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Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Lisa Grant-Dawson, Chief Business Officer
Joshua R. Daniels, Chief Governance Officer

Meeting Date March 22, 2023

Subject Study Agreement with the Fiscal Crisis & Management Assistant Team

Ask of the Board Adoption by the Board of Education of the Study Agreement with the Fiscal Crisis & Management Assistant Team

Background Assembly Bill No. 181 (“AB 181”) was adopted by the Legislature and signed by the Governor in June 2022. Modeled after Assembly Bill No. 1840, one of AB 181’s provisions would make OUSD eligible for a one-time allocation of unrestricted funds in 2023-24 if it meets two sets of conditions.

The first set of conditions requires OUSD to do all of the following by April 1, 2023:

- Update or develop short- and long-term financial plans based on reasonable and accurate assumptions and current and past year expenditure data.
- Review and update school district facilities construction plans to ensure that costs are reasonable, accurate, and align with long-term financial plans for fiscal solvency.
- Undergo an on-time annual independent audit pursuant to Section 41020 that is free of material weaknesses and that includes an unqualified opinion. Furthermore, the audit shall be free from any material internal control findings.

The second set of conditions will be set via the 2023-24 Budget Act, which will be approved in June 2023. However, AB 181 includes possible conditions—i.e., the Budget Act could include one or more of the following conditions:

- Updated comprehensive operational reviews that compare the needs of the school district with similar school districts and provide data and recommendations regarding changes the school district can make to achieve fiscal sustainability, with progress updates on each of the recommendations.
- Adoption and implementation of necessary budgetary solutions.
- Completion and implementation of multiyear, fiscally solvent budgets and budget plans.

- Qualification for positive certification pursuant to Article 3 (commencing with Section 42130) of Chapter 6.
- Sale or lease of surplus property.
- Growth and maintenance of budgetary reserves.
- Approval of school district budgets by the Alameda County Superintendent of Schools.
- Prompt appointment following a competitive process of a permanent, experienced, and highly qualified chief business official for any vacancy of chief business official.

To be clear, the Budget Act need not include any of these conditions and could instead include other conditions. The Fiscal Crisis and Management Assistance Team (FCMAT) and the Alameda County Office of Education (ACOE) are to make recommendations on what conditions to include.

If OUSD meets both sets of the conditions, then it will be eligible for a one-time allocation of up to 25 percent of OUSD's projected operating deficit, as determined by FCMAT, with concurrence of the Department of Finance. A similar practice existed under AB 1840.

Discussion

AB 181, like AB 1840, calls for FCMAT to evaluate whether OUSD has met both sets of conditions. As the first set of conditions must be met by April 1, 2023, FCMAT has already requested documents, which the District has provided.

FCMAT has also requested, as is its practice, that OUSD enter into a Study Agreement to perform this work at no cost. Therefore, the Study Agreement is being brought to Board for consideration with a recommendation to adopt it. From the District's perspective, however, such an agreement is unnecessary; OUSD staff has provided the requested documents and will continue to do so.

It is not clear what would happen if the Board were to not adopt the Study Agreement. It is possible that FCMAT will continue to fulfill its responsibilities under AB 181 and OUSD would maintain its eligibility for funding under AB 181. It is also possible that OUSD will be deemed to be ineligible for funding under AB 181. There are also ramifications outside of AB 181 to consider. The Board has expressed a strong desire to meet the conditions for the removal of the Trustee; failing to adopt the Study Agreement may make that more difficult. Additionally, failing to adopt the Study Agreement may also make it harder for OUSD solicit and receive future special allocations of funding from the State.

Fiscal Impact

No cost to OUSD. Possible one-time revenue of up to 25 percent of OUSD's projected operating deficit if OUSD meets all conditions.

Attachment(s)

- Study Agreement with the Fiscal Crisis & Management Assistant Team
- AB 181 Excerpts

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM STUDY AGREEMENT February 17, 2023

The Fiscal Crisis and Management Assistance Team (FCMAT), hereinafter referred to as the team, and the Oakland Unified School District, hereinafter referred to as the district, mutually agree as follows:

1. BASIS OF AGREEMENT

The team provides a variety of services to local education agencies (LEAs). Pursuant to the provisions of Education Code (EC) Section 42162, the team has been assigned to study certain aspects of the district's finances. The team may include staff from FCMAT, county offices of education, the California Department of Education, other school districts, or private contractors. All work shall be performed in accordance with the terms and conditions of this agreement.

