

Fiscal Oversight Guide



For AB 1200, AB 2756, AB 1840 and Related Legislation



FCMAT

FISCAL CRISIS & MANAGEMENT
ASSISTANCE TEAM

September 2021

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A Resource for Local Educational Agencies

September 2021

**A Publication of the
Fiscal Crisis & Management Assistance Team**

Michael H. Fine, Chief Executive Officer

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Introduction

Assembly Bill (AB) 1200 (Chapter 1213/Statutes 1991) has been successful in focusing the attention of school district governing boards and county superintendents on their fiscal management and oversight responsibilities. Since the enactment of AB 1200 in 1991, fewer districts have experienced fiscal crises. From 1993 through 2012, only nine school districts and one community college required state emergency appropriations (loans). From 2012 to the time of this writing in 2021, no local educational agencies (LEAs) have required such appropriations. However, the financial effects of the COVID-19 pandemic on California's public school system will extend well beyond 2021. All districts will face fiscal challenges. Transparent financial details, multiyear planning, risk assessment and multiyear cash flows will be essential to understanding whether a district is fiscally solvent or in fiscal distress. Candid, robust conversations and appropriate, early assistance and intervention by county superintendents of schools have never been more important. County superintendents and school districts will need to make difficult decisions about priorities to sustain the fiscal health of LEAs.

The first level of fiscal oversight rests with each LEA's elected governing board and administration. Each county superintendent of schools (and sometimes the State Superintendent of Public Instruction) provides the second level of fiscal oversight of the school districts in their county, as well as management assistance and progressive intervention.

Education Code (E.C.) Section 1240 grants county superintendents of schools oversight of districts within their county. Under AB 1200, that role expanded significantly to include a progressive method of oversight aimed at ensuring fiscal solvency. Over the years, AB 1200 has evolved into a multidimensional practice, often referred to as the art and science of AB 1200. Various provisions of the AB 1200 process have been revised and expanded from time to time over nearly 30 years, including AB 2756 in 2004. The support and local oversight required of county superintendents continued to expand under AB 1840 (Chapter 426/Statutes 2018), which changed the formerly state-centric system of support for fiscally insolvent districts to a county superintendent-centered approach that is more consistent with the principles of local control.

In addition to increasing the authority and responsibilities given to county offices, AB 1200 created the Fiscal Crisis and Management Assistance Team (FCMAT) to help California's local educational agencies meet and sustain their financial obligations. AB 107 in 1997 charged FCMAT with responsibility for the California School Information Services (CSIS) and its statewide data management work. AB 1115 in 1999 codified CSIS' mission. FCMAT provides fiscal and data management assistance, professional learning, fiscal tools and software, and other related school business and data services to the state's LEAs. FCMAT's fiscal and management assistance services are used not just to help avert fiscal crisis, but to promote sound financial practices, support professional learning for chief business officials, and help create efficient organizational operations. FCMAT's data management services are used to help LEAs meet state reporting responsibilities, improve data quality, and inform instructional program decisions. FCMAT has continued to make adjustments in the types of support provided based on the changing dynamics of K-14 LEAs and the implementation of major education reforms.

AB 1200 and subsequent legislation provide a statewide structure for county superintendents of schools and school districts to work together locally to improve fiscal procedures and accountability standards. Under AB 1200, the county superintendent is responsible for reviewing school district budgets and interim reports and determining whether or not a district can meet its financial obligations in the current and two subsequent fiscal years. In addition, county superintendents review public disclosures of collective bargaining agreements, and non-voter-approved debt. Since 2014-15, Local Control and Accountability Plan (LCAP) review and approval has been tied to AB 1200 because a county superintendent may not approve a school district's budget until the LCAP is approved.

As a response to AB 1200 and subsequent fiscal oversight legislation, FCMAT, in collaboration with other interested parties, developed and released the first *AB 1200 & Related Responsibilities* guide (later shortened to *Fiscal Oversight Guide*) in February 2000.

In June 2004, the state Legislature approved and the governor signed AB 2756 (Chapter 52/Statutes 2004), which made substantive changes to the financial accountability and oversight of a school district's fiscal condition, and clarified the process for oversight and monitoring of districts that obtain emergency state loans. AB 2756 was an urgency measure and became effective on June 21, 2004. FCMAT's *Fiscal Oversight Guide* was updated in September 2006. AB 2756 also gave FCMAT specific responsibilities with regard to districts that have received emergency state loans.

In December 2015, the *Fiscal Oversight Guide* was updated again with additional information and documentation clarifying the roles and responsibilities of fiscal oversight agencies, including responsibilities related to Education Code Section 52070 and following, which make county superintendents responsible for the oversight and approval of school districts' LCAPs, reinforcing the importance of communication and oversight.

In 2019 another update to the *Fiscal Oversight Guide* occurred due to AB 1840. As mentioned above, this legislation changed how fiscally insolvent districts are administered once an emergency appropriation has been made. It also assigned new responsibilities to FCMAT as part of the process.

The 2020 update, as well as this latest version of the *Fiscal Oversight Guide* have been revised as a result of the Education Omnibus Budget Trailer Bill, and other clarifications have been included where necessary.

The *Fiscal Oversight Guide* does not replace any document or advisory from the California Department of Education (CDE) on this subject. Rather, it is intended to provide current information about the roles and responsibilities of county superintendents of schools and other governing entities. When using the *Fiscal Oversight Guide*, please be sure to always reference the Education Code, Government Code (G.C.), new legislation, and CDE advisories related to these matters.

FCMAT's goal is that this guide will continue to facilitate a better understanding of the roles of various agencies pertaining to fiscal oversight of LEAs. As new legislation is passed and statutory regulations are enacted, the guide will continue to require revision. FCMAT welcomes suggestions for improvements or changes to this document.

This guide uses paraphrased sections of pertinent laws and regulations when they are referenced. For a more meaningful understanding and thorough review, readers will need to consult the entire relevant code section in context.

Exceptions for 2021-22, and Changes in 2020-21 Audit Timelines, Due to COVID-19

Senate Bill 130, Section 18, approved on July 5, 2021, amended E.C. Section 41020, moving the 2020-21 audit dates as follows:

- Due date for audit completion: was December 15, 2021; now January 31, 2022.
- Deadline for governing board review of annual audit: was January 31, 2022; now February 28, 2022.
- Deadline for description of audit finding corrections or plan of corrections: was March 15, 2022; now April 15, 2022.
- County certification of district audits: was May 15, 2022; now June 15, 2022.

Information in this manual that is affected by these changes contains a note to that effect. Sections affected are as follows:

- Pages 45-47, various sections of Requirement for Annual Audit

FCMAT Services

As referenced in the Introduction, AB 1200 created an independent and external entity known as the Fiscal Crisis and Management Assistance Team (FCMAT). The Legislature intended FCMAT to help LEAs avert fiscal insolvency and to provide management assistance at an LEA's request. Since 1992, FCMAT has been engaged to perform more than 1,400 reviews for LEAs, including school districts, county offices of education, charter schools and community colleges.

Accessing FCMAT Services

FCMAT can be invited into a county superintendent's office, school district, charter school or community college to provide management assistance related to the fiscal health of the LEA. FCMAT can also be assigned by the Superintendent of Public Instruction (SPI), the county superintendent of schools, the FCMAT Board of Directors, the California Community Colleges Board of Governors or the state Legislature to provide assistance with a fiscal crisis or management challenges.

FCMAT also can engage automatically with an LEA to conduct a fiscal health risk analysis (FHRA) to determine the LEA's level of risk, if the LEA has any of the following:

- A disapproved budget
- A negative interim report certification
- Three consecutive qualified interim report certifications
- A downgrade of an interim certification by the county superintendent
- A "lack of going concern" designation

FCMAT will not conduct an FHRA on any one LEA more than one time per 12-month period. The automatic engagement will be coordinated with the county superintendent of schools, and when it occurs it will build upon

the county superintendent's oversight processes and activities. There is no cost to the district or the county superintendent when automatic engagement occurs.

Eighty percent of FCMAT's work is a result of an LEA inviting FCMAT to perform proactive, preventive services, or professional learning. Twenty percent of FCMAT's work is a result of assignments by the state Legislature and oversight agencies to conduct fiscal crisis intervention, including FHRAs and extraordinary audits (AB 139 audits).

FCMAT is a resource for the state Legislature, SPI, county superintendents of schools, school districts, charter schools, California community colleges, state administration and state control agencies. The internal and external team includes members with expertise and experience at county offices of education, school districts, charter schools and community colleges. These experts come from both the public and private sectors and have established records of expertise in serving LEAs.

When a request or assignment is received, FCMAT assembles a study team that works closely with the LEA to define the scope of work, conduct on-site fieldwork, and provide a written report with findings and recommendations to help resolve issues, overcome challenges and plan for the future. The team works in close collaboration with the client throughout each study.

State Legislature

The state Legislature has assigned FCMAT to various school districts that have received state emergency appropriations due to cash insolvency (E.C. 41320 and 41325, et seq.). For these assignments, FCMAT conducts comprehensive assessments in five operational areas: financial management, facilities management, personnel management, community relations and governance, and pupil achievement. These assignments typically require FCMAT to report on the district's progress over time related to the assessment. These progress reports are submitted to the district, county superintendent of schools and various state policy makers at designated periods specified by the legislation.

Superintendent of Public Instruction

The SPI may request FCMAT's assistance in the following situations and tasks:

- Disapproved county office of education budgets [E.C. 1624(b)].
- Serve as fiscal expert and conduct budget review studies for county office of education budgets [E.C. 1630].
- Disapproved LEA budget [E.C. 42127.3(b)].
- Assist with LEA budget review and revision [E.C. 42127.6(c)].
- Appeal procedures [E.C. 42127.9].
- Closure of military facility [E.C. 42238.2(a)].
- Review the fiscal and administrative condition of any county office of education, school district, or charter school [E.C. 42127.8(c)(1)].

County Superintendent of Schools

A county superintendent of schools may request FCMAT's assistance in the following tasks:

- Review the fiscal or administrative condition of a school district or charter school under his or her jurisdiction [E.C. 42127.8(c)(2)].
- Provide fiscal management assistance [E.C. 42127.8(d)(1)].

- Facilitate training related to fiscal accountability and expanding the fiscal competency of local agencies [E.C. 42127.8(d)(2)].
- Facilitate fiscal management training through the 11 county service regions to county office of education staff to ensure that they develop the technical skills needed to perform their fiduciary duties [E.C. 42127.8(d)(3)].
- Review teacher hiring practices; teacher retention rate; percentage of highly qualified teachers provided; and extent of teacher misassignment, as well as other provisions [E.C. 42127.6(a)(1)(G)].
- Perform any or all of the duties prescribed in 42127.6(a)(1) subparagraphs (A) to (C) inclusive, or to further review the causes that led to a finding of moderate or high risk of intervention, and recommend corrective action [E.C. 42127.6(a)(1)G].

Local Educational Agency (traditional and charter schools, K-12)

A local educational agency may request FCMAT's assistance in the following areas:

- Fiscal management assistance [E.C. 42127.8(d)(1)].
- Facilitate training which shall emphasize efforts to improve fiscal accountability and expand the fiscal competency of local agencies [E.C. 42127.8(d)(2)].

Board of Governors (California Community Colleges)

The board of governors may request that FCMAT assist a community college district in accordance with Education Code Section 84041 to establish or maintain sound financial and budgetary conditions and to comply with principles of sound fiscal management, as follows:

- Conduct a management review of the district and its educational programs.
- Audit the financial condition of the district.
- Provide management assistance or fiscal crisis intervention when a crisis presents an imminent threat to the fiscal integrity and security of that district.
 - FCMAT shall have the authority, subject to regulations adopted by the board of governors, to stay or rescind any action of the district's governing board that is inconsistent with the district's fiscal integrity and security.
 - FCMAT shall submit a progress report to the affected district, to the board of governors, and to the chancellor at least every six months, or more frequently if that is required by the chancellor.

If the board of governors requests the assistance of FCMAT, the chancellor shall provide the board of governors with a report that includes all of the following:

- An assessment of which events or activities led to the crisis.
- An action plan for addressing the deficiencies of the district.
- A process for assessing district progress in correcting deficiencies.
- Benchmarks that indicate the presence of local capacity to manage the fiscal responsibilities of the district.

Community College District

A community college district may request that FCMAT do the following [E.C. 84041]:

- Provide fiscal management assistance.
- Facilitate training for members of the district's governing board and for any district employee whose responsibilities include addressing fiscal issues. Training services shall emphasize efforts to improve fiscal accountability and to expand the fiscal competency of the trainees.

FCMAT Governing Board

The FCMAT governing board may ask the team to provide contracts and professional services as management assistance to school districts or county superintendents of schools in which the board determines that a fiscal emergency exists [E.C. 42127.8(e)].

Budget Adoption Process

- Before July 1 of each year, the governing board of each school district shall hold a public hearing on, and adopt, the budget for the subsequent fiscal year. The budget to be adopted shall be prepared in accordance with Education Code Section 42126. The agenda for that hearing shall be posted at least 72 hours before the public hearing and shall include the location where the budget will be available for public inspection. Notice of the date and location where the proposed budget may be inspected by the public and the date, time and location of the public hearing shall be published by the county superintendent of schools in a newspaper of general circulation in the school district, or if there is no newspaper of general circulation in the school district, in a newspaper of general circulation in the county, at least three days before the availability of the proposed budget for public inspection but no earlier than 45 days and no later than 10 days prior to the hearing. The hearing must be held not less than three working days following the availability of the budget for public inspection [E.C. 42103].
- If in one fiscal year the amount of money a district has in its Public School System Stabilization Account is equal to or greater than 3% of the combined total of general fund revenues approved for school districts and allocated local proceeds of taxes, as specified for that fiscal year, then in the next fiscal year that school district's budget shall not contain a combined assigned or unassigned general fund ending balance that exceeds 10% of its total expenditures, including other financing uses. The SPI shall notify school districts and county superintendents of schools whenever the conditions are met for this provision to apply, and when they no longer exist. The fund balances included in this calculation are Fund 01, General Fund, and Fund 17, Special Reserve Fund for Other Than Capital Outlay Projects.
 - Basic Aid districts and districts with an average daily attendance (ADA) of less than 2,501 are exempt from the 10% provision.
 - A county superintendent of schools may grant a school district an exemption for up to two consecutive fiscal years within a three-year period if the school district provides documentation that extraordinary fiscal circumstances substantiate the need. In the exemption request, the school district shall:
 - Provide a statement of reasons that substantiates the need for an assigned and unassigned ending fund balance in excess of 10%.
 - Identify the funding amounts in the budget adopted by the school district that are associated with the extraordinary fiscal circumstances provided as the reason for the exemption.
 - Provide documentation that other fiscal resources are not available to fund the extraordinary fiscal circumstances.
- The public meeting at which a school district's governing board adopts a local control and accountability plan (LCAP) and a budget must be held after, but not on the same day as, the public meeting at which the governing board holds the required public hearings on the LCAP and the proposed budget [E.C. 52062(b)(2)].
 - School districts shall adopt a budget on or before July 1 of each year [E.C. 42127(a)(2)].
 - The governing board shall file the budget with the county superintendent of schools within five days of adoption or by July 1, whichever occurs first [E.C. 42127(a)(2)].
 - The budget and supporting data shall be maintained and made available for public review [E.C. 42127(a)(2)].

- The governing board of the school district shall not adopt a budget before the governing board of the school district adopts an LCAP, if an existing LCAP or annual update to an LCAP is not in effect for the budget year. The governing board of a school district shall not adopt a budget that does not include the expenditures necessary to implement the LCAP.
- For budgets submitted on July 1, the county superintendent shall:
 - Examine the adopted budget for compliance with the state criteria and standards adopted by the State Board of Education (SBE) pursuant to Education Code Section 33127, and identify technical corrections necessary to bring the budget into compliance [E.C. 42127(c)(1)].
 - Determine if the adopted budget allows the district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments [E.C. 42127(c)(2)].
 - Ensure that the budget reflects the estimated unaudited revenues, cash balances and expenditures for the year just ended [E.C. 42103(c)].
 - Ensure that the budget reflects a complete plan and itemized statement of all estimated revenues and expenditures for the next fiscal year as well as a comparison of revenue and expenditures for the current year [E.C. 42122].
 - Determine if the budget includes expenditures sufficient to implement the specific actions and strategies included in the LCAP adopted by the governing board of the school district or the annual update to the LCAP, based on the projections of the costs included in the plan [E.C. 42127(c)(3) and 52070(d)(2)].
 - Ensure that the budget is on forms prescribed by the SPI [E.C. 42123].
 - Ensure that if the budget includes designations of fund balance or an unappropriated fund balance, the funds are available for appropriation by a majority vote of the governing board [E.C. 42125].
 - Determine whether the budget includes a combined assigned and unassigned ending fund balance that exceeds the minimum recommended reserve for economic uncertainties, and if so, verify that the district complied with the requirements of Education Code Section 42127(a)(2)(B) and (C) [E.C. 42127(c)(4)].
 - Review and consider studies, reports, evaluations, or audits of the district that contain evidence of fiscal distress under the criteria and standards, or that indicate the school district is at moderate or high risk of intervention based on the most common predictors of a district needing intervention¹ [E.C. 42127(c)(2)].

