SENT VIA EMAIL AND US MAIL

March 15, 2022

Mr. Otheree Christian, Board President
Governing Board Members
Dr. Kenneth Hurst, Sr., Superintendent
West Contra Costa Unified School District
1108 Bissell Ave.
Richmond, CA 94801

Subject: Going Concern Determination

Dear Board President Christian, Governing Board Members and Superintendent Hurst:

In accordance with Education Code Section 42127.6, the County Superintendent of Schools 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 determines that a school district may be unable to meet its financial obligation 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 it is no longer a going concern, also known as a lack of going concern. This means the West Contra Costa Unified School District is no longer fiscally healthy and is unable to meet its financial obligations.

This determination is based on the negative certification of the district's first interim report and the subsequent information provided to the governing board at public meetings held on March 2, 2022, and March 9, 2022, indicating the district will be unable to meet its financial obligation and run out of cash during the 2023-24 fiscal year.

Whenever a district has a negative certification, the County Superintendent shall exercise, as necessary, the authority granted in Educational Code Section 42127.6 and 42131(b).

Basis for Determination

In a letter dated February 9, 2022, the County Superintendent of Schools reviewed the district's first interim report and concurred with the district's negative certification. The County Superintendent is then required to do at least one of the following and all actions that are necessary to ensure that the school district meets its financial obligation:

A. Assign a fiscal expert, paid for by the County Superintendent of Schools, to advise the school district on its financial problems.

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

After the departure of the previous Chief Business Official and on the recommendation of Schools Services and the Fiscal Crisis and Management Assistance Team (FCMAT), the district hired Dr. Robert McEntire as Interim Chief Business Official and received additional support by contracting with Ms. Linda Grundhoffer. Both are knowledgeable fiscal experts and are providing the governing board with the information necessary to make informed decisions.

B. Conduct a study of the financial and budgetary conditions of the school district that includes, but is not limited to, a review of internal controls. If, in the course of this review, the County Superintendent of Schools determines that the County Superintendent's office requires analytical assistance or expertise that is not available through the school district, the County Superintendent of Schools may employ, on a short-term basis, with the approval of the Superintendent, staff, including certified public accountants, to provide the assistance and expertise. The school district shall pay 75 percent and the county office of education shall pay 25 percent of these staff costs.

The district had two studies conducted, the Fiscal Health Risk Analysis by the Fiscal Crisis and Management Assistance Team (FCMAT) dated May 7, 2021, and the Equity Audit conducted by Illuminated Collective. Findings were presented at the October 20, 2021, November 4, 2021, and January 19, 2022, board meetings. Both reports were comprehensive and identified numerous areas that needed to be addressed by the district.

The FCMAT report was required because the district self-certified as qualified for both the first and second interim reporting periods in 2019-20 and for the first interim reporting period of 2020-21. The report's findings indicated the district is at a high risk of insolvency and identified areas of fiscal weakness.

The Equity Audit provided a deep analysis of the district systems that contribute to the district's continued fiscal decline.

C. Direct the school 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 Superintendent of Schools requires.

The district's first interim report provided extensive information about the financial projections of the district. For the March 2 and March 9, 2022 meetings, in the limited time allowed, the staff informed the board about the financial projections of the district. The information presented at both meetings indicated the district will be cash insolvent by October 2023.

D. Require the district to encumber all contracts and other obligations, to prepare appropriate cashflow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables.

In the February 9, 2022, letter, the district was directed to take the steps outlined in item D, above. We were informed that additional financial obligations were discovered in the last several days as a result of the work required in the February 9 letter.

E. Direct the school district to submit a proposal for addressing the fiscal conditions that resulted in the determination that the school district may not be able to meet its financial obligations.

In the February 9, 2022, letter, the district was required to submit a proposal for addressing its fiscal condition. That proposal was dependent on the governing board taking action on reducing financial obligations in the 2022-23 fiscal year. The governing board's action on March 9, 2022, to reject one-third of the proposal to address its fiscal condition demonstrates a lack of attention to the district's financial condition, increasing the risk of insolvency.

F. Withhold compensation of the members of the governing board of the school district and the school district superintendent for failure to provide requested financial information. This action may be appealed to the Superintendent pursuant to subdivision (b).

