

SCOE BIZ

Business Services

Bulletin No. 20-18

April 23, 2020

To: District and Charter Business Services
From: Shelley Stiles, Director External Fiscal Services
Subject: April 2020 Edition

State of the State

State Controller Betty T. Yee launched her [annual online tracker](#) for April personal income tax (PIT) receipts under unique circumstances necessitated by the COVID-19 pandemic on April 8, 2020.

- While April 15 is usually the PIT filing deadline – and April the highest-grossing month for PIT receipts – California’s Franchise Tax Board (FTB) extended the filing deadline for returns and tax payments on 2019 income to July 15 in conformity with the Internal Revenue Service.
- Last fiscal year, personal income taxes accounted for 69.4 percent of all state General Fund revenues, with 19.5 percent arriving during the month of April.
- “The month is a crucial bellwether for the state budget as Californians typically file hundreds of thousands of tax returns, the governor revises his Fiscal Year 2020-21 budget proposal in May, and the new fiscal year starts July 1,” explained Controller Yee, the state’s chief fiscal officer and chair of FTB.

The proposed FY 2020-21 budget released in January relied on an estimate of \$18.4 billion in PIT receipts for April. While nearly 10.2 million Californians already have filed, it is too early to forecast how many will wait until July. The running tally in the annual online tracker (link above) is accompanied by a chart showing how actual tax dollars received (minus tax refunds) compare to estimate. Previous years’ trends are available for comparison.

Cash Flow and Cash Borrowing

We have said many times in the past, especially during the Great Recession, that monitoring cash is crucial at all times, but even more so in times of uncertainty. See SCOE Biz Bulletin No. 20-19 for more information regarding Cash Borrowing for Next Fiscal Year. Read this bulletin in conjunction with the **FCMAT Alert: Effective Cash Management During Uncertain Times** (attached).

When thinking about your LEAs cash flow, keep the following areas in mind:

- ✓ Cafeteria contributions increase due decreased food sales revenue
- ✓ Transportation revenue collection decreases
- ✓ Daycare tuition revenue decreases
- ✓ Looming cash deferrals
- ✓ Actual property tax revenues and potential decreases
- ✓ State Aid and EPA reductions for 2020-21, COLA reductions or deficits
- ✓ Expenditure pattern changes

Economic Outlook

California’s economic outlook changed significantly from the time of the Governor’s January Budget Proposal. The May Revise (coming May 14) is unlikely to provide definitive information.

Top Legislative budget/policy analyst Gabriel Petek has stated that within three months, the State of California has gone from a budget surplus to a budget problem AND the effects of this looming recession are likely to last two budget cycles.

School Services of California has written multiple SSC Fiscal Reports over the last weeks, providing school leaders with good information to guide decisions, frame our conversations, and begin the process of building a 2020-21 budget and multi-year projection. The State of California has received preliminary approval for flexibility in the spending of federal funding. See the list of attached reports below and read each of them while thinking about how each applies to your own unique LEA culture and fiscal status.

Attachments included with this bulletin:

1. Common Message – April 2020 Best Practices
2. FCMAT Alert: Effective Cash Management During Uncertain Times
3. SSC Fiscal Report: Time to Fine-Tune MYPs – Be Prepared
4. SSC Fiscal Report: It’s Time to Batten Down the Hatches
5. SSC Fiscal Report: Here We Go Again, an editorial
6. SSC Fiscal Report: Preliminary Approval Granted for Flexibility in spending of Federal Funds
7. SSC Fiscal Report: Negotiations in a Time of Crisis
8. SSC Fiscal Report: Charter School Petition, Oversight, and Prop 39 reminders
9. SSC Fiscal Report: ASK SSC... What changes have occurred in Attendance Reporting as a result of COVID-19

Charter Schools

Changes in the economic outlook, changes in COLA, potential cash deferrals, and most other fiscal changes will affect Sonoma County charter schools in a similar manner as School Districts. It is important for Charter Schools to monitor cash and maintain fund balance and reserves in order to remain fiscally solvent through the predicted upcoming recession.

Authorizing Districts need to maintain and strengthen fiscal oversight responsibilities, particularly in the key areas of accounting, attendance, budgeting and payroll. Please see Education Code Section 47604.32 for a detailed list of oversight duties.

NEW COVID-19 Funding Source Summary

Currently there are three sources of new COVID-19 Funding Sources.

1. SB117 Resource 7388 - State Distribution of funds (\$250 minimum per LEA)
2. Federal FEMA reimbursement funds - each LEA will need to fill out the RPA in order to file future claims for COVID-19 expenses. The due date for the initial RPA was extended from April 17, 2020 to a future undisclosed date. LEAs are encouraged to fill out the RPA early.
3. Federal CARES Funding - School districts will not be eligible individually. My current understanding, from CDE, is that the State will get the guidelines from the Feds and then issue their own guidance after the Legislature returns on May 1st. These funds will flow through the STATE and then on to LEAs via a distribution method similar to the SB117 Resource 7388 funding that we are expecting this month. LEAs do not need to do anything to be eligible for CARES funds at this time.

SCOE Alt Ed District Costs and NPS/LCI rates for 2020-21

The passage of AB 2235 and amendments to Education Code 2576 resulted in a change in the ADA funding transfer process for Community School voluntary transfers and Non-Public School/Licensed Children's Institution placements (NPS/LCI). Since the implementation of the Local Control Funding Formula in FY 2013-14, SCOE has not automatically collected the per ADA fee for County served

district students from CDE. SCOE reports the ADA and CDE sends the funding directly to the District of Residence and SCOE charges districts a fee for services. SCOE currently charges the districts by way of a per ADA flat fee as follows:

- \$7,500 - Community School Voluntary Transfers
- \$5,000 - Non-Public School/Licensed Children's Institution placements (NPS/LCI)

SCOE will continue the current practice of collecting the flat fee for this fiscal year only, 2019-20.

Beginning in FY 2020-21, SCOE will follow the new CDE funds transfer process for the ADA generated by County served students. The funding will flow directly from CDE to SCOE for Community School voluntary transfers and NPS/LCI placements in the actual ADA generated by each type of student for each LEA. No additional fees/rates per ADA will be collected by SCOE, as the actual ADA generated will be transferred to cover costs incurred.