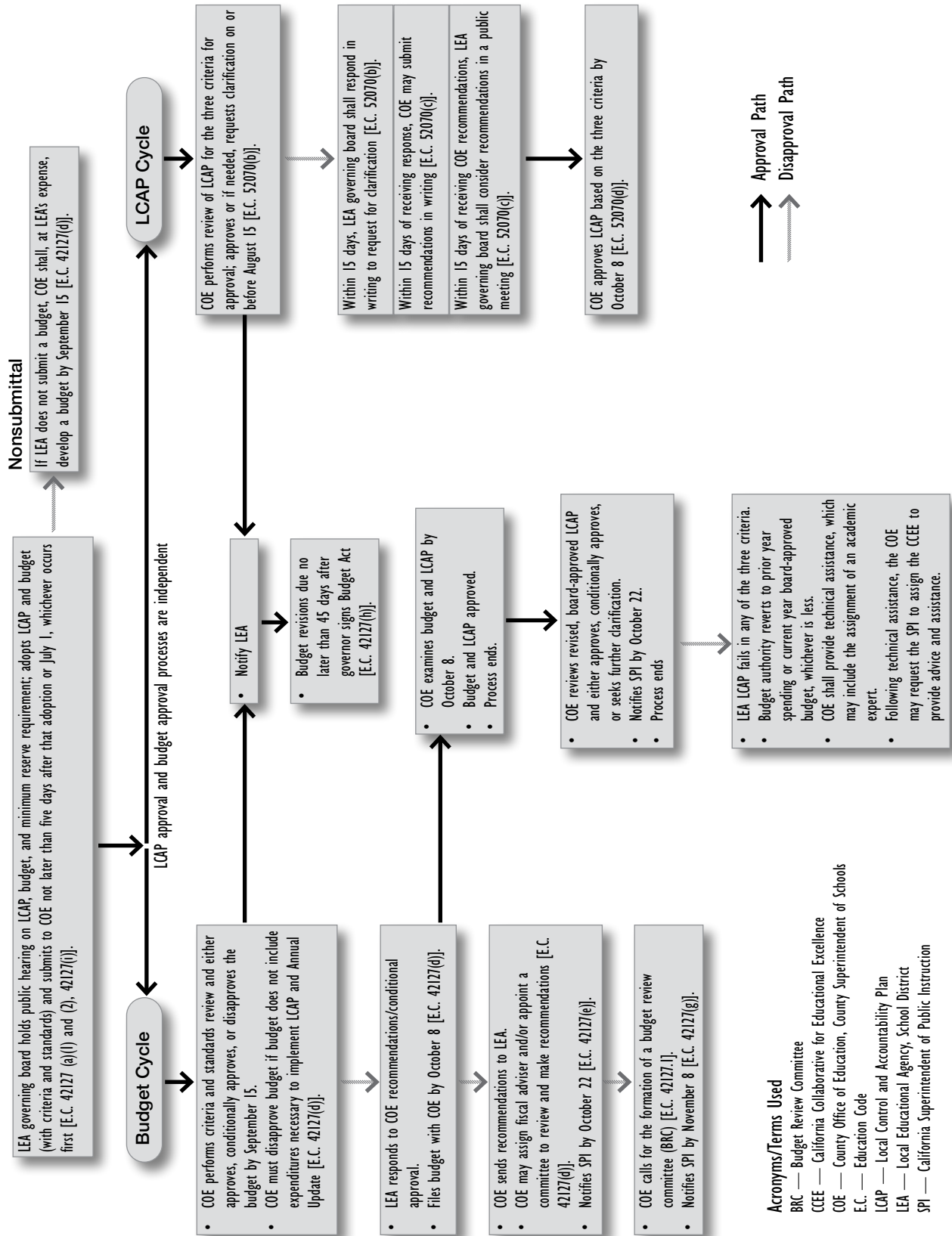
Either conditionally approve or disapprove a budget that does not provide assurances that the district will meet its current and future obligations and resolve problems identified in studies, reports, evaluations, or audits described above [E.C. 42127(c)(2)].

- A county superintendent of schools may not approve a district's budget until its LCAP or update to an existing LCAP for the budget year is approved [E.C. 42127(d)(2)]. To approve a district's budget, a county superintendent must ensure compliance with the three criteria for LCAP approval [E.C. 52070(d)].
- On or before September 15, the county superintendent shall approve, conditionally approve or disapprove the adopted budget for each school district [E.C. 42127(d)(1)].

1. The *Indicators of Risk or Potential Insolvency* document is available in [Appendix B](#) and at www.fcmat.org.

- If a county superintendent does not approve a district's LCAP on or before September 15, the county superintendent may not approve a district's annual budget.
 - Conditional budget approval may be an option [E.C. 42127(c) and (d)].
 - If the budget does not include the expenditures necessary to implement an LCAP, the county superintendent shall disapprove the budget [E.C. 42127(d)(1)].
 - If the sole reason for disapproval of a budget is the lack of an approved LCAP or annual update, the requirement to form a budget review committee is waived [E.C. 42127(f)(2)].
- No later than 45 days after the state budget is signed by the governor, the district must make available for public review any revisions made necessary by the Budget Act [E.C. 42127(h)].
- If a school district budget is not submitted to the county superintendent of schools, the county superintendent, at district expense, shall develop a budget for that district by September 15 and transmit that budget to the governing board of the school district. This budget is deemed adopted as transmitted unless modifications made by the governing board of the district are approved by the county superintendent. This approved budget shall be a guide for the district's priorities. The SPI shall review and certify the district budget approved by the county superintendent [E.C. 42127(d)(1)].
- If the governing board of any school district neglects or refuses to make a budget, the county superintendent of schools shall not make any apportionment of state or county school money to the district for the current year, and shall notify the appropriate county official that the county superintendent of schools will not approve any warrants issued by the school district [E.C. 42128].
- Not later than September 15, if the budget is conditionally approved or disapproved by the county superintendent because it failed to meet the standards outlined in Education Code Sections 42127(c)(1), (2), (3) or (4), the county superintendent shall transmit to the governing board, in writing, recommendations regarding revision of the budget and the reasons for those recommendations, including, but not limited to, the amount of any budget adjustments needed before the budget can be approved.
 - The county superintendent may assign a fiscal advisor to assist the district with budget development in compliance with those revisions or appoint a committee to examine and comment on the county superintendent's review and recommendations. If appointed, the committee must report its findings no later than September 20 [E.C. 42127(d)(1)].
 - If the adopted budget is conditionally approved or disapproved pursuant to Education Code Section 42127(d)(1), on or before October 8, the governing board of the school district, in conjunction with the county superintendent of schools, shall review and respond to the recommendations of the county superintendent at a regular meeting of the governing board of the school district. The response shall include any revisions to the adopted budget and other proposed actions to be taken, if any, as a result of these recommendations [E.C. 42127(d)(3)].
 - No later than October 22, the county superintendent shall provide a list to the SPI identifying all school districts for which budgets may be disapproved [E.C. 42127(e)].
 - No later than November 8, the county superintendent shall provide a list to the SPI identifying all school districts for which budgets have been disapproved and indicating whether a budget review committee will be formed or waived [E.C. 42127(g)].

Budget/LCAP Adoption Process



Local Control and Accountability Plan (LCAP) Approval

A county superintendent of schools may not approve a district's budget until its LCAP is approved [E.C. 42127(d)(2)].

Before a school district adopts an LCAP, Education Code Section 52062 requires the district to present its LCAP to the parent advisory and English learner parent advisory committees, provide public notification, and hold a public hearing before the district's governing board. Education Code Section 52070 requires that a district's LCAP be approved by the county superintendent of schools. The county superintendent of schools may not approve an LCAP if the school district's budget does not include expenditures sufficient to implement the strategies in the LCAP.

In addition, Education Code Section 52062(b)(2) requires that the public meeting at which a school district governing board adopts an LCAP and a budget be held after, but not on the same day as, the required public hearings on the LCAP and the proposed budget.

To approve a district's budget, a county superintendent of schools must ensure compliance with the three criteria for LCAP approval [E.C. 52070(d)], which are as follows:

1. The LCAP or annual update to the LCAP adheres to the template adopted by the SBE, pursuant to Education Code Section 52064.
2. The budget for the applicable fiscal year adopted by the governing board of the school district includes expenditures sufficient to implement the specific actions and strategies included in the district's board-adopted LCAP, based on the projections of the costs included in the plan (budgeted expenditures sufficient to implement the plan).
3. The LCAP or annual update to the plan adheres to the expenditure requirements adopted pursuant to Education Code Section 42238.07, and Title 5, California Code of Regulations (5 CCR), Sections 15494-15497, for funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to Education Code Sections 42238.02 and 42238.03.

Education Code Section 52070(d)(3) states that the county superintendent of schools shall determine if the LCAP or annual update adheres to the expenditure regulations for supplemental and concentration funds, which are found in 5 CCR, Sections 15494-15497. In making the determination regarding adherence to expenditure requirements, the county superintendent shall include review of any required descriptions provided for expenditures of supplemental and concentration funds. When on a districtwide or schoolwide basis, the county superintendent shall determine whether the school district has fully demonstrated that it will increase or improve services for unduplicated pupils pursuant to 5 CCR 15496(a). If a county superintendent does not approve an LCAP because the district failed to meet its requirement to increase and improve services, the superintendent shall provide technical assistance to the district in meeting that requirement. The county superintendent's review needs to include additional bases for determination required in the description of how selected services provided are the most effective use of funds to meet the district's goals for its unduplicated pupils. Bases shall include, but not be limited to, the following:

- Alternatives considered
- Supporting research
- Experience
- Educational theory

If a county superintendent does not approve a district's LCAP on or before September 15, the county superintendent may not approve a district's annual budget.

If the county superintendent determines that the budget does not include the expenditures necessary to implement an LCAP, the county superintendent shall disapprove the budget [E.C. 42127(d)(1)].

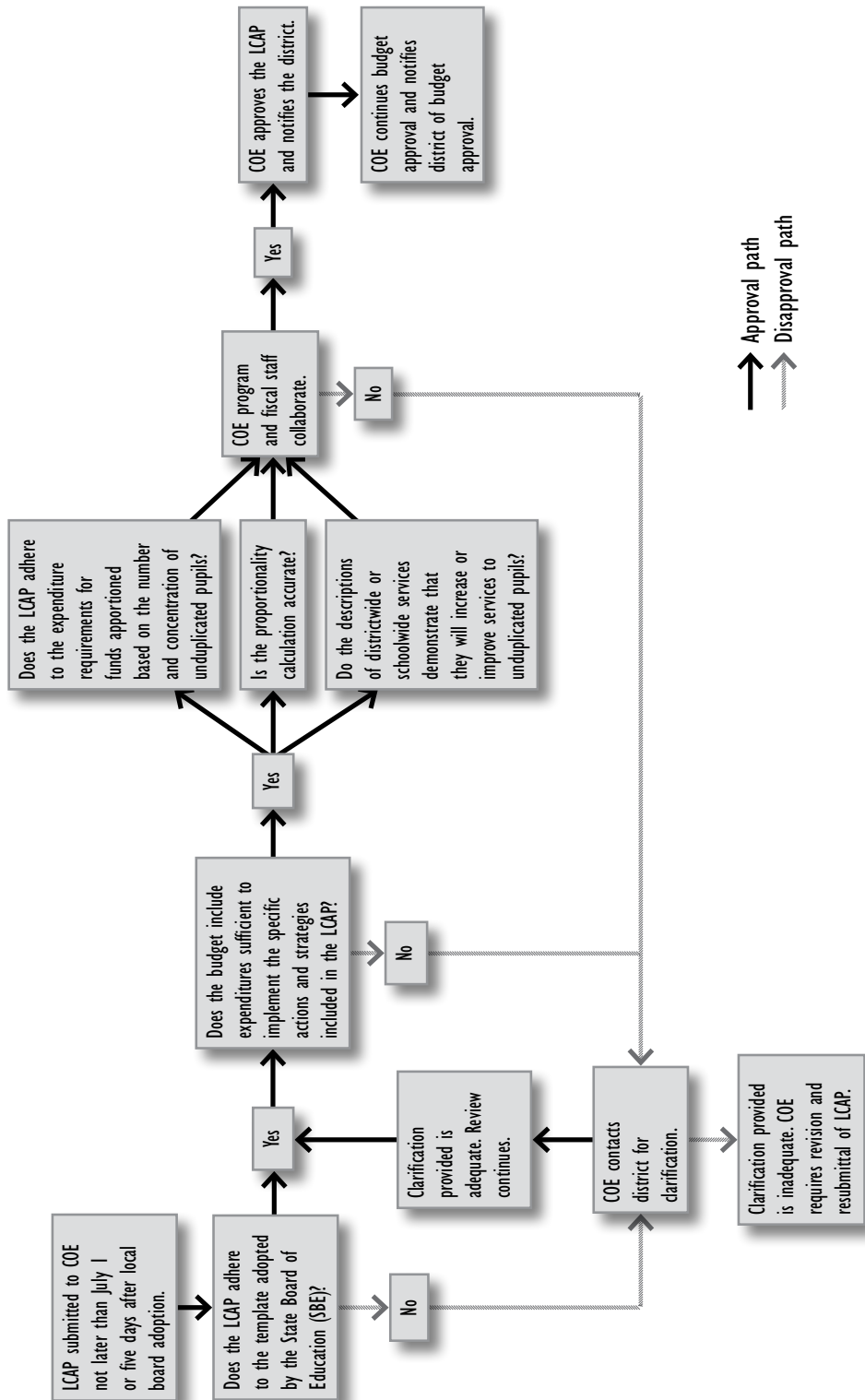
- If the sole reason for a budget being disapproved is the lack of an approved LCAP or annual update, the requirement to form a budget review committee is waived.

When a county superintendent of schools does not approve a district's LCAP, technical assistance shall be provided using the California School Dashboard, including but not limited to:

- Identifying the school district's strengths and weaknesses with regard to the state priorities, including the review of effective, evidence-based programs that apply to the district's goals.
- Assigning an academic expert or experts. These experts would assist in identifying and implementing effective programs designed to improve outcomes for all pupil subgroups. The county superintendent may also solicit another district to act as a partner to the district in need of assistance.
- Requesting the assistance of the California Collaborative for Educational Excellence (CCEE).

The *Business and Administration Steering Committee (BASC) LCAP Approval Manual* is included in Appendix D.

County Office Review of District LCAP



→ Approval path
→ Disapproval path

Budget Review Committee Process

Formation by County Superintendent of Schools

- I. Upon the disapproval of a district budget by the county superintendent of schools, the county superintendent shall call for the formation of a budget review committee (BRC), unless the district governing board and the county superintendent of schools agree to waive the requirement. CDE approval to accept the waiver is contingent on determining that a BRC is not necessary. Upon the grant of a waiver, the county superintendent has the authority and responsibility provided to a BRC in Education Code Section 42127.3. Upon the approval of a waiver, the CDE shall ensure that a balanced budget is adopted for the district by December 31 and includes fiscal and educational aspects of LEA management [E.C. 42127.1(a) and 42127(f)(1)].
 - A. The BRC shall consist of three persons selected by the district's board from a list of candidates provided by the SPI. The candidates shall have expertise in the management of a school district or county office of education, including fiscal and educational aspects of LEA management [E.C. 42127.1(b)].
 1. The district board has five working days after receiving a list of candidates from the SPI to select the BRC [E.C. 42127.2(a)].
 2. The SPI shall convene the committee no later than five working days following the selection of the committee by the district board [E.C. 42127.2(a)].
 3. If the district board fails to select a committee, the SPI has 10 working days from the date the board received the candidate list to convene a BRC [E.C. 42127.2(a)].
 - B. Alternatively, the BRC may be a regional review committee, consisting of persons having expertise in fiscal and educational aspects of LEA management. The regional review committee is convened by the county superintendent with the approval of the district board and the SPI [E.C. 42127.1(c)].
 1. The members of the committee shall be reimbursed for their services and associated expenses by the CDE at rates established by the SBE [E.C. 42127.1(d)].
 - C. The county superintendent may request that the controller's office conduct an audit or review of the fiscal condition of the district to assist a BRC or regional review committee [E.C. 42127.2(e)].
- II. No later than November 30, the BRC shall complete its review of the proposed budget and the underlying fiscal policies of the district and transmit to the county superintendent, the SPI, and the district board either the recommendation that the school district budget be approved or a report disapproving the budget and providing recommended revisions to the budget that would allow the district to meet its financial obligations [E.C. 42127.2(b)].
 - A. The SPI may extend the deadline noted above for no more than 15 working days [E.C. 42127.2(c)].
 - B. If the budget is approved by the BRC, the county superintendent of schools shall accept the recommendations and approve the budget [E.C. 42127.3(a)].
 - C. If the budget is disapproved by the BRC, the district board has five working days to respond to the SPI. The response should include any revisions to the budget and other proposed actions to be taken as a result of the BRC's recommendations. Based on the recommendations of the BRC and

the response provided by the district board, the SPI shall either approve or disapprove the revised budget [E.C. 42127.3(b)].

