



Contra Costa County Office of Education

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Lynn Mackey, Superintendent of Schools

February 7, 2023

Mr. Demetrio Gonzalez Hoy, Board President
West Contra Costa Governing Board Members
Dr. Kenneth Hurst, Sr., Superintendent
West Contra Costa Unified School District
1108 Bissell Avenue
Richmond, CA 94801

Subject: Going Concern Determination

Dear Board President Gonzalez Hoy, Governing Board Members, and Superintendent Hurst:

In accordance with Education Code Section 42127.6, the County Office of Education is required to provide notice of the going concern determination to the governing board of the school district if at any time during the fiscal year the County Superintendent of Schools determines that a school district may be unable to meet its financial obligations based on the criteria and standards for fiscal stability adopted by the State Board of Education.

The Contra Costa County Superintendent of Schools hereby notifies the West Contra Costa Unified School District Governing Board that the District is no longer a going concern, which means **the West Contra Costa Unified School District (“District”) is at risk of insolvency and may be unable to meet its financial obligations.**

Our determination of the financial condition of the District is based on the Fiscal Crisis and Management Assistance Team (FCMAT) Indicators of Risk or Potential Insolvency (Attached). The existence of any of the indicators increase the risk of potential insolvency and the need for assistance from outside agencies. Lack of attention to these indicators will eventually lead to financial insolvency and loss of local control.

The County Superintendent of School's basis of determination is summarized as follows:

Insufficient budget monitoring or updates

The District has had two consecutive negative certifications for both the first and second 2021-22 interim reports. On March 9, 2022, the Governing Board voted no on two resolutions for a reduction in force and no action has been taken to eliminate vacant positions to reduce the risk of continued over staffing. An effective fiscal solvency plan requires the District to take action to reduce expenditures and decrease the structural deficit spending.

Continuing Deficit Spending

At the adoption of the 2022-23 Budget, the District had a large multi-year structural deficit of \$26.9 million for fiscal years 2022-23, 2023-24, and 2024-25. Based on the most current information, the District is expected to incur an additional cost of \$27 million annually as a result of salary settlements currently proposed by the District's bargaining units. The annual cost of the proposed salary settlement is expected to approach \$80 million over the three-year projection period required as part of the First Interim Report, reducing the District's ending

reserve placing the District at risk of insolvency. To address this anticipated cost, the District is required to prepare a detailed budget revision as part of a Fiscal Solvency Plan that includes expenditures and other adjustments sufficient to cover all future costs resulting from the approval of any significant expenditure commitments, including salary settlements. This budget revision must be approved and enacted by the District's Governing Board before action is taken to approve any salary settlement or undertaking additional expenditure obligations that may affect the fiscal solvency of the District.

Decreasing Fund Balance and Reserve for Economic Uncertainty

The District's Fiscal Solvency Plan must address the use of Other Post-Employment Benefits (OPEB) Trust Fund and Special Reserves Fund resources. The Special Reserve Funds are required in accordance with the District's Governing Board resolution #57-1920. As of the June 30, 2021, independent audit report, the District's OPEB liability was \$432 million. Borrowings reduce the OPEB cash balance and must be restored to meet the District's future OPEB financial obligations.

The District's current reserve levels are below the state average (22.36% for unified districts) and are projected to decline to an unacceptable level. Reserves are in place to provide the District with the ability to adjust to the changing economic landscape. The continued use of Special Reserves will reduce or eliminate the District's ability to adjust in time to avoid fiscal insolvency.

The District's Governing Board resolution #18-2021 resolves that the District will implement all necessary budget expenditures and adjustments to meet financial obligations and maintain fiscal solvency.

Related Issues of Concern

The District has a history of declining enrollment while not reducing staffing to match this decline. The Governing Board has not acted on staffing or vacancy reductions to ensure the positions left vacant in the approved budget will not be filled. Additionally, the Federal Program Monitoring audit resulted in significant findings making the expenditures ineligible for Federal funding. Since the expenditures had already occurred, a transfer of expenditures to the Unrestricted General Fund was required. The County Office of Education has been informed new procedures have been put in place to ensure these findings do not continue in subsequent fiscal years. If the new procedures are not implemented, these findings can become ongoing and significantly increase the District's unrestricted financial obligations and negatively impact the District's fiscal solvency.

The County Superintendent of Schools plans to carry out the following actions:

- A. Assign a fiscal expert, paid for by the County Office of Education, to advise the District on its financial problems.