The County Superintendent of Schools did not take this action for the first interim report. The district has provided the requested financial information.

G. Assign the Fiscal Crisis and Management Assistance Team to review teacher hiring practices, teacher retention rate, percentage of provision of highly qualified teachers, and the extent of teacher misassignment in the school district, to provide the school district with recommendations to streamline and improve the teacher hiring process, teacher retention rate, extent of teacher misassignment, and provision of highly qualified teachers, and to perform any or all of the duties prescribed in subparagraphs (A) to (C), inclusive, or to further review the causes that led to a finding of moderate or high risk of intervention pursuant to subdivision (a) and recommend corrective action. If a review team is assigned to a school district, the school district shall follow the recommendations of the team, unless the school district shows good cause for failure to do so. The Fiscal Crisis and Management Assistance Team may not recommend an action that would abrogate a contract that governs employment.

The County Superintendent of Schools did not take this action for the first interim report. The laws on teacher credentialing have been strengthened in other areas of the Education Code, diminishing the need for this review.

The FCMAT Indicators of Risk or Potential Insolvency (Attached) has fifteen indicators of risk or potential insolvency which must be considered in evaluating a district's financial health. The existence of any one of the indicators increases 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.

Insufficient Budget Monitoring or Updates

The district has had three consecutive qualified interim report certifications, 2019-20 both first and second interim and 2020-21 first interim as well as a negative certification for 2021-22 first interim. Due to the governing board voting no on two resolutions for a reduction in force (on March 9, 2022), it is highly likely the district will have a second consecutive negative certification of its second interim report.

Prior to the review of expenditures, as noted above, a significant financial obligation was not posted to the district's financials. As reported to the governing board on March 9, 2022, this increased the district's financial obligation.

Also reported at the March 9, 2022, meeting, the district is under a Federal Program Monitoring audit and is expected to have significant findings resulting in funds needing to be returned from the Unrestricted General Fund, increasing the district's financial obligations.

Inadequate Cash Management

Cash is required for the district to make its payroll and other financial obligation payments. When a district has insufficient cash, it is insolvent and must take a state loan. Current cash projections indicate the district will be cash insolvent by October 2023 unless sufficient reductions in expenditures or increases in revenue are made.

Although cash insolvency will not occur until the 2023-24 fiscal year, the County Superintendent of Schools cannot approve the 2022-23 budget under these conditions and would be required to take additional actions as described in Education Code 42127.3.

Continuing Deficit Spending

In the February 9, 2022, letter, a graph of the reported deficit spending was included. The district's Multi-Year Projection indicates deficit spending will continue at an increasing rate through the 2023-24 fiscal year.

Inattention to Enrollment and Attendance Reporting

The governing board has been informed about both the declining enrollment and the declining average daily attendance (ADA) for those students in the district. Traditionally the district experienced an ADA of 93.5%-95%, it is currently experiencing an ADA of 90%.

Decreasing Fund Balance and Reserve for Economic Uncertainty

This finding is connected to the continued deficit spending. When expenditures exceed revenues, the fund balance, such as reserves, is depleted. To help manage the fiscal challenge, the district needs to use funds in the Other Post-Employment Benefits (OPEB) Trust Fund. These funds were being reserved to assist the district in meeting its retiree benefits obligation.

Breakdown in Leadership and Communication

The budget information and fiscal solvency plan were to be presented at the March 2, 2022, board meeting. The Board only allowed 10 minutes at the end of the meeting to receive this important content.

Related Issues of Concern

Negotiated salary agreements were approved by the governing board on August 4, 2021. The information provided clearly indicated the need for a reduction in force to fund the increases. The governing board did not approve the necessary reductions in force at the March 9, 2022, meeting.

The Governing Board passed Resolution 18-2021, Resolution Committing to Meet Financial Obligation and Maintaining Fiscal Solvency 2020-21 Through 2022-23 at its September 23, 2020, board meeting. Item 3 of the resolution reads, "If the fiscal condition of the district further deteriorates, the district will implement all necessary budget adjustments, (revenue increases, expenditure reductions, reserve allocations, utilization of one-time funding) for 2020-21, 2021-22 and 2022-23 to meet financial obligation and maintain fiscal solvency."