The county superintendent will be notified of this agreement between the district and FCMAT and will receive a copy of the final letter. The final letter will also be published on the FCMAT website.

2. SCOPE OF THE WORK

A. Scope and Objectives of the Study

1. Evaluate the criteria established in EC 42162 (a) and determine eligibility for apportionment described in EC 42162 (b).
2. If the district meets the criteria for eligibility listed in A.1 above, analyze the district's financial position, calculate its projected operating deficit, and report that calculated deficit, if any, to the Assembly Committee on Budget, Senate Committee on Budget and Fiscal Review, and the Department of Finance, based on the provisions of EC 42162, by April 1 and November 1 of each fiscal year through 2024.
3. Determine the district's progress to complete the activities specified in EC 42136 (c) and report the extent of progress made to the parties listed in item A.2. above.

B. Services and Products to be Provided

1. Orientation Meeting – If on-site review is needed, the team will conduct an orientation session at the district to brief district 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 if necessary.

3. Draft Letter – Electronic copies of a preliminary draft letter will be delivered to the district’s administration and to the county superintendent of schools for review and comment.
4. Final Letter – Electronic copies of the final letter will be delivered to the district’s administration, the county superintendent and the parties listed in item A.1. above following completion of the analysis.

3. PROJECT PERSONNEL

The FCMAT study team will include:

Robbie Montalbano, CFE

FCMAT Intervention Specialist

Tami Montero, CFE

FCMAT Intervention Specialist

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 study pursuant to the 2022-23 Budget Act shall be as follows:

- A. All staff member and consultant daily rates and charges will be covered by FCMAT or the state of California.
- B. **Based on the elements noted in section 2A, the total cost of the services is \$0.**

5. RESPONSIBILITIES OF THE DISTRICT

- A. The district will provide office and conference room space during on-site reviews.
- B. The district will provide the following items:
 1. Current or proposed detailed organizational charts.
 2. 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 electronic format.
 3. Documents should be provided when requested; 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 will upload all requested documents.
- C. The district’s administration and county superintendent will review a preliminary draft copy of the letter resulting from the study. Any comments regarding the accuracy of the data presented in the letter will be reviewed with the team prior to completion of the final letter. All such comments should be provided to the team within five working days after receipt of the draft.

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 schedule of services will be determined jointly by FCMAT and the district, though a final letter must be issued by ~~April 1 and November 1 annually through 2024~~ the dates specified in statute.

7. COMMENCEMENT, TERMINATION AND COMPLETION OF WORK

FCMAT will begin work as soon as it has assembled an available and appropriate review 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 letter, 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 analysis, it will proceed to prepare a preliminary draft letter and a final letter. The district understands and agrees that FCMAT is a state agency and all final FCMAT letters are published on the FCMAT website and made available to interested parties in state government.

8. INDEPENDENT CONTRACTOR

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

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 district, automobile liability insurance in the amount required under California state law, and workers' compensation as required under California state law. Upon the request of the district and the receipt of the signed study agreement, FCMAT shall provide certificates of insurance, with Oakland Unified School District named as additional insured, indicating applicable insurance coverages.

10. HOLD HARMLESS

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


11. COVID-19 PANDEMIC

Because of the existence of COVID-19 and the resulting shelter-in-place orders, local educational agency closures and other related considerations, at FCMAT's sole discretion, the Scope of Work, Project Costs, Responsibilities of the District (Sections 2, 4 and 5 herein) and other provisions herein may be revised. Examples of such revisions may include, but not be limited to, the following:


- A. Orientation meetings, interviews and other information-gathering activities may be conducted remotely via telephone, videoconferencing, etc. References to on-site work or fieldwork shall be interpreted appropriately given the circumstances.
- B. The district may be relieved of its duty to provide conference and other work area facilities for the team.

