their assistance during fieldwork.

Sincerely,

Michael H. Fine  
Chief Executive Officer

**FCMAT**

Michael H. Fine, Chief Executive Officer

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# About FCMAT

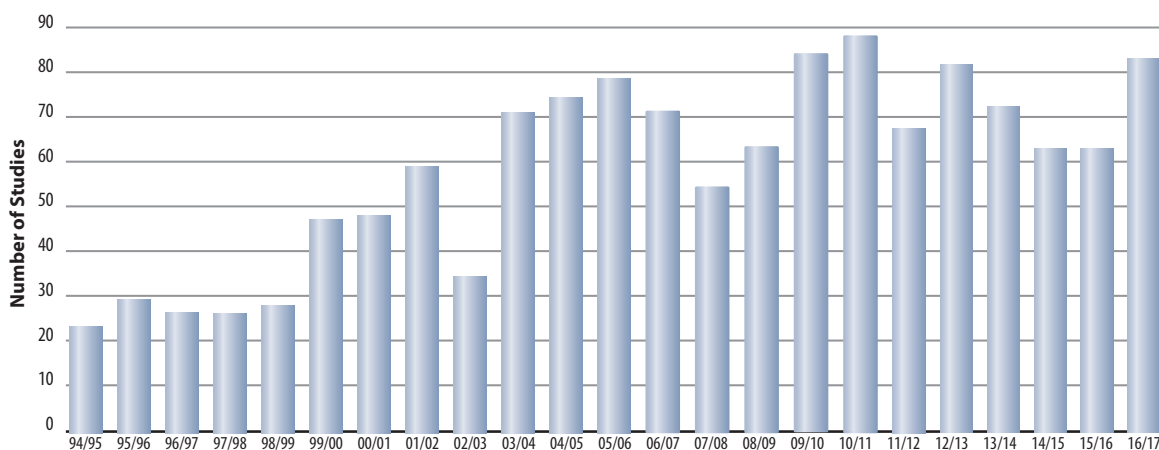
FCMAT's primary mission is to assist California's local K-14 educational agencies to identify, prevent, and resolve financial, human resources and data management challenges. FCMAT provides fiscal and data management assistance, professional development training, product development and other related 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 Michael H. Fine, Chief Executive Officer, with funding derived through appropriations in the state budget and a modest fee schedule for charges to requesting agencies.



# Introduction

## Background

The Coachella Valley Unified School District is located in Thermal. In the district's May 18, 2017 board meeting a new superintendent was appointed and began work on June 12. The new superintendent began an evaluation of the district's internal controls, policies, and procedures, including fuel and credit card transactions. The review identified numerous fuel and credit card transactions of the former superintendent as potential transactions that may be extraordinary, abusive, or not in compliance with district board policy.

The district brought the available evidence of alleged fuel and credit card transaction abuse to the Riverside County Office of Education. Based on the county office review of the available fuel and credit card evidence, the county office believed there was cause for concern that the alleged transactions may have violated various government and education codes related to fraud and/or misappropriation of assets.

In June 2017, the Fiscal Crisis and Management Assistance Team (FCMAT) received a request from the county office for an Assembly Bill (AB) 139 extraordinary audit of the Coachella Valley Unified School District. Under the provisions of Education Code Section 1241.5, on July 13, 2017, FCMAT entered into an agreement with the county office to conduct an AB 139 extraordinary audit to determine if fraud, misappropriation of funds or other illegal activities may have occurred at the district.

## Study and Report Guidelines (AB 139 Audit Authority)

Education Code Section 1241.5(b) permits a county superintendent of schools to review or audit the expenditures and internal controls of any school in the county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. This review or audit is known as an AB 139 extraordinary audit. Because the purpose of an AB 139 extraordinary audit is to determine if fraud, misappropriation of funds or other illegal activities may have occurred, it is considered a fraud audit. Education Code Section 42638 (b) states that on completion of the fraud audit,

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

The foundation of a fraud audit is to determine if sufficient evidence exists that fraud, misappropriation of funds, or other illegal acts may have occurred and to document the findings for referral to the local district attorney's office and further investigation by law enforcement.

FCMAT focused on the allegations that transactions on district-owned fuel and credit cards may be extraordinary, abusive, or not in compliance with district board policy to determine whether district management may have been involved in or committed fraudulent activities.

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.

## Conducting a Fraud Audit

The fraud audit is conducted based on the team's experience and judgment. Fraud audits have many components including fieldwork, obtaining and examining available original source documents; when possible corroborating documents and information through third party sources; interviewing potential witnesses, gaining an understanding of internal controls applicable to the scope of the fieldwork; and assessing factors such as intent, capability, opportunity, and possible pressures or motives.

Although there are many different types of fraud, occupational fraud, including asset misappropriation and corruption, may occur when employees are in positions of trust and have access to assets. Embezzlement occurs when someone who is lawfully entrusted with property takes it for his or her personal use. Common elements in all fraud include the following:

- Intent, or knowingly committing a wrongful act
- Misrepresentation to accomplish the act
- Reliance on weaknesses in the internal control structure
- Concealment to hide the act

## Fraud Audit Fieldwork

Fraud audit fieldwork consists of gathering information and documentation pertaining to specific allegations; establishing an audit plan, interviewing potential witnesses and assembling evidence from internal and external sources; performing various audit procedures to determine whether fraud may have occurred; evaluating the loss associated with the alleged fraud; and determining who was involved and how it may have occurred. The FCMAT study team's fieldwork occurred from July 2017 through January 2018.

The fieldwork focused on determining whether there is sufficient evidence to indicate that fraud or misappropriation of district funds may have transpired through unauthorized use of district fuel credit cards and district credit cards by management and key employees of Coachella Valley Unified School District.

## Scope and Procedures

The audit consisted of gathering adequate information specific to the allegations, establishing an audit plan, and performing various audit test procedures to determine whether fraud may have occurred, and if so, evaluate the alleged loss and determine who was involved and how it occurred.

During interviews, FCMAT study team members asked questions pertaining to levels of authority to authorize transactions, governing board oversight pertaining to employee evaluations, financial management internal controls, job duties and responsibilities.

## Transaction Sampling

FCMAT developed and conducted audit procedures to analyze and evaluate the allegations and potential outcomes. Fraud audit scope, objectives, and substantive transaction testing was based on the audit team's experience and professional judgment and did not include the testing of all available transactions and records. The sample population is represented by the documents and

other evidence and information provided by the district and county office of education that were available for review as related to the study guidelines objectives. The transaction sample is derived from the sample population by selecting transactions randomly and/or specifically selecting transactions based on auditor judgment.

The total population of district fuel and credit card transactions available for review was from fiscal years 2013-14 through 2016-17. Sample testing and examination results are intended to provide reasonable but not absolute assurance on the accuracy of the transactions and financial activity and/or identify if fraud, misappropriation of funds or other illegal acts may have taken place during the period under review.

