

AB 1200

From a County Office Perspective

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Introduction



- Education code defines, very specifically, county office fiscal oversight responsibilities; dates, timelines, and actions (AB 1200 legislation and other subsequent changes)
- However, what varies by county is the way in which fiscal reviews are performed, the communication between the county office and districts, and the level of county office support provided to districts



Introduction

- Most district Boards and Superintendents are committed to balancing their budgets in a fiscally responsible manner.
- Despite the commitment to fiscal solvency, districts may find themselves in fiscal distress due to a variety of factors
 - Errors in financial data
 - Collective bargaining agreements that exceed ability to pay
 - Declining enrollment impacts
 - State deficit funding
 - Unanticipated Special Education costs for residential placements and/or litigation



Introduction

- Most County Offices work to provide support to districts as early on in the process as possible to avoid qualified and negative certifications.
 - Training & support of district staff
 - Targeted review of key areas of financial data
 - Trend analysis
 - Ongoing communication with the District Superintendent and CBO/CFO on fiscal matters
 - most specifically negotiations

AB 1200 – What is it?

Financial Oversight Responsibilities

- ✓ School District budget approval
- ✓ Review of Interim Reports
- ✓ “Going Concern” monitoring
- ✓ COE/District relationships
- ✓ “Red flags”
- ✓ Standards and criteria
- ✓ Collective bargaining disclosure and review



AB 1200 – What is it?

Financial Oversight Responsibilities

■ Other Responsibilities

- ✓ Review of Expenditures
- ✓ Review of Annual Financial Reports
- ✓ Review of Fiscal Solvency Grant Applications
- ✓ Review of Independent Audits
- ✓ AB 139 (Fraud and Misappropriation)
- ✓ Auditors Review of Ongoing Concern
- ✓ Review of GASB 45 District Plans (if submitted)