SPI's Approval or Disapproval of Budget

- I. Based on the recommendations of the BRC and any response to those recommendations provided by the governing board of the school district, the SPI shall either approve or disapprove the budget. If the SPI disapproves the budget under Education Code Section 42127.3(b), the SPI will notify the district governing board in writing of the reasons for the disapproval. For the remainder of the current fiscal year, the county superintendent of schools shall do the following as necessary:
 - A. No later than December 31, the county superintendent shall develop and adopt, in consultation with the SPI and governing board of the school district, a fiscal plan and budget that will allow the district to meet its financial obligations, both in the current fiscal year and with regard to the district's multiyear financial commitments. The SPI may extend the date beyond December 31. The governing board of the school district shall govern the operation of the school district for the current fiscal year in accordance with the fiscal plan and budget developed and adopted by the county superintendent [E.C. 42127.3(b)(1)].
 - B. Cancel purchase orders, prohibit the issuance of nonsalary warrants, and otherwise stay or rescind any action that is inconsistent with the budget adopted under Education Code Section 42127.3(b)(1). The county superintendent shall inform the district school board in writing of the justification for exercising this authority [E.C. 42127.3(b)(2)].
 - C. Monitor and review the operation of the school district [E.C. 42127.3(b)(3)].
 - D. Determine the need for additional staff and employ, subject to approval by the SPI, short-term analytical assistance or expertise to validate financial information if the district staff does not have the expertise or staff [E.C. 42127.3(b)(4)].
 - E. Require the school district to encumber all contracts and other obligations, to prepare appropriate cash-flow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables [E.C. 42127.3(b)(5)].
 - F. Determine whether there are any financial problem areas and employ, subject to approval by the SPI, a certified public accounting firm to investigate financial problem areas [E.C. 42127.3(b)(6)].
 - G. Withhold compensation of the members of the governing board and the district superintendent for failure to provide requested financial information [E.C. 42127.3(b)(7)].
 - H. If during the selection of the BRC or during the BRC's review of the budget an agreement is reached between the governing board of the school district and the county superintendent of schools, and the school district revises its budget to comply with this agreement, the county superintendent of schools shall approve the district budget, and the BRC selection, or its review of the budget, shall be canceled [E.C. 42127.3(c)].
 - I. The school district shall pay 75% and the county office of education shall pay 25% of the actual administrative expenses incurred or costs associated with improving the district's financial management practices pursuant to Education Code Section 42127.3(d). County offices of education are eligible to request their 25% costs through a FCMAT reimbursement with the approval of the CDE and Department of Finance (DOF).

SPI DISAPPROVED DISTRICT BUDGET

SPI Disapproved Budget

The SPI notifies the LEA board, in writing, of reasons for disapproval. The county superintendent, for the remainder of the current fiscal year,* shall do the following as necessary:



- Assume expanded authority.
- Consult with SPI and the LEA's board to develop and adopt a fiscal plan and budget that allows the district to meet its financial obligations.**
- Consider current fiscal year and multiyear financial commitments.
- Cancel purchase orders, prohibit nonsalary warrants, stay or rescind any LEA action that is inconsistent with the newly adopted budget. The county superintendent shall inform the governing board in writing of the justification for his/her authority under this section.
- Monitor and review the operation of the district.
- May employ short-term analytical assistance.
- Require all contracts and other obligations be encumbered, to prepare cash flow analyses and monthly or quarterly budget revisions.
- LEA board shall govern the district in accordance with the newly adopted budget.

Approved Imposed Budget

Every school district will have an adopted and approved or imposed budget by December 31.

Pending budget approval, E.C. 42127.4 requires the LEA to continue to operate on the lowest total spending authority of either:

- Last budget adopted or revised by the governing board for prior fiscal year, or
- The unapproved budget for the current fiscal year, as adopted and revised by the governing board of the school district.

 Approval path
 Disapproval path

* County superintendent cannot abrogate any prior collective bargaining provisions [E.C. 42127.3 (e)].

** LEA shall pay 75 percent and the COE 25 percent [E.C. 42127.3 (d)].

Going Concern

The term “going concern,” when applied to an agency, business or organization, means that the entity is fiscally healthy and able to meet its financial obligations. An organization is not a going concern when its fiscal health is suspect, or when it is deemed to have risk of insolvency. This latter circumstance would be considered “not a going concern” or “lack of a going concern.” The AB 1200 section of the Education Code does not use the term “going concern.” However, Education Code Section 42127.6 has often been referred to as the “going concern” section. The term “going concern” does appear in the state controller’s *K-12 Audit Guide* under “other issues.” The guide’s statement on auditing standards (SAS) No. 59 states:

The Auditor’s Consideration of an Entity’s Ability to Continue as a Going Concern addresses the auditor’s responsibilities and considerations when questions arise concerning an organization’s ability to meet its obligations as they become due without substantial disposal of assets outside the ordinary course of business, restructuring of debt, externally forced revision of its operation, or similar actions. The ability to meet payment obligations as they become due is the key concept that causes SAS No. 59 to be directly applicable to government entities, including LEAs.

When an auditor issues a report, there are four (4) ways they can express an opinion on the audited financial statements: unqualified, qualified, disclaimer, and adverse (see below). The auditor is required to state in the opinion whether generally accepted accounting principles (GAAP) have been followed and applied consistently.

- **Unmodified opinion** — this is the desired opinion, and means there are no reservations about the financial statements. This opinion is often called a clean opinion, meaning that the financial statements are presented fairly.
- **Qualified opinion** — this means that the auditor has found some exception(s) to the accounting applications, or that misstatements, individually or in the aggregate, are material to the financial statements but not pervasive.
- **Adverse opinion** — this means that the auditor, having obtained sufficient audit evidence, concludes that misstatements, individually or in the aggregate, are both material to the financial statements and pervasive. The financial statements do not fairly present the financial position, results of operations, and changes in financial position, and thus are not in conformity to GAAP.
- **Disclaimer of opinion** — this means that the auditor was unable to obtain sufficient appropriate audit evidence on which to base an opinion, and the auditor concludes that the possible effects on the financial statements of undetected misstatements, if any, could be both material and pervasive. The auditor is not allowing their name to be associated with financial statements that could not be examined in accordance with GAAP.

Education Code Section 42127.6 was amended in 2004 to include the provisions of AB 2756. These provisions include the following:

- I. A district shall provide the county superintendent of schools with a copy of any study, report, evaluation, or audit that contains evidence that the school district is showing fiscal distress under the criteria and standards adopted in Education Code Section 33127, or a report on the district by FCMAT.
- II. The county superintendent of schools shall review and consider these studies, reports, evaluations or audits that contain evidence that the district is demonstrating fiscal distress under the criteria and standards, or that contain a finding by an external reviewer that the school district is at moderate or high risk of inter-

vention based on the most common indicators of a school district needing intervention as determined by FCMAT² [E.C. 42127(c)(2)].

III. The county superintendent of schools shall investigate the financial condition of the school district and determine if the school district may be unable to meet its financial obligations for the current or two subsequent fiscal years or should receive a qualified or negative interim financial certification pursuant to Education Code Section 42131.

A. 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 for the current or two subsequent fiscal years, or if the district has a qualified or negative certification, the county superintendent shall provide a written notice of going concern determination to the governing board and the SPI and the reasons for the determination. The notification shall include the assumptions used and shall be available to the public. The county superintendent shall report to the SPI on the financial condition of the district and proposed remedial actions. The county superintendent shall adhere to Education Code Section 42127.6 in assisting the school district by doing at least one of the following (This is a paraphrased narrative of the code section. Please refer to Education Code Section 42127.6 for a complete list):

1. Assign a fiscal expert, paid for by the county superintendent, to advise the district on its financial problems.
2. Conduct a study of the financial and budgetary conditions of the district. If expertise is needed for the study, the county office of education may hire staff with the approval of the SPI. The school district shall pay 75 percent and the county office of education shall pay 25 percent of those staff costs. County offices of education are eligible to request their 25 percent of costs through a FCMAT reimbursement with the approval of the CDE and DOF.
3. Direct the school district to submit a financial projection of all fund and cash balances of the district for the current and subsequent fiscal years.
4. Require the district to encumber all contracts and other obligations, to prepare appropriate cash flow analyses and budget revisions, and to record all receivables and payables.
5. Direct the district to submit a proposal for addressing its fiscal condition.
6. Withhold compensation of the members of the governing board and district superintendent for failure to provide requested financial information. This action may be appealed to the SPI.
7. Assign FCMAT 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. If a review team is assigned, the district shall follow the recommendations of the team.
8. Perform any or all of the duties prescribed in items 1, 2 or 3 above (i.e., assign a fiscal expert, conduct a study of the financial and budgetary conditions of the district, or direct the school district to submit a financial projection of all fund and cash balances for the current and subsequent fiscal years) to further review the causes that led to a finding of moderate or high risk of intervention and recommend corrective action [E.C. 42127.6(a)(1)G].

Any contract entered into by the county superintendent of schools for the purposes of this subdivision is subject to the approval of the SPI.

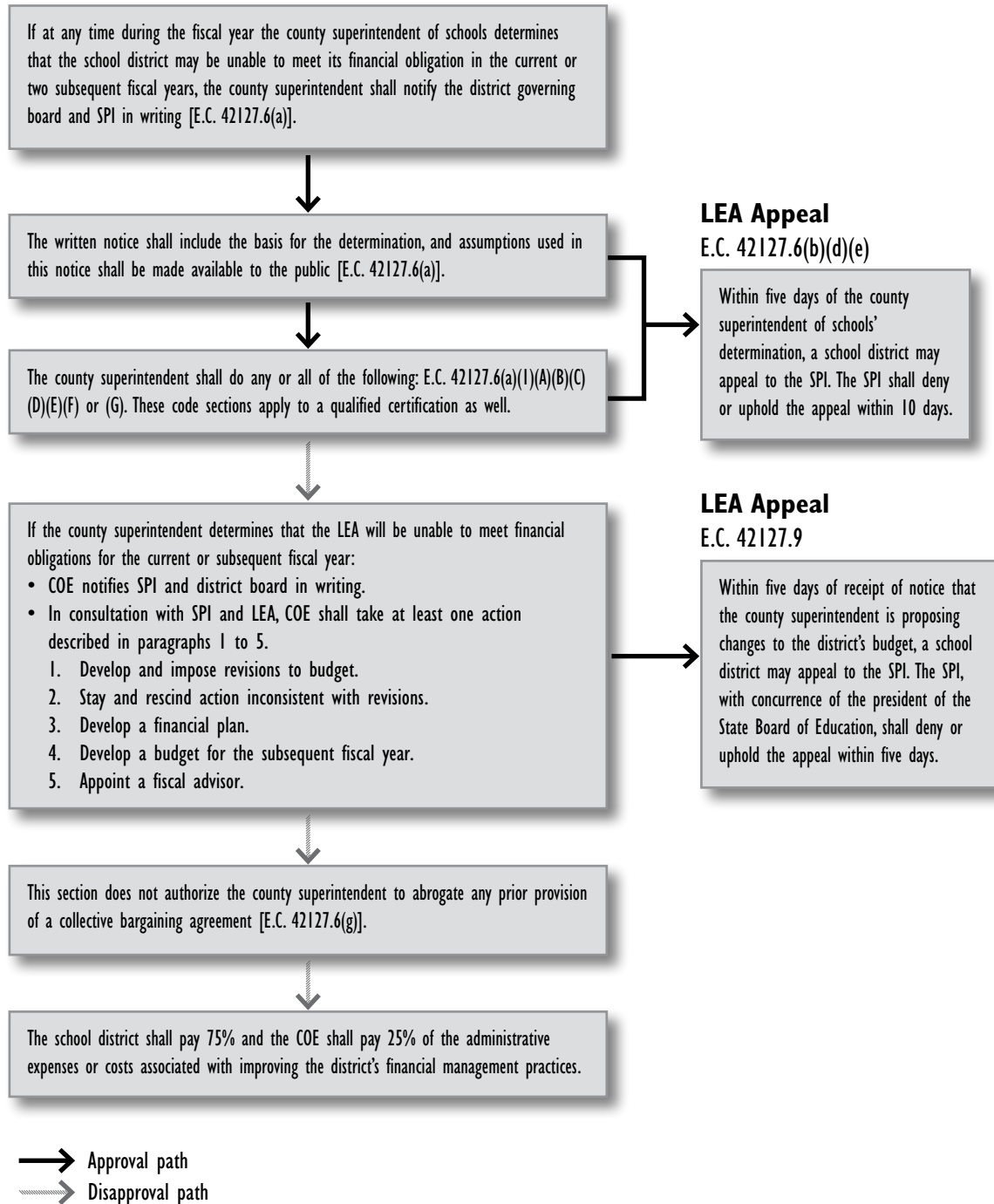
2. The *Indicators of Risk or Potential Insolvency* document is available in [Appendix B](#) and at www.fcmat.org.

- B. If, after taking any or all of the actions cited in Education Code Sections 42127.6(a)(1)(A) through (G), the county superintendent of schools determines that a district will be unable to meet its financial obligations for the current or subsequent fiscal year, the county superintendent of schools shall notify the governing board of the school district, the superintendent of the school district, each recognized employee organization of the school district, each recognized parent organization of the school district, the SPI, and the president of the SBE or the president's designee in writing of that determination and the basis for that determination. The notification shall include the county superintendent's assumptions in making the determination. Within five days of the determination, the district may appeal the determination to the SPI. Within 10 days of the appeal, the SPI shall sustain or deny any or all parts of the appeal. During the appeal process, the county superintendent may stay any action of the governing board that is inconsistent with the district's ability to meet its financial obligations in the current or subsequent fiscal year until resolution of the appeal by the SPI [E.C. 42127.6(b), (c) and (d)].
- C. If the appeal is denied or not filed, or if the district has a negative certification, the county superintendent, in consultation with the SPI, shall take at least one of the actions described below, and all actions that are necessary to ensure that the district meets its financial obligations. These actions include the following [E.C. 42127.6(e)(1) through (5)]:
1. Develop and impose, in consultation with the SPI and the governing board, a budget revision.
 2. Stay or rescind any action that is determined to be inconsistent with the school district's ability to meet its obligations for the current or subsequent fiscal year.
 3. Assist in developing, in consultation with the governing board of the school district, a multiyear 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 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 advisor to perform any or all of the duties required of the county superintendent under this section.
- D. No later than five days after receipt of the notice that the county superintendent of schools is proposing changes to the district's budget pursuant to Education Code Section 42127.6(e), the district may appeal the change to the SPI on the basis of impact to programs, requirement of unnecessary reductions, or conflict with state and federal law. The SPI, with the concurrence of the president of the SBE, has five days to deny or uphold the appeal [E.C. 42127.9].
- E. Any action taken by the county superintendent of schools under this subdivision shall be accompanied by a notification that shall include the actions to be taken, the reasons for the actions, and the assumptions used to support the need for these actions.
- F. The school district shall pay 75 percent and the county office of education shall pay 25 percent of the administrative expenses incurred pursuant to Education Code Section 42127.6(e) or costs associated with improving the district's financial management practices. County offices of education are eligible to request their 25 percent of costs through a FCMAT reimbursement with the approval of the CDE and DOF [E.C. 42127.6(h)].

- IV. This section does not authorize the county superintendent to abrogate any provisions of a collective bargaining agreement that was entered into by a school district prior to the date on which the county superintendent of schools assumed authority [E.C. 42127.6(g)].
- V. The SPI is required to monitor the efforts of county superintendents and may exercise any of that authority if the actions of the county superintendent are not effective in resolving the school district's financial problems. If the SPI decides to exercise the powers of the county superintendent, the county superintendent is relieved of those powers. The SPI shall take further actions to ensure the long-term fiscal stability of the district. The county office of education is required to reimburse the SPI for all costs in exercising this authority [E.C. 42127.6(k)].