FCMAT reviewed, analyzed and tested business records available at the county office and district that included district fuel card transaction reports, district credit card statements, copies of receipts, travel documentation, transaction authorizations, management contracts, management evaluations, board policy and administrative regulations, and other documentation or analysis from independent third parties.

Transactions selected were analyzed and compared with board policy, administrative regulations, operational procedures and industry standard or best practice procedures. Transactions sampled were compared to management contract terms, documentation of receipts for expenditures, and evaluated for proper authorizations and reasonableness based on the team's judgment and technical expertise in school district business operations, internal controls, and accounting practices.

## Study Team

The FCMAT study team was composed of the following members:

Michael W. Ammermon, CPA, CFE, CRFAC, DABFA  
FCMAT Intervention Specialist  
San Clemente, CA

Jennifer Noga, CFE  
FCMAT Intervention Specialist  
Lancaster, CA

Laura Haywood  
FCMAT Technical Writer  
Bakersfield, CA

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



## Responsibilities and Overview of Fraud

### Fraud

Fraud can include an array of irregularities and illegal acts characterized by intentional deception and misrepresentations of material facts. A material weakness is a deficiency in the internal control process whereby errors or fraud may occur or can be a violation of specific law or regulation. Because of the weakness, employees in the normal course of business may not detect errors in time to correct them.

Although all employees have some degree of responsibility for internal controls, the governing board, district superintendent and senior management are ultimately responsible for those controls that employees under their supervision are expected to follow.

### Occupational Fraud

Occupational fraud occurs when an organization's owners, executives, managers or employees use their occupation to deliberately misuse or misapply the employer's resources or assets for personal benefit. The three main types of occupational fraud are asset misappropriation, corruption, and financial statement fraud.

Asset misappropriation fraud includes cash skimming, falsifying expense reports and/or forging company checks. Corruption schemes involve an employee(s) using his or her influence in business transactions to obtain a personal benefit that violates that employee's duty to the employer or the organization; conflicts of interest fall into this category. Financial statement fraud includes the intentional misstatement or omission of material information in the financial reports.

Occupational fraud is one of the most difficult types of fraud and abuse to detect; the most common method of detection comes from tips, which help prevent occupational fraud three times as often as any other detection method. According to the 2016 Report to the Nations conducted and published by the Association of Certified Fraud Examiners, asset misappropriation causes the smallest median loss (\$125,000), but is the most common form of occupational fraud, occurring in more than 83% of 2,410 reported cases. Corruption schemes accounted for 35.4% of the cases reported, with a median loss of \$200,000.

Based on this study, there is a direct correlation between the perpetrator's position and authority in an organization and the losses incurred. Losses from fraud by owners and executives are four times higher than those from fraud by managers and seven times higher than losses incurred as a result of fraud by employees. Proper monitoring and effective oversight are also highly effective at preventing fraud.

### Internal Controls

Internal controls are among the most important aspects of any fraud prevention program. Managers in a position of authority have a higher standard of care to establish the ethical tone and serve as examples to other employees. Employees with administrative responsibility have a fiduciary duty to the organization in the course of their employment to ensure that activities are conducted in compliance with all applicable board policies, laws, regulations, and standards of conduct. Management personnel are entrusted to safeguard assets and ensure that internal controls function as intended.

Internal controls include policies, procedures, checks and balances to ensure reliance on financial information, and that the information provided to management for decision-making is in compliance with laws and regulations.

The accounting industry defines the term “internal control” as it applies to organizations, including school agencies. Internal control is “a process, effected by an entity’s board of directors, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives relating to operations, reporting, and compliance.” [The Committee of Sponsoring Organizations of the Treadway Commission - May 2013] The reference to achievement of objectives fundamentally refers to an organization’s work of planning, organizing, directing, and performing routine tasks relative to operations, and monitoring performance.

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

Internal control is the principal mechanism for preventing and/or deterring fraud or illegal acts. Illegal acts, misappropriation of assets or other fraudulent activities can include an assortment of irregularities characterized by intentional deception and misrepresentation of material facts. Effective internal control provides reasonable assurance that operations are effective and efficient, the financial information produced is reliable, and the organization complies with all applicable laws and regulations.

Internal control provides the framework for an effective fraud prevention program. An effective internal control structure includes the board policy and administrative regulations established by the governing board and operational procedures used by staff, adequate accounting and information systems, the work environment, and the professionalism of employees. The five integrated components of internal control and their summarized characteristics are included in the table below.

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

While the governing board and all employees in the district have some responsibility for internal controls, the superintendent, governing board and other key management personnel have a higher ethical standard, fiduciary duty and responsibility to safeguard the assets of the district.

## Fiduciary Responsibilities

A fiduciary duty is the highest standard of care. The person who has a fiduciary duty is called the fiduciary, and the person to whom he owes the duty is typically referred to as the principal or the beneficiary. (source: [https://www.law.cornell.edu/wex/fiduciary\\_duty](https://www.law.cornell.edu/wex/fiduciary_duty))

A fiduciary also may be a person who holds a legal or ethical relationship of trust with one or more other parties (person or group of persons). In other words, a fiduciary takes care of money or other assets for another. District board members, administrators and management are examples of those who have fiduciary responsibilities or a fiduciary duty. The Cornell law source further describes several components of fiduciary duties, which FCMAT summarizes and applies to districts as follows:

Duty of Care: Before making a decision, collect all evidence and information available. Do your “due diligence” and review all the information and evidence available – don’t just accept the information as it is presented. Assess information with a critical eye and ask the questions: who, what, when and where. A fiduciary’s responsibility is to protect the assets of the district.

Duty of Loyalty: You cannot use your position in the organization to further your private interests. Avoid anything that might injure the district.

Duty of Good Faith: Advance the interests of the district. Do not violate the law. Fulfill your duties and responsibilities.

Duty of Confidentiality: Keep confidential matters confidential and never disclose confidential information to avoid personal liability.

Duty of Prudence: Be trustworthy to a degree of care and skill that a prudent board member, member of management, or fiduciary would exercise. Prudent means acting with wisdom and care, including exercising good judgment.

Duty of Disclosure: Act with complete candor. Be open, sincere, honest and transparent. Disclose all financial interests on Form 700, Statement of Economic Interests.

## Gift of Public Funds

Article 16, Section 6 of the California Constitution specifies that the state Legislature cannot authorize any county, city, or other political subdivision to make any gift of public funds to an individual or corporation. Basically, Article 16 states that in the absence of a statute granting public local educational agencies (LEAs) the legal authority to make a special expenditure (e.g., for food, clothing, awards, etc.), the legality of any expenditure is determined by the “gift of public funds” provision in the California Constitution, Article 16, Section 6. This constitutional provision prohibits making any gift of public money to any individual (including public employees), corporation, or other government agency. It states, “... the Legislature shall have no ... power to make any gift, or authorize the making of any gift, of any public money or thing of value to any individual ... whatever ...”