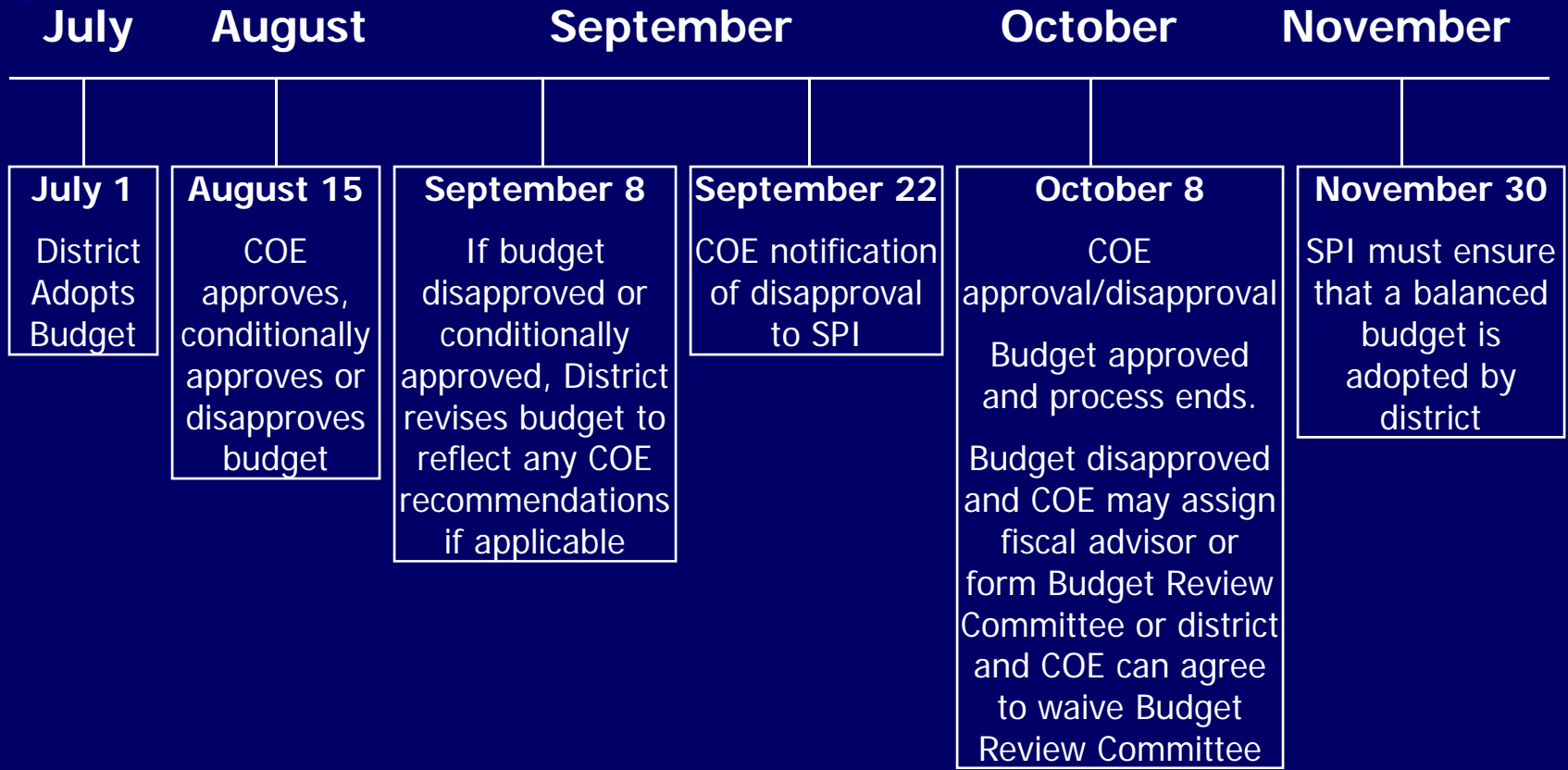




AB 1200 Oversight

- The law requires that COE review and approve, conditionally approve or disapprove district budgets. (E.C. 42127)
- The law requires COE to review and certify interim reports (positive, qualified, negative) (E.C. 42131)
- New criteria and standards have been implemented for the 2006/07 budget
- A standard criteria and standards process has been developed by the SPI (Superintendent of Public Instruction) and State board for such review (E.C. 33127)
- If the County Office disapproves, a clearly defined process for intervention is outlined in the Education Code
- Note: For single district/county office, SPI is the approving agency

Budget Reporting Timelines



What Happens if a Budget is Ultimately Disapproved?

1. Board, SPI, COE develop and adopt a fiscal plan and budget
2. Cancel purchase orders, prohibit issuance of non-salary warrants, stay and rescind any action inconsistent with adopted budget
3. Monitor and review district operation
4. COE may employ (with SPI approval) staff with expertise to assist
5. Require district to perform a number of tasks to ensure reliability of financial data – e.g., encumber contracts, cash flow analysis and monthly or quarterly budget revisions