The district's board policies 3100, 3400, and 3460 all begin with the Governing Board acknowledging its fiduciary responsibility.

On both March 2 and March 9, 2022, the governing board was provided the budget information. On March 2, 2022, only 10 minutes remained for the information to be made available for future decision-making by the Board. During the March 9, 2022, meeting, both Dr. McEntire and Mr. Mike Fine of FCMAT were interrupted several times during the presentation, diminishing the time available to inform the Board and the public of the fiscal condition of the district.

Four Reduction in Force (RIF) resolutions were presented to the Board on March 9, 2022. It was explained these reductions would bring staffing in line with student enrollment and district needs. As a district with declining enrollment, these actions were necessary to reduce expenditures and conserve resources to support students.

The governing board voted to reject two Reduction in Force resolutions equating to one-third of the proposal to move toward fiscal solvency. The governing board is demonstrating a pattern of not fulfilling its fiduciary responsibility.

The County Superintendent of Schools has required or acknowledged the first step interventions and support mandated under Education Code 42127.6 (a) – (c). However, the district continues to exhibit increasing indications that it is *no longer a going concern.*

Based on the information provided to the Board and the rejection of the two Reduction in Force resolutions, it is highly probable the district will have to self-certify as negative for its second interim report scheduled for March 16, 2022. Barring any new significant changes, should the district not self-certify correctly, the County Superintendent of Schools will be required to change the certification.

Education Code 42127.6 (e) requires the County Superintendent to take additional actions should the interventions described in 42127.6 (a)-(c) not be sufficient. The County Superintendent will take at least one of the actions described in 42127.6 (e) (1) – (5).

(1) Develop and impose, in consultation with the Superintendent and the governing board of the school district, a budget revision that will enable the school 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 school district to meet its obligations for the current or subsequent fiscal year. This includes any actions up to the point that the subsequent year's budget is approved by the County Superintendent of Schools. The County Superintendent of Schools shall inform the governing board of the school district in writing of the County Superintendent's justification for any exercise of authority under this paragraph.

(3) Assist in developing, in consultation with the governing board of the school district, a multi-year financial recovery plan that will enable the school district to meet its future obligations.

(4) Assist in developing, in consultation with the governing board of the school district, a budget for the subsequent fiscal year. If necessary, the County Superintendent of Schools 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 school district and approved by the County Superintendent of Schools.

(5) As necessary, appoint a fiscal adviser to perform any or all of the duties prescribed by this section on behalf of the County Superintendent of Schools.

The County Superintendent of Schools will implement actions 2, 3, 4, and 5, as outlined above.

Within five days of the County Superintendent of Schools 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.

If the governing board of the school district appeals the determination, the County Superintendent of Schools may stay any action of the governing board of the school district that the County Superintendent of Schools determines is inconsistent with the ability of the school district to meet its financial obligations for the current or subsequent fiscal year until resolution of the appeal by the Superintendent of Public Instruction.

Although it was several years past, the West Contra Costa Unified School District has previously required a state loan due to insolvency. As a result of districts needing this intervention, the regulations AB1200, AB 2756, and AB 1840, along with other related legislation evolved. The County Superintendent of Schools wants to work with the governing board and district superintendent to ensure the fiscal solvency of the district to avoid the need for state intervention and loss of local control.

The County Superintendent of Schools acknowledges the difficult financial decisions the district faces and will continue to work closely with the district to strengthen its financial condition. If there are questions regarding this letter or the actions of the County Superintendent, please contact Denise Porterfield at (925) 942-3418.

Pursuant to Education Code 42127.6(c), we request that you provide this notification to each recognized employee organization and each recognized parent organization of the school district.

Sincerely,

Denise B Porterfield

Denise Porterfield
Deputy Superintendent, Business Services
Contra Costa County Office of Education

cc: Lynn Mackey, Superintendent of Schools

Dr. Robert McEntire, Interim Chief Business Official

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

Indicators of Risk or Potential Insolvency

For K-12 Local Education Agencies

The Fiscal Crisis and Management Assistance Team (FCMAT) has compiled the following indicators of risk or potential insolvency based on experience with local education agencies since the inception of AB 1200 in 1991. Although some of the indicators have been on the list since first published, others have been removed or added as changes occurred, such as the evolution in funding models and changes in education and finance policy. These indicators will continue to be updated over time to ensure they remain relevant and helpful.

