Disapproving a Budget or Changing a Certification

CCSESA AB 1200 Conference
October 20, 2017 – Ventura COE
October 23, 2017 – Yolo COE
Applicable Laws

• AB 1200 (Enacted 1/1992)
• AB 2756 (Enacted 6/21/2004)

• Education Code section 42127 - Budgets
• Education Code section 42131 – Interim Reports
Adopted Budgets

• By September 15th, county superintendent shall approve, conditionally approve, or disapprove the budget for each school district [E.C. 42127(d)(1)].

• If the budget is conditionally approved or disapproved
  • The county superintendent shall put in writing all actions needed to approve the budget.
  • Recommendations for budget revisions and the reasons for those recommendations
  • Amounts of any budget adjustments needed before the budget can be approved
County Superintendent’s Budget Review Criteria

• (1) Compliance with standards and criteria from Education Code 33127
  – Identify technical corrections needed to bring the budget into compliance

• (2) Determine if budget allows the school district to meet its financial obligations during the fiscal year and for multiyear financial commitments.

• (3) Determine if budget includes the expenditures necessary to implement the LCAP or annual update to the LCAP.
County Superintendent’s Budget Review Criteria

• (4) Does the budget include a combined assigned and unassigned ending fund balance that exceeds the minimum recommended reserve for economic uncertainties? If yes, the county superintendent of schools shall verify that the school district complied with the (1) public hearing and transparency requirement associated with unrestricted reserves.
Approvals

Criteria and Standards review and approves, conditionally approves, or disapproves budget by 9/15

Notify LEA of approval
Budget revisions due no later than 45 days after Governor signs Budget Act

LCAP review of three criteria for approval
Disapprovals

**Budget**
- Budget is conditionally approved or disapproved by 9/15. COE identifies recommendations for LEA
- LEA responds to COE recommendations by 10/8
- COE sends more recommendations to LEA
  - COE may assign fiscal advisor and/or appoint a committee
- COE calls for a budget review committee
  - Notifies SPI by 11/8

**LCAP**
- COE performs review of LCAP for three criteria, requests clarification by 8/15
- Within 15 days LEA governing board to respond in writing to COE request
- Within 15 days, COE may submit recommendations in writing
- Within 15 days of COE recommendations, governing board shall consider them
- If LCAP still fails, budget authority reverts to lesser of prior year or current year board approved spending
- COE shall provide technical assistance (TA) (assigning an academic expert)
- After TA could request SPI to assign CCEE to LEA
Approvals

Looks like:
- State recommended minimum reserves
- Planned deficit spending
- Plan to address structural imbalance between revenues and expenditures
- Commitment from the governing board to maintain fiscal solvency
- Positive cash flow
- Adopted budget includes LCAP expenditures

Budget approval means you have a good plan
Conditional Approvals

Looks like:

- Pending labor settlement
- LCAP conditionally approved
- Concerns with future year’s reserves
- Concerns with budgeting inaccuracies
# Timeline for Budget Approval

<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Actions</th>
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<tbody>
<tr>
<td>On or before July 1&lt;sup&gt;st&lt;/sup&gt;</td>
<td>LEA adopts budget</td>
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<tr>
<td>September 15&lt;sup&gt;th&lt;/sup&gt;</td>
<td>County superintendent conditionally approves with recommendations</td>
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<tr>
<td>October 8&lt;sup&gt;th&lt;/sup&gt;</td>
<td>District reviews and responds</td>
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<tr>
<td>October 22&lt;sup&gt;nd&lt;/sup&gt;</td>
<td>County submits list to State Superintendent of Public Instruction of districts which may be disapproved</td>
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<tr>
<td>November 8&lt;sup&gt;th&lt;/sup&gt;</td>
<td>County examines and approves or disapproves revised budget</td>
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<tr>
<td>December 31&lt;sup&gt;st&lt;/sup&gt;</td>
<td>Budget review committee and adoption of a balanced budget</td>
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Disapprovals

Looks like:

- Lack of reserves
- Inability to take necessary corrective action
- No budget submitted to COE
- Insolvency
Budget Review Committee, or Waiver

If the COE superintendent disapproves the revised budget, the COE will call for a budget review committee under Section 42127.1, unless the governing board of the district and the county superintendent agree to waive the requirement for a committee and the California Department of Education (CDE) approves the waiver.