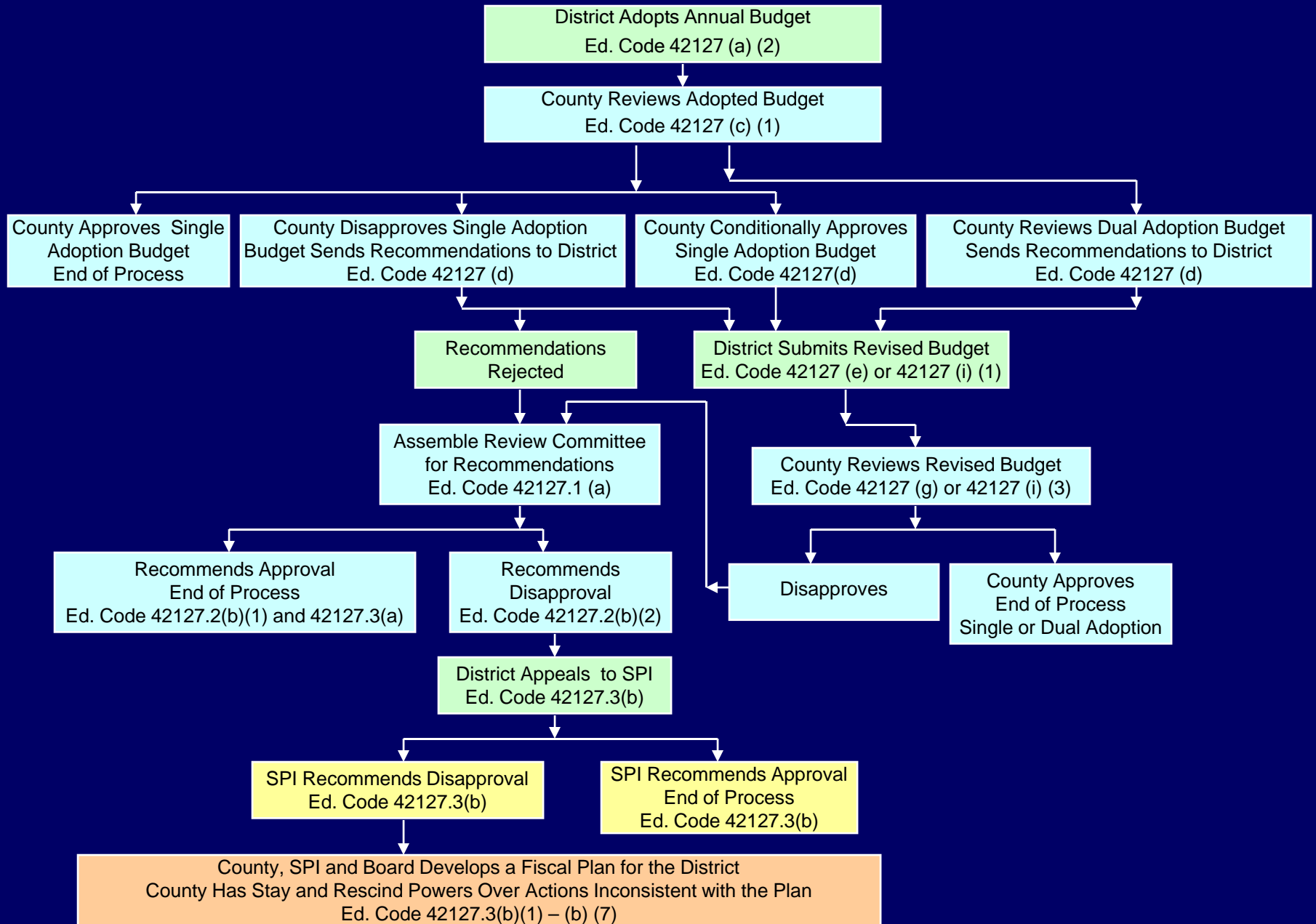


What Happens if a Budget is Ultimately Disapproved?

6. May employ (with SPI approval) CPA expertise
7. Withhold board and superintendent pay for failure to provide financial information
8. District pays 75%, COE pays 25%
9. COE cannot abrogate existing collective bargaining agreement



The Budget Approval Process





Review of Interim Financial Reports

- E.C. 42130 requires two Interim Financial Reports for the periods ending Oct. 31 and Jan. 31.
- District certifies that it can meet its financial obligations for the current and two subsequent fiscal years.
 - Positive, Qualified or Negative certification.
- Board approval dates are 45 days after period ends (December 15 and March 16)
- COE response – 30 days later
- County Superintendent must review each report and approve or revise the certification if necessary.
- Districts required to submit to COE any reports showing fiscal distress
- Invoke E.C. 42127.6 (Going Concern) if Qualified or Negative certification.
- District may appeal to SPI



Definition of Terms - Certifications

- **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** shall be assigned to any school district that, based upon current projections, may not meet its financial obligations for the current fiscal year or two subsequent fiscal years.
- A **negative certification** shall be assigned to any school district that, based upon current projections, will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year.