Special Education Fee for Service Cost for 2020-21

SCOE's Special Education Fee for Service rates will increase from \$47,750 to **\$52,000** for 2020-21 (with an offset of \$ 750 from carryover; would have been 52,750 without that).

SCLS Annual Notice to Parents

School and College Legal Services has issued Legal Update Memo No. 28-2020 regarding 2020-21 Annual Notice to Parents. You can find and print the memo from SCLS web page at

<https://sclscal.org/legal-updates/>

2019-20 audit guidelines for LCAPs (no known changes in audit procedures or timelines)

As part of the annual audit, there are procedures that relate to the LCAP or approved annual update. These annual audit procedures require the auditor to:

- ✓ **Obtain a copy** of the approved LCAP
- ✓ **Select a sample of actions** and/or services in the Annual Update section that have expenditures, and review supporting documentation to determine whether the expenditures were consistent with the actions and/or services.
- ✓ **Review supporting documentation to verify** the following: **FOR DISTRICTS AND COE'S ONLY**
 - LCAP was presented to the parent advisory committee and English learner parent advisory committee (Education Code [E.C.]52062[a][1-2] or 52068[a][1-2])
 - Notification was made to members of the public for an opportunity to comment on specific actions and expenditures (E.C. 52062[a][3] or 52068[a][3])
 - LCAP was presented in at least one public hearing (E.C. 52062[b][1] or 52068[b][1])
 - LCAP or approved annual update was adopted in a public meeting (E.C. 52062[b][2] or 52068[b][2])
- ✓ If any of the above did not occur, or was not properly supported, a finding will be included in the annual audit report.

Indirect Cost Rates

The 2019-20 and 2020-21 indirect cost rates for district and charters are posted on the CDE Indirect Cost Rate (ICR) web page at <http://www.cde.ca.gov/fg/ac/ic/index.asp>. EC Section 38101(c) limits food service program indirect costs to amounts derived using the *lesser of* a district's approved indirect cost rate or the statewide average indirect cost rate. Each district should compare to determine the lesser rate for use with this program.

The 2019-20 statewide average indirect cost rate is 5.12 percent and the 2020-21 statewide average rate is 5.00 percent.

Reminder: Effective 2019-20 for Fund 25

To be consistent with GASB 54 standards, effective 2019-20 the CDE closed Resource 0000 to Object 8681. A restricted resource code of 9xxx must be used for revenue and expenditure coding. Before completing your 2019-20 Unaudited Actuals, districts should move all expenditures from Fund 25, Resource 0000. Don't forget, if you are a member of West County JPA, and coded payments of Facility leases in Resource 0000 in prior years, this payment must also be coded to a locally restricted resource (9xxx).

Notice of Public Hearing for 2020-21 Budget ~ Please fill out the publication notification (SCOE Biz Bulletin No. 20-17 dated March 30, 2020) so that SCOE can place the ad in the newspaper for you. This requirement applies to Districts and is optional for Charters.

Please make sure to check the newspaper to ensure your LEA's Notice of Public Hearing has been correctly published. Copy and save for our auditors.

SCOE recommends the continuation of holding two separate meetings, one for the public hearing and one for budget adoption. It is unknown at this time what will be happening with the LCAP and if a delay in approval will be allowed. The requirement for a 2020-21 public hearing for the budget and the required reserve transparency disclosures does not change.

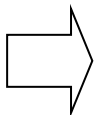
Reserve TRANSPARENCY disclosure at the Public Hearing (all Districts and general fund charters)

EC 42127 (a)(2)(B) requires a district's public hearing for the Adopted Budget must provide all the following for public review and discussion:

- 1) The minimum recommended reserve for economic uncertainties (REU) for each fiscal year identified in the budget.
- 2) The combined assigned and unassigned ending fund balances that are in excess of minimum recommended reserve for economic uncertainties for each fiscal year identified in the budget. The fund balances include the General Fund and Fund 17, Special Reserve Fund for Other than Capital Outlay.
- 3) A statement of reasons that substantiate the need for assigned and unassigned fund balance in excess of the minimum recommended reserve for economic uncertainties for each fiscal year.

EC 42127 (d) states the County cannot approve a District's budget unless the reserve transparency disclosures have been made.

To ensure each district has performed the Reserve Transparency disclosure at the *Public Hearing*, please:



- **Note the *Reserve Transparency disclosure* as a *line item* on the Agenda of the *Public Hearing*.**
- **In the minutes of the meeting, report that reserves were reviewed and discussed in accordance with EC Section 42127 (a)(2)(B).**

What should be done between NOW and your *PUBLIC HEARING*....

- 1) Add the Reserve Transparency disclosure to the Agenda of the public hearing.
- 2) Determine the applicable District ADA.
- 3) Calculate minimum REU as determined by the State board.
- 4) Commit reserves as you deem applicable, discuss with auditors if you have concerns.
- 5) Identify the assigned and unassigned (includes REU) fund balance amounts.
- 6) Determine/create a statement of reason for the amount of assigned and unassigned fund balances in excess of State minimum REU, which is supported by your governing board.
- 7) An Excel spreadsheet titled Statement of Reason for Excess Reserves is posted on the SCOE website under financial forms <http://www.scoe.org/pub/htdocs/fiscal-forms.html>
- 8) Be able to articulate why the reasons are relevant and necessary.
- 9) Be ready to present at your public hearing date, which is earlier than your budget adoption date.

- 10) Make sure the minutes of the public hearing note that reserves were reviewed and discussed in accordance with EC42127 (a)(2)(B).

