Fiscal Oversight

For County Office Staff
Our road map for today's training
Introduction

- AB1200 enacted in 1991
  - Established Fiscal Crisis and Management Assistance Team
  - Focuses on fiscal management and oversight responsibilities
- County superintendent is responsible for:
  - reviewing district budget and interim reports and determining whether or not the district can meet financial obligations for current and two subsequent years
  - reviewing public disclosures of collective bargaining agreements
  - non-voter-approved debt
  - LCAP review and approval (as the budget and LCAP are interdependent)
Fiscal Oversight Roles

Intermediate agent between the state and LEAs

First level of fiscal oversight

County Superintendent of Schools

Local elected board of education and district administration
"Continuous Improvement"

- In 2004, AB2756 was enacted
  - made substantive changes to financial accountability and oversight process
  - clarified the process for oversight and monitoring of districts that obtain emergency appropriations

- In 2018, AB1840 enacted made further refinements to the role of FCMAT and the interventions and assistance provided to districts struggling with fiscal solvency

- Since inception, AB1200 has evolved into a multi-dimensional practice
  - The art and science of AB1200
Fiscal Health Risk Analysis

The 2018-19 budget act implemented an automatic engagement process as part of an early warning system for insolvency.

- Automatic Engagement (under the following conditions):
  - Disapproved budget
  - Negative interim budget report certification
  - Three consecutive qualified interim report certifications
  - Downgrade of an interim certification by the county superintendent
  - "Lack of going concern" designation

- Under these conditions, FCMAT performs a fiscal health risk analysis (not to be performed more than once in a 12-month period per district)
  - The engagements are coordinated with the county superintendent and are performed at no cost to county office or district
QUIZ TIME!!!

Time for Budget Adoption Process Quiz
Budget Adoption Process

What are the key concerns from an oversight perspective? (taken from the fiscal health risk analysis)

- Are the budget and LCAP aligned?
- Are LCFF calculations correct?
- Are assumptions applied accurately and reasonable?
- Does a sound position control system drive the budget?

But what about the actual steps? What happens if a district fails to submit a budget? What if a budget cannot be approved? What steps are to be taken?
Budget/LCAP Adoption Process

LEA governing board holds public hearing on LCAP budget, and minimum reserve requirement, adopts LCAP and budget (with criteria and standards) and submits to COE not later than five days after that adoption or July 1, whichever occurs first (EC 42127(a)(1) and (2), 42127(c)).

COE performs criteria and standards review and either approves, conditionally approves, or disapproves the budget by September 15.

COE must disapprove budget if budget does not include expenditures necessary to implement LCAP and Annual Update (EC 42127(d)).

LEA responds to COE recommendations/conditional approval.

Files budget with COE by October 8 (EC 42127(d)).

COE sends recommendations to LEA.

COE may assign fiscal adviser and/or appoint a committee to review and make recommendations (EC 42127(e)).

Notifies SPI by October 22 (EC 42127(g)).

Notifies LEA.

Budget revisions due no later than 45 days after governor signs Budget Act (EC 42127(h)).

COE examines budget and LCAP by October 8.

Budget and LCAP approved. Process ends.

COE reviews revised, board-approved LCAP and either approves, conditionally approves, or seeks further clarification.

Notifies SPI by October 22. Process ends.

LEA LCAP fails in any of the four criteria.

Budget authority reverts to prior year spending or current year board-approved budget, whichever is less.

COE shall provide technical assistance, which may include the assignment of an academic expert.

Following technical assistance, the COE may request the SPI to assign the CCEE to provide advice and assistance.

Within 15 days, LEA governing board shall respond in writing to request for clarification (EC 52070(c)).

Within 15 days of receiving response, COE may submit recommendations in writing (EC 52070(c)).

Within 15 days of receiving COE recommendations, LEA governing board shall consider recommendations in a public meeting (EC 52070(c)).

COE approves LCAP based on the four criteria by October 8 (EC 52070(d)).

Within 15 days, LEA governing board shall respond in writing to request for clarification (EC 52070(b)).

Approved Path

Disapproval Path

Approval Path
Budget Cycle

COE performs criteria and standards review and either approves, conditionally approves, or disapproves the budget by September 15.
COE must disapprove budget if budget does not include expenditures necessary to implement LCAP and Annual Update [E.C. 42127(d)].

Notify LEA

Budget revisions due not later than 45 days after governor signs Budget Act [E.C. 42127(h)].

COE examines budget and LCAP by October 8.
Budget and LCAP approved. Process ends.

LEA responds to COE recommendations/conditional approval.
Files budget with COE by October 8 [E.C. 42127(d)].