If waiver is granted, the county superintendent has the authority and responsibility provided to a budget review committee, under Section 42127.3.

Upon approving a waiver, the department shall ensure that a balanced budget is adopted for the district by Dec 31.
Budget Review Committee

COE is called to form a budget review committee [E.C. 42127.1 - 42127.3]

- District board to select 3 persons from a list of qualified candidates provided by the SPI, within 5 days of receiving list.
  - SPI will select committee members if district board does not

By November 30, budget review committee shall review proposed budget and shall report to SPI one of the following actions:

- Recommend approval of district budget, or
- Report disapproving the district budget and set forth recommended budget revisions that will enable the district to meet its current and subsequent two years financial commitments
  - District has 5 days to respond
  - SPI will consider district’s response and recommendations of budget review committee to either approve or disapprove the revised budget
If SPI Disapproves Budget

Until the county superintendent can certify the district’s 1st interim report, the county superintendent shall do the following as necessary [E.C. 42127.3(b)]:

- By December 31, develop and adopt the school district budget, in consultation with the SPI and district board
- Current fiscal year and with regard to the district’s multiyear financial commitments.
- Cancel purchase orders, prohibit the issuance of non-salary warrants, and otherwise stay or rescind any action that is inconsistent with the adopted budget
- COE to inform district board justification in writing
- Monitor and review the operation of the school district, including cash flow analysis and monthly or quarterly budget revisions
- Determine the need for any additional or specialized staff, including CPA firms to investigate financial problem areas
If SPI Disapproves Budget (con’t.)

- Require all contracts and other obligations be encumbered, including recording all receivables and payables
- Withhold compensation of district governing board and superintendent for failure to provide requested financial information
- School district shall pay 75% and the COE shall pay 25% of the actual administrative expenses incurred or costs associated with improving the district’s financial management practices
- COEs are eligible to request reimbursement of their 25% costs through FCMAT, with the approval of the CDE and DOF. [E.C. 42127.3(d)]
Interim Reports

Governing boards must certify, in writing, that the district can meet its financial obligations for the remainder of the fiscal year and the subsequent fiscal year.

First Interim - 45 days after October 31st
Second Interim - 45 days after January 31st
Interim Certifications

Positive - meet obligations for current plus two years

Qualified - may not meet obligations for current plus two years

Negative - will not meet obligations for current or subsequent year
If the county office receives a positive certification when a qualified or negative should have been filed, the County Superintendent shall:

- Change the certification to qualified or negative as appropriate.
- Notify the governing board and the SPI no later than 75 days after the close of the period {E.C. 42131(a)(2)}.

No later than 5 days from notification, district may appeal to SPI {E.C. 42131(a)(2)}.

No later than 10 days after the receipt of district appeal, the SPI shall determine the certification assigned to the district {E.C. 42131(a)(2)}.

COE shall notify SPI and controller of comments on certifications {E.C. 42131(a)(2)(B)}. 

Positive
Qualified

(qualified) (current and/or two subsequent fiscal years)

County office of education transmits copy of certification to controller and SPI {E.C. 42131(a)(2)(B)}

County Superintendent:

• Shall submit comments to the controller and SPI within 75 days {E.C. 42131(a)(2)(B)}.
• Shall exercise authority granted in E.C. 42127.6.
• May exercise authority granted in E.C. sections 42637 and 42652.
• Controller may conduct an audit or review the fiscal condition {E.C. 42131(d)}.