GOING CONCERN

Education Code Section 42127.6



Interim Reports

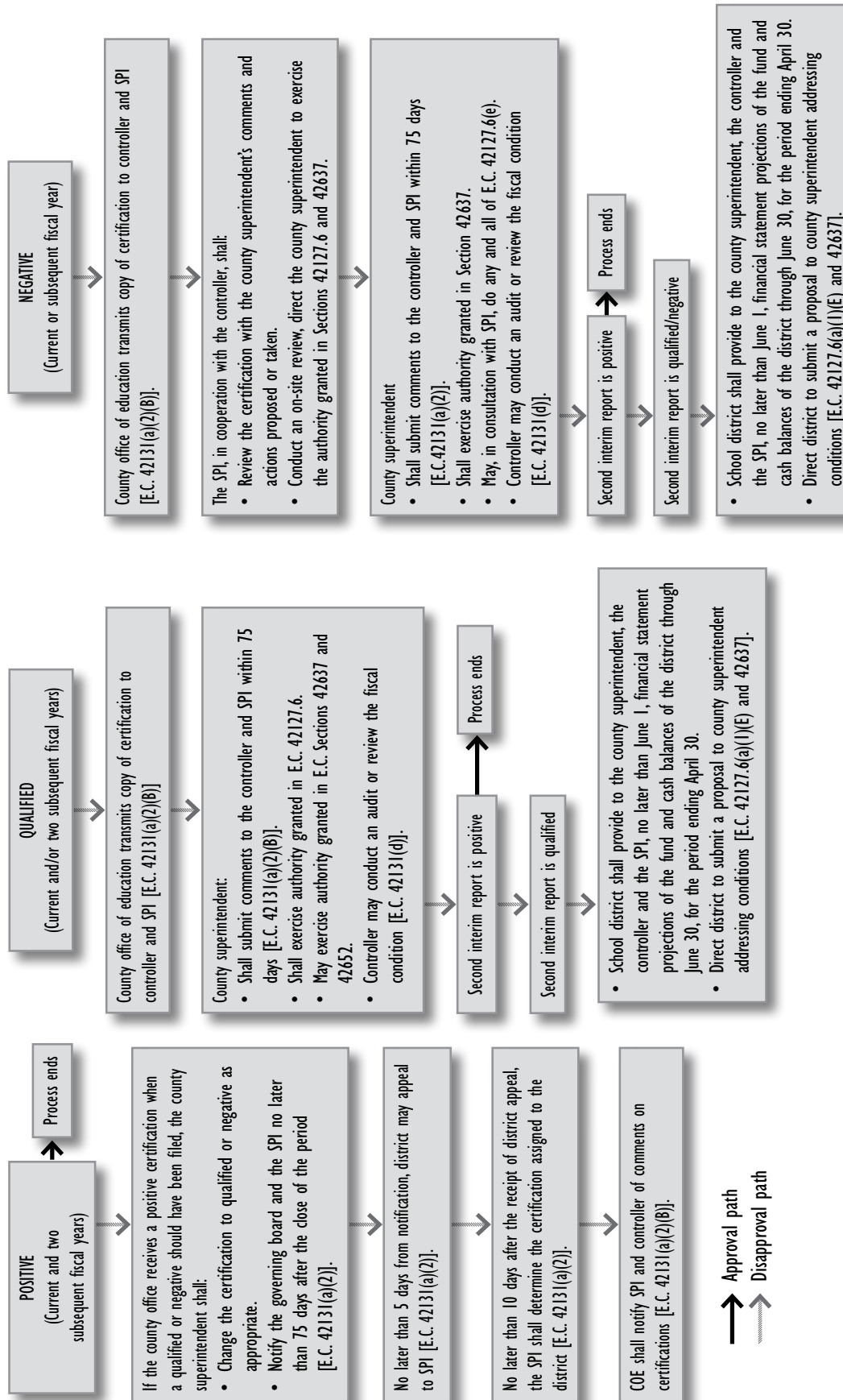
Districts shall submit two reports to the governing board during each fiscal year. The first report (first interim) shall cover the financial and budgetary status of the district for the period ending October 31. The second report (second interim) shall cover the period ending January 31. Both reports shall be approved by the district board no later than 45 days after the close of the report period (approximately December 15 and March 15) [E.C. 42130]. All reports shall be in a format or on forms prescribed by the SPI and shall be based on criteria and standards for fiscal stability.

- I. School districts shall certify in writing (within 45 days after the close of the period being reported) whether or not the district is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent two fiscal years. A positive certification shall be assigned to any school district that, based upon current projections, will meet its financial obligations for the current fiscal year and subsequent two fiscal years. A qualified certification will be assigned to any district that may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A negative certification will be assigned to any district that will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year [E.C. 42131(a)(1)].
- II. If a county superintendent of schools receives a positive certification when he or she determined a negative or qualified certification should have been filed, or receives a qualified certification when they have determined a negative certification should have been filed, the county superintendent shall change the certification to negative or qualified as appropriate and shall so notify the governing board and the SPI within 75 days after the close of the period being reported [E.C. 42131(a)(2)(A)].
 - A. No later than five days after receipt of the notice of a change to negative or qualified, the governing board of the school district may submit an appeal to the SPI [E.C. 42131(a)(2)(A)].
 - B. The SPI shall determine the certification to be assigned to the district no later than 10 days after receiving the appeal and notify the school board and county superintendent of schools [E.C. 42131(a)(2)(A)].
 - C. As to any school district having a negative or qualified certification, the county superintendent of schools shall exercise authority pursuant to Education Code Section 42127.6.
 - D. Within 75 days of the close of a reporting period, all certifications classified as qualified or negative shall be transmitted by the county superintendent to the SPI and state controller, along with the county superintendent's comments and report of actions proposed or taken [E.C. 42131(a)(2)(B)].
 - E. Within 75 days after the close of each reporting period, each county superintendent shall report to the state controller and the SPI whether each school district under the county's jurisdiction has submitted the certification required [E.C. 42131(c)].
 - F. The controller's office may conduct an audit or review of the fiscal condition of any district having a negative or qualified certification [E.C. 42131(d)].
 - G. Any school district having a negative or qualified certification, or classified as qualified or negative by the county superintendent of schools, shall continue to be classified as qualified or negative until the next report required under Section 42130 is filed [E.C. 42131(e)].
- III. Whenever a district has a qualified or negative certification, the county superintendent of schools may exercise authority granted in Education Code Sections 42127.6 and 42131(b).

- IV. If the second interim report transmitted by a school district each fiscal year is qualified or negative, the governing board of that school district shall provide the county superintendent, the SPI and the controller with a financial statement, no later than June 1 of that fiscal year, that projects the district's fund and cash balances through June 30 for the period ending April 30 [E.C. 42131(e)]. This report is sometimes referred to as the "third interim report." A district is not required to self-certify to a "positive," "qualified," or "negative" certification when submitting their June 1 financial statement.
- V. A school district that has a qualified or negative certification in any fiscal year may not issue, in that year or in the next fiscal year, certificates of participation, tax anticipation notes, revenue bonds, or any other debt instruments that do not require the approval of the voters of the district, unless the county superintendent of schools determines that the district's repayment of that indebtedness is probable [E.C. 42133].
- VI. A school district that has a qualified or negative certification must allow the county superintendent of schools at least 10 working days to review and comment on any proposed agreement between the exclusive representative and the public school employer before it is ratified. The school district shall provide the county superintendent with all information relevant to an understanding of the financial impact(s) of the agreement, pursuant to Government Code Section 3543.2. The county superintendent shall notify the school district, the county board of education, the district superintendent, the governing board of the school district, and each parent and teacher organization of the district within those 10 days if, in his or her opinion, the agreement would endanger the fiscal well-being of the school district.
- VII. The SPI or the county superintendent of schools can revoke/suspend its approval of a district drawing warrants on the county treasury if the district has a qualified or negative interim report certification [E.C. 42652].
- VIII. If the governing board of any school district neglects to file interim reports, the county superintendent of schools shall not make any apportionment of state or county school money to the district for the current year, and the county superintendent shall notify the appropriate county official that the county superintendent will not approve any warrants issued by the school district [E.C. 42128].
- IX. If school districts and county superintendents of schools do not transmit budget reports, prior year expenditure reports, qualified and negative financial status reports, program cost accounting reports, certifications, audit reports, and those reports used to calculate the first, second, and annual principal apportionments and special purpose apportionments within 14 days after the submission date prescribed in the statute or by SPI, the SPI may direct the county auditor to withhold payment of any stipend, expenses, or salaries to the district superintendent, county superintendent, or members of the governing boards, as appropriate. The payments shall be withheld until the delinquent reports have been submitted to the SPI. If the county superintendent performs the functions of the county auditor, the SPI may direct the county superintendent to withhold the payments specified in this section [E.C. 42129].

INTERIM REPORTS

Education Code Section 42131



Response and Appeal Procedures

This section is intended to provide a summary of the response and appeal procedures related to various aspects of the budget approval and interim reporting process. For more information, including code references and timelines related to a specific area, refer to those sections contained in this guide.

- I. No later than five days after the district receives notice of change(s) in the district's budget to be imposed pursuant to Education Code Sections 42127.3(b), 42127.6(e) or 42131(b), the LEA board may respond or appeal.
 - A. The district governing board may submit an appeal and a response to the SPI, including any revisions to the adopted final budget and any proposed actions to be taken by the district as a result of the BRC [E.C. 42127.3(b)].
 - B. The district governing board may submit an appeal to the SPI based on the contention that the change(s) would do one or more of the following [E.C. 42127.9(a)]:
 1. Exceed the financial and program changes that are necessary.
 2. Require reductions that are unnecessary.
 3. Force changes that are inconsistent with state or federal law.
- II. No later than five days after receiving that appeal, the SPI, with the concurrence of the president of the SBE or the president's designee, shall deny or uphold the appeal [E.C. 42127.9(b)].
 - A. If the appeal is upheld, the SPI may revise changes adopted by the county superintendent of schools or offer guidelines to the LEA and county superintendent on changing the budget [E.C. 42127.9(b)].
 - B. If the appeal is denied, the LEA shall implement changes adopted by the county superintendent of schools [E.C. 42127.9(b)].
- III. During the appeal process, the county superintendent may stay any action of the governing board that is inconsistent with the district's ability to meet its financial obligations in the current or subsequent fiscal years until resolution of the appeal by the SPI [E.C. 42127.6(b), (c) and (d)].

Changes In School District Budget APPEAL PROCEDURES

Education Code 42127.9

LEA Appeal [E.C. 42127.9]

- No later than five days after the LEA receives notice of changes to budget pursuant to E.C. Sections 42127.3(b), 42127.6(e) and 42131(b), LEA board may submit appeal to SPI, based on the premise that changes would:
 1. Exceed financial or program changes necessary.
 2. Require reductions that are unnecessary.
 3. Be inconsistent with state and federal law.
- No later than five working days after receiving LEA appeal, SPI, with concurrence of president of State Board of Education, shall deny or uphold the appeal.

Denied

E.C. 42127.9(b)

- LEA shall implement the changes adopted by the county superintendent.

Appeal Upheld

E.C. 42127.9(b)

SPI may revise the changes adopted by the county superintendent or issue guidelines governing how the LEA or county superintendent are required to change the budget.



School Districts that Receive an Emergency Apportionment

When a school district becomes insolvent and requires an emergency apportionment from the state, the county superintendent of schools, under the supervision of the SPI, will assume control of the school district to ensure its return to fiscal solvency [E.C. 41325(a)].

School Districts

- I. Before applying for an emergency apportionment that exceeds 200% of the amount of the reserve recommended for that school district based on the standards and criteria adopted pursuant to Section 33127, the governing board of the school district shall discuss the need for that apportionment at a regular or special meeting of the governing board and, at that meeting, shall receive testimony regarding the emergency appropriation from parents, exclusive representatives of employees of the school district, and other members of the community [E.C. 41326(a)].
- II. A district that receives an emergency appropriation in excess of 200% of its recommended reserve shall add the administrator to liability insurance policies as a covered employee of the school district for all purposes of errors and omissions [E.C. 41326(b)(7)]. In addition, the salary and benefits of the administrator shall be established by the county superintendent, with concurrence from both the SPI and the president of the SBE, and be paid by the district [E.C. 41326(b)(8)].
- III. The district shall bear 100 percent of all costs associated with implementing the provisions of an emergency apportionment, including the activities of the Fiscal Crisis and Management Assistance Team. The SPI will withhold the costs from the district's apportionment [E.C. 41328].
- IV. A school district shall provide the county superintendent of schools with a copy of a study, report, evaluation, or audit that contains evidence of fiscal distress under the state's criteria and standards adopted in Education Code Section 33127 and that was commissioned by [E.C. 42127.6(a)(1)]:
 - The district
 - The county superintendent
 - The superintendent of public instruction
 - State control agencies
 - Fiscal Crisis and Management Assistance Team
- V. The governing board of a district that receives an emergency appropriation in excess of 200% of its recommended reserve shall serve as an advisory body reporting to the administrator and have no rights, duties, or power and is not entitled to any stipend, benefits or other compensation [E.C. 42127.6(d)(1) and E.C. 41326(c)(1)].
- VI. After one full fiscal year has elapsed following the school district's acceptance of an emergency apportionment, and for the duration of the administratorship, the district's governing board may conduct an annual advisory evaluation of the administrator. An advisory evaluation shall focus on the administrator's effectiveness in leading the school district toward fiscal recovery and improved academic achievement. Advisory evaluation criteria shall be agreed upon by the district's governing board and the administrator before the

advisory evaluation. The advisory evaluation shall include, but not be limited to, all of the following [E.C. 41327.6(2)(A) and (B)]:

- Goals and standards consistent with Section 41327.1.
- Commendations in the areas of the administrator's strengths and achievements.
- Recommendations for improving the administrator's effectiveness in areas of concern and unsatisfactory performance.

An advisory evaluation of an administrator conducted by the governing board of a school district receiving an emergency appropriation in excess of 200% of the recommended reserve shall be submitted to the governor; the Legislature, pursuant to Section 9795 of the Government Code; the SPI; the president of the SBE or the president's designee; the county superintendent of schools; and the Fiscal Crisis and Management Assistance Team [E.C. 41326(d)(2)(B)].

County Superintendents

- I. The county superintendent shall assume all of the legal rights, duties and powers of the governing board of a school district which has qualified for an emergency appropriation in excess of 200% of the recommended reserve. The county superintendent of schools, in concurrence with both the SPI and the president of the SBE, shall appoint an administrator from a pool of candidates identified and vetted by FCMAT [E.C. 41326(b)].
- II. The appointment of an administrator does not remove any statutory rights, duties, or obligations from the county superintendent of schools. The county superintendent of schools retains the responsibility to superintend school districts under their jurisdiction [E.C. 41327.2(a)].
 - The administrator serves under the direction and supervision of the county superintendent of schools [E.C. 41326(b)(1)].
 - The administrator may enter into agreements on behalf of the school district and, subject to any contractual obligation of the school district, change any existing school district rules, regulations, policies or practices as needed to effectively implement the recovery plan [E.C. 41327(b)].
- III. The county superintendent of schools shall document the fiscal and administrative status of the district after reviewing the district's budget and interim reports, particularly in regard to its implementation of the fiscal and management recovery plans. Each report shall include a determination of whether the district's revenue streams appear consistent with its expenditure plan according to the most recent data at the time of the report. These reports are required until six months after all rights, duties, and powers are returned to the school district and shall be submitted to the following [E.C. 41327.2(b)]:
 - The SPI
 - The president of the SBE
 - Appropriate fiscal and policy committees of the Legislature
 - The director of finance
- IV. The county superintendent of schools, with concurrence from both the SPI and the president of the SBE, may return power to the governing board if performance under the recovery plan has been demonstrated to

the satisfaction of the county superintendent of schools, with concurrence from the SPI [E.C. 41326(f)(1)(B)].

- V. Upon return of power to the governing board of the district that received an emergency apportionment, a trustee is appointed by the county superintendent of schools, the SPI and the president of the SBE, by majority vote, from a pool of candidates identified and vetted by FCMAT [E.C. 41326(g), 41320.1(a)].
- The trustee shall report directly to the county superintendent of schools.
- VI. The trustee shall serve until the school district has adequate fiscal systems and controls in place and the SPI has determined that the school district's future compliance with the fiscal plan approved for it is probable; only with the concurrence of the county superintendent of schools, the SPI and the president of the SBE may the trustee's appointment then be terminated [E.C. 41320.1(a)(3)].
- VII. After the trustee's period of service, and until the loan is repaid, the county superintendent of schools that has jurisdiction over the school district may stay or rescind any action of the governing board of the school district that, in his or her judgment, may affect the financial condition of the school district [E.C. 41320.1(c)(2)].
- The county superintendent of schools shall notify the SPI and the president of the SBE or the president's designee within five business days if the county superintendent stays or rescinds an action of the governing board of the school district. The notice shall include, but not be limited to, both of the following:
 - A description of the school district governing board's intended action and its financial implications.
 - The rationale and findings that support the county superintendent of schools' decision to stay or rescind the action of the governing board of the school district.
- VIII. If the school district violates a provision of the approved recovery plans within five years after the release of the trustee or after the emergency apportionment is repaid, whichever occurs later, the county superintendent of schools, with concurrence from both the SPI and the president of the SBE, may reassume, either directly or through an administrator, all of the legal rights, duties, and powers of the governing board of the school district. Local control will be restored to the governing board of the school district only when the county superintendent determines that future compliance with the approved recovery plans is probable, or after a period of one year, whichever occurs later [E.C. 41326 (h)].

Administrators and Trustees for Districts that Receive an Emergency Apportionment

Administrators (see also Appendix G)

For any school district that receives an emergency apportionment, an administrator appointed by the county superintendent of schools administers the district until it is restored to fiscal solvency and local governance is returned, and a trustee with stay-and-rescind authority appointed by the county superintendent of schools monitors and oversees the district subsequent to the return of local governance.