COE sends recommendations to LEA.
COE may assign fiscal adviser and/or appoint a committee to review and make recommendations [E.C. 42127(d)].
Notifies SPI by October 22 [E.C. 42127(e)].

COE reviews revised, board-approved LCAP and either approves, conditionally approves, or seeks further clarification.
Notifies SPI by November 8 [E.C. 42127(e)].
A closer look at EC 42127 (c) and (d)

- Criteria and Standards
  - Examine adopted budget for compliance with state criteria and standards and identify technical corrections {E.C.42127 (c)(1)}

- Multiyear Projections
  - Determine if budget allows the district to meet its financial obligations and is consistent with a financial plan that will enable the district to satisfy multiyear financial commitments {E.C.42127 (c)(2)}

- Implementation of the LCAP
  - Ensure the budget includes expenditures sufficient to implement the LCAP {E.C.42127(c)(3)}

- Ending Balance requirements
  - Determine whether the budget includes a combined assigned and unassigned ending fund balance that exceeds the minimum recommended reserve for economic uncertainties {E.C. 42127 (a)(2)(B) and (C)}
A closer look at EC 42127 (c) and (d) cont.

Consider studies, reports, evaluations or audits
• If any of the above contain evidence of fiscal distress under criteria and standards or moderate or high risk of intervention based on the most common indicators of a district needing intervention {E.C. 42127(c)(2)}

Conditional approval or disapproval
• Applies when a budget does not provide assurances that the district will meet its current and future obligations and resolve issues identified in studies, reports evaluations or audits {E.C. 42127 (c)(2)}
• Applies when a budget does not include expenditures necessary to implement an LCAP {E.C. 42127(d)(1)}
• County superintendent shall transmit to the governing board, in writing, recommendations regarding revision of the budget and the reasons for those recommendations
Revised budget resubmission process (after conditional approval or disapproval)

- On or before October 8
  - At a regularly scheduled meeting, the governing board shall revise the adopted budget to include changes in projected income or expenditure subsequent to July 1
  - Include any response to the recommendations of the county superintendent of schools
  - File the revised budget with the county superintendent of schools
- County superintendent reviews, makes recommendations and may assign fiscal advisor; if budget still not approved, notifies Superintendent of Public Instruction (SPI) by October 22
# Budget Approval/Disapproval Timeline

**E.C. 42127**

<table>
<thead>
<tr>
<th>JUNE</th>
<th>JULY</th>
<th>AUGUST</th>
<th>SEPT.</th>
<th>OCT.</th>
<th>NOV.</th>
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<td></td>
<td>July 1</td>
<td></td>
<td>Sept. 15</td>
<td>Oct. 8</td>
<td>Oct. 22</td>
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<tr>
<td>Budget due to COE</td>
<td>COE BUDGET AND LCAP REVIEW PERIOD</td>
<td>COE approves, conditionally approves or disapproves district budget. If disapproved, recommendations for budget revisions will be made by the COE.</td>
<td>District responds to COE recommendations in a regular board meeting. District clarifies budget revisions and other actions taken as a result of the COE recommendations at the board meeting.</td>
<td>COE reviews District response and notifies the SPI of potential budget disapproval.</td>
<td>COE notifies SPI of budget disapproval and whether BRC will be formed or waived.</td>
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Note: If at any point the budget is approved, this process ends.

**COE** = County Office of Education

**SPI** = Superintendent of Public Instruction

**BRC** = Budget Review Committee
Date
Board President
Address

In accordance with Education Code sections 52070 and 42127, the ________ County Office of Education has reviewed the LCAP and adopted budget of the ________ School District for fiscal year 20____. By statute, the adopted budget review must be completed by September 15 of each year, and the LCAP review must be completed by October 8. Based on our review, the 20____ adopted budget and LCAP of the ________ School District have been approved.

With regard to our review of the district’s LCAP, the Education Code requires the county superintendent to approve the plan (or annual update) for each school district after determining all of the following:

• The LCAP adheres to the template adopted by the State Board of Education.

• The budget includes expenditures sufficient to implement the specific actions and strategies included in the LCAP.

• The LCAP adheres to the expenditure requirements for funds apportioned based on the number and concentration of enrolled students and pursuant to Sections 42264.53 and 42250.03.

Our review of the district’s LCAP for 20____ has determined that the district is in compliance with the above criteria.

With regard to the district’s adopted budget, the Education Code requires the county superintendent to approve, conditionally approve, or disapprove the adopted budget for each school district after a review that includes the following:

• Determine whether the adopted budget includes the expenditures necessary to implement the LCAP or annual update to the LCAP.