Each item listed indicates a lack of function, commitment, or attention to one or more critical elements of an organization's operations, which may eventually contribute to an LEA's insolvency. The existence of any one of the indicators increases 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.

Identifying issues early is the key to maintaining fiscal health. Diligent multiyear planning will enable a district to better understand its financial objectives and strategies to sustain a high level of fiscal efficiency and overall solvency. A district should consider discussing the indicators regularly, and complete a Fiscal Health Risk Analysis (FHRA) annually to assess its own fiscal health risk and progress over time.

1. **Unreliable Budget Development**
   - Budget has been disapproved or conditionally approved by the county office within the last two years
   - Unreasonable and/or unclear budget assumptions
   - Reliance on prior-year rollover budget method
   - Position control data not used
   - Local Control Funding Formula (LCFF) revenue not calculated correctly
   - Reliance on carryover funds
   - One-time sources utilized for ongoing expenditures
   - Expenditures described in the LCAP not aligned with the budget

2. **Insufficient Budget Monitoring or Updates**
   - Failure to regularly update budget assumptions
   - Negative or three consecutive qualified interim report certifications
   - Downgrade of an interim certification by the county superintendent
   - "Lack of going concern" designation from the county superintendent
   - Actual revenues and expenditures inconsistent with the most current budget
   - Budget revisions not posted in the financial system or communicated to the board regularly
   - Lack of control or monitoring of total compensation as a percentage of total expenses
   - Failure to regularly reconcile balance sheet accounts in the general ledger
   - Incomplete responses to criteria and standards variances or deficiencies identified by the county office of education
   - Requisitions or purchase orders processed when the budget is insufficient

3. **Inadequate Cash Management**
   - Failure to reconcile cash accounts monthly
   - 18-month cash flow not forecast
   - Lack of short-term plan to address cash flow needs
   - Noncompliance with Education Code requirements when interfund borrowing is occurring
   - Failure to set aside repayment funds when external borrowing is occurring
   - Lack of communication to the board about the district's cash position (with a clear distinction that cash and fund balance are not the same thing)

Indicators of Risk or Potential Insolvency (continued)

4. **Mismanaged Collective Bargaining Agreements**
   - Failure to consider long-term impact of collective bargaining agreements
   - Lack of bargaining agreements with all units for several years with no resources identified to cover potential settlements
   - Presettlement analysis not conducted thoroughly or timely
   - Settlements above the funded cost of living adjustment (COLA)
   - Lack of compliance with public disclosure requirements under Government Code Sections 3540.2, 3543.2 and 3547.5 and Education Code Section 42142
   - Board approval of collective bargaining agreement is inconsistent with superintendent's and CBO's certification

5. **Increasing and/or Unplanned Contributions and Transfers**
   - Insufficient control and monitoring of contributions and transfers
   - Lack of a board approved plan to eliminate, reduce, or control contributions/transfers
   - Transfers from the unrestricted general fund not made when needed to cover projected negative fund balances in other funds
   - Contributions/transfers to restricted programs and/or other funds not budgeted

6. **Continuing Deficit Spending**
   - Deficit spending in the current or two subsequent fiscal years
   - Not having or implementing a board-approved plan to reduce and/or eliminate deficit spending
   - Not decreasing deficit spending over the past two fiscal years

7. **Mismanaged Employee Benefits**
   - Actuarial valuation not completed in accordance with Governmental Accounting Standards Board (GASB) requirements to determine the unfunded liability for other post-employment benefits (OPEB)
   - Lack of a board adopted plan to fund health and welfare retiree benefit liabilities
   - Nonexistence or noncompliance of a policy or collectively bargained agreement to limit accrued vacation balances
   - No verification and determination of eligibility for benefits for all active and retired employees and dependents in the last five years
   - Compensated leave balances not tracked, reconciled and reported