In general, the constitutional prohibition of the gift of public funds is not an issue when a direct and primary public purpose is accomplished so that the public receives a benefit from the expen-



diture. However, if the gift is to an employee or other individual, and there is no benefit to the public as a result, it can be considered a gift of public funds.

On the other hand, it is also well established that expenditures of public funds that involve a benefit to private persons (including public employees) are not gifts within the meaning of the California Constitution if those funds are expended for a public purpose. This means that public funds may be expended only if a direct and substantial public purpose is served by the expenditure and private individuals are benefited only incidentally to the promotion of the public purpose. To justify the expenditure of public funds, an LEA's governing board must determine that the expenditure will benefit the education of students in its schools. Expenditures that most directly and tangibly benefit students' education are more likely justified. Expenditures driven by personal motives are not justified even if they have been a longstanding local custom or are based on benevolent feelings.

If the LEA's governing board has determined that a particular type of expenditure serves a public purpose, courts will almost always defer to that finding. Therefore, if a district has a board policy stating that specific items are allowable, there is more certainty that the expenditure might be considered allowable.

The constitutional prohibition of gifts of public funds is designed to obstruct the misuse of public money. Gift of public funds violations occur under many circumstances. FCMAT's experience regarding gift of public funds is that misuse often occurs under two circumstances.

1. Noble or Virtuous Purpose - An example of a noble or virtuous purpose that may be considered a gift of public funds is the purchase of flowers from district funds for the funeral of a student or family member of a governing board member.
2. Moral or Justifiable Obligation - A moral or justifiable obligation is the most common form of gift of public funds resulting from a desire to convey some form of gratitude. Often, staff members who are not formally trained in school district and governmental policies and procedures unknowingly participate in giving gifts of public funds because of a moral or justifiable obligation. For example, a coach may be grateful to a number of individuals who have helped with the sports program, or to individuals who are considered high-value stakeholders, well-known contributors, longtime friends of the program, contributed countless hours of assistance to the sport, or may not be able to afford attending an event. The coach may offer them free event tickets or distribute unsold tickets or other items.

Without a district policy that has been adopted by the governing board and approved by the district's legal counsel specifically approving the expenditure of district funds for noble, virtuous, or moral considerations such as those described above, expenditures of this type may be considered a gift of public funds.

Conversely, if the governing board approves district policy or management contracts containing provisions for personal fuel card use, for example, it may be allowable.



## Findings

### Internal Control Deficiencies

#### Former Superintendent Evaluations

The former superintendent's three contracts with the district describe in the Evaluation section the following terms:

“Starting in the school year..., the Board will provide an evaluation of the Superintendent's performance at least once annually (emphasis added), no later than May 31 of each year. The Board and the Superintendent shall also meet quarterly during the course of the year to review and provide feedback to the Superintendent concerning the Superintendent's progress towards meeting the mutually agreed upon goals and objectives, and making any agreed upon modifications to those goals and objectives. The board and superintendent shall agree upon a written evaluation format, which shall be used during the Term. The Superintendent shall place the subject of his evaluation on the Board's agenda to ensure timely completion of his evaluation. (emphasis added)

The Superintendent's evaluation shall be primarily based on the duties and responsibilities of the Superintendent as set forth in this Agreement, the job description, and pursuant to Board Policies and Administrative Regulations. In addition, the board retains discretion to establish specific goals and objectives for the Superintendent ...”

FCMAT requested copies of the district's governing board's annual evaluations of the former superintendent. The former superintendent was employed from July 2011 to December 2016; however, only one evaluation was available, and it was for the period of July 1, 2011 – June 30, 2012. The superintendent's evaluation rubric specifies three outcomes of either “Needs Improvement,” “Satisfactory,” or “Exceeds.” The evaluation was signed by the former superintendent and the board; however, there is no signature date. The July 1, 2011 – June 30, 2012 evaluation overall rating of the former superintendent stated,

“The Board is pleased with the energy and work ethic ... brings to the district. The Board would like for ... to bring issues to the attention of board as ... becomes aware of them. Even if these issues cannot be resolved until a future date. Keep up the hard work. This document represents a Satisfactory evaluation of ... for the school year 2011-2012.”

At Evaluation Section C, Breadth and Depth, subsection 8, Applying Financial Acumen, the comments in the evaluation were a rating of satisfactory and discussion that the board needs more time to evaluate the former superintendent.

Deficiencies in internal control are also attributable at the district board level. Even if the former superintendent's contract stipulated the “Superintendent shall place the subject of his evaluation on the board's agenda to ensure timely completion of his evaluation,” when that did not happen, the board should have but failed to follow through with evaluating the former superintendent.

FCMAT discussed with the former superintendent his contract and evaluations. The reason for only one evaluation according to the former superintendent is because when he would bring up the evaluation with the board president, who assisted with preparing the board agenda, the board

president would say “forget about it, you are doing a great job,” and that would be the end of it. Even if this is true, other board members should have insisted on evaluations per the contract.

Based on the lack of evaluations of the former superintendent, the district board failed to perform its fiduciary duty to evaluate the superintendent for five consecutive years after the 2011-12 school year. Because of the board’s failure to follow through with its own responsibilities and fiduciary duties, and to set the proper tone at the top, the entire system of internal controls suffered.

## Board Policies and Internal Controls

As stated above:

Internal controls are among the most important aspects of any fraud prevention program. Managers in a position of authority have a higher standard of care to establish the ethical tone and serve as examples to other employees.

Board members, management and employees with oversight and administrative responsibility have a fiduciary duty to ensure that activities are conducted in compliance with all applicable board policies, laws, regulations, and standards of conduct. Because internal controls include policies, procedures, and checks and balances, if those entrusted to set the oversight and ethical tone fail, the entire organization may be compromised.

Excerpts from district Board Policy (BP) 3300, Business and Noninstructional Operations, at Expenditures/Expending Authority state,

“The Governing Board recognizes its fiduciary responsibility to oversee the prudent expenditure of district funds. In order to best serve district interests, the Superintendent or designee shall develop and maintain effective purchasing procedures that are consistent with sound financial controls and that ensure the district receives maximum value for items purchased. He/she shall ensure that records of expenditures and purchases are maintained in accordance with law ...

### Expending Authority

The Superintendent or designee may purchase supplies, materials, apparatus, equipment, and services up to the amounts specified in Public Contract Code 20111, beyond which a competitive bidding process is required. The Board shall not recognize obligations incurred contrary to Board policy and administrative regulations.

All transactions entered into by the Superintendent or designee on behalf of the Board shall be reviewed by the Board every 60 days. (Education Code 39657) ...