• Examine the adopted budget to determine whether it complies with the standards and criteria established pursuant to Section 35177 and identify any technical corrections needed to bring the budget into compliance with those standards and criteria.

• Determine whether the adopted budget will allow the district to meet its financial obligations during the current fiscal year and is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments.

Our review of the district’s 20____ adopted budget and multiyear projection has determined that the district is in compliance with the above criteria.

Date
Board President
Address

In accordance with Education Code sections 52070 and 42127, the ________ County Office of Education has reviewed the adopted budget and LCAP of the ________ School District for fiscal year 20____. By statute, the adopted budget review must be completed on or before September 15 of each year, and the LCAP review must be completed on or before October 8 of each year. Based on our review, the 20____ adopted budget and LCAP of the ________ School District have been conditionally approved.

With regard to our review of the district’s LCAP, the Education Code requires the county superintendent to approve, conditionally approve, or disapprove the adopted budget for each school district after doing the following:

• Determine whether the adopted budget includes the expenditures necessary to implement the LCAP or annual update to the LCAP.

• Examine the adopted budget to determine whether it complies with the standards and criteria established pursuant to Section 35177 and identify any technical corrections needed to bring the budget into compliance with those standards and criteria.

• Determine whether the adopted budget will allow the district to meet its financial obligations during the current fiscal year and is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments.

Our review of the district’s 20____ adopted budget and multiyear projection has determined that the district may not be able to satisfy its multiyear financial commitments if reductions of approximately $____ for 20____ and $____ for 20____ are not implemented. If the governing board takes formal action by October 8 to resolve these concerns, the conditions for approval will be met.

With regard to our review of the district’s LCAP, the Education Code requires the county superintendent to approve the plan (or annual update) for each school district after determining all of the following:

• The LCAP adheres to the template adopted by the State Board of Education.

• The budget includes expenditures sufficient to implement the specific actions and strategies included in the LCAP.
Going Concern - Lack of Going Concern

Time for another quick quiz....about Lack of Going Concern
GOING CONCERN

Education Code section 42127.6

If at any time during the fiscal year the County Superintendent of Schools determines that the school district may be unable to meet its financial obligation in the current or two subsequent fiscal years, the County Superintendent shall notify the district governing board and SPI in writing (E.C. 42127.4(b)(1)).

The written notice shall include the basis for the determination, and assumptions used in this notice shall be made available to the public (E.C. 42127.4(c)).

If the county superintendent determines that the LEA will be unable to meet financial obligations for the current or subsequent fiscal year:

- The LEA shall notify the SPI and District Board in writing.
- In consultation with SPI and GSA, the LEA shall take at least one action described in paragraphs 1 to 5.

1. Develop and impose revisions to budget.
2. Stop and reduce any nonessential expenditures.
3. Develop a financial plan.
4. Develop a budget for the subsequent fiscal year.
5. Appoint a financial advisor.

This section does not authorize the county superintendent to alter any prior provision of a collective bargaining agreement (E.C. 42127.4(b)(4)).

The school district shall pay 75% and the LEA shall pay 25% of the administrative expenses or costs associated with improving the district's financial management practices.

Approval path
Disapproval path

LEA Appeal
E.C. 42127.4(b)(d)(e)

Within five days of the county superintendent's determination, a school district may appeal to the SPI. The SPI shall deny or uphold the appeal within 30 days.

LEA Appeal
E.C. 42127.9

Within five days of receipt of notice that the county superintendent is preparing changes in the district's budget, a school district may appeal to the SPI. The SPI shall deny or uphold the appeal within five days.

can be similar to negative certification
If the county superintendent determines that the LEA will be unable to meet financial obligations for the current or subsequent fiscal year:

- COE notifies SPI and district board in writing.
- In consultation with SPI and LEA, COE shall take at least one action described in paragraphs 1 to 5.
  1. Develop and impose revisions to budget.
  2. Stay and rescind action inconsistent with revisions.
  3. Develop a financial plan.
  4. Develop a budget for the subsequent fiscal year.
  5. Appoint a fiscal advisor.

This section does not authorize the county superintendent to abrogate any prior provision of a collective bargaining agreement (E.C. 42127.6(g)).

The school district shall pay 75% and the COE shall pay 25% of the administrative expenses or costs associated with improving the district’s financial management practices.