Second interim report is positive

Process ends

Second interim report is qualified

• School district shall provide to the county superintendent, the controller and the SPI, no later than June 1, financial statement projections of the fund and cash balances of the district through June 30, for the period ending April 30.
• Direct district to submit a proposal to County Superintendent addressing conditions {E.C. 42127.6(a)(1)(E) and 42637}. 

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Negative

The SPI, in cooperation with the controller, shall:
- Review the certification with the County Superintendent's comments and actions proposed or taken.
- Conduct an on-site review, direct the County Superintendent to exercise the authority granted in sections 42127.6 and 42637.

County Superintendent
- Shall submit comments to the controller and SPI within 75 days {E.C. 42131(a)(2)}.  
- Shall exercise authority granted in section 42637.  
- May, in consultation with SPI, do any and all of E.C. 42127.6(e).  
- Controller may conduct an audit or review the fiscal condition {E.C. 42131(d)}.  

Second interim report is Positive ➔ Process ends

Second interim report is Qualified/Negative

- School district shall provide to the County Superintendent, the controller and the SPI, no later than June 1, financial statement projections of the fund and cash balances of the district through June 30, for the period ending April 30.  
- Direct district to submit a proposal to County Superintendent addressing conditions {E.C. 42127.6(a)(1)(E) and 42637}.  

...
Reasons for Changing a Certification

- Lack of Unrestricted General Fund Reserves
- Running out of Cash
- Unable to implement budget reductions
- FCMAT Indicators
- Negotiated settlements
- Declining enrollment (or growth for basic aid districts)
- Significant budgeting inaccuracies
- Questionable projections (integrity of data, criteria)
- Known, fiscally measurable subsequent events
When Changing a Certification

• In your letter to the district Board President and Superintendent:
  • Clearly state the certification is being changed
  • Identify areas of concern / reasons for the change
  • Communicate COE role and actions
  • State new criteria and expectations
  • Balance these strong messages with support for the district.
  • Inform district Superintendent and CBO, prior to releasing letter.
  • Give CDE and FCMAT advanced notice.
Going Concern/Districts Under Fiscal Distress

Definition of a lack of going concern:
Substantial doubt about the ability of the district to meet its obligations as they become due without substantial disposition of assets outside the ordinary course of operations, restructuring debt, externally forced revisions of its operations, or similar actions.

Two standards:

a. AB 1200: Education code 42127.6 (current year plus two subsequent fiscal years)

b. Audit: period not to exceed one year beyond the date of the financial statements being audited (June 30 plus one year)
Case Study - Going Concern

• At anytime, a county superintendent may issue a “going concern” letter.
Fiscal Expert or Fiscal Adviser

Fiscal Expert - Placed by the COE to study the financial and budgetary condition of the district, and advise on its financial problems. Ok to use with a Qualified or Negative Certification. [E.C. 42127.6(a)(1)(A)]

- District pays 75%, COE pays 25%

Fiscal Adviser - Used with a Negative Certification and the advance approval of the SPI. [E.C. 42127.6(e)(5)]

- Can stay and rescind any action that is inconsistent with the district ability to meet its financial obligations.
- District pays 75%, COE pays 25%
Case Studies

• Paula Driscoll – Ventura

• Chris Lombardo - Orange
2015/16 1st Interim Report as submitted by the District

Does not include district proposed budget reductions of $2.25 million in last year of MYP.
COE requests revisions to include material omissions.

Does not include district proposed budget reductions of $2.25 million in last year of MYP.
2015/16 1st Interim Report after final COE analysis

COE analysis includes all noted material omissions.

Does not include district proposed budget reductions of $2.25 million in last year of MYP.
Resources

- FCMAT Fiscal Oversight Guide

- CCSESA LCAP Approval Manual

- FCMAT COE Fiscal Procedural Manual

- Your colleagues at BASC/ESSCO, FCMAT, CDE (*Someone has been down this road before*)
Questions