An administrator shall have recognized expertise in management and finance and shall be selected from a pool of candidates identified and vetted by FCMAT [E.C. 41326(b)]. The local governing board serves in an advisory role and has no legal rights, powers or duties. The administrator has the following responsibilities [E.C. 41326(b)(2):

- I. Within 30 days of being appointed by the county superintendent, the administrator shall discuss with all of the following groups the options for resolving the district's fiscal problems and shall consider, on a monthly basis, information from one or more of these groups [E.C. 41326.1]:
 - The governing board
 - Any district advisory council
 - Any district parent-teacher organization
 - District community members
 - The district administrative team
 - The Fiscal Crisis and Management Assistance Team
 - Representatives of employee bargaining units
 - The county superintendent of schools
- II. The administrator shall serve under the direction and supervision of the county superintendent of schools (with concurrence from both the SPI and the president of the SBE) [E.C. 41326 (b)(1)]. The administrator shall prepare or obtain the following reports and plans [E.C. 41327(a)] and submit them to the county superintendent (with concurrence from the SPI) [E.C. 41327(b)].
 - A management review and recovery plan [E.C. 41327(a)(1)].
 - A multiyear financial recovery plan, which will include an annual plan to repay to the state any and all loans owed by the district. This plan will be submitted annually on or before July 1 [E.C. 41327(a)(2)].
 - An annual report on the financial condition of the district, including but not limited to [E.C. 41327(a)(3)]:
 - Specific action taken to reduce district expenditures or increase district income, and the amount of cost savings or income increases resulting from those actions.
 - A copy of the district's current year adopted budget.
 - Amount of district's budgeted reserve.
 - Status of employee contracts.
 - Obstacles to implementing the approved recovery plan.
- III. With approval of the county superintendent, the administrator may enter into agreements on behalf of the district and, subject to any contractual obligation of the district, change any existing district rules, regulations, policies or practices as needed to effectively implement the recovery plans [E.C. 41327(c)].
- IV. The salary and benefits of the administrator shall be established by the county superintendent, with concurrence from both the SPI and the president of the SBE, and be paid by the district [E.C. 41326(b)(8)].

Trustees (see also Appendix G)

A trustee appointed by the county superintendent of schools provides additional oversight of the district after the local governing board has had its legal rights, powers and duties restored. A trustee shall have recognized expertise

in management and finance, and shall be selected from a pool of candidates identified and vetted by FCMAT [E.C. 41320.1 (a)].

- I. The trustee is in place until the following take place [E.C. 41320.1(a)(3)]:
 - The school district has adequate fiscal systems and controls in place.
 - The SPI has determined that the school district's future compliance with the fiscal plan approved for it is probable.
 - The county superintendent, the SPI and the president of the SBE decide to terminate the trustee's appointment (not less than three years after it commences).
- II. The trustee shall monitor and review the operation of the school district. The trustee may stay or rescind any action of the governing board that, in the judgment of the trustee, may affect the financial condition of the district [E.C. 41320.1(c)(1)].
- III. After the trustee's period of service, and until the loan is repaid, the county superintendent of schools may stay or rescind any action of the governing board of the school district that, in the county superintendent's judgment, may affect the financial condition of the school district [E.C. 41320.1(c)(2)].
- IV. The county superintendent of schools, with concurrence from the SPI, may establish timelines and prescribe formats for reports and other materials to be used by the trustee to monitor and review the operations of the school district.
 - The trustee shall approve or disapprove all reports and other materials required from the school district as a condition of receiving the apportionment. The SPI, upon the recommendation of the trustee, may reduce an apportionment to the school district in an amount up to two hundred dollars (\$200) per day for each late or disapproved report or other material required under this part, and shall report to the Legislature a failure of the school district to comply with the requirements of this section [E.C. 41320.1(c)4].

FCMAT

- I. FCMAT shall identify and vet a pool of candidates who have recognized expertise in management and finance, previous experience mitigating fiscal distress in school districts, and the ability to engage meaningfully with the community. The county superintendent, the SPI and the president of the SBE shall appoint an individual from this pool as either an administrator or trustee [E.C. 41320.1(a) and E.C. 41326(b)].
 - FCMAT shall provide an opportunity for public input on the selection of the pool of administrator candidates [E.C. 41320.1 (b), E.C. 41326(c)].
- II. FCMAT shall conduct comprehensive assessments of school districts that are in state receivership. The assessments shall evaluate the district in the five major operational areas (community relations and governance, personnel management, pupil achievement, financial management, and facilities management). FCMAT shall complete a minimum of two reports identifying the district's progress in implementing the improvement plans [E.C. 41327.1(a) and 41327.1(b)].
- III. After the comprehensive assessments are complete, and based on the level of improvement needed for local control to be returned as determined by the county superintendent, in consultation with FCMAT, the SPI, and the president of the SBE, FCMAT shall complete improvement plans in the five operational areas

that focus on agreed-upon standards and that are consistent with the financial improvement plan [E.C. 41327.1(c)].

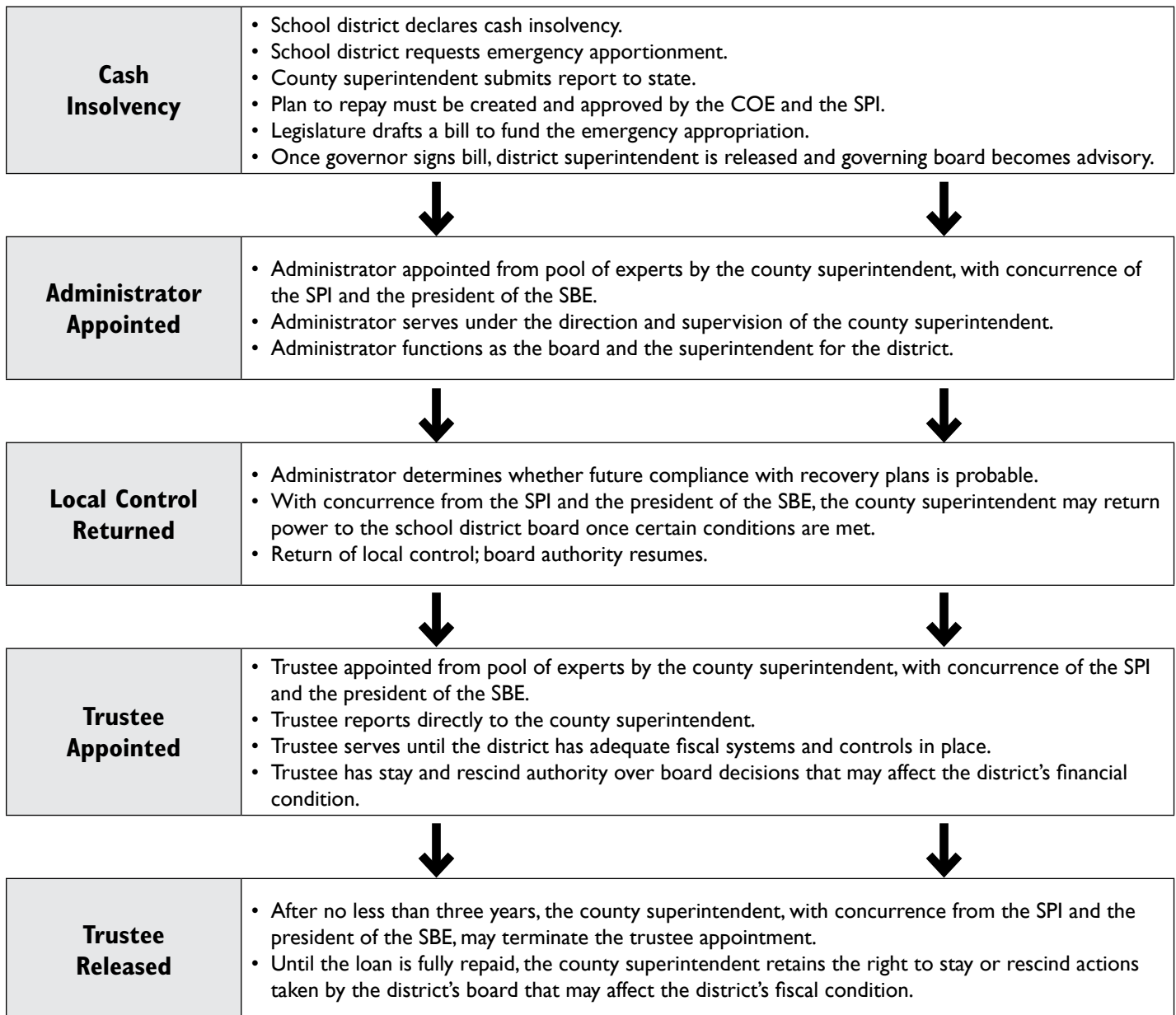
- IV. FCMAT shall complete and file written status reports annually after a loan has been approved, indicating the progress the district is making in meeting the recommendations of the improvement plans, until local authority is returned to the school district. The reports shall be submitted to the following [E.C. 41327.1(d)]:
- The appropriate fiscal and policy committees of the Legislature
 - The members of the Legislature that represent the district
 - Any advisory council of the school district
 - The SPI
 - The county superintendent of schools
 - The director of finance
- V. FCMAT shall review the fiscal oversight performed by the county superintendent of schools for the district receiving the emergency apportionment [E.C. 41326(l)]:
- Within three months of the emergency apportionment, FCMAT shall report its findings to the Legislature and provide a copy of that report to the Department of Finance, the SPI, and the president of the SBE [E.C. 41326(l)(2)].
 - This report shall include findings regarding fiscal oversight actions that were or were not taken and may include recommendations for an appropriate legislative response to improve fiscal oversight [E.C. 41326(l)(2)].
 - In the years following the initial report of fiscal oversight performed by the county superintendent of schools, FCMAT will perform annual reviews of the effectiveness of the county office of education's oversight of the district [E.C. 41326(l)(3)].
 - If FCMAT determines that the county superintendent of schools failed to carry out their responsibilities for fiscal oversight, the SPI, with the concurrence of the president of the SBE, may exercise the authority of the county superintendent of schools who has oversight responsibilities for a school district receiving an emergency appropriation [E.C. 41326(l)(4)].
 - The SPI and the president of the SBE shall further require the county superintendent of schools to demonstrate remediation of deficiencies identified in FCMAT's reviews of the fiscal oversight provided.
 - If the SPI finds that the county superintendent of schools failed to appropriately take into account particular types of indicators of financial distress or failed to take appropriate remedial actions in the school district, the SPI shall further investigate whether the county superintendent of schools failed to take into account those indicators, or similarly failed to take appropriate actions in other school districts with negative or qualified certifications.

Legislative Budget Subcommittees

- I. The Legislative budget subcommittees are to annually conduct a review of each school district that has received an emergency state apportionment. The review is to include the following [E.C. 41326(j)]:

- An evaluation of the financial condition of the district.
- The impact of the recovery plan on the district's educational program.
- The efforts made by the administrator to obtain input from the community and the governing board.

Sequence of Events in Emergency Appropriation Districts (Education Code 41320)



Note: Per Education Code 41326(h), if a district violates a provision of the approved recovery plan within five years of release of the trustee (or repayment of the emergency apportionment, whichever occurs later), the county superintendent, with the concurrence of the SPI and president of the SBE, may reassume, either directly or indirectly via an administrator, all of the authority of the district's school board as noted in the "Administrator Appointed" section above. Return of local control to the district will occur only when future compliance with approved recovery plans is probable or after a period of one year, whichever occurs later.

Charter School Oversight by Chartering Authority

Charter schools in California are a unique part of the public education system. Although the Charter Schools Act exempts charter schools from many of the Education Code provisions that pertain uniquely to school districts, many other state and federal laws that govern public entities apply equally to them, including the same public records, open meeting and conflict of interest laws as school districts and county offices of education. In addition, a petitioner that submits a charter petition or a charter school that submits a charter renewal or material revision application after July 1, 2019 shall not operate as, or be operated by, a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization [E.C. 47604(b)(1)]. More detailed definitions of specific charter school functions and requirements are contained in the petition used to create them and usually in a memorandum of understanding (MOU) that is developed cooperatively with a charter school's authorizing entity. Because of this, the general provisions of AB 1200 do not apply to charter schools; however, a charter school and its authorizing entity can agree in an MOU that AB 1200 and related standards will be followed as part of fiscal oversight.

If a district authorizes a charter school, the county superintendent of schools needs to ensure that, as part of its AB 1200 oversight of school districts, it includes in its oversight of that district questions about how the district maintains its charter oversight responsibilities, particularly in vital areas such as accounting, attendance accounting, budgeting, and payroll, as well as in its review of the charter school's financial reports. If any adverse circumstances arise related to the district's charter school responsibilities that would negatively affect the district's financial condition, the county superintendent would need to take that information into consideration when reviewing the district, because a lack of oversight could affect the district's financial stability in the future.

Fiscal oversight of charter schools is primarily the responsibility of the authorizing entity. After July 1, 2020, the authorizing entity for a new charter, revised charter, or a charter having approved material revisions can be a school district or a county office of education. The authorizing agency is responsible for adequate and appropriate oversight, including determining if a charter school is following prudent business practices and generally accepted accounting principles for revenues and expenditures and preparing financial reports. A charter school may have its charter revoked by its authorizing agency for material violations including gross financial mismanagement that jeopardizes the financial stability of the charter; illegal or substantially improper use of charter school funds for the personal benefit of any officer, director or fiduciary of the charter school; substantial and sustained departure from measurably successful academic practices that would deny the educational development of the school's pupils; failure to improve pupil outcomes across multiple state and school priorities identified in the charter; or any violation of any provision of the law [E.C. 47604.5].

An agency that authorizes a charter that will be operated as or by a nonprofit public benefit corporation shall not be liable for the debts or obligations of the charter school or for claims arising from acts, errors, or omissions by the charter school, if the charter-authorizing agency has complied with all oversight responsibilities required by law [E.C. 47604(d)].

FCMAT has developed a free, downloadable [Charter School Annual Oversight Checklist](#) to help both charter schools and their oversight agencies fulfill their responsibilities. Another tool that FCMAT has developed, the Fiscal Health Risk Analysis (FHRA), helps evaluate a charter school's fiscal health and risk of insolvency in the current and two subsequent fiscal years. That free, downloadable tool can be found at <https://www.fcmat.org/fiscal-health>.

Oversight responsibilities include but are not limited to:

- I. Each charter school shall annually prepare and submit the following reports to its chartering authority and the county superintendent of schools, or only to the county superintendent of schools if the county board of education is the chartering agency [E.C. 47604.33(a)].
 - A. On or before July 1, a preliminary budget. For a charter school in its first year of operation, the information submitted pursuant to Education Code Section 47605(g) satisfies this requirement.
 - B. On or before July 1, a charter school shall hold a public hearing to adopt an LCAP using a template adopted by the state board. The LCAP or the annual update of goals and annual actions (in the LCAP or annual update of such) to achieve the goals identified in the charter petition [E.C. 47606.5] must be prepared and submitted to the chartering authority and the county superintendent of schools.

Charter schools are required to develop an LCAP focused on the eight key state priority areas that apply for the grade levels served at the charter school, or the nature of the program operated. The charter school must also consult with its school community in developing and annually revising its LCAP, including teachers, principals, administrators, other school personnel, parents and pupils [E.C. 47606.5].

The inclusion and description of goals for state priorities in the LCAP may be modified to meet the grade levels served and the nature of the programs provided, including modifications to reflect only the statutory requirements explicitly applicable to charter schools in the Education Code.

The LCAP must be reviewed and revised annually by the charter school's governing body and submitted to its authorizer. There is no explicit requirement in law that the authorizer approve the LCAP; rather, the chartering authority will review the LCAP as part of its regular oversight duties [E.C. 47604.32].

- C. On or before December 15, an interim financial report. This report shall reflect changes through October 31 [E.C. 47064.33(a)(3)].
 - D. On or before March 15, a second interim financial report. This report shall reflect changes through January 31 [E.C. 47064.33(a)(4)].
 - E. On or before September 15, a final unaudited report for the full prior year [E.C. 42100(b) and 47064.33(a)(5)].
 - F. Any other reports as required by the charter petition or the MOU.
 - II. A charter school shall submit a copy of its annual independent financial audit report for the preceding fiscal year to its chartering authority, the county superintendent of schools of the county in which the charter is located, the State Controller's Office and the CDE by December 15 of each year. This subdivision shall not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Education Code Section 41020 [E.C. 47605.6(m)]. There is no provision in law for an extension of a charter school audit as there is for a school district.
- Annual audits should commence in the first year in which a charter has revenues or expenditures; this may be before the first year in which school commences and the charter has average daily attendance (ADA).
- III. A charter school shall respond promptly to all reasonable inquiries, including but not limited to inquiries regarding its financial records, from its chartering authority, from the county office of education that has

jurisdiction over the school's chartering authority, or from the SPI, and shall consult with the chartering authority, the county office of education or the SPI regarding any inquiries [E.C. 47604.3].