12. CONTACT PERSON

Name: Kyla Johnson, Ed.D.
Telephone: (510) 879-8200
E-Mail: superintendent@ousd.org



Mike Hutchinson, President
Board of Education
Oakland Unified School District
3/24/2023


Kyla Johnson, Ed.D.
Superintendent
Oakland Unified School District
Date
3/24/2023



4/21/23

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



AB-181 Education finance: education omnibus budget trailer bill. (2021-2022)

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Assembly Bill No. 181

CHAPTER 52

An act to amend Sections 313.3, 1630, 2574, 2575.2, 8281.5, 8901, 8902, 14002, 14041, 17375, 35780, 39807.5, 41203.1, 41480, 41490, 41544, 41590, 42238.02, 42238.025, 42238.05, 42238.051, 42280, 42282, 42284, 42287, 44259.1, 44395, 44415.5, 44418, 44690, 45500, 46120, 46392, 47606.5, 47654, 47655, 48205, 48850, 48853.5, 49069.5, 49421.5, 51225.2, 51745, 51745.5, 51746, 51747, 51747.5, 51749.5, 51749.6, 52063, 52064, 52065, 52066, 52069, 52073.2, 56122, 56402, 56836.07, 56836.144, 56836.146, 56836.148, 60900, 60900.5, and 69617 of, to amend and repeal Section 42238.052 of, to add Sections 2575.3, 2575.4, 39800.1, 41850.1, 41204.7, 42162, 42163, 42238.023, 44415.6, 44415.7, 48000.1, 51225.31, 51475, 51744, 52064.3, and 52073.3 to, to add Article 8.5 (commencing with Section 41585) to Chapter 3.2 of Part 24 of Division 3 of Title 2 of, to add Chapter 16.1 (commencing with Section 53020) to Part 28 of Division 4 of Title 2 of, to repeal Sections 41851, 41851.2, 41851.5, 41851.7, 41852, 41853, 41854, 41855, 41856, and 42286 of, to repeal Article 10.5 (commencing with Section 41860) of Chapter 5 of Part 24 of Division 3 of Title 2 of, to repeal Article 4.7 (commencing with Section 42300) of Chapter 7 of Part 24 of Division 3 of Title 2 of, and to repeal and add Section 41851.12 of, the Education Code, to amend Sections 7901, 7906, and 20309 of the Government Code, to amend Section 13265 of the Welfare and Institutions Code, to amend Sections 113 and 119 of Chapter 24 of the Statutes of 2020, to amend Sections 123, 138, and 147 of Chapter 44 of the Statutes of 2021, and to amend Sections 47 and 52 of Chapter 252 of the Statutes of 2021, relating to education finance, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 30, 2022. Filed with Secretary of State June 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 181, Committee on Budget. Education finance: education omnibus budget trailer bill.

(1) Existing law requires the State Department of Education to develop, on or before December 31, 2022, a standardized English language teacher observation protocol for use by teachers in evaluating a pupil's English language proficiency.

This bill would extend the date for the development of that protocol by one year to December 31, 2023.

(2) Existing law places various requirements on county superintendents of schools and the Superintendent of Public Instruction in reviewing and determining whether a county office of education's adopted budget will allow the county office of education to meet its financial obligations during the fiscal year and, based on current

(16) Existing law provides certain allowances for home-to-school transportation, and requires that each school district or county office of education receive the same home-to-school transportation allowance received in the prior fiscal year. Existing law precludes that home-to-school transportation allowance from exceeding the prior year's approved home-to-school transportation costs of a school district or county office of education, increased by an amount provided in the annual Budget Act.

This bill would revise and recast these provisions. The bill would, among other things, commencing with the 2022–23 fiscal year, require a transportation allowance equal to 60% of the home-to-school transportation expenditures reported by the school district or county superintendent of schools as determined by its Function 3600 entry in the Standardized Account Code Structure report for the prior year, excluding capital outlay and nonagency expenditures, and reduced by the amount of a school district's or county superintendent of schools' transportation add-on under the local control funding formula, as adjusted.

The bill would, as a condition of receiving these apportionments, require a local educational agency to develop a plan describing the transportation services it will offer to its pupils, and how it will prioritize planned transportation services for pupils in transitional kindergarten, kindergarten, and any of grades 1 to 6, inclusive, and pupils who are low income, among other requirements related to this plan.

(17) Existing law makes a school district eligible to receive a supplemental apportionment for transportation if certain conditions are met. Existing law also authorizes certain school districts and county offices of education to apply to the State Department of Education for a one-time-only apportionment for the purchase of transportation equipment.

The bill would repeal both of those provisions.

(18) Existing law requires the **Oakland** Unified School District, for the 2018–19 fiscal year, in collaboration with and with the concurrence of the Alameda County Superintendent of Schools and the County Office Fiscal Crisis and Management Assistance Team, to take certain actions by March 1, 2019, regarding its financial plans and school district construction plans, as specified. Existing law requires the Inglewood Unified School District, for the 2018–19 fiscal year, to take certain actions to improve the school district's fiscal solvency.