Federal Cash Management Data Collection (CMDC Reporting)

The data collection window for the federal Cash Management Data Collection (CMDC) System is open from April 10, 2020 to April 30, 2020. You may report your data at any time during this period. Your agency must submit cash balance data by April 30, 2020, for the Title I, Part A; Title I, Part D; Title II, Part A; Title III, Immigrant; Title III, EL, and Title IV, Part A (formula grant) programs in order to receive funds in the next apportionment. Only those LEAs that report a cash balance, meet the cash management threshold, and meet other program eligibility requirements will receive an apportionment. ***The CDE will apportion funds in June 2020 for each of the six programs to those LEAs that report a cash balance, meet the cash management threshold, and meet other program requirements.***

The web page to log in to the CMDC system and other information regarding the CMDC, including instructions, future reporting dates, and FAQs, can be found at the CDE web site at <https://www.cde.ca.gov/fg/aa/cm/>.

If your agency cannot locate its PIN, you can request that it be resent via email by going to <https://www2.cde.ca.gov/cashmanagement/default.aspx> and clicking on "Request PIN." Follow the prompts and your PIN will immediately be emailed to the email address on file with the CDE for your LEA's Superintendent.

Federal Quarterly Interest Reporting

CDE federal program grantees are required to report and remit interest to the CDE at least quarterly. Although grantees are allowed to keep interest amounts up to \$500 per year for administrative purposes, the \$500 is in total for all federal programs, not for each federal program. When reporting and remitting federal interest to the CDE, grantees should specify the time period of interest earning and the federal program resource codes. Interest on federal cash balances should be sent to the CDE at the following address:

California Department of Education
P.O. Box 515006
Sacramento, CA 95851
Attention: Cashier's Office

If no\$ to Remit: Email
cashmanagement@cde.ca.gov

CDE requires documentation of the interest calculations and the interest rates supplied by the county treasurer's office with your quarterly reports. A complete list of federally reimbursable programs that should be EXCLUDED from your interest calculations can be found at <https://www.cde.ca.gov/fg/ac/co/reimbursableprograms.asp> A good report to use for documenting your calculations is the Fiscal24 Resource Cash daily balances. You will need to enter the reporting period (quarter dates), interest rate for the quarter, and specific federal resources you would like to include in the calculation. **Title I, II, III, IV would need to be included but you may have other non-reimbursable programs. The CSI funding is Federal and is not a reimbursable program. Please remember to add this to your specific list of resources to include in your calculation.**

The quarterly effective rate for 1-1-20 through 3-30-20 = 2.023%

Have you performed the following annually required Public Disclosures?

Education Protection Act (EPA) - Resource 1400

Proposition 30 requires an LEA's governing board to make spending determinations for EPA funds at an open public meeting. Proposition 30 language does not specify that the open public meeting has to

be a separately held meeting, only for the discussion of EPA funding. Therefore, this requirement may be satisfied at a regularly scheduled board meeting.

LEAs must **report on their Web sites** an accounting of how much money was received from the EPA and how that money was spent. LEAs **may not use EPA funds for administrative costs**.

For additional information on EPA calculations, payment schedules, spending restrictions, SACS financial reporting and more, please go to frequently asked questions posted on the CDE Web site at <http://www.cde.ca.gov/fg/aa/pa/epa.asp>

Sports Equity

Education Code section 221.9 requires schools/district to publish on its website separately *for each individual school*:

1. Total school enrollment, classified by gender.
2. Total number of students who participate in athletics, classified by gender.
3. Total number of school athletic teams, classified by gender, sport, and competition level.

The law first became effective for the 2015-16 school year. Annual postings are required by June 30th. The numbers reported should reflect the total number of players on a team roster "on the official first day of competition.

REMINDERS:

Future SCOE Business Services workshops and meetings listed below:

While Sonoma County is in Shelter in Place or other required Social Distancing status, will take place via zoom virtual meetings. Information about the workshops will be sent out immediately prior to the day of the scheduled event.

- ✓ HR/Payroll Year End Workshop May 7, 2020
- ✓ Next Fiscal Year Workshop May 14, 2020
- ✓ Fiscal Year End Closing Workshop May 28, 2020
- ✓ DBUG May 28, 2020

Dates to Remember:

05/07/2020	HR/Payroll Year End Workshop – Zoom Virtual Workshop
05/14/2020	Next Fiscal Year Workshop – Zoom Virtual Workshop
05/19/2020	School Services of California May Revise WEBINAR (must register with School Services)
05/28/2020	Fiscal Year End Close Workshop & DBUG- Zoom Virtual Workshop and meeting

NOTE:

- Want to add something to a DBUG Agenda? Want a topic added to SCOE Biz? Contract DBUG Chair Christina Menicucci
- Documents presented at DBUG found posted at <http://www.scoe.org/pub/htdocs/fiscal-dbug.html>
- Workshop manuals and Fiscal Services/IT forms may be found at <http://www.scoe.org/escape> under the heading of Resources on the left side of the page.

The Common Message

April 2020

Best Practices in Times of Fiscal Crisis



BASC
Business and Administration
Steering Committee

Best Practices in Times of Fiscal Crisis

Over the past few weeks it has become apparent the COVID-19 pandemic will have a dramatic effect on state general fund revenues and, by extension, K-12 local education agency (LEA) financial health. We have abruptly moved into a very different economic environment. Therefore, all districts and charter schools should immediately begin assessing a range of potential cash flow and budgetary impacts.

Budget Scenarios and Contingencies

In times of uncertain revenue streams, it is important to develop multiple scenarios that could reasonably affect the LEA. Each scenario demands a different set of corresponding actions necessary to balance revenues and sustain adequate reserve levels. Understanding that LEAs are in the budget development process now, they should utilize the second interim report, adjusted for any current year material changes, to assess the probable impacts of COVID-19. At minimum, for initial impact assessment purposes, one scenario should utilize zero cost of living adjustment (COLA) in fiscal years 2020-21 and 2021-22. Other scenarios could include a funded COLA or negative adjustment to LCFF. The intent is to be thinking about how to address a multitude of situations the LEA may find itself in once the full and actual impact of the pandemic is determined. Although recessions tend to last 10-15 months, the effect on public school funding can be longer lasting. The FCMAT Projection Pro software was developed for this purpose. Although other tools may serve an LEA's needs, planning for various scenarios is essential and should be kept current throughout times of fiscal crisis and unpredictable revenues.