The chartering authority shall use any financial or other information it obtains from the charter school to assess the fiscal condition of the charter school pursuant to subdivision (d) of Education Code Section 47604.32 [E.C. 47604.33(b)].

- IV. Each chartering authority shall, in addition to any other duties imposed, do all of the following with respect to each charter school under its authority [E.C. 47604.32]:
 - A. Identify at least one staff member as a contact person for the charter school.
 - B. Visit each charter school at least annually.
 - C. Ensure that each charter school under its authority complies with all reports required of charter schools by law, including the LCAP and the annual update required pursuant to Education Code Section 47606.5.
 - D. Monitor the fiscal condition of each charter school under its authority.
 - E. Provide timely notification to the CDE if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:
 1. A renewal of the charter is granted or denied.
 2. The charter is revoked.
 3. The charter school will cease operation for any reason.
- V. The cost of performing the required duties listed above by the chartering authority pursuant to Education Code Section 47604.32 shall be funded with supervisorial oversight fees collected pursuant to Education Code Section 47613 [E.C. 47604.33(c)]. The chartering authority may charge only for the actual costs of supervisorial oversight of a charter school not to exceed 1 percent of the revenue of the charter school (or actual costs of supervisorial oversight of a charter school not to exceed 3 percent of the revenue of the charter school if the charter school is able to obtain substantially rent free facilities from the chartering authority) [E.C. 47613].
- VI. A county superintendent of schools may, based on written complaints by parents or other information that justifies the investigation, monitor the operations of a charter school located within that county and conduct an investigation into the operation of that charter school. If a county superintendent of schools monitors or investigates a charter school pursuant to this section, the county office of education shall not incur any liability beyond the cost of the investigation [E.C. 47604.4(a)].
- VII. A charter school shall notify the county superintendent of schools of the county in which it is located of the location of the charter school, including the location of each site, if applicable, prior to commencing operations [E.C. 47604.4(b)].
- VIII. At any time during a fiscal year, a county superintendent of schools may review or audit the expenditures and internal controls of any charter school in his or her county if the county superintendent has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The county superintendent shall, within 45 days of completing the review, audit or examination, report the findings and recommendations to the governing board of the charter school at a regularly scheduled meeting, and provide a copy of the information to the chartering authority of the charter school.

The charter school shall, no later than 15 calendar days after receipt of the report, notify the county superintendent and its chartering authority of its proposed response to the recommendations [E.C. 1241.5(c)].

- IX. A county superintendent of schools may ask FCMAT to review the fiscal or administrative condition of a school district or charter school under his or her jurisdiction [E.C. 42127.8(c)(2)].

Public Disclosure Responsibilities

Collective Bargaining

Statute requires that the provisions, including costs, associated with a tentative collective bargaining agreement in the current and subsequent fiscal years be disclosed at a public meeting before the agreement becomes binding on the district or county office of education. This provision ensures that the public is aware of the costs associated with a tentative collective bargaining agreement before it becomes binding on the school district or county office of education.

Before it enters into a written agreement with an exclusive representative covering matters within the scope of representation, a public school employer must, at a public meeting and in a format prescribed by the SPI or county office of education, disclose the major provisions of the agreement including but not limited to the costs that would be incurred by the public school employer under the agreement for the current and subsequent fiscal years [G.C. 3547.5(a)].

A literal interpretation of this statute suggests that it applies only to employees in groups that are in a collectively bargained agreement and does not apply to unrepresented employee groups and individuals. However, the relevant Government Code and Education Code Sections should not be interpreted in isolation. Pursuant to the oversight provisions in Assembly Bills 1200 and 2756 (and subsequent related legislation), each county superintendent of schools has a statutory responsibility to monitor the fiscal health of its school districts. Because 80-90% of a school district's general fund expenditures typically comprise salaries and benefits, any changes to salaries and benefits, including those of unrepresented employees, should be disclosed by each LEA and reviewed for fiscal sustainability by each respective county office of education.

The superintendent of the school district and the chief business official (CBO) shall certify in writing that the district can meet the costs it is incurring under the agreement during the term of the agreement. This certification shall itemize any budget revision necessary to meet the costs of the agreement in each year of its term [G.C. 3547.5(b)].

If a district does not have a permanent, interim or acting CBO who can certify the affordability of the settlement, the district superintendent should sign the agreement and note that the district currently is without a CBO or acting CBO.

In the event that a CBO refuses to certify a district's disclosure but subsequently leaves the district and the superintendent submits the disclosure after the CBO's departure, the county office should, if it is aware of the CBO's refusal to certify, conduct a heightened review of the agreement and its multiyear fiscal impact on the district. Following the review, the county office should communicate in writing to the district's governing board any concerns it may have about the agreement's affordability. This communication should also include an acknowledgment that the CBO refused to certify the agreement, and information about any intentional delay in submission to the county office that may have occurred if the district waited until after the CBO's departure.

If a school district does not adopt all of the revisions to its budget needed in the current fiscal year to meet the costs of a collective bargaining agreement, the county superintendent of schools shall issue a qualified or negative certification for the district on the next interim report pursuant to Education Code Section 42131 [G.C. 3547.5(c)].

A school district shall provide the county superintendent of schools, upon request, with all information relevant to provide the understanding of the financial impact of any final collective bargaining agreement reached pursuant to Government Code Section 3543.2 [G.C. 3540.2(d)].

In Management Advisory 92-01, entitled “Public Disclosure of Collective Bargaining Agreements” (issued May 15, 1992), the California Department of Education provided advice on the minimum amount of information that should be included in collective bargaining public disclosure documents, and advised that such minimum amount of information would also serve to satisfy the requirements of the salary settlement notification component in the criteria and standards. The criteria and standards require that when employee negotiations are not settled, upon settlement, the reviewing agency (county superintendent for districts and SPI for county offices) must be provided with a salary settlement notification that includes an analysis of the cost of the settlement and its impact on the operating budget. Appendix C of this guide includes a link to a downloadable disclosure of collective bargaining agreement document that includes fields for the required information.

AB 3141 (Chapter 650/Statutes of 1994) added Education Code Section 42142, states:

Within 45 days of adopting a collective bargaining agreement, the superintendent of the school district shall forward to the county superintendent of schools any revisions to the school district’s current year budget that are necessary to fulfill the terms of that agreement. The school district must include any additional costs that may result from the terms of the collective bargaining agreement in any interim fiscal reports or multiyear fiscal projections.

Essentially, any budget revisions showing the impact of the collective bargaining agreements must be forwarded to the county superintendent within 45 days of board adoption of the contract settlement.

Additional Requirements for LEAs with Qualified or Negative Budget Certifications

Government Code Section 3540.2 provides added oversight related to the collective bargaining process. A school district with a qualified or negative budget certification pursuant to Education Code Section 42131 must allow the county superintendent of schools at least 10 working days to review and comment on any proposed agreement between the exclusive representative and the public school employer before it is ratified. The school district shall provide the county superintendent with all information relevant to an understanding of the financial impact(s) of the agreement, pursuant to Government Code Section 3543.2. The county superintendent shall notify the school district, the county board of education, the district superintendent, the governing board of the school district, and each parent and teacher organization of the district within those 10 days if, in his or her opinion, the agreement would endanger the fiscal well-being of the school district.

A county office of education, or a school district for which the county board of education serves as the governing board, that has a qualified or negative certification pursuant to Education Code Section 1240 must allow the SPI at least 10 working days to review and comment on any proposed agreement or contract made between the exclusive representative and the public school employer or designated representative of the employer.

Non-Voter-Approved Debt

The requirements related to non-voter-approved debt are pursuant to Education Code Sections 17150(a) and 17150.1(a), and Government Code Section 53635.7.

- Regardless of a school district’s budget certification status, a school district is required to disclose all issuances of non-voter-approved debt to the county superintendent of schools and the county auditor at least 30 days prior to the district governing board’s approval of any such issuances, for items such as certificates of participation (COPs), lease purchases secured by real property, revenue bonds, and bond anticipation notes (BANs), unless the source of repayment is restricted solely to the proceeds of specific general obligation bonds already authorized by voters and not yet issued, any debt instrument secured by real property and not subject to voter approval, or tax and revenue anticipation notes (TRANs) [E.C. 17150(a) and 17150.1(a)].

- The district is required to provide the county auditor, county superintendent, governing board, and the public with information about the debt issuance including repayment schedules and other information needed to assess the anticipated effect of the debt issuance, including the cost of the issuance, and evidence of the school district's ability to repay that obligation.
- Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the district's governing board regarding the district's capacity to repay that debt obligation, based on the information provided.

Whenever possible, the county office of education should work with the county auditor to ensure that both entities are requesting the same information from local school districts.

- The proceeds from certificates of participation (COPs) and other non-voter-approved debt secured by real property cannot be used for a district's general operations, regardless of the district's budget certification [E.C. 42133.5].
- County boards of education have a similar disclosure obligation, and the state SPI has a similar ability to comment publicly. County offices of education are required to notify the SPI at least 30 days before the county board of education's approval of the issuance of COPs or other non-voter-approved debt instruments secured by real property. County offices of education are required to furnish information regarding the debt issuance, including repayment schedules, evidence of ability to repay, and information needed to assess the anticipated effect of the debt issuance, including the cost of issuance. Within 15 days of receipt of the information, the SPI is authorized to comment publicly to the county board of education regarding the county office's capacity to repay the debt obligation, based on the information provided [E.C. 17150(b) and 17150.1(b)].

Reporting requirements and a sample disclosure form for non-voter-approved debt are available on FCMAT's website.

Additional Requirements for LEAs with Qualified or Negative Certifications

For districts with qualified or negative interim certification reports, the county superintendent of schools must approve the issuance of any non-voter-approved debt instruments (e.g., COPs, BANS, TRANs, lease purchases secured by real property, revenue bonds, or any debt instrument secured by real property and not subject to voter approval) and determine that the repayment is probable [E.C. 42133(a)].

A county office of education that has a qualified or negative certification may not issue, in that fiscal year or in the next fiscal year, any non-voter-approved debt instruments, nor may the county office of education cause an information report regarding the debt instrument to be submitted, unless the SPI determines that the repayment of that indebtedness by the county office of education is probable [E.C. 42133].

Requirement to Accrue Full Liability for Other Post-Employment Benefits

School districts and county offices of education are required by the Governmental Accounting Standards Board (GASB) to disclose their financial obligations related to their offering of other post-employment benefits (OPEBs), including medical, dental, vision, hearing, prescription drugs, long-term care, long-term disability, death benefits, and life insurance.

GASB was established in 1984 and has responsibility for creating and improving accounting and financial reporting standards for state and local governments. GASB addresses this responsibility in part through the issuance of GASB statements. In June 2004, GASB issued two related statements, Nos. 43 and 45 (accounting for

unfunded plans), which were phased in over time and were in effect for many years. In June 2015, GASB approved new accounting standards for governmental entities that provide post-employment benefits other than pensions; as a result, GASB 43 and 45 were replaced by GASB 74 and 75, which were effective for fiscal years ending June 30, 2017 and June 30, 2018, respectively. These standards introduced significant change in the way government employers must recognize and measure their liability.

Financial Statements

The post-retirement liability will now become a balance sheet item (statement of net position). Formerly, this was recognized in the notes to the financial statements. This change will result in much more immediate recognition of OPEB-related expenses in the entity's financial statements.

Although the post-retirement liability has been removed from the note section of the audit, a much more robust note section and supplementary information are required under GASB 75.

Actuarial Evaluation

GASB 75 requires the OPEB liability of employers and nonemployer contributing entities to be measured as follows: the portion of the present value of projected benefit payments to be provided to current active and inactive employees that is attributed to those employees' past periods of service (total OPEB liability), less the amount of the OPEB plan's fiduciary net position. Under GASB 45, some entities with very small OPEBs were eligible for a triennial valuation of the post-employment benefit liability. Under GASB 75, that is no longer allowed. However, if fewer than 100 employees (active and inactive) are provided with OPEB through the plan, use of a specified alternative measurement method in place of an actuarial valuation is permitted. An actuarial valuation, or a calculation using the specified alternative method, of the total OPEB liability is required to be performed at least every two years, and more frequent valuations or calculations encouraged, especially for larger entities.

Other changes were made to the way that the valuations will be calculated:

- Governments can no longer amortize the unfunded liability for 30 years. The previous standard allowed governments to amortize the unfunded liability over a period of up to 30 years, but GASB 75 eliminates that provision.
- GASB 45 allowed governments to choose from one of six different cost methods; however, the new standard establishes one cost method for attributing the present value of benefit payments to specific years.

Fiscal Oversight Considerations

- The state criteria and standards require all school districts to estimate at budget adoption all unfunded other post-employment benefits as well as the unfunded portion of any self-insured benefits program. Changes to these unfunded liabilities are disclosed at interim reporting periods. In addition, districts disclose all long-term commitments and identify their funding streams. This information should be taken from the actuarial report that has been produced for this purpose.
- Education Code Section 42127.6(a)(1) requires all school districts to provide to the county superintendent of schools copies of any reports "showing fiscal distress." This includes any actuarial report showing an unfunded liability.
- FCMAT's *Indicators of Risk or Potential Insolvency* (see [Appendix B](#)) lists inattention to debt and/or high levels of debt as risk factors for potential insolvency.

Workers' Compensation Claims

Education Code Section 42141 requires, in part, the following:

- If a school district or county office of education, either individually or as a member of a joint powers authority, is self-insured for workers' compensation claims, the school district superintendent or the county superintendent of schools shall annually provide information to the governing board(s), as appropriate, regarding the estimated accrued but unfunded cost of those claims.
- The estimated costs shall be based on an actuarial report that includes annual fiscal information and is completed at least every three years.
- If the school district or county office of education regularly contracts for an actuarial report for other fiscal matters, and if that report separately and clearly sets forth the estimate of workers' compensation costs required by this subdivision, a separate actuarial report on these costs is not required.
- The actuarial report shall be performed by an actuary who is a member of the American Academy of Actuaries.
- The cost information and a copy of the actuarial report shall be presented by the superintendent at a public meeting of the governing board.
- At that meeting, the governing board shall disclose, as a separate agenda item, whether or not it will reserve a sufficient amount of money in its budget to fund the present value of the accrued but unpaid workers' compensation claims, or if it instead will decrease the amount of its workers' compensation reserve fund.
- The governing board shall certify annually to the county superintendent of schools the amount of money, if any, that it has decided to reserve in its budget for the cost of those claims and shall submit to the county superintendent of schools any budget revisions that may be necessary to account for the budget reserve.
- The county board of education shall certify annually to the SPI the amount of money, if any, that has been reserved in the budget of the county office of education for the cost of those claims.

Requirement for Annual Audit

[Note for items I, II, VI, VIII, X, XI and XIV below: Timelines for the 2020-21 audit have been extended because of the COVID-19 pandemic. [Click here for more details.](#)]

- I. Education Code Section 41020 requires each LEA, including K-12 school districts, most joint powers authorities (JPAs), and regional occupational centers/programs (ROC/Ps), to contract for an audit of their books and accounts, including an audit of income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the LEA to provide for that audit, by April 1 of each year. For this requirement, LEA does not include community colleges or JPAs established per Education Code Section 17567 (for health benefits, workers' compensation and property insurance).
- II. If the LEA fails to contract for the audit by April 1, it is the responsibility of the county superintendent of schools to contract with an audit firm on behalf of the LEA by May 1 of each fiscal year to audit all funds under his or her jurisdiction and control at the district's cost [E.C. 41020(b)(1) and E.C. 41020(b)(3)].
- III. The audits shall be performed by a certified public accountant or a public accountant who is licensed by the California Board of Accountancy and included in the directory of certified public accountants and public accountants deemed by the state controller as qualified to conduct audits of LEAs. The controller publishes an updated list no later than December 31 of each year.

It is unlawful for an audit firm to provide audit services to an LEA if the lead audit partner, or coordinating audit partner, having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local agency in each of the six previous fiscal years [E.C. 41020(f)(2)]. The Education Audit Appeals Panel (EAAP) may waive this requirement if the panel finds that no otherwise eligible auditor is available to perform the audit.