No district funds shall be expended for the purchase of alcoholic beverages. (Education Code 32435)”

The district’s Employee Conference Requests & Reimbursement Procedures instructions form, revised March 2017, cites board policy Administrative Regulations (AR) 4131.1, 4133, 4231.1, 4233, and 4333. The form specifically addresses itemized receipts as follows:

“Include **scans of legible itemized receipts** (each item and prices clearly identifiable) for all expenses or other items to be reimbursed or paid by the District.”

District Administrative Regulations 4133, 4233, 4333, adopted June 24, 2004, Claims of Expense, state:

“Upon your return, receipt for all expenses, prepaid or to be reimbursed, must be attached to the Expense Claim for verification and reimbursement.”

The board policies and approved reimbursement procedures in the Employee Conference Requests & Reimbursement Procedures instructions form of the district define that itemized receipts are required for substantiating expenditures. Furthermore, as part of a sound and comprehensive system of checks and balances and internal controls, all expenditures paid for with district funds should be documented in detail with supporting receipts, invoices, approvals, and other itemized records.

## Missing Receipts

FCMAT’s review of the use of district credit cards discovered the use of a form for missing receipts. According to those interviewed by FCMAT, the missing receipt form was developed and put into use before the former superintendent was hired as superintendent on July 14, 2011. The district could not provide FCMAT with a board-approved missing receipt form policy or procedures defining the use of the missing receipt form. There was no limit of the amount of a transaction nor of the number of times a missing receipt form could be used.

FCMAT’s review of sampled district credit card transactions showed the use of the missing receipt form is pervasive and more of the rule rather than the exception. Receipts are needed to authenticate the true nature of a purchase. Detailed receipts present the true and correct purchases made by the district. The district’s expenditures policy, BP 3300, prohibits the expenditure of district funds for alcoholic beverages.

In the case of restaurant receipts, without a true itemized receipt, the type of food and drink such as alcohol or other items purchased cannot be determined. When a missing receipt form is used, because there are no itemized receipts or other third-party documentation substantiating the purchase using district funds, these types of transactions may be considered a gift of public funds.

### Missing Receipt Form Requirements and Internal Control Failures

The missing receipt form sets out at the top of the form the parameters in which it may be used. The form states,

“(To be used when extenuating circumstances prevent submission of actual receipts)”

The form requires a date, place, reason for no receipt, amount, and signature by both the person submitting and by the person authorizing the use of the missing receipt form. It also contains a certification statement written in bold type. The certification statement states,

“I hereby certify that the above expenditures were actually and necessarily incurred in the performance of my duty, and further, that no part of the above claim has heretofore been claimed or paid.”

The missing receipt form instructions at the bottom of the form state,

“Use this form when no receipt is available and submit with a conference request or reimbursement form.”

FCMAT understands receipts may not always be issued by vendors or can be lost for legitimate reasons. Not all forms at a district are always board approved. However, use of the district’s missing receipt form in its present form may cause purchases to be considered a possible gift of public funds because:

- Nowhere in the missing receipt form is a board approval date adopting the form as district policy. (Other forms are board approved, such as the Employee Conference Requests & Reimbursement Procedures instructions form. This form is described further below.)
- The term “extenuating circumstance” is not defined, leaving it open to broad interpretation.
- How often the missing receipt form may be used by the same individual is not defined, meaning there are no limits to its use.
- The missing receipt form fails to prohibit use of or submitting of the form if a purchase contains alcohol, tips in excess of the district’s 15% policy limit, or any other district-prohibited purchases.
- There is no certification by the missing receipt form’s user that the purchase does not contain any alcohol, tips in excess of 15%, or other district-prohibited items.

Use of a missing receipt form for a purchase using the district’s credit card has one material deficiency. Because it is the district’s credit card, which means the district is solely responsible for all purchases, the deficiency is that the district must pay the credit card whether or not there are receipts. If the purchase is made on an employee’s personal credit card and the employee fails to submit proper receipts, the employee is responsible for paying their credit card, not the district.

The former superintendent met with FCMAT on Monday, January 8, 2018, and stated the following about the missing receipt form:

- The missing receipt form predated his tenure as superintendent.
- The district staff in finance provided the missing receipt form for use to him and said it was part of finance’s process.
- His secretarial support staff commonly filled out the missing receipt form for him and signed his name on his behalf.
- He often lost receipts because of the travel he incurred for the district.
- When he could, he would take pictures of receipts and submit them but did not know if those pictures made their way to the files.
- He had never thought about the missing receipt form not addressing the purchase of alcohol or tips greater than 15%, or that it lacked board approval.
- He felt he was doing things according to district procedures, nobody ever told him he could not use the form, and the district external auditor did not have an issue with the form or its use to the best of his knowledge.

FCMAT discussed with district business staff how the missing receipt form came to be. The staff explained the form was developed years ago when both the county and independent auditors found many district credit card payments without receipts. Staff further explained that someone at the county office may have helped develop the missing receipt form and that the district’s independent external auditors have accepted its use.

Regardless of how and why the missing receipt form was developed, the district board, in performing its oversight, and administrators, who were using the missing receipt form regularly, should have but failed to perform their fiduciary responsibilities to ensure district assets were not abused. The former superintendent should have but failed to recognize the missing receipt form

contained numerous deficiencies resulting in potential gift of public funds issues. And, according to the former superintendent, even the district's auditor failed to identify the form's internal control weaknesses.

#### Missing Receipt Form Examples – Former Superintendent

According to district staff, the former superintendent's contracts in place during the sample period are one dated September 23, 2014, and an amended contract dated December 8, 2015. Both the September 23, 2014 and amended December 8, 2015 contracts are similar except for certain sections, which will be identified below where applicable.

The former superintendent's contract with the district describes at Section 3, Fringe Benefits, Subsection e, Expense Reimbursement the following terms:

“The district shall reimburse the Superintendent for actual and necessary expenses incurred within the scope of the Superintendent's employment and in the scope of his duties. An expense in excess of Fifteen Hundred dollars (\$1,500.00) shall require prior approval of the Board. For reimbursement, the Superintendent shall submit an expense claim in writing on a monthly basis to the Board President for approval. Such expense shall be supported by appropriate written documentation (e.g., receipts, invoices, and similar requirements).”

The terms of the former superintendent's contract are interpreted by FCMAT as specific to reimbursement for out-of-pocket district business expenditures. Nothing is mentioned in the contract regarding district credit card usage or district-paid expenditures. This means that district-paid expenditures using the district credit card fall under the district's expenditures board policies requiring supporting documentation. There is no exception in district board policy referencing the use of a missing receipt form to address lost receipts.

The governing board and superintendent set the ethical tone and example for the district. Shown below are examples of the former superintendent's use of the missing receipt forms. FCMAT's sampling of transactions concluded the former superintendent used the missing receipt form more than any other administrator.

