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LEGAL UPDATE

[AB 2756] FCMAT NOW HAS AUTHORITY OVER CHARTER SCHOOLS

AB 2756, which was urgency legislation signed into law on June 21, 2004, makes substantive changes to the oversight process of a school district's or charter school's fiscal condition. Specifically, this bill would now permit the Fiscal Crisis and Management Assistance Team ("FCMAT") to review the fiscal and administrative condition of a school district and a charter school. The goal of this Legal Alert is to provide an overview of FCMAT as well as summarize the key implications of AB 2756.

Created in 1991, the mission of FCMAT is to help California's local educational agencies fulfill their financial and management responsibilities by providing fiscal advice, management assistance, training and other related school business services. FCMAT reports to a board of directors comprised of one county superintendent, one CDE representative and one district superintendent from each of the state's 11 service regions. FCMAT also provides, upon request, management studies for districts or county offices. For example, if a county office reviews and disapproves a school district's annual budget, that county office may call upon FCMAT to examine the district's financial records, develop an approvable budget and/or provide other operational recommendations that will ensure fiscal stability.

The key implication of this bill is the application of FCMAT's expansive investigative powers over school districts and now charter schools. Charter schools should be aware of the impact of FCMAT's audit findings and the potential for negative audit and/or conditions of apportionment findings from the Department of Education. FCMAT has taken the position that when called in to audit it may review all areas of legal compliance because it believes most all areas of legal compliance are conditions of apportionment (i.e. conditions precedent to receiving State aid). However, it is important to note that not all of FCMAT's findings are adopted by the CDE. For example, in at least one case where FCMAT had previously conducted an audit of the Prosser Creek Charter School and attempted to disallow \$1,000,000 of funding, the CDE adopted the position advocated by SMYM attorneys saving the charter school over \$850,000.

If you are facing a FCMAT audit, it is advisable to contact legal counsel immediately.

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If you should have any questions or comments regarding this update, please contact Paul Minney (pminney@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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