FCMAT

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

Fiscal Oversight

The Role of County Superintendents

California County Superintendents

October 15, 2023

County Superintendent's Role

- On the eighth day, God created county superintendents…
  - The legislature has granted both the responsibility and the authority to
    - Provide oversight through a consistent, standardized assessment process.
      - Often referred to as the science of Assembly Bill (AB) 1200.
    - Provide intervention as justified based on both a legislatively-created structure and customized to the specific needs of the district.
      - Often referred to as the art of AB 1200.
- The statutory construct of the authority and responsibility rests with the county superintendent, not the county board of education.
- Close attention should be paid to "shall" and "may" in the role.

County Superintendent’s Role (Cont.)

- Specific examples of the county superintendent’s fiscal oversight role include
  - Approval or disapproval of district budgets.
  - Analysis of interim reports and feedback to local education agencies (LEAs).
  - Review and analysis related to disclosure of collective bargaining agreements.
  - Review, analysis and conclusion regarding non-voter-approved debt.
  - Approval of Local Control and Accountability Plans (LCAP).

AB 1200 Process

- AB 1200 established the structure for financial accountability standards and the reporting and oversight of LEA’s fiscal conditions.
- Elements of AB 1200 have been added and revised over 30 years through 50+ pieces of legislation.
- Recognizes that the first level of oversight rests with each LEA’s governing board.
- Provides for a secondary and external level of oversight by the county superintendent or state superintendent of public instruction (SPI).
  - County superintendent: LEA
  - SPI: county superintendents and seven single district/county LEAs

AB 1200 Process (Cont.)

AB 1200 process explained further

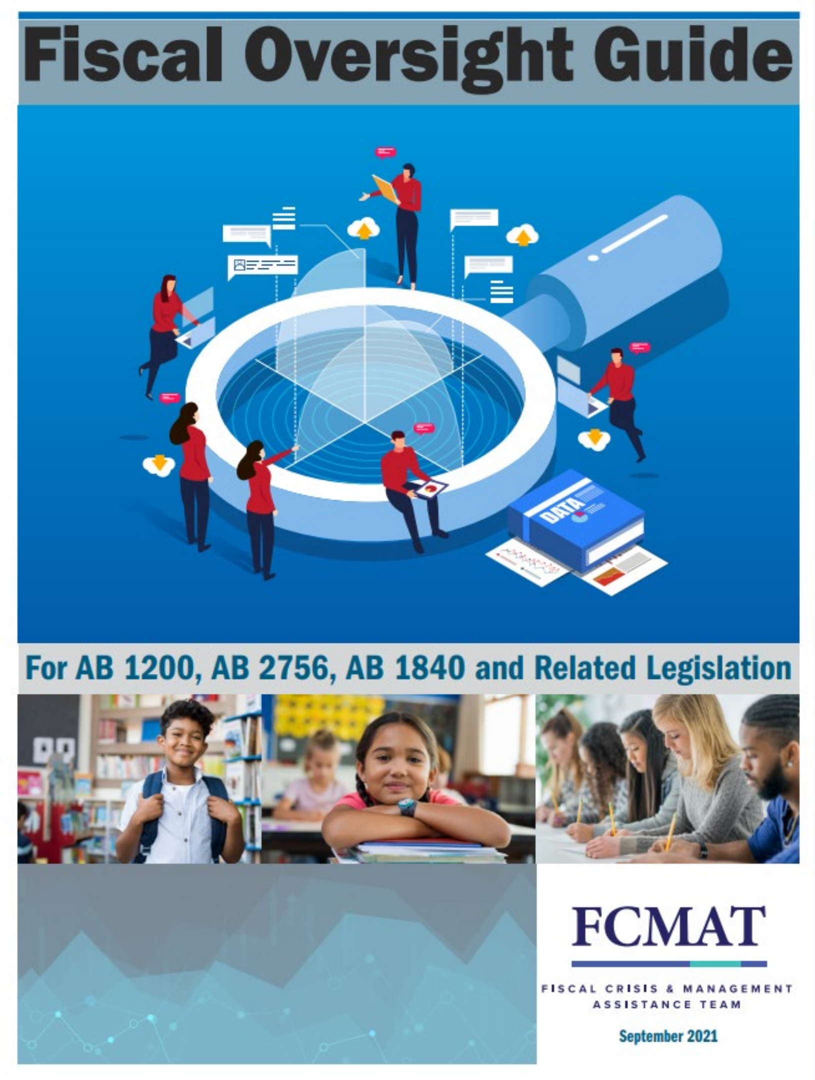
- Provides for standards and criteria for fiscal accountability related to budget development and expenditures (EC 33127 and 33128).
- Requires regular and uniform budgetary and financial reporting.
- Requires public disclosure of certain events and conditions.
- Provides for an emergency appropriation and receivership process for districts that cannot meet their financial obligations (modeled on state supreme court order).

- The foundations of the AB 1200 process assume the school district and its oversight agency are aligned regarding the facts and goals, and work together to improve fiscal conditions.