Example 1: One missing receipt form example is for \$400, dated August 3, 2015, at a San Diego restaurant. The missing receipt form is submitted and signed by the former superintendent's support staff secretary and approved for payment by the former assistant superintendent of business services. The reason for no receipt as written in the missing receipt form is, “Misplaced receipt, lunch meeting with staff during conference.”

FCMAT visited the San Diego restaurant location but was not successful in obtaining a copy of the \$400 meal receipt. The former superintendent asserts that no alcohol was purchased but could not remember the tip amount.

Example 2: An example of consistent reoccurring use of the missing receipt form, often by the former superintendent, was to pay for monthly DropBox charges of \$19.99. A missing receipt form dated April 17, 2015 used for DropBox in the amount of \$19.99 states, “Misplaced receipt, DropBox increase storage.” The August 17, 2015 DropBox missing receipt form in the amount of \$19.99 states, “Misplaced receipt, monthly subscription increase storage.” There is pervasive use of the missing receipt form, even for DropBox subscriptions. DropBox is a web-based service that allows the DropBox account holder to request receipt copies or reprint their account statements.

The former superintendent stated he and his staff were trying to cancel DropBox but charges continued regardless.

Example 3: A missing receipt form dated October 4, 2014 for a purchase at Costco of \$97.99. The “Reason for no receipt” section of the form is blank. It is approved for payment by a department head.

The former superintendent stated he does not remember what the Costco purchase was for nor know why his secretary left the reason blank in the missing receipt form. He did point out that even with the reason left blank, the form was approved by the department head.

#### Missing Receipt Transaction Sample

FCMAT sampled 48 transactions from a sample population of 539 district credit card payments which is 9% ( $48 / 539 = 9\%$ ) of the sample population. The 539 district credit card payments are represented by numerous receipts and other documentation totaling 1,984 pages of documents. Within the 48 transactions sampled are numerous pages of travel receipts and documents. Of the 48 transactions sampled there were 53 missing receipt forms used by five administrators.

Of those 53 missing receipt forms, 44 missing receipt forms or 83% ( $44 / 53 = 83\%$ ) were submitted by the former superintendent. In fact, within a single transaction the highest number of missing receipt forms submitted was 15 by the former superintendent. Also, the second highest number of missing receipt forms submitted within a single transaction was 10 forms, also used by the former superintendent.

The total dollar value of the 53 missing receipt forms was \$2,312.37. The total dollar value of the missing receipt forms used by the former superintendent was \$1,824.58, representing 79% ( $\$1,824.58 / \$2,312.37 = 79\%$ ) of the total dollar value of all 53 missing receipt forms used.

Of the 48 transactions sampled, 13 of those transactions contained at least one missing receipt form, which represents 27% ( $13 / 48 = 27\%$ ) of the transactions sampled. If 27% of the 48 transactions sampled contain at least one missing receipt form, applying that percentage to the entire sample population of 539 transactions means it is likely that 146 ( $27\% \times 539 = 146$ ) transactions contain at least one or more missing receipt forms. The table below summarizes the missing receipt form statistical sampling data analysis.

Sample Period	10/27/2014 - 10/8/2015
Sample Population	539
Transaction Sample	48
Percent Sampled to Total Population	9.0%
Total Number of Pages of Documents Within Transaction Sample	1,984
Number of Missing Receipt Forms Found in the Sample	53
Number of Administrators in Transaction Sample that Used Missing Receipt Forms	5
Highest Number of Missing Receipt Forms in a Transaction	15 (Former Supt.)
Second Highest Number of Missing Receipt Forms in a Transaction	10 (Former Supt.)
Total Number of Missing Receipt Forms Used by Former Superintendent	44 (Former Supt.)
Percent Former Supt. Missing Receipt Forms to Total Missing Receipt Forms	83.0%



Dollar Value of 53 Missing Receipt Forms in the Transaction Sample	\$2,312.37
Total Dollar Value of the 44 Missing Receipt Forms of the Former Superintendent	\$ 1,824.58
% Former Supt. Missing Receipt Forms Dollar Value to Total Missing Receipt Forms	79.0%
Number of Transactions Containing at Least One Missing Receipt Form	13
Percent of Transactions with One Missing Receipt Form in Transaction Sample (this means if 27% of transactions sampled contain at least one missing receipt form, then it is likely that 27% of the sample population of 539 transactions contain at least one missing receipt form).	27.0% (146)
Average Dollar Amount per Missing Receipt Form	\$43.63
Estimated Dollar Value of Missing Receipt Forms in the Sample Population	\$6,369.98

### Missing Receipts, \$19,109.94

Extrapolating the dollar value amount of missing receipt forms used by five district administrators/staff within transaction populations yields an estimated 146 transactions that contain missing receipt forms totaling \$6,369.98.

The \$6,369.98 is determined by first determining an average dollar amount per missing receipt of \$43.63 ( $\$2,312.37 / 53 = \$43.63$ ). Next, applying the average dollar amount per missing receipt of \$43.63 to the total extrapolated number of missing receipt forms of 146 in the sample population is \$6,369.98 ( $\$43.63 \times 146 = \$6,369.98$ ). This means that within the sample period of October 27, 2014 and October 8, 2015, the district likely paid \$6,369.98 for unsubstantiated purchases.

The district was unable to provide receipts or other third-party documentation substantiating purchases using the missing receipt form. The statistical analysis applied to calculate the 2014-15 missing receipt form amount of \$6,369.98 can be projected.

Because the missing receipt form is used in all three fiscal years audited, 2013-14 through 2015-16, the extrapolated missing receipt form amount of \$6,369.98 is applied to all three years. The projected potential abuse of missing receipt forms over a three-year period is \$19,109.94 ( $\$6,369.98 \times 3 = \$19,109.94$ ). FCMAT's available scope of years to examine was four years, 2013-14 through 2016-17; however, the first three years of 2013-14 through 2015-16 were representative such that additional missing receipt transactions in 2016-17 were not considered necessary for review.

## **Excessive Tips**

FCMAT's review of district credit card use found that tipping often exceeded 15%, the district tip limit. The district's Employee Conference Requests & Reimbursement Procedures instructions form specifically addresses tips, stating, "Tips in excess of 15% are not reimbursable." AR 4133, 4233, 4333, adopted June 24, 2004 at section Tips and Gratuities states,

"In accordance with Education Code, an amount not to exceed 15% of the total cost of the meal may be considered a part of the actual expense."

During FCMAT's sampling of transactions, seven administrators and staff claims were examined of which 16 claims were scanned for tips, which identified 43 meal transactions. Six of the seven administrators and staff used the district credit card to pay for the 43 meal transactions. As described in the missing receipt form section above, if a purchase is made with the district credit card, the district is responsible for the purchase and must pay the credit card whether there are

receipts or not. Similarly, if a tip is included for a meal in excess of the 15% policy limit, the district must pay the credit card bill and has no recourse because it is the district's credit card, not a staff member's personal credit card. According to those FCMAT interviewed, the district does not use a district credit card use form describing the consequences of not following procedures.