This bill would require the **Oakland** Unified School District, in collaboration with and with the concurrence of the Alameda County Superintendent of Schools and the County Office Fiscal Crisis and Management Assistance Team, to take certain actions by April 1, 2023, regarding its financial plans and school district construction plans, as specified, and to undergo an on-time annual independent audit. The bill would provide that the Budget Act of 2023 shall include certain appropriations for the **Oakland** Unified School District, as provided. The bill would make the disbursement of moneys from those appropriations contingent upon the completion of activities specified in the prior year Budget Act to improve the school district's fiscal solvency, as provided.

This bill would require the Inglewood Unified School District to take certain actions by April 1, 2023, including meeting the requirements for qualified or positive certification, completing a comprehensive operational review, and undergoing an on-time annual independent audit, as provided. The bill would provide that, beginning with the 2022–23 fiscal year, the Budget Act shall include certain appropriations for the school district, as specified. The bill would make the disbursement of moneys from those appropriations contingent upon the completion of activities specified in the prior year Budget Act to improve the school district's fiscal solvency, as provided.

Because the bill would impose additional duties on local agencies, this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for **Oakland** Unified School District and the Inglewood Unified School District.

(19) Existing law requires funding pursuant to the local control funding formula to include, in addition to a base grant, supplemental and concentration grant add-ons that are based on the percentage of unduplicated pupils, as specified, served by the school district or charter school. Existing law requires the local control funding formula to include, in addition to a grade span-adjusted base grant, a 10.4% adjustment to the kindergarten and grades 1 to 3, inclusive, base grant for school districts that maintain an average class enrollment of not more than 24 pupils for those grades unless a collective bargained alternative is agreed to by the school district.

This bill would, for the 2022–23 fiscal year, require the Superintendent to increase the base grants for transitional kindergarten and grades 1 to 12, inclusive, by an additional 6.28% as specified. The bill would, commencing with the 2022–23 fiscal year, require the Superintendent to compute an additional add-on of \$2,813 for transitional kindergarten, as specified, require the add-on to be annually adjusted for inflation commencing

41850.1. (a) Commencing with the 2022–23 fiscal year and for each fiscal year thereafter, the Superintendent shall apportion to each school district and county superintendent of schools that provides pupil transportation services, a transportation allowance equal to 60 percent of the home-to-school transportation expenditures reported by the school district or county superintendent of schools as determined by its Function 3600 entry in the Standardized Account Code Structure (SACS) report for the prior year, excluding capital outlay and nonagency expenditures. This allowance shall be reduced by the amount of the transportation add-on computed under paragraph (1) of subdivision (h) of Section 42238.02 and adjusted under paragraph (3) of subdivision (h) of Section 42238.02 for a school district or subparagraph (A) of paragraph (2) of subdivision (e) of Section 2574 and adjusted under subparagraph (C) of paragraph (2) of subdivision (e) of Section 2574 for a county superintendent of schools. If this reduction results in an amount less than zero, the transportation allowance under this section shall be zero.

(b) A local educational agency shall be subject to audits required by Section 41020 with respect to this section, including adoption of the transportation plan pursuant to Section 39800.1. The Controller shall include instructions appropriate to the enforcement of this section in the audit guide required by subdivision (a) of Section 14502.1.

(c) The department shall annually collect and publish transportation data from each local educational agency providing pupil transportation services and that receives an apportionment pursuant to this section. The data shall encompass ridership, miles driven, expenditure details, the number of pupils transported, the demographic characteristics of pupils transported, including race, ethnicity, and socioeconomic status, and other data facilitating comparisons among local educational agencies. The department shall determine the specific data elements in consultation with the Legislature and with local experts including the County Office Fiscal Crisis and Management Assistance Team established pursuant to Section 42127.8.

(d) As used in this section, "local educational agency" means a school district or county office of education that is providing school transportation services.

SEC. 24. Section 41851 of the Education Code is repealed.

SEC. 25. Section 41851.12 of the Education Code is repealed.

SEC. 26. Section 41851.12 is added to the Education Code, to read:

41851.12. For the purpose of making apportionments under Section 41850.1, the Superintendent shall adopt regulations.

SEC. 27. Section 41851.2 of the Education Code is repealed.

SEC. 28. Section 41851.5 of the Education Code is repealed.

SEC. 29. Section 41851.7 of the Education Code is repealed.

SEC. 30. Section 41852 of the Education Code is repealed.