Fiscal Oversight Guide

- The AB 1200 process encompasses many statutory provisions enacted over 30 years.
- The overarching provisions and steps of LEA fiscal oversight are covered in the FCMAT *Fiscal Oversight Guide.*
  - The guide* is available at:

    https://www.fcmat.org/publicationsreports/fiscal-oversight-guide-2021.pdf



*September 2021 edition; 2023 edition with major revisions expected to be published November 2023

Financial Reporting

- While school district financial reporting encompasses more than 100 different reports, five of the six key reports in determining LEA fiscal condition are included in the Standardized Account Code Structure (SACS) web financial reporting system.
- They include
  - Form 01: General Fund (all pages)
  - Form 01CS: Criteria and Standards
  - Form MYP: Multiyear Financial Projections
  - Form CASH: Cash Flow
  - Form A: Average Daily Attendance
- Each of the key SACS Software reports are produced at budget adoption and interim reporting.
- The sixth key report is the annual financial and audit report, which is outside of SACS.

Financial Reporting (Cont.)

- At the very least LEAs have significant fiscal review five times a year — maybe six, and all include official external reporting as well.
  - Budget approval (June)
  - First period interim report (December)
  - Second period interim report (March)
  - Possibly a third interim report (May)
  - Unaudited actuals (September of the subsequent fiscal year)
  - Annual audit (December/January of the subsequent fiscal year)
- Some districts report financial data more frequently (e.g., monthly), but it is internal only.

Budget Approval

- At budget approval (July) – EC 42127
  - The county superintendent must examine the adopted budget for compliance with standards and criteria, and other applicable statutory requirements and determine to <u>approve</u>, <u>approve with conditions*</u> or <u>disapprove</u> a district's budget.
  - September 15 deadline for initial written determination.
  - If conditionally approved or disapproved, district has until October 8 to respond.
  - Subsequent county superintendent review must be made by October 22 and November 8; only approved or disapproved status may remain as of November 8.

*SPI does not have the option to conditionally approve budgets, only approve or disapprove

Interim Report Certifications

- At interim reports (December 15 and around March 15) – EC 42130 and 42131
  - District's governing board self-certifies positive, qualified or negative.
  - A district is positive when it is determined that it will meet its financial obligations in the current and two subsequent years.
  - A district is qualified when it is determined that it may not be able to meet its financial obligations in the current and two subsequent years (budget).
    - The number of qualified districts generally ebbs and flows with the state budget, but some districts may show signs of chronic conditions.
  - A district is negative when it is determined that it will not meet its financial obligations in the current and next fiscal year (cash).
    - The number of negative districts is fairly consistent over time.

Interim Report Certifications (Cont.)

- Interim report certifications remain in place until the next interim report.
  - For example, a negative certification at second interim remains in place until changed at the following first interim certification.
- Third interim reports, when requested by the county superintendent, do not include a certification (only first and second interim reports have certifications).

Interim Report Certifications (Cont.)

- At interim reports – EC 42131
  - If after examination of the interim report, the county superintendent disagrees with a district's self-certification – i.e., determines a qualified certification when a positive certification was submitted, or determines a negative certification when a qualified certification was filed.
    - FCMAT labels this a <u>downgrade</u> in interim certification.
  - County superintendent should make this determination within 30 days of the interim report deadline (i.e., January 15, around April 15) and issue its findings in writing.
  - Districts may appeal a downgrade in certification to the SPI.

Lack of Going Concern

- At any time – EC 42127.6
  - If the county superintendent determines that a district may be unable to meet its financial obligations for the current or two subsequent fiscal years, the county superintendent shall provide written notice of going concern determination, including the basis of determination.
    - FCMAT labels this a lack of going concern.
  - Districts may appeal a going concern designation to the SPI.
  - The designation remains in place until the county superintendent approves the district's budget for the subsequent fiscal year.
  - The basis of determination may be broader than just typical financial metrics, e.g., internal controls, leadership, facilities, non-voter-approved debt.
    - See: FCMAT's Indicators of Risk or Potential of Insolvency

Progressive Intervention

- As part of the county superintendent's oversight and intervention, statute authorizes the county superintendent to follow a progression of investigation, findings, notification, appellate review, intervention, further findings and further appellate review, and further intervention.
- Education Code 42127.6 provides at subdivisions (a) through (e) the progressive intervention steps.
  - (a) initial investigation, findings, notification and at subparagraphs (A) through (G) the initial intervention.
  - (b) first appellate review to SPI.
  - (c) further investigation, findings, and notification.
  - (d) further appellate review to SPI.
  - (e) further interventions, including emergency powers.

Applicable to SPI for county superintendents and single district counties

Progressive Intervention (Cont.)

- Intervention includes
  - Helping the district resolve its financial problem at the lowest level of outside intervention (this is the goal).
  - Supporting districts with information and providing collaborative assistance.
- Intervention may include
  - Appointing a fiscal expert or fiscal advisor .
  - Authorizing stay and rescind authority over decisions made by the district’s governing board if the board’s action is inconsistent with the district’s ability to meet its financial obligations for the current or subsequent fiscal year.
  - Requiring additional stringent measures.