#### Tip Transaction Sample

FCMAT examined 43 meal transactions linked to seven administrators and staff. The table below summarizes FCMAT's tip analysis. Admin/Staff-2 in the table is the former superintendent. In total, the sample combined net tipping results in a negative \$19.12 in under-tipping. However, the district policy is not about the total annual net tipping percentage, but prescribes a 15% maximum per each individual transaction.

Based on the FCMAT sample, the former superintendent is the only administrator for which every tip exceeded 15%. Out of 13 transactions involving tips, the former superintendent tipped greater than 15% in each instance and his average tip was 19.86%.

Admin/Staff-4 left a tip that was less than 15%, Admin/Staff-5 did not leave a tip in the meal receipt, and Admin/Staff-7 did not have any meal receipts within the sample.

Tip Analysis Summary										
Description	Meal Receipt Subtotal	Meal Receipt Actual Tip Amount	Calculated Actual Tip %	Calculated Tip Amount at 15%	Excess Tip Amount Difference	Tip % Difference	Total No. of Trans.	Total No. of Trans. Tips > 15%	Dollar Amount of Tips > 15%	Total No. of Trans. Tips < 15%
Admin/Staff-1	\$397.59	\$59.32	14.92%	\$59.63	\$(0.31)	-0.08%	11	8	\$11.47	3
Admin/Staff-2	699.58	138.95	19.86%	104.95	34.00	4.86%	13	13	34.00	-
Admin/Staff-3	764.05	78.00	10.21%	114.59	(36.59)	-4.79%	15	6	14.14	9
Admin/Staff-4	144.62	20.00	13.83%	21.69	(1.69)	-1.17%	1	-	-	1
Admin/Staff-5	118.58	-	0.00%	17.79	(17.79)	n/a	1	-	-	1
Admin/Staff-6	58.32	12.00	20.58%	8.74	3.26	5.58%	2	2	3.26	-
Admin/Staff-7	-	-	0.00%	-	-	n/a	-	-	-	-
Totals	\$2,182.74	\$308.27	14.12%	\$327.39	\$(19.12)	-0.88%	43	29	\$62.87	14

The former superintendent's largest tip was 35.71% or \$5 on a \$14 Fox Sports San Diego Grill transaction for a Rib Basket. The Fox Sports San Diego Grill receipt had preprinted on the receipt suggested gratuity percentages and amounts from 18% up to 25%. The gratuity dollar amounts in the receipts were 18% = \$2.52, 20% = \$2.80, and 25% = \$3.50. Therefore, the former superintendent knew his tip exceeded the district policy 15% maximum.

The district tip limit of 15% is what the district has determined is allowable, but there is nothing to prevent an administrator from tipping more than 15% if they choose to pay the additional amount from their personal funds, not public funds.

FCMAT discussed the district's 15% tip policy with the former superintendent. He stated he was not aware of the 15% limit and consistently applied his own method of tipping. The former superintendent's tipping process is he would calculate 10% of the meal and then double that as the tip, which is 20%.



When the FCMAT team discussed with the former superintendent that tipping more than district policy can be considered a gift of public funds, the former superintendent stated:

- He had never thought of it that way
- The external auditors never brought it up as an issue
- The board never said anything, and
- The meals with tips were always approved.

The total tips in the sample greater than 15% is \$62.87. Although this may be viewed as a small amount or “only” \$62.87, these are public funds. Also, the sample results of examining meal receipts signifies that the entire population of meal purchases at the district has a larger amount of tipping abuse than just \$62.87. Exceeding the district policy of 15% may be considered an illegal activity because district policy was not followed. Furthermore, the district office should have required an offender (employee) to reimburse the district for any tips greater than 15%. The former superintendent should have instructed the business office to seek reimbursement for tips greater than 15%, and he should have reimbursed the district on his own to set an example as the senior administrator.

### Effect of Poor Internal Controls

Following and enforcing district policy is precisely why strong leadership and a strong ethical tone at the top is so important. Once subordinate staff witness or determine that the top administrator is not following the rules, it implies that no one else needs to follow or understand the rules. Poor internal controls and failure to fully exercise governing board and management fiduciary duties can eventually create an organizational culture of mediocrity, complacency, and carelessness. Once that happens, the organization’s business culture is so undermined that management and employees may accept substandard performance as all that is expected of them. This complacency eventually may lead to public funds being used carelessly, which translates to less funding spent in the classroom.

A strong internal control system is the cornerstone of sound business practices that contribute greatly to preventing and deterring fraud and avoiding the appearance of fraud.

## Fuel Card Transactions

The former superintendent’s contract with the district describes at Section 3, Fringe Benefits, Subsection f, Automobile Expenses, the following terms:

Original Contract (September 23, 2014):

“The District expects and requires the Superintendent to have a privately owned automobile available for District business. As such, the Superintendent shall be provided up to Seven Hundred dollars (\$700.00) per month for job-related automobile expenses for use of his personal vehicle. The Superintendent shall also have a District fuel card with the understanding that gas obtained shall be used for District business, except for reasonable amounts for personal matters.” (emphasis added)

Amended Contract (December 8, 2015):

“Consistent with Education Code section 44033 and notwithstanding any contrary Board Policy or Administrative Regulation, the Superintendent is required to possess

and maintain an automobile to be used in the performance of his regularly assigned duties at his own expense. Mileage reimbursement for travel in his personal automobile while on District business shall be in accordance with Board Policy or applicable Administrative Regulation. The Superintendent shall also have a District fuel card with the understanding that gas obtained shall be used for District business, **except for reasonable amounts for personal matters.**” (emphasis added)

Evaluating the former superintendent’s fuel card usage not only includes how often, where, and for what purpose the fuel card was used, but what were the contractual parameters, if any, constraining such usage. As described above, the contract is vague. The contract fails to define:

- What “reasonable amounts” means
- The types of “personal matters”
- The number of vehicles for which the fuel card may be used
- Whether there is a limit to the number of gallons or destinations for which fuel may be used for personal matters
- The analysis and justification for providing such a benefit

By failing to insist on a contract that provides some measure of boundaries, the district board failed to exercise its fiduciary duty of care by not performing its due diligence and protecting the assets of the district. Without boundaries and parameters defining personal usage of the district fuel card, auditing its use is subjective. However, at the superintendent level, the fiduciary duty elements of good faith, prudence, and loyalty apply, as well as what the public or parents and students of the district might perceive as what “reasonable amounts for personal matters” means.