- IV. For school districts that receive an emergency apportionment from the state, Education Code Section 41320.1(e) allows the state controller's office (SCO) or its designee to conduct an audit in lieu of the audit required under Education Code Section 41020. At the SCO's discretion, the SCO may conduct the audit, choose an auditor the SCO has designated as both active and able to perform audits of K-12 local education agencies, or use an auditor selected by the school district and approved by the SCO. The auditor selected, if any, the county superintendent of schools, a FCMAT representative, the SPI, and the school district superintendent, or their respective designees, shall meet before the audit to discuss the terms of the audit and the timeline under which it will proceed. These audits are required until the SCO determines, in consultation with the county superintendent of schools and the SPI, that the school district is financially solvent, but in no event earlier than one year following the implementation of the plan or later than the time the apportionment made is repaid, including interest. The SCO shall conduct quality control reviews pursuant to Education Code Section 14504.2 (c).
- V. A contract to perform the audit of an LEA that has a disapproved budget or that has received a negative certification on any budget or interim financial report during the current fiscal year or either of the two preceding fiscal years, or for which a county superintendent of schools has otherwise determined that a lack of going concern exists, is not valid unless approved by the responsible county superintendent of schools and the LEA's governing board [E.C. 41020(b)(2)].
- VI. Not later than December 15, the CPA firm that performed the audit shall file an electronic report of each LEA's audit for the preceding fiscal year with the county superintendent of schools in which the LEA is located, the CDE, and the SCO [E.C. 41020(h)]. The audit shall comply fully with the Government Auditing Standards issued by the Comptroller General of the United States [E.C. 41020(b)(4)]. Education Code Section 47605(m) requires each nonprofit charter school to submit a copy of its annual audit to

the charter authorizing entity, the SCO, the county superintendent of schools of the county in which the charter school is located, and the CDE, by December 15 of each year.

- VII. Education Code Section 14504.2 authorizes the county superintendent or the county board of education to refer an independent auditor of an LEA to the California Board of Accountancy for action if an audit of an LEA was conducted in a manner that may constitute unprofessional conduct as defined by Section 5100 of the Business and Professions Code, including but not limited to gross negligence resulting in a material misstatement in the audit. The county superintendent is required to notify the certified public accountant or public accountant and the California Board of Accountancy in writing if the audit of any school district in the county was not performed in substantial conformity with the provisions of the *Guide for Annual Audits of K-12 LEAs and Compliance Reporting* (Audit Guide), or if the audit reports for two consecutive years do not conform to the Audit Guide [E.C. 41020.5]. Although there is an appeal process, if the determination by the SCO or county superintendent becomes final, the CPA or the public accountant will be ineligible to perform school audits for a period of three years.
- VIII. By January 31, the governing board of each school district shall review at a public meeting the annual audit, any audit exceptions, recommendations or findings issued by the auditor, and any description of correction or plans to correct any exceptions or management letter issue [E.C. 41020.3].
- IX. Each county superintendent of schools shall be responsible for reviewing the audit exceptions in the annual LEA audit report and shall determine whether each audit exception has been corrected or whether the LEA has developed an acceptable plan of correction in the following areas [E.C. 41020(i) and (j), 41020(i)(1)]:
- Attendance
 - Inventory of equipment
 - Internal control
 - Instructional materials program funds
 - Teacher misassignments pursuant to Education Code Section 44258.9
 - Information reported on the school accountability report card (SARC) pursuant to Education Code Section 33126
 - Miscellaneous items

The CDE is responsible for reviewing all LEAs' annual audits and the audit exceptions related to federal and state compliance.

The SCO is responsible for reviewing all LEAs' annual audits and ensure they meet the reporting requirements through their report certification.

The auditor is required to review the correction or plan of correction to determine if the exceptions have been resolved in the subsequent year audit [E.C. 41020(l)]. If not, the auditor immediately notifies the county office of education and the CDE. After receiving the notification, the CDE either consults with the LEA to resolve the exception or requires the county superintendent to follow up with the LEA.

- X. If a description of the correction or the plan of correction has not been provided as part of the audit, the county superintendent of schools shall notify the LEA and request the governing board of the LEA to provide this information by March 15 [E.C. 41020(j)(2)]. The county superintendent of schools will review the description of correction or plan of correction and determine its adequacy. If the description of

correction or plan of correction is not adequate, the county superintendent of schools shall require the local educational agency to resubmit that portion of its response that is inadequate.

- XI. Each county superintendent of schools will certify to the SPI and the SCO by May 15 that the county staff have reviewed the audits and the audit exceptions, and that all exceptions that the county superintendent was required to review were reviewed, and that all of those exceptions, except as noted in the certification, have been corrected or the district has submitted an acceptable correction plan [E.C. 41020(k)].
- XII. The county superintendent of schools shall identify, by LEA, any attendance-related audit exception or exceptions involving state funds and require the LEA to submit to the SPI the appropriate reporting forms to resolve the exceptions [E.C. 41020(k)].
- XIII. The CDE is responsible for ensuring that LEAs have either corrected or developed plans of correction for the following: all federal and state compliance audit exceptions; all exceptions that the county superintendent of schools certifies as not having been corrected as of May 15; and all repeat audit exceptions that are not assigned to a county superintendent of schools to correct (E.C. 41020(m)(1)).
- XIV. The SCO is responsible for reviewing all LEAs' annual audit reports and ensuring they meet the reporting requirements through their report certification process.
- XV. The county superintendent of schools shall adjust future local property tax requirements if there are audit exceptions that have a fiscal impact on local property taxes [E.C. 41020(o)].
- XVI. If an annual audit report is not filed with the county superintendent of schools on or before December 15, the county superintendent of schools may investigate the cause of the delay and take action to obtain the annual audit report in the most effective manner. The CDE and SCO may also contact the county office if the audit reports are not received by December 15. The actions that the county superintendent of schools can take include [E.C. 41020.2(a) (1), (2) or (3)]:
 - Granting an extension for the audit, after consultation with the district's governing board and the auditors, and with the consent of the SCO and the SPI. The CDE's guidelines state that extensions will be granted only under extraordinary circumstances. The request must be received by both the SCO and the CDE no later than December 15. The SCO and CDE will review the request and accompanying justification and provide notification as to whether the extension is granted or denied. There is no provision in the law for an extension of a charter school audit.
 - Contracting with another audit firm to complete the audit, after consultation with the district's governing board, the auditors, and the SCO. If the county superintendent contracts with another firm, the county superintendent should, to the extent possible, help the district initiate action to avoid payment to the original contracted audit firm.
 - Requesting that the SCO investigate the situation and initiate action.
- XVII. If the county superintendent has determined that the district may not be able to meet its obligations for the current or subsequent fiscal year, the district's auditor shall, upon request, release information to the county superintendent. This shall not constitute a violation of auditor-client confidentiality [E.C. 41020.8].

Fiscally Accountable and Fiscally Independent K-12 School Districts

FCMAT has developed the Fiscally Accountable/Independent Risk Analysis (also found in [Appendix E](#)) as a management tool to evaluate key indicators that may help a county office of education determine whether a fiscally accountable or fiscally independent school district, as defined by Education Code Sections 42647 and 42650, has adequate accounting controls to maintain the status of fiscal accountability or independence. This analysis should be conducted at least annually to ensure ongoing compliance.

A fiscally accountable or fiscally independent district should continually monitor its accounting controls to ensure ongoing compliance with the requirements prescribed in Education Code Sections 42647 and 42650. A lack of adequate controls may indicate the need for possible revocation of a district's fiscally accountable or fiscally independent status. A county office should consider using this assessment in tandem with FCMAT's Fiscal Health Risk Analysis (FHRA). Both analysis tools can be found at www.fcmat.org and in [Appendix B](#).

Fiscal Oversight Responsibilities of Specific Entities

School District Governing Boards

- I. By July 1, the governing board of a school district shall hold a public hearing on the budget and the LCAP, post the agenda for the public hearing 72 hours in advance, and adopt a budget and an LCAP [E.C. 42127, 52062(b)(2)].
 - Education Code Section 52062(b)(2) requires that the public meeting at which a school district's governing board adopts an LCAP and a budget be held after, but not on the same day as, the public meeting at which the governing board holds the required public hearings on the LCAP and the proposed budget.
- II. The governing board of the school district shall file the adopted budget and the LCAP with the county superintendent of schools not later than five days after the adoption or July 1, whichever comes first [E.C. 42127].
- III. Not later than 45 days after the governor signs the Budget Act, the district must make available to the public any budget revisions made to include the funding made available by that Budget Act [E.C. 42127].
- IV. If a county superintendent of schools disapproves or conditionally approves a budget because it fails to meet the standards outlined in Education Code Sections 42127(c)(1), (2), (3) or (4), on or before October 8, the governing board of the school district shall revise the adopted budget to include changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the county superintendent of schools, shall adopt the revised budget, and shall file the revised budget with the county superintendent of schools. Before revising the budget, the governing board of the school district shall make the county superintendent's recommendations available for public inspection in a district facility or other location conveniently accessible to residents of the district, and hold a public hearing regarding the proposed revisions [E.C. 42127(d)(1)].
- V. If the budget is disapproved by the county superintendent of schools, unless the district governing board and the county superintendent of schools agree to waive the requirement, the district board has five working days after receiving a list of candidates from the SPI to select the BRC [E.C. 42127.2(a)].
- VI. If a budget is disapproved by the BRC, the district's governing board has five working days to respond to the SPI. The response should include any revisions to the budget and other proposed actions to be taken as a result of the BRC's recommendations. Based on the recommendations of the BRC and the response provided by the district board, the SPI shall either approve or disapprove the revised budget [E.C. 42127.3(b)].
- VII. On or before September 15, the governing board of each district must approve, on a form prescribed by the SPI, a statement of all receipts and expenditures of the district for the preceding fiscal year and shall file the statement (and any charter school statements if it is the authorizing entity) with the county superintendent of schools [E.C. 42100(a)].
- VIII. Districts shall submit two reports to the governing board during each fiscal year. The first report (first interim) shall cover the financial and budgetary status of the district for the period ending October 31. The second report (second interim) shall cover the period ending January 31. Both reports shall be approved by the district board no later than 45 days after the close of the report period (approximately December 15

and March 15) [E.C. 42130]. All reports shall be in a format or on forms prescribed by the SPI and shall be based on standards and criteria for fiscal stability.

County Superintendents of Schools

Fiscal Oversight

- I. The county superintendent of schools shall maintain responsibility for the fiscal oversight of each school district in his or her county [E.C. 1240(b)].
- II. The county superintendent is not responsible for the fiscal oversight of the community colleges in the county; however, the county superintendent may perform financial services on behalf of those community colleges [E.C. 1240(l)(4)].

Adopted Budget and LCAP

- I. The county superintendent shall examine each LEA's budget and determine whether it complies with the criteria and standards adopted by the SBE [E.C. 33127].
- II. The county superintendent shall determine whether the budget allows the LEA to meet its financial obligations (budget year and multiyear) [E.C. 42127].
- III. The county superintendent shall determine whether each district's LCAP or annual update to the LCAP adheres to the template adopted by the SBE pursuant to Education Code Section 52064; whether the adopted budget includes expenditures sufficient to implement the specific actions and strategies included in the district's board-adopted LCAP based on the projections of the costs included in the plan; and whether the LCAP or annual update to the plan adheres to the expenditure requirements adopted pursuant to Education Code Section 42238.07 and Title 5, California Code of Regulations, Sections 15494-15497 for funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to Education Code Sections 42238.02 and 42238.03 [E.C. 52070 and following].
- IV. The county superintendent of schools shall provide technical support to all districts with LCAPs that it did not approve. Ensure that this support includes identification of strengths and weaknesses or the assignment of an academic expert or experts.
- V. On or before September 15, the county superintendent of schools shall approve, conditionally approve, or disapprove the adopted budget for each school district [E.C. 42127(d)].
 - The county superintendent of schools shall either conditionally approve or disapprove a budget that does not provide adequate assurance that the district will meet its current and future obligations and resolve any problems identified in the referenced studies, reports, evaluations, or audits [E.C. 42127(c)(2)].
 - On or before September 15, the county superintendent of schools shall transmit to the governing board of the school district, in writing, recommendations regarding revision of the budget and the reasons for the recommendations. These recommendations include budget adjustments needed before the budget can be approved [E.C. 42127(d)].
 - The county superintendent of schools may assign a fiscal advisor to help the district develop a budget that complies with the recommended revisions [E.C. 42127(d)].

- The county superintendent may appoint a committee to examine and comment on the county superintendent's review and recommendations, subject to the requirement that the committee report its findings to the superintendent no later than September 20 [E.C. 42127(d)].
- VI. If a school district does not adopt all of the revisions needed to its budget in the current fiscal year to meet the costs of a collective bargaining agreement, the county superintendent of schools shall issue a qualified or negative certification for the district on the next interim report [G.C. 3547.5(c)].
- VII. If a school district does not submit a budget to the county superintendent of schools, the county superintendent of schools shall, at district expense, develop a budget for that school district by September 15 and transmit that budget to the school district's governing board [E.C. 42127(d)].
- The budget prepared by the county superintendent will be deemed adopted, unless the county superintendent approves any modifications made by the school district's governing board.
 - The approved budget will be used as a guide for the district's priorities.
 - The SPI will review and certify the budget approved by the county.
- VIII. The county superintendent shall review the revised adopted budget to determine whether it: 1) complies with the criteria and standards adopted by the SBE pursuant to Education Code Section 33127; 2) allows the district to meet its financial obligations during the fiscal year; 3) satisfies all conditions established by the county superintendent of schools in the case of a conditionally approved budget; and 4) is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments [E.C. 42127(f)(1)].
- IX. No later than October 22, the county superintendent shall provide a list to the SPI identifying all school districts for which budgets may be disapproved [E.C. 42127(e)].
- X. No later than November 8, the county superintendent shall approve or disapprove the revised budget [E.C. 42127(f)(1)].
- If the county superintendent disapproves the revised budget, they will call for a BRC under Education Code Section 42127.1 unless the school district's governing board and the county superintendent agree to waive the requirement for a committee and the CDE approves the waiver.
 - Alternatively, the BRC may be a regional review committee consisting of persons with expertise in fiscal and educational aspects of LEA management. The regional review committee is convened by the county superintendent with the approval of the school district's governing board and the SPI [E.C. 42127.1(c)].
 - The members of the committee shall be reimbursed for their services and associated expenses by the CDE at rates established by the SBE [E.C. 42127.1(d)].
 - The county superintendent may request that the SCO conduct an audit or review of the fiscal condition of the district to assist a BRC or regional review committee [E.C. 42127.2(e)].
 - If the budget is approved by the BRC, the county superintendent of schools shall accept the recommendations and approve the budget [E.C. 42127.3(a)].

Disapproved Budget, Qualified or Negative Certification, or Other Fiscal Uncertainty

- I. The county superintendent shall annually present a report to the school district's governing board and the SPI regarding the fiscal solvency of any school district with a disapproved budget, qualified interim

certification, or negative interim certification, or that is determined at any time to be in a position of fiscal uncertainty pursuant to Education Code Section 42127.6 [E.C. 1240(e)].

Unaudited Actuals

- I. On or before September 15, the governing board of each school district in the county shall file a statement of all receipts and expenditures of the district for the preceding fiscal year, and any statements for charter schools the district has authorized, once each statement has been approved by the district's governing board. On or before October 15, the county superintendent of schools shall verify the mathematical accuracy of all of the statements (also known as the unaudited actuals) and shall transmit a copy to the SPI [E.C. 42100(a)].
- II. At any time during a fiscal year, the county superintendent may audit the expenditures and internal controls of fiscally accountable school districts and shall conduct this audit in a timely and efficient manner. The county superintendent shall report the findings and recommendations to the school district's governing board within 45 days of completing the audit [E.C. 1241.5(a)].

Suspicion of Fraud, Misappropriation of Funds, or Other Illegal Practices

- I. At any time during a fiscal year, the county superintendent of schools may review or audit the expenditures and internal controls of any school district or charter school in the county if the county superintendent has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The county superintendent shall report the findings and recommendations to the school district's or charter school's governing board at a regularly scheduled board meeting within 45 days of completing the review, audit, or examination [E.C. 1241.5(b) and (c)].
 - If the county superintendent determines that there is evidence that fraud or misappropriation of funds has occurred, the county superintendent shall notify the governing board of the school district, the state controller, the SPI, and the local district attorney [E.C. 42638(b)].
 - The governing board of the district or charter school shall, no later than 15 calendar days after receipt of the report, notify the county superintendent of its proposed actions. Upon review of the board's report, the county superintendent may disapprove an order for payment of funds, consistent with Education Code Section 42638 [E.C. 1241.5(b)].

Miscellaneous Duties

- I. The county superintendent of schools shall review and consider studies, reports, evaluations, or audits of the school district that contain evidence of fiscal distress under the state criteria and standards and that were commissioned by [E.C. 42127(c)(2)]:
 - The district
 - The county superintendent
 - The SPI
 - State control agencies

The county superintendent of schools shall consider findings by an external reviewer that the school district is at moderate or high risk of intervention based on the presence of the most common indicators of a school district needing intervention³ [E.C. 42127(c)(2)].

3. The *Indicators of Risk or Potential Insolvency* document is available in [Appendix B](#) and at www.fcmat.org.

- If these findings are made, the county superintendent of schools shall investigate the financial condition of the school district and determine if the school district may be unable to meet its financial obligations for the current or two subsequent fiscal years and therefore receive a qualified or negative certification [E.C. 42127.6(a)(1)].