Cash Flow

Cash flow is critical. It is imperative to review anticipated cash receipts and cash outflows based on various budget scenarios, including zero COLA. In addition, for the 2019-20 fiscal year, LEAs should examine the impact of a June 2020 to July 2020 principal apportionment cash deferral. LEAs should also consider the cash impact of lost parent fee/donation collections for lunches, child care programs, enrichment programs, transportation fees, etc.

Interyear deferrals are a high possibility in that Proposition 98 spending can be modified by the state toward the end of the fiscal year by shifting appropriations from the end of June to the beginning of July. LEAs should begin examining all cash management options including interfund borrowing, tax and revenue anticipation notes (TRANS) and possible assistance from the county office of education and county treasurer in preparation for getting through this forthcoming period of fiscal challenge. State and federal COVID related aid will flow to most LEAs, but these funds are for mitigating new costs related to the pandemic and are relatively minor given the challenges that lie ahead.

Summary

Definitive information will likely not be available at May Revision or in the June adopted budget. Proposition 25 dictates the Legislature to adopted an ontime budget, but based on the new July 15 deadline for filing income taxes, they will likely will revisit it in August once the revenue picture is clearer; therefore, the need for modeling scenarios is all the more important so that LEAs can be nimble in response.

Effective Cash Management During Uncertain Times

Background

You have heard the phrase, “cash is king.” Private industry has long understood the importance of this concept. Governmental entities and especially California schools began to fully appreciate the importance of effective cash forecasting and management strategies during the Great Recession when state cash receipts fell dramatically, resulting in the deferral of cash payments to local educational agencies (LEAs). During the economic recovery of the past eight years, the focus on cash has understandably lost a bit of its luster. However, during periods of economic distress, cash is a “third rail” issue, and LEAs must enhance their planning and monitoring around cash issues weekly.

This Fiscal Alert addresses the impact of the ongoing COVID-19 pandemic on LEAs cash resources for the current and subsequent fiscal year. This alert is for all LEAs, including county superintendents serving in their financial oversight role. During these rapidly changing, unprecedented times, it is critical for LEAs to begin analyzing and planning for various scenarios that will adversely impact cash flow and avoid cash shortfalls.

During the Great Recession a significant decline in state tax revenues prompted numerous apportionment deferrals that caused LEA cash fluctuations and resulted in extensive local borrowing. Similar deferrals will be one of the first tools the state uses to stabilize its own cash flow and to control in what year Proposition 98 appropriations are attributed. Cash deferrals are more favorable to LEAs than actual reductions in state funding but require LEAs to maintain accurate cash flow projections and to develop multiple cash flow scenarios to deal with the impact of the deferrals when they occur.

The May Revision may address short-term state plans and determine whether cash deferrals are part of those plans, especially for June 2020. However, the May Revision, and likely the June adopted budget, will not provide definitive answers about budget and associated apportionment plans, necessitating the need for LEAs to wait until a revised state budget is adopted in August/September to receive a more complete funding plan for the 2020-21 fiscal year. Use the time now, before the May Revision, to analyze and plan for various current year and budget year cash scenarios for your LEA. Cash deferrals could come as soon as June 2020, with a deferral of the June principal apportionment to early July. Ensuring the availability of adequate cash reserves is a vital function for all LEAs.

FCMAT

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Budget vs. Cash Flow

Budgets and cash flow projections are equally important but vary in their nature, data and analysis. The term “budget” means that funds are devoted to a purpose and/or entity, while “cash” means that funds are paid and readily available for use. Cash flow projections are built from budget data with apportionment schedules and payment terms on compensation and purchases taken into consideration. LEA budgets are a set of annual data with a focus on June 30. Cash flow is presented in shorter periods of time, typically monthly, but weekly and daily in some cases depending on circumstances. Budgets and cash flow are equalized with year-end accruals. Significant variances in cash flow actuals to projections generally serve as the first indicator of fiscal distress. Deficit cash positions determine the timing and amounts of the need for alternative liquidity (see below). The general fund, which is the focus of most LEA budgets, is only one of the district’s funds. Cash is transferable and may be commingled; therefore, LEAs need to project and analyze all funds.

Relevant Issues

Cash Flow Analysis and Planning

Following best practices under normal circumstances LEAs should update cash flow projections monthly and not only at periodic reporting periods. At a minimum, cash projections should be prepared extending through the current and into the subsequent fiscal year. In periods of economic distress and funding uncertainties, the frequency and depth of cash flow projections and analysis should be increased.

Using recently completed second interim cash flow projections as the starting point, update the projections with February and March actuals, and build in necessary changes in the forecast for April, May and June, considering the new realities affecting the LEA. Do not limit the analysis and monitoring to the general fund, expand to cover all funds; Reviewing cash positions across all funds is essential to proper analysis.

Considerations regarding cash receipts must look beyond state apportionments for LCFF. To a lesser degree of impact, cash flow analysis must include:

- Property taxes – April is a significant month for property tax receipts. Monitor and analyze apportionments from the county auditor/controller and treasurer/tax collector against the existing cash flow projections. Most California counties operate under the Teeter Plan for tax collection apportionments to local agencies, in which the tax levy is apportioned without regard to delinquencies, shielding local agencies from the impacts of late and nonpayments. County offices of education and districts should consult frequently with their county auditor/controller and treasurer/tax collector to understand cash flow expectations and adjust cash flow projections accordingly.
- Local cash receipts from a variety of sources are also adversely affected, including:
 - Parent-paid nutrition programs, childcare programs, and transportation programs.

- Facility leases and use of facilities fees
- Lottery sales are impacted from the stay-at-home orders. While new lottery revenue forecasts for third and fourth quarters have not been released, cash flows should assume a decreased third quarter payment (and fourth quarter accrual).

Regarding cash payments, most LEAs are experiencing unplanned, extraordinary expenditures including:

- The shift to distance learning including procuring technology and network access devices
- Maintaining salaries and in some cases increasing compensation for disaster service workers
- Accounting for interfund cash lending or deficit absorption in the general fund to cover cafeteria fund and childcare program deficits

LEAs should also consider delaying any nonessential payments and discretionary purchases to preserve available cash for critical operational functions. Savings should also be accounted for, including utilities, fuel, some contracted services, and other variables related to the physical operations of campuses (using summer months as an example).