Applicable to SPI for county superintendents and single district counties

Progressive Intervention (Cont.)

- Despite the appearance of a list of intervention options, statute does not limit the intervention.
  - Requires the county superintendent to take <u>all</u> actions necessary to ensure the district will meet its financial obligations.
- The county superintendent determines the level of intervention and corrective action needed.
  - Intensity of intervention is progressive and can be tailored to the severity of the problem – the art of AB 1200.
- Open, honest communication and cooperation produce the right amount of help.
  - The system is built on a presumption of cooperation.

Applicable to SPI for county superintendents and single district counties

Fiscally Accountable and Fiscally Independent School Districts

- All districts are subject to county superintendent or SPI oversight, including fiscally accountable (EC 42650) and fiscally independent districts (EC 42647).
  - This designation is <u>not</u> independence from AB 1200 oversight, but independence in processing commercial and payroll warrants, disbursements and internal controls over such.
- These designations require certain systems of internal controls to maintain their status.
  - FCMAT has a tool for county superintendents to use as an annual assessment of risk in fiscally accountable and fiscally independent districts.
    - Fiscally Accountable/Independent Risk Analysis: https://www.fcmat.org/fiscally-accountable

Automatic Engagement

- Historically, FCMAT has not engaged with LEAs unless it was invited by the LEA or its oversight agency.
  - Beginning in 2018-19, FCMAT was tasked with being more proactive in providing preventive assistance to districts showing signs of fiscal distress.
- FCMAT identified triggers for this automatic engagement strategy.
  - Disapproved budget
  - Negative interim report certification
  - Three consecutive qualified interim report certifications
  - Downgrade of an interim report certification by county (or state) superintendent
  - Lack of going concern designation

Automatic Engagement (Cont.)

- When automatic engagement is triggered, FCMAT uses an evaluation tool to assess the level of fiscal distress and assist districts.
  - Fiscal Health Risk Analysis (FHRA)
    - 130 yes/no questions across 20 areas, weighted to determine high, moderate or low risk (EC 42127.6(a)(1)).
- The FHRA is a companion to the standards and criteria for fiscal accountability adopted by the State Board of Education, and is organized around FCMAT's Indicators of Risk or Potential Insolvency.
- The tool provides an outline of the available basis of determination of fiscal distress, and is aligned with EC 42127.6(a)(1).

Versions of the FHRA exist for traditional TK-12, charter schools and community college districts.

Financially Troubled District

- There are always financially troubled districts.
- A financially troubled district is different than a district with indicators of moderate or high risk of insolvency.
  - Financially troubled is focused on the financial metrics only.
  - Indicators of moderate or high risk of insolvency include broader considerations.

Financially Troubled District (Cont.)

- A financially troubled district may…
  - Have a history of deficit spending.
  - Have its budget disapproved by the county superintendent.
  - Have consecutive qualified or negative interim reports.
  - Not be able to conform to the multiyear projection standards.
  - Not have enough cash to meet its obligations in the current and next fiscal year.
  - Not fully understand the Local Control Funding Formula and the LCAP.
  - Be a district that cannot meet state standards on its own.
  - Be a district with weak internal controls.

Common Moderate and High Risk Characteristics

- Districts that show moderate and high risk of needing intervention have common characteristics that include.
  - Unreasonable budget assumptions.
  - Compensation increases (including step-and-column costs) above the funded cost-of-living-adjustment for the current and prior two fiscal years.
  - Frequent turnover in the chief business official and/or superintendent positions (incumbents have been with the LEA less than two years).
  - Micromanagement by board members.
  - Failure to regularly reconcile budget, payroll and position control.
  - Enrollment and/or average daily attendance projections and assumptions not based on historical trends, industry standards and other reasonable considerations.

Fiscal Oversight Training

- FCMAT provides workshops on AB 1200 fiscal oversight workshops each year.
  - Each workshop is two-days.
    - Day one is for county office staff where content is focused on the Fiscal Oversight Guide and the sharing of additional resources.
    - Day two is for county offices and their districts where content facilitates communication and understanding about fiscal oversight provisions and requirements.
  - Sample materials are at:

    Day one: https://www.fcmat.org/fiscal-oversight

    Day two: https://www.fcmat.org/fiscal-oversight-training-day-two

More FCMAT Resources for Deeper Dive

- Indicators of Risk or Potential Insolvency:
  https://www.fcmat.org/indicators-risk
- Fiscal Health Risk Analysis tool:
  https://www.fcmat.org/fiscal-health
- Progressive Intervention (step by step):
  https://www.fcmat.org/publicationsreports/progressive-Intervention-basc-conf-3-1-23.pdf
- Projection-Pro software:
  https://www.fcmat.org/projection-pro
- 2022-23 LEA Fiscal Status:
  https://www.fcmat.org/PublicationsReports/fiscal-status-of-leas-8-2023.pdf