8. **Inattention to Enrollment and Attendance Reporting**
   - Enrollment decreasing and/or unstable
   - Enrollment and average daily attendance (ADA) data not monitored and analyzed at least monthly through P2
   - Consistently inaccurate data reported through CALPADS and other state reporting
   - Enrollment projections and assumptions not based on historical data, industry-standard methods, and other reasonable considerations
   - CALPADS data not reviewed and verified by applicable sites and departments and corrected as needed before the report submission deadlines
   - Unplanned or unmonitored effects of enrollment losses to charter schools
   - Board policy to limit outgoing interdistrict transfers is nonexistent, or policy is not followed

9. **Decreasing Fund Balance and Reserve for Economic Uncertainty**
   - Failure to accurately estimate the ending fund balance
   - Failure to maintain the minimum reserve for economic uncertainty
   - If unable to maintain the minimum reserve for economic uncertainty, a board-approved plan to restore the minimum reserve for economic uncertainty does not exist
   - Projected unrestricted fund balance not stable or not increasing
   - Unrestricted fund balance does not include assigned or committed reserves above the recommended reserve level when unfunded or contingent liabilities or one-time costs exist

Indicators of Risk or Potential Insolvency (continued)

10. Ineffective Internal Controls and Fraud Prevention

- Lack of controls that limit access to the financial system
- Access and authorization controls to the financial system not reviewed and updated upon employment actions (e.g., resignations, terminations, promotions or demotions) and at least annually
- Duties in accounts payable, accounts receivable, purchasing, contracts, payroll, human resources, associated student body, and warehouse/receiving not segregated, supervised or monitored
- Beginning balances for the new fiscal year not posted and reconciled with the ending balances from the prior fiscal year
- Prior year accruals not reviewed and cleared by first interim
- Suspense accounts not reconciled regularly
- General ledger not reconciled or closed timely
- Inadequate processes and procedures in place to discourage and detect fraud

11. Breakdown in Leadership and Communication

- Uninformed decisions made because the system(s) can't provide key financial and personnel data needed
- Instability in the chief business official or superintendent positions (been with the district less than two years)
- Lack of regular communication between the superintendent and all members of the administrative cabinet
- Timely training on financial management, budget and governance not provided to site and department administrators who are responsible for budget management and decision-making
- Board policies and administrative regulations routinely ignored, not adopted, updated, implemented or communicated to staff
- Micromanagement by board members
- Systems fully or partially controlled by highly influential special interest groups

12. Lack of Multiyear Planning

- Unreasonable and/or unclear multiyear projections that are not aligned with industry standards
- Failure to explain trend analysis
- LCFF calculation not prepared with multiyear considerations
- Financial decisions made without most current multiyear projection in mind
- Detailed information not included when "other adjustments" is used with multiyear projections (line B10)

13. Inattention to Non-Voter-Approved Debt and Risk Management

- Sources of non-voter-approved debt repayment unstable, unpredictable and from the unrestricted general fund
- Downgrade of credit rating
- Out-of-date actuarial study without a plan to pay for any unfunded liabilities when self-insured
- High levels of non-voter-approved debt (such as COPs, bridge financing, BANS, RANS and others), with total annual debt service payments greater than 2% of the district's unrestricted general fund revenues

14. Lack of Position Control

- Financial and human resources systems not integrated
- Accounting for positions and costs is incomplete
- Staffing not analyzed or adjusted based on staffing ratios and enrollment
- Budget, payroll and position control not reconciled regularly
- Budget source not identified for each new position before the position is authorized by the governing board
- New positions and extra assignments posted before governing board approval
- Staffing ratios for certificated, classified and administrative positions not adopted or followed
- Lack of regular meetings between human resources, payroll and budget to discuss issues and improve processes.

Indicators of Risk or Potential Insolvency (continued)

15. Related Issues of Concern

- Failure to produce timely and accurate financial information
- Annual Independent Audit Report contains material apportionment or internal control findings
- Inadequate, undocumented monitoring and oversight of authorized charter schools
- Out-of-date long-range facilities master plan
- Special education costs not monitored, with contribution rate above the statewide average contribution rate
- Special education staffing ratios, class sizes and caseload sizes do not align with statutory requirements and industry standards
- District and the county office of education have different financial systems and lack automated interface