The purpose of the fiscal expert is to assist in providing high-level expertise for finance and systems improvement.

Retired Chief Business Official, Javetta Cleveland has been assigned as the fiscal expert to advise the District.

- B. Direct the District to submit a financial projection of all fund and cash balances of the District as of June 30 of the current year, and subsequent fiscal years as the County Office of Education requires.

The District is directed to provide the financial projection of all fund and cash balances at each required reporting period, which includes the cost of any proposed salary settlements along with corresponding adjustments to address the costs of the salary settlements.

- C. Direct the District to submit a proposal for addressing the fiscal conditions that resulted in the determination that the District may not be able to meet its financial obligations.

The West Contra Costa Unified School District Governing Board submitted its adopted 2022-23 Budget. The budget document is detailed and provides information to the board and public on the necessary reductions needed to remain solvent. Figure 16, on page 31 of the budget document demonstrates the reductions needed to meet the minimum required Reserve for Economic Uncertainty. The plan is a combination of using reserves from Fund 17 and reductions in staffing funded by one-time funds, and right-sizing staffing to match the decline in district enrollment.

Page 29 of the budget document acknowledges the fiscal solvency plan "assumes the board will approve all reductions currently tied to vacant positions and those being funded by a funding source that is fully exhausted prior to the years 2023-24 and 2024-25." The fiscal solvency plan needs to be revised for the latest cost estimates and approved by the District Board of Education prior to approving additional expenditure commitments.

Salary Settlements

The District is to use caution in increasing expenditures to be sure the District can afford the obligation, including negotiated agreements. **All negotiated agreements require an AB1200 disclosure, which must be submitted to the County Office of Education 10 days prior to District Board consideration and due to the District's current fiscal status are subject to stay or rescind authority of the County Superintendent.** The submission of any salary settlement disclosure must include a detailed budget adjustment plan demonstrating how the District will meet the costs of settlement. This plan must be approved by the District's Governing Board prior to approving any salary settlement.

Education Code 42127.6 (e) requires the County Superintendent to take additional action should the interventions described in 42126.6 (a)-(c) not be sufficient. The County Superintendent will take at least one of the actions described in 42127.6 (e) (1)-(5) should the District fail to complete a revised fiscal solvency plan which includes the prior approval of all necessary expenditures and budget adjustments before the approval of any salary settlement or any additional costs that may affect the fiscal solvency of the District.

1. Develop and impose, in consultation with the Superintendent and the Governing Board of the District, a budget revision that will enable the District to meet its financial obligations in the current fiscal year.
2. Stay or rescind any action that is determined to be inconsistent with the ability of the

District to meet its obligations for the current or subsequent fiscal year. This includes any actions up to the point that the subsequent years' budget is approved by the County Office of Education. The County Office of Education shall inform the Governing Board of the school district in writing of the County Office of Education's justification for any exercise of authority under this paragraph.

3. Assist in developing, in consultation with the Governing Board of the District, a multi-year financial recovery plan that will enable the District to meet its future obligations.
4. Assist in developing, in consultation with the Governing Board of the District, a budget for the subsequent fiscal year. If necessary, the County Office of Education shall continue to work with the Governing Board of the school district until the budget for the subsequent year is adopted by the Governing Board of the District and approved by the County Office of Education.
5. As necessary, appoint a fiscal advisor to perform any or all the duties prescribed by this section on behalf of the County Office of Education.

Within five days of the County Superintendent making the Going Concern determination, the District may appeal the determination to the State Superintendent of Public Instruction. The State Superintendent of Public Instruction shall sustain or deny the appeal within 10 days.

The County Office of Education does want to acknowledge the District's work to date in aligning practices and procedures, hiring qualified staff, evaluating staffing needs, and working with the County Office of Education's fiscal advisor.

Sincerely,



Bill Clark, Interim Deputy Superintendent
Business and Administrative Services

BC:bf

cc: Lynn Mackey, Superintendent of Schools, Contra Costa County
Dr. Robert McEntire, Associate Superintendent, Business Services, WCCUSD
Tony Thurmond, State Superintendent of Public Instruction
Dr. Linda Darling-Hammond, State Board of Education President
Elizabeth Dearstyne, Director School Fiscal Services Division, California Department of Education
Michael Fine, CEO, Fiscal Crisis and Management Assistance Team