What else does being “qualified” mean?

- Delivers a message to the board, community, and bargaining units regarding the fiscal condition of the district.
- County Superintendent must OK non-voter approved debt instruments in current or next fiscal year, e.g., Tax Revenue Anticipation Notes, Certificates of Participation (E.C. 42133)
- County Superintendent must comment on any proposed collective bargaining agreement as to whether it would endanger the fiscal well being of the district
- Third Interim Report – Districts with qualified or negative Second Interim Reports, must submit by June 1, a financial projection of the district’s fund and cash balances through June 30 (E.C.42131(e))

"Going concern" and County Office

- 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.
- 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 certification, the County Superintendent shall notify the governing board and the SPI of the determination. (E.C. 42127.6 provisions invoked - similar to the provisions of November 30 budget disapproval)



What's Next?

Going Concern/ Qualified or Negative

(E.C. 42127.6)

What happens if you receive a qualified/negative or "going concern" certification? The law is very specific in defining what the county office must do.

1. Assign a fiscal expert to advise the district
2. Conduct a study of the financial condition of the district which shall include a review of internal controls
3. Direct the district to submit financial projections
4. Require the district to follow different accounting procedures
5. Direct the district to submit a plan to address the issues
6. Withhold compensation from the governing board and district superintendent for failure to provide requested information
7. Assign the Fiscal Crisis and Management Team (FCMAT) to review teacher hiring practices and other teacher qualifications

"Going Concern" – Last Stop

■ Trustee

- District requests emergency apportionment (E.C. 41320)
 - District develops recovery plan and repayment schedule
 - Trustee is appointed by SPI until loan is repaid (E.C. 41320.1)

■ State Administrator

- District becomes insolvent and requires an emergency apportionment (E.C. 41325)
 - SPI assumes control of the District and appoints a State Administrator
 - Assumption of authority by SPI triggered by emergency loan in excess of 200% of reserve requirement (E.C. 41326)





“Going Concern” – Last Stop

■ **State Administrator (Continued)**

- Board becomes advisory only with no rights, duties or powers
- Board cannot receive any stipends, benefits or compensation
- Upon appointment of administrator, district superintendent is no longer an employee of the district
- Administrator can fire deputy, associate, assistant superintendent or any other district level administrator if they fail to show they tried to warn or avert pending insolvency

State Administrator



41325. (a) it is necessary that the Superintendent of Public Instruction assume control of the district in order to ensure the district's return to fiscal solvency.
(b) It is the intent of the Legislature that the Superintendent of Public Instruction, operating through an appointed administrator, do all of the following:

1. Implement substantial changes in the district's fiscal policies and practices, including, if necessary, the filing of a petition under Chapter 9 of the federal Bankruptcy Code for the adjustment of indebtedness.
2. Revise the district's educational program to reflect realistic income projections, in response to the dramatic effect of the changes in fiscal policies and practices upon educational program quality and the potential for the success of all pupils.

State Administrator



3. Encourage all members of the school community to accept a fair share of the burden of the district's fiscal recovery.
4. Consult, for the purposes described in this subdivision, with the school district's governing board, the exclusive representatives of the employees of the district, parents, and the community.
5. Consult with and seek recommendations from the county superintendent of schools for the purposes described in this subdivision.