Within five days of receipt of notice, the county superintendent is proposing changes to the district’s budget, a school district may appeal to the SPI. The SPI shall deny or uphold the appeal within five days.
Lack of Going Concern Tips for County Office Staff

- Address the letter to the governing board and mail to their home addresses
- When required, include each recognized employee organization and each recognized parent organization on the district
- List the basis of determination, be specific – the FCMAT indicators are a great place to find these, there may be others
- List the applicable statutory options of the county supt (42127.6(a)(1)(A)-(G) and 42127.6(e)(1)-(5), and list or mark those the County Superintendent is taking
- In the request or requirements being imposed on the LEA, set specific, measurable actions with due dates for the district to accomplish in short timelines
- Best practice would be to cite the statutory appeal language
- Communicate the situation with CDE
- Have FCMAT review your draft for you
Time to talk about the ART of AB1200

Look at the action phrases listed on the former slide:

assign, fiscal expert, conduct study, direct district to submit financial projection, require district to encumber, withhold compensation

Imagine you work at the district. What action phrases would you be most comfortable with being imposed upon you?

As a COE, how do you know which of these actions to take?
Sample Lack of Going Concern Letter to Districts

[Document Content]

Date

Board President
Address

Dear [Name],

In accordance with the provisions of Education Code Section 42127.8(c), the [County] Superintendent of Schools has determined that the [School District] may be unable to meet its financial obligations for the current or two subsequent fiscal years. This determination is in response to the district's updated multiyear financial projections submitted to our office, and in conjunction with the projected costs of the district's collective bargaining agreement with... As a result of the projections, which are detailed below, the county superintendent has determined that the district is no longer a going concern, and consequently, is statutorily required to take the same actions as a county office would for a district with a qualified certification at an interim reporting period. As required by Education Code Section 42127.9(j)(1), our office has submitted a copy of this letter to the Superintendent of Public Instruction.

Basis for Determination

In our letter dated [Date], the county superintendent conditionally approved the district’s [Year] adopted budget, noting the following concerns:

- [Year] and [Year] Budget Shortfalls — The district's multiyear financial projections were predicated on planned but yet-to-be-identified reductions of $[Amount] in [Year] and $[Amount] in [Year]. Based on the district's revenue projections at that time, the district would be unable to satisfy its financial commitments in [Year] if it could not implement a substantial portion of the reductions.

- Operating Deficit — Multiyear financial projections indicated a substantial general fund operating deficit for the current and first subsequent fiscal years.

- Declining Enrollment — The district's projections indicated declining enrollment for the current and two subsequent fiscal years.

- Cash — Absent temporary borrowing, the district's general fund cash balance was not projected to be sufficient to cover cash flow needs throughout the [Year] fiscal year.

As a result of the conditional approval, our office directed the district to take the following actions by [Date]:

- [Year] Unaudited Actuals — Close prior year accounts, and certify [Year] unaudited actuals.
Interim Reports

Let’s test your knowledge about interim reports!

(It’s the last quiz!)
The Fiscal Oversight Toolkit!

Education code section 42127.6.....applies to qualified and negative interim reports as well

The county superintendent shall assist the school district by doing at least one of the following:

Assign a fiscal expert, paid for by the county superintendent, to advise the district

Conduct a study of the financial and budgetary conditions of the district. If expertise is needed for the study, the COE may hire staff with the approval of SPI. The school district shall pay 75% and the COE shall pay 25% of those costs. (COE is eligible to request 25% of those costs through a FCMAT reimbursement with the approval of CDE and DOF)

Direct the school district to submit a financial projection of all fund and cash balances of the district for the current and subsequent years

Require the district to encumber all contracts and other obligations, to prepare appropriate cash flow analyses and budget revisions, and to record all payables and receivables

Direct the district to submit a proposal for addressing its fiscal condition

Withhold compensation of the governing board and district superintendent for failure to provide requested financial information.

Assign FCMAT to review teacher hiring practices, teacher retention rate, percentage of provision of highly qualified teachers; and the extent of missasignment. The district shall follow the recommendations of the team.
For each of the three interim report scenarios below, work with your small group to determine the best course of action:

- The district submits an interim report that contains a material error in the multi-year projection that impacts district solvency. How do you address the situation with the CBO? How do you keep your county superintendent informed? What is the resolution?

- The district has a structural deficit, a new superintendent, new CBO, and unstable board. Along with that, they are in the midst of difficult, aggressive negotiations. They certify as positive but considering all factors, they should likely be qualified. How do you start that conversation with the district? What does the resolution look like?

- The district has a seasoned CBO, deficit spending, large construction projects with potential liabilities in the way of cost overruns. After reviewing the interim, you meet with the CBO and share your support and concerns. The CBO reassures you that the situation is under control. What is your next step?
Date

Board President
Address

Dear [Name]:

In accordance with Education Code Section 42127, we have examined the first / second interim report of [School District for fiscal year 20____] to determine if it complies with the Criteria and Standards adopted by the State Board of Education, and if it allows the district to meet its financial obligations during the current and two subsequent fiscal years.