If the cash flow projection for the LEA shows negative for any period (month, week, or day), corrective action must be taken to ensure sufficient cash resources are made available to eliminate this negative position. In some counties, county treasurers automatically provide safeguards by allowing short-term negative cash balances in one fund if they are offset by other LEA funds. You should clearly understand how your county treasurer functions when it comes to LEA cash balances. If corrective action is required, it may include the use of alternative liquidity resources and adjustments to expenditure plans, or a combination of both.

Alternative Liquidity

Alternative liquidity is a fancy term for the identification of available cash resources outside of the LEA's general fund. Therefore, expanding the cash projections and monitoring across all funds is essential. LEAs should immediately begin to prepare alternative liquidity schedules that show the projected cash flow and cash balance for each fund by month, and in some cases by week. Alternative liquidity analyses should also look beyond the district's funds on deposit in the county treasury and determine what short-term borrowing options exist for cash flow and working capital needs.

Regarding interfund borrowing, LEAs should analyze the various forms of alternative liquidity against the provisions of Education Code Section 42603. Borrowing from other funds to satisfy temporary shortfalls in operating cash is common practice among California school districts. With increasing uncertainty about the state apportionment plans, districts should refresh their knowledge on proper interfund borrowing. Now is the time to prepare temporary borrowing resolutions for your board of education to consider for approval. This authorization will enable LEA business officials to quickly access the cash resources in other funds by temporarily transferring those resources to where they are needed. A best practice is to adopt a resolution at the start of each fiscal year to authorize interfund borrowing throughout the year; but if such authorization does not currently exist through June 30, 2020, a resolution should be prepared now for the current year.

Education Code Section 42603 allows temporary borrowing between funds, stating the following:

The governing board of any school district may direct that moneys held in any fund or account may be temporarily transferred to another fund or account of the district for payment of obligations. The transfer shall be accounted for as temporary borrowing between funds or accounts and shall not be available for appropriation or be considered income to the borrowing fund or account. Amounts transferred shall be repaid either in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. Borrowing shall occur only when the fund or account receiving the money will earn sufficient income, during the current fiscal year, to repay the amount transferred. No more than 75 percent of the maximum of moneys held in any fund or account during a current fiscal year may be transferred.

LEAs need to be mindful of the interfund borrowing repayment requirements specified in code. Failure to repay a lending fund in accordance with the statutory provisions can damage the trust of the district's stakeholders and should be identified as a deficiency in the district's annual audit report.

The Education Code does not limit interfund borrowing authority to particular funds and includes no specific exclusions for funds holding restricted dollars. Borrowing from bond proceeds is not advisable and, in some cases depending on bond official statement offering documents, may be inappropriate. This includes the potential loss of tax-exempt status for the bonds, the loss of the direct subsidy payments, possible disclosure violations, and other legal considerations that should be avoided. FCMAT recommends that districts utilize the other options available to mitigate a temporary cash shortage instead of using bond proceeds. This coincides with guidance outlined in a previous Fiscal Alert as well as in an advisory published by the California Debt and Investment Advisory Commission (CDIAC). Also see FCMAT Fiscal Alert Interfund Borrowing Using Bond Proceeds (https://www.fcmat.org/PublicationsReports/FCMAT_Fiscal_Alert-Interfund_Borrowing_Using_Bond_Procees-10-1-19.pdf). Ultimately the decision to borrow from bond proceeds should be made locally after consultation with the LEA's bond counsel.

As mentioned, alternative liquidity is not limited to interfund borrowing but includes other options available to districts in need of temporary cash as follows:

1. Tax and Revenue Anticipation Notes (TRANs)

Another common method to mitigate a cash shortfall is a TRANs, a short-term note that may be issued by the district or the county board of supervisors on its behalf and secured by anticipated tax revenues to be collected in the same fiscal year. TRANs funds, sometimes held in a "proceeds" account, may be used for any purpose, including current expenses, capital expenditures, repayment of indebtedness and working capital. Many districts access TRANs through pooled TRANs such as through their county office of

education or a related organization. There is usually a minimum of 90 days lead time to complete a TRANs transaction and pay cost of issuance fees for attorney, financial advisor, underwriter, and other professional assistance.

2. County Superintendent of Schools (Education Code sections 42621 and 42622)

A district may borrow from the county superintendent of schools with the approval of the county board of education. Funds loaned by the county superintendent are subject to availability of excess funds held by the county superintendent. Funds must be repaid within the same fiscal year. (EC 42621)

Similar provisions exist for county superintendent of schools to make a conditional apportionment to a district or charter school that may be paid back to the county superintendent in the subsequent fiscal year. (EC 42622)

3. County Treasurer

The California Constitution, Article XVI, Section 6, states the following:

...the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue.

To borrow from the county treasurer, the district must submit a resolution to the county board of supervisors requesting a loan. Following the board's approval, the county treasurer's office disburses to the district an amount not to exceed 85% of the amount of money accruing to the district during the current fiscal year. Repayment of the advance is made from tax revenues accruing to the district later in the fiscal year.

Cash Monitoring

Cash should always be monitored routinely and in-depth. The best practice is to monitor cash flow projections against actuals monthly. However, in rapidly changing environments, it is highly recommended and not unusual to expand that monitoring to real time for planned receipts and high dollar expenditures. In times of uncertainty, at a minimum, monitoring should occur weekly. The goal of the increased surveillance is to ensure you do not incur a shortfall or fall below a preestablished balance for working capital needs.

Reserves as components of the fund balance are not necessarily equivalent to cash holdings but may be backed by other assets. During uncertain times, it is essential to ensure that all reserves are supported by equivalent cash balances. During the previous period of economic distress it was not uncommon for LEAs to have adequate fund balance reserves, but as a result of both inter-year and intra-year cash deferrals from the state, only a small portion of the reserves were backed by cash balances at any given time. This limited the usefulness of the reserves for an emergency or unforeseen circumstance.