COE/District AB 1200 Relationships are Key

We believe that AB 1200 fiscal oversight is successful when there are strong working relationships

- **District**

- Good Financial Practices
- Ongoing Communication with COE

- **COE**

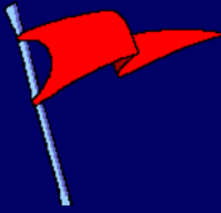
- Knowledgeable staff with an understanding of district operations
- Ongoing communication throughout the year
- Understand the whole picture
- Proactive review



Red Flags

- The state provides a detailed standards and criteria to measure fiscal health
- In addition to review of this data, the county office takes into account other elements, some measurable and some subjective





Red Flags

- **Measurable Criteria** - State Board approved Standards and Criteria measurement tools; most notably:
 1. Economic Uncertainty Reserve (EUR) below Criteria and Standards levels, ranging from 1% to 5%
 2. Current year ongoing expenditures exceed current year ongoing income
 3. Declining Enrollment
 4. Optimistic ADA projections that consistently fall below budget projections
 5. Salary agreements that exceed current year income increases
 6. Audit reports with material findings
 7. No cap on health and welfare benefits



Red Flags

■ Subjective Criteria



- Integrity of district data
 - Historical comparison of budget to actual shows inconsistency in budget/expenditure patterns
- Competency of CBO/Director of Fiscal Services
- Board, Superintendent, CBO relationships
- Employee/Employer relationships



Other COE Oversight Responsibilities



- **Review of Collective Bargaining Disclosures**
- **Review of Expenditures**
 - Ed. Code 42636 – The County Superintendent may review district expenditures to determine if the payment is a legal expense against the proper funds of the district.
- **Review of Annual Financial Reports**
 - The County Superintendent reviews all annual financial and attendance reports of the school districts in the county.
- **Review of Annual Audit Report**
 - The County Superintendent is required to review the annual independent audit and determine whether the audit exceptions have been corrected.
- **Review of Fiscal Solvency Grant Applications**
 - The County Superintendent is required to review district applications for planning grants regarding GASB 45 obligations

AB 139

(Chapter 630/Statutes 2001)

- This legislation clarifies some of the activities already being done under AB 1200 and adds some additional duties related to the review of district internal controls. The legislation requires that:

- The County Superintendent maintain responsibility for the fiscal oversight of the school districts in the county
- The County Superintendent annually present a report to the school district board and the SPI regarding the fiscal solvency of any district with a disapproved budget, qualified or negative interim certification, or that has been determined to be in a position of fiscal uncertainty pursuant to E.C. 42127.6



AB 139

(Chapter 630/Statutes 2001)

- The County Superintendent conduct audits in a timely and efficient manner and make a report to the district board within 45 days of completing the audit
- The County Superintendent may review or audit the expenditures and internal controls of any school district if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred
- The County Superintendent shall notify the governing board, the State Controller, the SPI and the local district attorney if there is evidence that fraud or misappropriation of funds has occurred



Ongoing Concern – Independent Auditor AB 2834 Audit Reform

E.C.41020 (g) (1)

The auditor's report shall include each of the following:

- (A) A statement that the audit was conducted pursuant to standards and procedures developed in accordance with Chapter 3 (commencing with Section 14500) of Part 9 of Division 1 of Title 1.
- (B) A summary of audit exceptions and management improvement recommendations.
- (C) Each local education agency's audit shall include an auditor's evaluation on whether there is substantial doubt about the local agency's ability to continue as a going concern for a reasonable period of time. This evaluation shall be based on the Statement of Auditing Standards (SAS) No. 59, as issued by the AICPA regarding disclosure requirements relating the entity's ability to continue as a going concern...



Note – An audit report is issued in December after the close of a fiscal year. Ongoing concern reporting is typically “after the fact”.

Tips on Dealing with the Press

- Call the district and coordinate talking points
- Call the reporter back as soon as possible
- Be as boring as possible
- Prior to the interview, ask if a draft can be emailed, if not, then read over the phone
- Make firm arrangements prior to discussion



Tips on Dealing with the Press

- Take detailed notes of questions and your responses
- If you feel it could be used in a sensational manner, ask a staff member to sit in on the call
- Don't be concerned about pregnant pauses in conversation
- No surprises - notify the district about the essence of the interview
- Email Cabinet so everyone's in the loop