Based on our review and analysis, we are satisfied that the first / second interim report approved by the district’s governing board on [date] accurately reflects the financial status of the district and is consistent with the state’s Criteria and Standards. We therefore concur with the district’s positive certification, with our comments outlined below [can also be modified for a qualified certification, or for the COE to change certification from positive to qualified].

Multiyear Projection

The district’s multiyear projection submitted with the first / second interim report includes adjustments of $[Amount] in 20____ and $[Amount] in 20____. In addition, the projections rely on enrollment growth of [Percentage]% students by 20____. Without the budget reductions and the enrollment growth, the district’s reserve may fall below the required [Percentage]% in 20____. We encourage the district to provide a specific plan for any necessary budget reductions by the [next reporting period] to have in place for 20____. We remain confident the district will continue to make the necessary decisions concerning ongoing revenues and expenditures to ensure it is able to meet its financial obligations and maintain long-term fiscal health.

[Discuss other potential issues, including status of negotiations, enrollment and ADA trends, deficit spending, cash flow concerns, etc.]

We want to acknowledge and express our appreciation to the district’s staff, the governing board and the community for their continued diligence and hard work. If you have any questions regarding our review process, please feel free to contact our office.

Sincerely,

County Superintendent
[Signature], County Office of Education
Public Disclosure Responsibilities
Collective Bargaining

• Costs associated with tentative collective bargaining agreement in current and subsequent years must be disclosed at a public meeting before the agreement becomes binding
  • ensures the public is aware of costs associated with agreement

• Superintendent and CBO certify in writing that the district can meet the cost of the agreement for the term of agreement

• The certification shall itemize budget revision necessary to meet the cost of the agreement
  • District shall forward budget revisions to county superintendent within 45 days of board adoption

• If budget revisions are not adopted in the current fiscal year, the county superintendent shall issue qualified or negative certification at next interim reporting period
Public Disclosure Responsibilities
Qualified and Negative Districts

• In addition to requirements for districts with positive certification, school districts with a qualified or negative certification must allow the county superintendent 10 working days to review and comment on any agreement before it is ratified.

• County superintendent must notify the district during the 10 days if, in his or her opinion, would endanger the well-being of the district.
Public Disclosure Responsibilities
Non-Voter Approved Debt

• Districts with a qualified or negative certification must receive approval from the county superintendent before the issuance of any non-voter approved debt instrument
  • samples include: certificates of participation, lease purchase secured by real property, revenue bonds, qualified zone academy bonds, tax revenue anticipation notes

• For all districts, including those with positive certification:
  • districts are required to disclose all issuance of non-voter approved debt to county superintendent and county auditor at least 30 days prior to district board approval
    • disclosure must include repayment schedules, cost of issuance and evidence of ability to repay
  • within 15 days, county superintendent and county auditor MAY comment publicly regarding the district’s capacity to repay
Annual Audit Requirements

- Auditor selection reported to COE by April 1 of the year to be audited
- County office has until May 1 to select its auditor and an auditor for any school district that has not made a selection by April 1
- Audit must be received by district, COE and SCO by December 15 (without an extension) and then presented to the district board by January 31
- Corrective actions (responses to specific audit findings) due to COE by March 15
- By May 15 all audit exceptions/corrective actions have to be certified by the COE and reported to SPI and SCO
Annual Audit Requirements (miscellaneous)

- Audits shall be performed by CPA from a list published by the state controller
- Lead audit partner, having primary responsibility for the audit must change every six years
- County superintendent is responsible for reviewing audit exceptions in the following areas:
  - attendance, inventory of equipment, internal control, instructional materials program funds, teacher misassignments, information reported on SARC and miscellaneous items
- CDE is responsible for reviewing audit exceptions related to federal and state compliance
- For districts receiving an emergency apportionment, the state controller's office or designee will conduct an audit in lieu of the regular annual audit process
AB 1840 in 2018 assigned FCMAT to review the fiscal oversight performed by the county superintendent of schools for districts who have received an emergency apportionment.

Timeline of evaluations:

- Initial evaluation
  - Within three months of the emergency apportionment, FCMAT reports findings
  - This report shall include findings regarding fiscal oversight actions that were or were not taken
  - May include recommendations for an appropriate legislative response to improve fiscal oversight
- Annual evaluation
  - After initial evaluation, FCMAT will perform annual reviews of the effectiveness of the county office of education’s oversight of the district