The former superintendent’s fuel card usage was examined from July 1, 2013 through November 5, 2016 (three years, four months and five days), comprising 777 transactions, totaling 11,511.37 gallons of fuel, or \$39,156.45. Review of the transactions identified numerous transactions that stood out. The fuel card transaction analysis focused on three criteria:

1. Two or more transactions on the same day within two or three hours at the same fuel location that combined for more than 10 gallons.
2. Any transaction greater than 21 gallons. (This parameter was chosen because the district indicated the former superintendent’s vehicle was a late 1990s Lincoln Continental and FCMAT’s research supported that such a vehicle has a 20-gallon fuel tank.)
3. Within a single day, fueling of at least three times at the same fuel location.

The table below summarizes that 24 transactions met criteria one, 102 transactions met criteria two, and three transactions met criteria three.

Criteria	Number of Transactions	Percent of Total 777 Transactions
1	24	3.1%
2	102	13.1%
3	3	0.4%

FCMAT discussed five representative transactions of the three criteria with the former superintendent.

1. Saturday, February 6, 2016 at 5:38 p.m., 19.926 gallons and 8:11 p.m., 10.627 gallons, totaling **30.553 gallons**, within two hours and 33 minutes apart, transacted at 6760 Carnelian Street, Rancho Cucamonga.
2. Wednesday, June 11, 2014 at 8:10 a.m., 14.361 gallons and 8:15 a.m., 13.901 gallons totaling **28.262 gallons**, within five minutes apart, transacted at 6760 Carnelian Street, Rancho Cucamonga.
3. Saturday, September 21, 2013 at 11:16 a.m. at 3177 W. Temple Ave in Pomona for **32.97 gallons**. This was the largest fuel purchase.
4. Saturday, June 13, 2015, three transactions at the 6760 Carnelian Street, Rancho Cucamonga location: First at 9:43 a.m. for 14.914 gallons, then at 4:10 p.m. for 12.356 gallons and finally, 8:34 p.m. for 14.015 gallons. This is a total of **41.285 gallons** between 9:43 a.m. and 8:34 p.m., which is 10 hours and 51 minutes.
5. Saturday, March 5, 2016, two transactions at the 6760 Carnelian Street, Rancho Cucamonga location: First at 2:38 p.m. for 9.43 gallons, then at 3:35 p.m. for 11.181 gallons, only 57 minutes apart, totaling **20.611 gallons**.

The former superintendent explained his contract language and fuel card usage as applied to the types of representative transactions and criteria described above as follows:

- To entice the former superintendent to take the job as district superintendent, there had to be some concession such that the board said he could use the district fuel card for personal matters.
- His personal usage of the fuel card was left to his judgment as to what he considered was reasonable for his personal use.
- Not only did he have a Lincoln Continental but he also owned a 2011 Land Rover and 2001 GMC Yukon XL, and both are large vehicles with fuel tank capacities greater than 20 gallons.
- At FCMAT's request, the former superintendent provided available vehicle registration, photos, and repair documents supporting his ownership of the Land Rover and Yukon XL. FCMAT researched the fuel tank sizes for a 2011 Land Rover/Range Rover and 2001 GMC Yukon XL, which are 27.6 and 32.5 gallons respectively.
- The former superintendent's interpretation of using the fuel card for "reasonable amounts for personal matters" included fueling up the Land Rover or Yukon XL on weekends for the following:
  - Transporting his children to their club soccer tournaments in distant locations such as San Diego, Santa Barbara, and Las Vegas.
  - After transporting his children to club soccer tournaments, he would then occasionally need to drive to the district in Coachella Valley on the weekends.
  - Returned from soccer travel with low fuel and would fill up the Yukon such that his wife could then use the car.
- The contract was reviewed and approved by the district's legal counsel and the board.

- The independent auditors reviewed the fuel transactions and neither the board nor independent auditors nor anyone else ever questioned his fuel card usage in all the years he had the card.
- He never loaned out the fuel card or fueled up any other family members' vehicles.
- The fuel card was also used for fueling up rental cars when on district business, and often this included transporting district staff in larger Suburban/SUV-sized vehicles.
- Often, he would start pumping fuel at one pump at the fuel station and the pump would be broken or fueling so slow that he would stop pumping and wait for the next car in front of him to move and then continue filling up at the faster pump. Or, he would leave and run errands and come back later and refuel again.
- Because he drove so much and did not like having low fuel levels he would fill up often.

The former superintendent's use of the district fuel card as defined in the board-approved contract is so vague in its description of what "reasonable amounts for personal matters" means that auditing such usage is limited to interpretation. Based on the former superintendent's explanations described above, he believes reasonable amounts for personal matters meant he could drive his children even great distances to club soccer tournaments. Other third parties outside the school district with whom FCMAT discussed what "reasonable amounts for personal matters" meant thought weekend usage and trips were unreasonable but also commented it was up to each individual and their own personal set of values and ethics to decide what is reasonable.

The fuel card personal usage issue is another example of the district board and management failing to fully exercise their fiduciary duties.

- The district board failed to exercise a duty of care, duty of good faith, and duty of prudence. Based on the vagueness of the contract, the district board should have, but failed to define the conditions for personal usage of the fuel card and failed to understand how such usage may be perceived by the general public, parents, and students they represent. The board failed to:
  - Assess information with a critical eye and accepted the information in the contract as it was presented
  - Protect the assets of the district
  - Advance the interests of the district
  - Exercise wisdom, care, and good judgment
  - Place conditions on personal usage of the fuel card and recognize what such contractual concessions they bestowed
- The former superintendent failed to exercise a duty of loyalty, duty of good faith, and duty of prudence. As the superintendent of the district, he should have recognized how his personal usage of the district fuel card might be interpreted by his staff, other management, and by the public and students he served at the district. The former superintendent failed to:
  - Avoid the use of the fuel card that might lead to even the appearance of injuring the district
  - Advance the interests of the district and set the managerial tone of protecting district assets
  - Act with wisdom and care or exercise good judgment

FCMAT discussed the former superintendent's personal use of the fuel card with the district business office staff. The business office did not report the personal use portion of the district fuel card on the former superintendent's IRS Form W-2, Wage and Tax Statement. At a minimum, the district fuel card personal use portion should have been compiled, reconciled and reported monthly as a benefit or income in the former superintendent's wages or taxable benefits. As the senior administrator of the district, the former superintendent should have recognized his personal use portion of the district fuel card was not being reconciled or reported in his own payroll account. The district's failure to report personal fuel card usage on the former superintendent's W-2 may be considered an underreporting of income or benefits for both federal and state income tax reporting purposes, and may also be considered another illegal activity.

## Summary of Findings

Strong leadership, a strong ethical tone at the top, board members and management who fully understand their fiduciary duties, and sound internal controls are essential to an organization's success in maintaining the public's trust. If the governing board and management are not perceived as following the rules as set forth by their board policies and administrative regulations and are not regarded as looking out for the best interest of the district, the ethical tone or culture breaks down and fails.

Without a strong internal control system and proper checks and balances, further breakdowns in following the rules may occur, and the ability to detect and deter fraud, misappropriation of assets or other illegal activities is undermined. More importantly, with the breakdown of internal controls, the ability to protect employees from the appearance of fraud and being accused of fraud is weakened.