For a district with a qualified or negative certification, the county superintendent of schools has 10 working days to review and comment on the district's proposed collective bargaining agreement, including a determination of whether the proposed agreement would endanger the fiscal well-being of the school district. The county superintendent of schools shall notify the following regarding that opinion within those 10 days [G.C. 3540.2(a)(c)]:

- The school district
- The county board of education
- The district superintendent and governing board
- Each parent and teacher organization of the district

The county superintendent of schools may determine whether a school district's audit has been performed in substantial conformity with the provisions of the Audit Guide [E.C. 41020.5(a)].

State Board of Education

- I. The SBE shall adopt criteria and standards pursuant to Education Code Section 33127 [E.C. 33128(a)].
- II. The SBE shall adopt and may periodically update a comprehensive list of professional and legal standards that all districts are encouraged to use as a guide to conduct effective educational programs and fiscal and management practices. These standards shall be used as the basis for evaluating the improvement of school districts that have received an emergency apportionment (commonly known as an emergency loan). These standards shall, at a minimum, address all of the following operational areas [E.C. 41327.1(a)]:
 1. Financial management
 2. Pupil achievement
 3. Personnel management
 4. Facilities management
 5. Community relations and governance

The SBE last approved the comprehensive list of professional and legal standards in March 2019.

- III. No later than five days after receiving an appeal from a district governing board (to the SPI) after the district is notified of a "lack of going concern" per Education Code Section 42127.6, the president of the SBE or the president's designee, along with the SPI, shall deny or uphold the appeal.

State Superintendent of Public Instruction

Fiscal Oversight

- I. The SPI, the controller, and the director of finance shall revise and update, as necessary, the criteria and standards used by local educational agencies in the development and management of the annual budgets. The revisions or updates shall specify the fiscal year in which the revisions or updates are applicable [E.C. 33127(d)].
- II. The SPI shall review and certify district budgets approved by the county superintendent [E.C. 42127(d)].
- III. The SPI shall approve any budget that the county superintendent of schools develops for a school district that does not submit an adopted budget to the county superintendent of schools [E.C. 42127(d)].
- IV. The SPI may extend to no more than 15 working days after November 30 the deadline for the BRC to complete its review of the proposed budget and the underlying fiscal policies of the district and transmit to the county superintendent, the SPI and the district board either the recommendation that the school district budget be approved or a report disapproving the budget and providing recommended revisions to the budget that would allow the district to meet its financial obligations [E.C. 42127.2].
- V. Upon approving a BRC waiver, the SPI must ensure that by December 31 a balanced budget is adopted for the school district that initially did not have an approved adopted budget [E.C. 42127.1].
 - If a budget is not adopted by December 31, the SPI may adopt a budget for the district [E.C. 42127(f)(1)].
- VI. The SPI shall report to the Legislature and the director of finance by January 10 if any district, including a district that has received a waiver of the budget review committee process, does not have an adopted budget by December 31. This report shall include the following [E.C. 42127(f)(1)]:
 - The reasons a budget has not been adopted by the deadline.
 - The steps being taken to finalize budget adoption.
 - The date the adopted budget is anticipated.
 - Whether the SPI has or will exercise the authority to adopt a budget for the school district.
- VII. The SPI may request that FCMAT review the fiscal and administrative conditions of any [E.C. 42127.8(c)]:
 - County office of education
 - School district
 - Charter school

The SPI shall monitor the efforts of a county office of education in exercising its fiscal oversight authority, and may exercise any of that authority if the SPI finds that the actions of the county superintendent of schools are not effective in resolving a school district's financial problems [E.C. 42127.6(k)].

If the SPI assumes authority, the SPI shall take further actions to ensure the long-term fiscal stability of the district [E.C. 42127.6(k)].

If the SPI assumes the fiscal oversight authority over a school district because the county superintendent is not effective in resolving its financial problems, the SPI shall promptly notify the following [E.C. 42127.6(k)]:

- The county superintendent of schools

- The county board of education
- The superintendent and governing board of the school district
- Appropriate policy and fiscal committees of each house of the Legislature
- The Department of Finance

If the SPI assumes the fiscal oversight responsibilities of the county superintendent of schools, the county superintendent shall reimburse the SPI for all costs of exercising this authority [E.C. 42127.6(k)].

VIII. No later than five days after the SPI receives an appeal from a school district governing board pursuant to Section 42127.3(b), Section 42127.6(e), or Section 42131(b), with concurrence of the president of the SBE or the president's designee, the SPI shall deny or uphold the appeal. If the appeal is upheld, the SPI may revise the change or changes adopted by the county superintendent of schools or issue guidelines governing the manner in which the governing board of the school district or the county superintendent of schools shall be required to change the school district budget.

Appendices

Appendix A: California Department of Education Guidance

Click on any title below to access the latest CDE guidance documents online.

Criteria & Standards

Pursuant to Education Code Section 33127, criteria and standards have been developed to be used by LEAs in the development of annual budgets and the management of subsequent expenditures from that budget. They are used to develop, review, monitor and assess school district and county office of education budgets and interim financial reports, as well as in monitoring the fiscal stability of LEAs. They were originally adopted by the SBE in May 1989 and have been updated several times since then due to changes in law.

Fiscal Status

Status of fiscal health (budget, interims and emergency appropriations) of school districts and county offices of education.

Forms & Templates

Budgetary forms and templates for school districts and county offices of education are available, including:

- Application for Exemption from the Required Expenditures for Classroom Teachers' Salaries
- Notice of Interim Certifications from County Offices of Education
- Request for Approval from the State Superintendent of Public Instruction
- Request for Waiver of Budget Review Committee
- Status of School District Budget Approvals

Accounting

Various historical information and guidance for LEAs to use in accounting and financial reporting, including:

- Latest edition of the *California School Accounting Manual* (CSAM)
- Governmental Accounting Standards Board (GASB) statements
- Indirect cost rates (ICR)
- Standardized Account Code Structure (SACS)

Appendix B: FCMAT Indicators of Risk or Potential Insolvency, and Fiscal Health Risk Analysis for K-12 School Districts

Indicators of Risk or Potential Insolvency

[Click here to view and download FCMAT's Indicators of Risk or Potential Insolvency.](#)

Fiscal Health Risk Analysis for K-12 School Districts

[Click here to view and download the Fiscal Health Risk Analysis for K-12 school districts.](#)

Appendix C: Sample Fiscal Oversight Review Checklists and Procedures

Sample review checklists are posted online and downloadable individually in Microsoft Word or Microsoft Excel format.

Click on a file type below to view and download the corresponding checklist or procedure in that format.

Adopted Budget Review Checklist — [.pdf](#) • [.xlsx](#)

Interim Review Checklist — [.pdf](#) • [.xlsx](#)

Unaudited Actuals Technical Review Checklist — [.xlsx](#)

Public Disclosure of Collective Bargaining Workbook — [.pdf](#) • [.xlsx](#)

Non-Voter-Approved Debt — Procedures — [.pdf](#) • [.docx](#)

Non-Voter-Approved Debt — Summary of Disclosure — [.pdf](#) • [.docx](#)

Appendix D: Business and Administration Steering Committee (BASC) LCAP Manual

Click on the title below to view and download the California County Superintendents Educational Services Association (CCSESA) *BASC Local Control and Accountability Plan (LCAP) Approval Manual*.

Appendix E: Fiscally Accountable/Independent Risk Analysis

[Click here to view and download FCMAT's Fiscally Accountable/Independent Risk Analysis.](#)

Appendix F: Sample County Office Oversight Letters

Click on a file type below to view and download the corresponding letter in that format.

Adopted Budget and LCAP — Budget Approval — [.pdf](#) • [.docx](#)

Adopted Budget and LCAP — Budget Conditional Approval — [.pdf](#) • [.docx](#)

Interim Review Response — [.pdf](#) • [.docx](#)

Second Interim Report — Concurrence with Qualified Certification — [.pdf](#) • [.docx](#)

Third Interim Technical Review — [pdf](#) • [docx](#)

Lack of Going Concern — [.pdf](#) • [.docx](#)

Stay and Rescind — [.pdf](#) • [.docx](#)

Annual Summary AB 139 — Short — [.pdf](#) • [.docx](#)

Annual Summary AB 139 — Long — [.pdf](#) • [.docx](#)

Public Disclosure of Collective Bargaining Response — [.pdf](#) • [.docx](#)

Public Disclosure of Collective Bargaining Response, with Concerns — [.pdf](#) • [.docx](#)

Non-Voter-Approved Debt Review, Repayment Probable — [.pdf](#) • [.docx](#)

Non-Voter-Approved Debt Review, Repayment Probable — [.pdf](#) • [.docx](#)

Non-Voter-Approved Debt Review, Repayment Not Probable — [.pdf](#) • [.docx](#)

Non-Voter-Approved Debt Review, Repayment Not Probable — [.pdf](#) • [.docx](#)

Appendix G: Administrator and Trustee Roles and Responsibilities

Administrator Roles and Responsibilities

When a school district becomes insolvent and requires an emergency state apportionment, the county superintendent of schools, under the supervision of the State Superintendent of Public Instruction (SPI), assumes control of the district to ensure its return to fiscal solvency.

The county superintendent of schools, with concurrence from both the SPI and the president of the State Board of Education (SBE), will appoint an administrator in accordance with relevant Education Code Sections, including 41325, 41326 and 41327. The administrator serves under the direction and supervision of the county superintendent of schools, with concurrence from both the SPI and the president of the SBE, until their service is ended by the county superintendent of schools, with concurrence from both the SPI and the president of the SBE.

On behalf of the county superintendent of schools, the administrator shall perform the following functions:

1. Assume all legal rights, duties, and powers of the district's governing board, superintendent, and personnel commission, if applicable.
2. Assume control and oversight of all district fiscal, educational, programmatic and operational functions, with the primary objective of restoring fiscal solvency and returning the district to local control and governance.
3. Implement substantial changes in the district's fiscal policies and practices, including, if necessary, the filing of a bankruptcy petition (Chapter 9) to restructure the district's indebtedness.
4. Revise the educational program of the district to reflect realistic income projections and to improve pupil performance relative to state standards.
5. Represent the district in consultation with the governing board, the exclusive representatives of the employees, parents, other citizens, the community, and governmental agencies.
6. Encourage all members of the school community to accept a fair share of the burden of the district's fiscal recovery.
7. Consult with, and seek recommendations from, the county superintendent of schools, the SPI, and the Fiscal Crisis and Management Assistance Team in ensuring the district's fiscal recovery and solvency.
8. Request the advice and assistance, as needed, of the California Collaborative for Educational Excellence.
9. Upon approval by the county superintendent of schools, enter into agreements on behalf of the district and, subject to any contractual obligations of the district, change existing district rules, regulations, policies, or practices as necessary for the effective implementation of fiscal recovery plans.
10. Certify that all necessary collective bargaining agreements have been negotiated and ratified, and that the agreements are consistent with the terms of the recovery plan.
11. Ensure that the district has completed all reports required by the county superintendent of schools and the administrator.
12. Determine, with concurrence from the county superintendent of schools and SPI, whether future compliance by the district with the approved recovery plan is probable.

13. Discuss options for resolving the district's fiscal problems with all of the following groups within 30 days of assuming authority, and consider, monthly or more frequently, information from one or more of the following groups:
 - a. The governing board of the school district
 - b. Any advisory council of the school district
 - c. Any parent-teacher organization of the school district
 - d. Representatives from the community in which the school district is located
 - e. The district administrative team
 - f. The Fiscal Crisis and Management Assistance Team
 - g. Representatives of employee bargaining units
 - h. The county superintendent of schools
14. Prepare or obtain the following reports and plans for approval by the county superintendent of schools and the SPI:
 - a. A management review and recovery plan.
 - b. A multiyear financial recovery plan, to be submitted annually on or before July 1, to repay to the state any and all loans owed by the district.
 - c. An annual report on the financial condition of the district, including, but not necessarily limited to, all of the following information:
 - i. Specific actions taken to reduce district expenditures or increase revenue, and the amount of the resulting cost savings and increases in revenue.
 - ii. A copy of the adopted district budget for the current fiscal year.
 - iii. The amount of the district's budgetary reserve.
 - iv. The status of employee contracts.
 - v. Any obstacles to the implementation of the recovery plans.
15. Conduct, in consultation with FCMAT, comprehensive assessments in the following areas:
 - i. Financial management
 - ii. Pupil achievement
 - iii. Personnel management
 - iv. Facilities management
 - v. Community relations
16. Evaluate employees who report directly to the administrator, and oversee the evaluation of other employees as defined by California law and district policy.
17. Review all district policies and procedures and make appropriate decisions about adding, deleting or modifying them.

18. Provide leadership and direction in planning and financing school site additions or improvements, as needed, to meet growth needs, or in strategically identifying and coordinating school site consolidations and/or closures.
19. Identify and assess all potential and actual lawsuits against the district and determine potential settlement options or other resolutions.
20. Assist in related matters, as needed, regarding the district's fiscal recovery and solvency, with the intent to return the district to local control and governance.

Trustee Roles and Responsibilities

In accordance with Education Code Section 41320.1, acceptance by a district of an emergency state apportionment, made pursuant to Section 41320, constitutes an agreement by the district that a state trustee will be appointed to ensure the district's fiscal recovery and solvency. The state trustee shall be appointed by the county superintendent, the Superintendent of Public Instruction (SPI), and the president of the State Board of Education (SBE). The trustee should have recognized expertise in management and finance, shall report directly to the county superintendent, and shall serve until the district has adequate fiscal systems and controls in place and the SPI has determined that the district's future compliance with the fiscal plan approved for the district pursuant to Section 41320 is probable.

The trustee shall monitor and review the operations of the district, and shall perform the following functions:

1. Serve in a fiscal oversight capacity until the district has adequate fiscal systems and controls in place, and future compliance with the fiscal plan is probable.
2. Provide advice and make recommendations to district staff and governing board members regarding budgetary, fiscal, or other issues that may affect the financial condition of the district.
3. Attend all meetings of the governing board and review all governing board materials prior to each board meeting to determine if any items or intended action will have a negative impact on the district's financial condition.
4. Stay or rescind an action of the governing board of the district that, in the judgment of the trustee, may affect the financial condition of the district.
5. Monitor the financial projections and cash balances of all funds of the district for the current and two subsequent fiscal years, and, if necessary, assist district staff in the preparation of these projections.
6. Monitor all collective bargaining activity and review all proposals being considered, including the resulting fiscal impact.
7. Meet regularly with the district's superintendent and chief financial officer to obtain updates on the district's efforts to reduce expenditures or increase revenues.
8. Assist the county superintendent with establishing timelines and prescribing formats for reports and other materials to be used to monitor and review the district's operations.
9. Communicate openly and in a timely manner with the county superintendent, district staff, governing board and community, and promptly inform the county superintendent of critical issues or incidents.
10. Review and approve all reports and other materials required from the district as a condition of receiving the emergency state apportionment.

11. Review and approve the district's required annual report of its financial condition, including all of the following information:
 - i. Specific actions taken to reduce expenditures or increase revenue, and the cost savings and increased revenue resulting from those actions, to ensure the revisions are consistent with the district's needs and recovery plan.
 - ii. The adopted budget for the current fiscal year.
 - iii. Reserves for economic uncertainties.
 - iv. Status of employee contracts.
 - v. Obstacles to the implementation of the adopted recovery plan.
12. Using the Fiscal Crisis and Management Assistance Team's (FCMAT's) Fiscal Health Risk Analysis, evaluate annually the district's risk of insolvency in the current and two subsequent fiscal years, and communicate findings to the county superintendent.
13. Determine, with concurrence from the county superintendent and SPI, whether future compliance by the district with the approved recovery plan is probable so that the district can meet its future financial obligations.
14. Provide regular updates to the county superintendent regarding the district's progress toward fiscal stability.
15. Consult with, and seek recommendations from, the county superintendent, the SPI and FCMAT in ensuring the fiscal recovery and solvency of the district.
16. With approval from the county superintendent, the SPI and the president of the SBE, retain the authority and responsibilities of a state administrator, as set forth in Education Code Section 41325.
17. Assist in related matters as needed regarding the district's fiscal recovery and solvency, and in accordance with Education Code Sections 41320.1, 41321 and 41322.
18. Review the financial and budgetary conditions of the district, including an analysis of internal controls, and determine if it may be unable to meet its financial obligations for the current or two subsequent fiscal years, or should receive a qualified or negative interim financial certification.
19. Meet with appropriate district staff, as needed, to assess fiscal health, organizational structure and staffing, effectiveness of internal controls, and other related concerns.
20. Consult with the governing board on fiscal and budgetary matters, facilities projects, debt obligations and other operational areas as needed.
21. Provide recommendations for improvements in district processes related to the budget, including position control, areas for cost containment, reducing unrestricted contributions from the general fund, and other areas.
22. Ensure that the district conducts its business operations in compliance with statutory requirements and within acceptable legal and professional standards.
23. Advise the county superintendent regarding potential action to improve or protect the district's fiscal solvency.

24. Provide additional assistance and support as needed, such as technical assistance, professional development, and advice and/or support in any or all of the five operational areas defined by FCMAT, to help the district maintain fiscal solvency and organizational effectiveness.