In most cases, the link between LEAs and county treasurers (who serve as the LEA's treasurer) is through the county superintendent. In a fiscally uncertain environment, it is essential to maintain regular communication and strengthen relationships with the county treasurer. County superintendents should ensure that property taxes, state apportionments, interest income, and other cash resources are recorded timely to school district accounts. In addition, timely reconciliations, including clearing accounts, are important in ensuring the accuracy of all incoming and outgoing cash. County superintendents serve a vital role for the LEAs regarding cash flow monitoring.

Conclusion

The accuracy and reasonableness of preparing cash flow projections through the subsequent fiscal year depends on both apportionment schedules and budget assumptions. At a minimum, each budget scenario prepared should have at least one cash flow projection (all funds). However, apportionment considerations can and will be adjusted without regard to budget assumptions and will necessitate more than one cash flow projection scenario for each budget scenario. For example, a budget scenario with a zero cost of living adjustment for 2020-21 will necessitate at least two cash flow scenarios; one with a June deferral to July and one without. The June deferral, if following past accounting practice, will not adversely affect revenues, only cash receipts.

Remember that an emergency appropriation for districts (e.g., a state takeover of an LEA's governance) is triggered by insufficient cash flow to meet payroll at a given time. The trigger is influenced by budget deficits but is based on cash flow projections. Despite the challenges with cash flow during the Great Recession, LEAs managed their cash flow adequately and avoided the need for state intervention.

Cash oversight is always an important LEA responsibility, and it is especially heightened during this difficult and uncertain economic time. We recommend LEAs dedicate sufficient resources to regular and accurate monitoring of cash availability to ensure critical functions can continue without interruption. Yes, cash is king. But also remember, cash shows no mercy if you run out.

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FISCAL REPORT

Time to Fine-Tune MYPs—Be Prepared

 [BY SHEILA G. VICKERS](#)

 [BY JOHN GRAY](#)

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posted April 22, 2020

Now is the time to fine-tune our multiyear financial projections (MYPs). During the Great Recession, as an industry, local educational agencies (LEAs) became highly skilled at multiyear financial planning. The bottom dropped out of the global, national, and state economies so fast that we had to get really good at MYPs and cash projections very quickly, or not survive. In fact, a postmortem on the Great Recession reveals that local school agencies survived financially far better than other industries. Of course, public education was stripped to the bare bones in order to remain fiscally viable, and the damage caused to students at the time will have an impact for generations to come.

MYPs form the basis for evaluating an LEA's financial condition now and into the near future. They provide the opportunity to identify upcoming trouble spots so that the LEA can take action to prevent them. We have been quoted many times, stating: "Multiyear projections are the mathematical result of today's decisions based on a given set of assumptions—they are not forecasts or predictions, for which there is a higher implied reliability factor. Multiyear financial projections should change as the various factors and assumptions change in order to be a sound business practice."

LEAs just completed an MYP a month ago as part of their Second Interim report. So why would it make sense to immediately go back and do another update? Because the world as we knew it then has significantly changed in just over a month, and LEAs need to be ready to respond to what we expect will be significantly negative financial news.

As we reported earlier, the state's upcoming May Revision proposal will likely be a workload budget for 2020–21 (see "[DOF Planning for Workload Budget in 2020–21](#)" in the March 2020 *Fiscal Report*.) A workload budget is loosely defined to mean the cost-of-living adjustment (COLA) only for major education programs and

funding for any growth in workload. Even if the May Revision update proposes a workload budget for 2020–21, the financial realities may produce something significantly different when the 2020–21 State Budget is finalized.

So How Bad Can It Get?

While the Department of Finance has yet to provide its estimate of the COVID-19 shutdown impact on state revenues, there are estimates that the impact could be greater than the revenue loss during the Great Recession. So how bad can it get? Here's what the first two years of the Great Recession looked like . . .

From 2007–08 moving into 2008–09, the COLA for the average unified school district would have provided a \$329 per average daily attendance (ADA) increase, which would have been a 5.66% increase. Instead, the COLA was zeroed out, plus a cut of \$162 per ADA from the prior year's funding was applied to the average unified school district. The combined impact for 2008–09 was a \$491 per ADA (approximately 8%) reduction in purchasing power.

In 2009–10 it got worse. The COLA for 2009–10 of 4.25% was also zeroed out, and an additional cut in prior year funding of \$253 per ADA was applied. This brought the funding for the average unified school district in 2009–10 down \$1,177—more than 18%—below what 2009–10 would have been if the state had honored the statutory COLA to maintain LEA purchasing power at 2007–08 levels.

The length of the current shut down of the California economy is still unknown and the ultimate impact it will have on public school funding is still evolving. At this point, we think it is safe to say that the cost of living estimates for 2020–21 and beyond included in the Governor's January Budget are no longer valid. Assuming zero COLAs in the 2020–21 fiscal year and beyond, which may be optimistic, would place hundreds of LEAs in financial jeopardy immediately.

Get Prepared

Whether using the Fiscal Crisis and Management Assistance Team's Projection-Pro, the Standardized Account Code Structure software, or a spreadsheet to prepare your MYPs, LEAs need to be ready to act quickly when the new revenue projections are announced by the state.

It is time to fine-tune the components of your LEA's MYP that are not directly reliant on state funding. This would include an estimate of the current-year ending balance and, for next year, the salary and benefit expenditures, expenditures on services and supplies, and contributions to restricted programs and other funds. These estimates should include any reductions in expenditures that can be garnered at this time.

As soon as any new guidance is provided on state revenues, each LEA should have its MYP in shape to drop in the new revenue assumptions and immediately get timely information on which to act. If your agency's MYP indicates systemic deficit spending across the years and/or insufficient reserves in one or more future years, the earlier action is taken to prevent those issues, the better—in other words, bad news does not get better with age—in this case, it gets worse.