## Judgments Regarding Guilt or Innocence

The existence of fraud is solely the purview of the courts and juries, and FCMAT will not make statements that could be construed as a conclusion that fraud has occurred.

Per Education Code Section 42638 (b), action by the county superintendent shall include the following:

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

Per Education Code Section 1241.5 (b), the county superintendent shall report the findings and recommendations to the governing board of the district at a regularly scheduled board meeting within 45 days of completing the audit. The governing board of the district shall notify the county superintendent within 15 days after receipt of the report of its proposed actions regarding the county superintendent's recommendations.

## Recommendations

*The county superintendent should:*

1. Notify the governing board of the Coachella Valley Unified School District, the state controller, the superintendent of public instruction, and the local district attorney that sufficient evidence exists to indicate that fraud, misappropriation of district funds and/or assets or other illegal activities may have occurred, and that the Riverside County Office of Education has concluded its review.

*The Coachella Valley Unified School District should:*

1. Perform a complete evaluation and updating of all district policies and procedures. (This is already in progress under the current administration.)
2. Implement board member and district-wide management training specific to fiduciary responsibilities, ethics, and internal controls.

## Appendix

### Appendix A - Study Agreement







**CSIS** California School Information Services

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**FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM  
AB139 STUDY AGREEMENT  
July 13, 2017**

The Fiscal Crisis and Management Assistance Team (FCMAT), hereinafter referred to as the team, and the Riverside 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 (LEAs). Pursuant to the provisions of Education Code (EC) Section 1241.5 (b), a county superintendent of schools may review or audit the expenditures and internal controls of any school in his or her county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The extraordinary audits conducted by the county superintendent shall be focused on the alleged fraud, misappropriation of funds, or other illegal fiscal practices and shall be conducted in a timely and efficient manner.

All work shall be performed in accordance with the terms and conditions of this agreement.

**2. SCOPE OF THE WORK**

- A. The COE has requested that FCMAT assign professionals to conduct an AB 139 Extraordinary Audit. This audit will be conducted pursuant to Education Code Section 1241.5 (b). The COE has received documentation regarding possible fraud, misappropriation of funds or other illegal fiscal practices at the Coachella Valley Unified School District and is requesting that FCMAT review the district's internal controls related to the use of credit cards on behalf of the district.

The primary focus of this review is to determine, based on the testing performed, whether (1) adequate management and internal controls are in place regarding the district's reporting and monitoring of financial transactions, and (2) based on that assessment, whether fraud, misappropriation of funds or other illegal fiscal practices may have occurred. Management controls include the processes for planning, organizing, directing, and controlling program operations, including systems for measuring, reporting, and monitoring performance. Specific audit objectives will include evaluating the establishment, implementation and effectiveness of policies, procedures and internal control activities through a review of the district's recorded financial transactions related to the following:

- Use of credit cards
- Expenditure of funds for personal or other non-district business purposes

The team will review and test recorded transactions for fiscal years 2013-14 through 2016-17 to date to determine whether fraud, misappropriation of funds or other illegal fiscal activities may have occurred. Testing for this review will be based on a sample of transactions and records for this period. Testing and review results are intended to provide reasonable, but not absolute certainty regarding the ability of the district's financial transactions and activity to accomplish the following:

1. Provide reasonable assurance to management that the internal control system is established, implemented and monitored.
2. Prevent internal control activities from being overridden by management.
3. Help identify and correct inefficient processes.
4. Ensure that employees are aware of the proper internal control expectations.

B. Services and Products to be Provided

1. Orientation Meeting - The team will conduct an orientation session at the district to brief 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 district office and at school sites if necessary, and will continue to review pertinent documents off-site.
3. Progress Reports - The team will inform the COE of material issues as the review is performed.
4. Exit Meeting – The team will hold an exit meeting at the conclusion of the on-site review to inform the COE of any significant findings to that point.
5. Draft Report – When appropriate, electronic copies of a preliminary draft report will be delivered to the COE's administration for review and comment on a schedule determined by the team.
6. Final Report - Electronic copies of the final report will be delivered to the COE and district following completion of the review. Printed copies are available from the FCMAT office upon request.
7. Follow-Up Support – If requested, the team will meet with the COE and/or district to discuss the findings and recommendations of the report.

### 3. PROJECT PERSONNEL

The FCMAT 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> |

Other equally qualified staff or consultants will be substituted in the event one of the above individuals is unable to participate in the study.

### 4. PROJECT COSTS

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

- A. \$950 per day for each staff team member while on site, conducting fieldwork at other locations, presenting reports, or 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.

**Based on the elements noted in Section 2A, the total estimated cost of the study will be \$22,000.**

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

Payments for FCMAT services may be reimbursed from funds pursuant to EC 1241.5 set aside for this purpose. Other payments, when deemed necessary, are payable to Kern County Superintendent of Schools - Administrative Agent located at 1300 17<sup>th</sup> Street, CITY CENTRE, Bakersfield, CA 93301.

### 5. RESPONSIBILITIES OF THE COE AND/OR DISTRICT

- A. The district will provide office and conference room space during on-site reviews.
- B. The district will provide the following if requested:
  - 1. Policies, regulations and prior reports addressing the study request
  - 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 district and sent to FCMAT in an 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 district shall upload all requested documents.

- C. The COE's administration will review a preliminary draft copy of 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 district 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:

<i>Orientation:</i>	<i>To be determined</i>
<i>Staff Interviews:</i>	<i>To be determined</i>
<i>Exit Meeting:</i>	<i>To be determined</i>
<i>Preliminary Report Submitted</i>	<i>To be determined</i>
<i>Final Report Submitted</i>	<i>To be determined</i>

## 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 district 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**

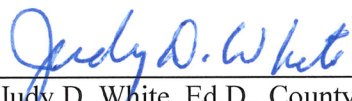
During the term of this agreement, FCMAT shall maintain liability insurance of not less than \$1 million unless otherwise agreed upon in writing by the COE, automobile liability insurance in the amount required under California state law, and workers compensation as required under California state law. Upon request, FCMAT shall provide certificates of insurance prior to the commencement of on-site work, with Riverside County Office of Education named as additional insured, indicating applicable insurance coverages.

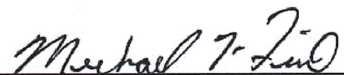
10. **HOLD HARMLESS**

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 district 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: Paul Jessup, Deputy Superintendent  
 Telephone: (951) 826-6194  
 E-mail: [pjessup@rcoe.us](mailto:pjessup@rcoe.us)

  
 Judy D. White, Ed.D., County Superintendent  
 Riverside County Office of Education  
 Date 7/13/17

  
 Michael H. Fine  
 Chief Executive Officer  
 Fiscal Crisis & Management Assistance Team  
 Date July 13, 2017