SEC. 31. Section 41853 of the Education Code is repealed.

SEC. 32. Section 41854 of the Education Code is repealed.

SEC. 33. Section 41855 of the Education Code is repealed.

SEC. 34. Section 41856 of the Education Code is repealed.

SEC. 35. Article 10.5 (commencing with Section 41860) of Chapter 5 of Part 24 of Division 3 of Title 2 of the Education Code is repealed.

SEC. 36. Section 42162 is added to the Education Code, immediately following Section 42161, to read:

42162. (a) By April 1, 2023, the **Oakland** Unified School District, in collaboration with and with the concurrence of the Alameda County Superintendent of Schools and the County Office Fiscal Crisis and Management Assistance Team, shall do all of the following:

(1) Update or develop short- and long-term financial plans based on reasonable and accurate assumptions and current and past year expenditure data.

(2) Review and update school district facilities construction plans to ensure that costs are reasonable, accurate, and align with long-term financial plans for fiscal solvency.

(3) Undergo an on-time annual independent audit pursuant to Section 41020 that is free of material weaknesses and that includes an unqualified opinion. Furthermore, the audit shall be free from any material internal control findings.

(b) In the 2023–24 fiscal year, the annual Budget Act shall include an appropriation for the **Oakland** Unified School District, if the school district complies with the terms specified in subdivisions (a) and (c), of up to 25 percent of the school district’s projected operating deficit, as determined by the County Office Fiscal Crisis and Management Assistance Team, with concurrence of the Department of Finance.

(c) Disbursement of funds specified in subdivision (b) shall be contingent on the **Oakland** Unified School District’s completion of activities specified in the prior year Budget Act to improve the school district’s fiscal solvency. These activities may include, but are not limited to, all of the following:

(1) Updated comprehensive operational reviews that compare the needs of the school district with similar school districts and provide data and recommendations regarding changes the school district can make to achieve fiscal sustainability, with progress updates on each of the recommendations.

(2) Adoption and implementation of necessary budgetary solutions.

(3) Completion and implementation of multiyear, fiscally solvent budgets and budget plans.

(4) Qualification for positive certification pursuant to Article 3 (commencing with Section 42130) of Chapter 6.

(5) Sale or lease of surplus property.

(6) Growth and maintenance of budgetary reserves.

(7) Approval of school district budgets by the Alameda County Superintendent of Schools.

(8) Prompt appointment following a competitive process of a permanent, experienced, and highly qualified chief business official for any vacancy of chief business official.

(d) Funds described in subdivision (b) shall be allocated to **Oakland** Unified School District upon the certification of the County Office Fiscal Crisis and Management Assistance Team, with concurrence from the Alameda County Superintendent of Schools, to the Assembly Committee on Budget, Senate Committee on Budget and Fiscal Review, and the Department of Finance that the activities described in subdivision (c) have been completed. Additionally, by October 1, 2023, the County Office Fiscal Crisis and Management Assistance Team, with concurrence from the Alameda County Superintendent of Schools, shall report to the Assembly Committee on Budget, Senate Committee on Budget and Fiscal Review, and the Department of Finance the progress that **Oakland** Unified School District has made to complete the activities described in subdivision (c).

(e) The activities described in subdivision (c) shall be determined in the annual Budget Act based on joint recommendations from the County Office Fiscal Crisis and Management Assistance Team and the Alameda County Superintendent of Schools. These recommendations shall be submitted to the Assembly Committee on Budget, Senate Committee on Budget and Fiscal Review, and the Department of Finance biannually by April 1 and by November 1 of the 2023–24 and 2024–25 fiscal years, in conjunction with the certification described in subdivision (d).

(f) Of the moneys apportioned to **Oakland** Unified School District pursuant to this section from an appropriation made for purposes of this section, the school district shall return to the state such moneys if subsequent to the annual apportionment it is determined that the school district did not meet the conditions established herein. The Director of the Department of Finance may initiate such return of prior apportionments if the conditions were not subsequently met and may rely on recommendations from the County Office Fiscal Crisis and Management Assistance Team and the Alameda County Superintendent of Schools in making such determination.

SEC. 37. Section 42163 is added to the Education Code, immediately following Section 42162, to read:

42163. (a) By April 1, 2023, the Inglewood Unified School District shall do all of the following:

(1) Meet the requirements for qualified or positive certification for the school district’s second interim report pursuant to Article 3 (commencing with Section 42130) of Chapter 6.