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FISCAL REPORT

It's Time to Batten Down the Hatches



[BY JOHN GRAY](#)



[BY SHEILA G. VICKERS](#)

Copyright 2020 School Services of California, Inc.

posted April 13, 2020

How many of us have been on a wooden ship in stormy seas? We may feel like that is what we are going through with the current pandemic, when in fact we didn't get much of a chance to batten down the hatches before it hit us. Here is where the term "batten down the hatches" comes from:

"To batten down the hatches is a nautical term from the early 19th century. When a ship was about to enter rough seas, the captain would order the crew to batten down the hatches. The crew would close all the hatches (doors) on the ship's decks and use lengths of batten (rods) to secure the hatches in the closed position."¹

We do have another storm—a recession—that may hit us even before this pandemic has subsided. Before the pandemic hit, more than half of all local school agencies had been declining in enrollment for years, and the slowdown of just the cost-of-living adjustment (COLA) for revenue increases for the Local Control Funding Formula (LCFF) had begun. Even local school agencies that haven't been declining in enrollment found themselves to be deficit spending due to myriad cost pressures, including:

- Rising pension contributions
- Increasing health benefit contributions
- Increased salaries due to step and column movement
- Maintaining competitive compensation, and
- Increasing contributions to critical programs like special education and child nutrition

While local school leaders have been faced with the impact of the pandemic on school operations, on students and parents in local communities, and on their own personal lives and families—the economic impact will also be felt in all of these areas. Our state policy makers have expressed concerns about the financial impact, as a decline in state revenues is anticipated and local schools are likely to see fewer resources allocated to

them from the state in the near future. Also, while the hold harmless on LCFF revenues from the state this year and the allocation of the COVID-19 LEA Response Funds from Senate Bill 117 (Chapter 3/2020) are significant to local agencies, most if not all are spending more than what they had budgeted for in order to provide distance learning, meals to students, and other services to the students that need them during this time.

Considering all of this, we think it's time to batten down the hatches—if your agency hasn't already. That includes changing the way the local agency budget is developed and planning ahead to prepare for lower funding. It also includes making sure that local stakeholders are brought along in the process. What follows are the broad strokes of some potential actions to consider.

Current-Year Budget

Most local agencies are well into developing their budgets for next year, and it is important to have the current-year budget as a solid springboard. Now is the time to conduct a thorough update of your current-year budget to reflect the latest information and activities for your agency.

Revenue Budget

For revenues, knowing about the Second Principal Apportionment and Annual hold harmless on average daily attendance (ADA) means a solid estimate of LCFF revenues can be prepared. However, that is not going to be the case for the last two quarters of state Lottery revenues, nor will it apply to many local sources of revenues which will decline as a result of the pandemic. As examples, fees for the use of facilities are likely nonexistent now, developer fees have likely declined, revenue from paid meals and transportation fees have ceased, and local donations have been significantly throttled back as families and community members deal with their own personal and professional challenges.

Expenditure Budget

For expenditures, LEAs are continuing to pay their employees. However, there may be some adjustments to make in the budget for extra pay, substitutes, overtime, or other types of variable wages. There may also be premium pay for employees continuing to work during this time. It's time to make further adjustments to salaries and benefits for vacancy savings, negotiated compensation settlements, or other changes since the 2019–20 Second Interim report was completed.

The technology budget will need to be scrutinized to determine what the current-year impact will be of purchasing and issuing technology to students for distance learning and to staff for working remotely, including the cost of additional internet access or wireless network devices. There may be adjustments necessary to other expenditure categories, such as professional or consulting services, contracted services for repairs, professional development providers, and travel and conferences. At this time the expenditure budget for books, supplies, and food for student meals should all be evaluated. Normal purchasing of books and supplies may have throttled back, but likely food expenditures have increased. Once the current-year budget is updated, the estimated ending balance forms the basis for next year's financial plan.

Next Year and Beyond

Out-Year Revenues

Estimating revenues will be challenging for next year and beyond. All indications are that the local agency revenue outlook will be dampened from what was anticipated in Governor Gavin Newsom's January State Budget proposal. The current COLA of 2.29% estimated in January for the 2020–21 fiscal year is likely to be lowered at the May Revision next month. In addition, the subsequent-year COLAs are vulnerable to being lowered. Once the May Revision is released, we will have the anchors for your out-year projections in addition to likely more conservative contingency assumptions.

State Lottery and local revenue sources will also likely continue to suffer from the economic slowdown as a result of the pandemic. The current-year experience, short as it has been thus far, could provide the best estimate for these revenue sources going forward.

Projected ADA

For the purpose of student enrollment and ADA projections, keeping ears to the ground in the community is very critical now and in the coming months. Growing enrollment from local residential development projects may not entirely come to fruition. Student mobility will likely increase due to families moving in or out as parents become unemployed and/or find employment elsewhere, students shifting to public schools from private schools, or families coming or going because of the cost of housing, and many other factors.

Out-Year Expenditures

On the expenditure side, the staffing budget should already include the pension contribution increases, staffing reductions or increases, and other factors that were anticipated before the pandemic. Faced with lower anticipated revenues in the future, many local agencies may be faced with making further reductions.

Other than finalizing the March 15 certificated preliminary layoff notices in May, certificated staffing for next year is mostly set. A local agency that needs to reduce staffing costs can evaluate classified staffing levels at any time of the year, which means determining whether certain services need to continue or will no longer be needed.

For all staff, it's not too early to consider offering an early retirement incentive sometime next year. If your local agency has a significant number of staff members at the tops of the salary schedules and a reduction in staff is needed, an early retirement incentive could be a way to encourage long-time staff to retire and provide room for new hires only for those retiring staff positions that need to be replaced. A cost/benefit analysis can indicate whether an early retirement incentive can have a positive impact on your work force and your budget.

Conserving Cash

In the words of our friends at the Fiscal Crisis and Management Assistance Team (FCMAT), “Cash is King!” By the end of the last recession, the words were changed to “Cash shows no Mercy!” Remember, the state-required minimum reserve level of 3% of total General Fund expenditures equates to only 5 to 8 days of payroll. General Fund reserves are an indicator of the cash balance but are not the same as cash—cash is but a portion of reserves. It is possible for a local school agency to have a positive ending balance but run out of cash, especially if our state policy makers once again decide to resort to cash deferrals as a solution for the state's financial woes.

It is important to invest the time necessary to reconcile all general ledger accounts, including cash, every month and revise cash flow projections accordingly. We at School Services of California Inc. (SSC) always recommend that cash projections be prepared at least 18–24 months out so that cash deficits can be managed through local cash borrowing, by making budget reductions, through a hiring and spending freeze, by accelerating cash collections, and/or by delaying cash outlays so that the state does not have to step in. In other words, managing cash is critical in maintaining fiscal solvency and local governance.

Conclusion

Communicating information about your local agency's financial situation is vital in bringing along your local agency's stakeholders. Your governing board, employee groups, other stakeholders, and the broader community need to know and understand the impact of the pandemic on the world, national and state economies, and the anticipated impact to your budget, your schools, and your community.

These communications have to be through electronic means right now. But once the shelter-at-home order is lifted, use all avenues available to your agency for communicating with the broader community. Budget review committees, parent-teacher organizations, community club meetings, local chamber of commerce meetings, and other venues are opportunities for communication and engagement. More communication is needed, not less. More budget analysis and budget updating are needed, not less.

There are always many moving parts to the local agency budget that require revisions to be made all year long, both upwards and downwards. Managing these complexities is made more challenging in the current circumstance and as we face the coming storm. We at SSC are honored to serve you and to continue providing information, support, and advice along the way. Stay tuned . . .

¹Source: https://www.grammar-monster.com/sayings_proverbs/batten_down_the_hatches.htm

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FISCAL REPORT

Here We Go Again?—An SSC Editorial



BY SSC TEAM

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posted April 15, 2020

Back in the early fall of 2008, we were asking ourselves if we were in a recession. At that point in time, the answer was no—at least not yet. But there were warning signs. A recession is defined as two quarters of negative growth in gross domestic product (GDP), and in July 2008 we hadn't even had one quarter of negative growth.

The U.S. unemployment rate exceeded 6.1% while California's was 7.7%. Oil price increases had killed the domestic auto and airline industries, among others, and the same was true in Europe. And in August 2008, the Consumer Price Index (CPI) change, which is the average cost of a basket of consumer goods and services, was actually negative. Major businesses, particularly banks and insurers, were melting down at an alarming rate.

When the California State Budget was adopted for the 2008–09 fiscal year, modest increases were provided to K–14 public education and the state was sitting on a skimpy reserve of less than 1%. Within less than six months after adopting the State Budget, what came to be known as the Great Recession began crippling our economy—eventually decimating public school funding long after the recession was declared officially over.

At one point during the downturn, the purchasing power of school districts was 22% lower than what it was before the Great Recession hit, exacerbated by the fact that the cash the state provided to districts was nearly cut in half due to apportionment deferrals.

Local educational agencies (LEAs) were tasked with responding to the school funding crisis by making significant reductions in staffing levels and educational programs. In some cases, the reductions occurred over multiple fiscal years and reduced staffing levels in particular services that have not been restored or reinstated at the level which they were prior to the Great Recession. Many LEAs experienced reductions in services related to social-emotional support for students, summer school, intervention programs, transportation services, custodial and maintenance support, and elective course opportunities for students.

In addition, many LEAs eliminated district-funded Induction programs which transferred the burden to an already limited pool of teachers new to the profession. Near the end of that recession as we started a true recovery, we editorialized that:

We Need a Recession-Proof Funding Model. The highest spending states not only spend more, but they develop sources of funding that do not result in schools taking the first hit in every recession. During the Great Recession, education in California was simply cut way too deep. Over that seven-year period, we lost 20% of our teachers and other staff, and most of them will not be back. We lost the opportunity to provide a full and rich educational program to our most needy students; we will not get that opportunity back. We allowed the achievement gap to grow at the very time when we most needed to close it. Other states don't do that; the source of funding for education, be it property taxes or other sources, stay with education and do not become a safety net for the rest of state government. We have to do better.

Most economists are now in agreement that we will be looking at a recession as a result of the coronavirus pandemic and how our policy makers respond will be important. We need them to remember the lessons learned from the last recession, and it may be incumbent upon us to remind them. We need to do what we can to retain the gains made with the recent restoration of LEAs' purchasing power to the 2007–08 levels as promised with the full implementation of the Local Control Funding Formula and ensure local school leaders continue to be empowered to make educational decisions tailored to student and community needs.

In our opinion, you can categorize California state budget spending into two categories— consumption and investment. The Dictionary of Economics defines “consumption as spending for acquisition of utility and is a major concept in economics and is also studied in many other social sciences. It is seen in contrast to investing, which is spending for acquisition of future income.” We see public education as an investment in the future of our students and, by extension, the state as a whole. As such, we think public education deserves special consideration when economic conditions warrant budget reductions.

We are not arguing that the consumption side of the budget is not important. It provides various necessary services along with safety net programs that serve California's most vulnerable residents. We do think however, that by investing in future generations in ways that help them acquire the human capital to be productive and successful members of our social and economic systems, we can reduce reliance on and the need for safety net programs in the future.

We are hopeful that our policy makers have learned the difficult lesson we learned firsthand from the Great Recession about the devastating effects of divesting in public education and that they will join us in a collective call to preserve this critical social and economic investment.

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FISCAL REPORT

Preliminary Approval Granted for Flexibility in Use of Federal Funds



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posted April 16, 2020

On April 13, 2020, the U.S. Department of Education granted preliminary approval to California's request for flexibility in using federal funds. Submitted by State Superintendent of Public Instruction Tony Thurmond and State Board of Education President Linda Darling-Hammond on April 10, the waivers seek to loosen restrictions on how and when federal education funds can be spent. Pursuit of the waivers was authorized under the Coronavirus Aid, Relief, and Economic Security Act to ease the immediate impacts of COVID-19 school closures (see "[\\$2.2 Trillion Federal Stimulus Package for COVID-19 Signed Into Law](#)" in the March 2020 *Fiscal Report*).

Specifically, California received preliminary waivers from federal requirements to do the following:

- Allow a local educational agency (LEA) to carry over more than 15% of its Title I, Part A funds, even if the LEA had received approval to exceed this limitation in the past three years. Title I, Part A provides financial assistance to LEAs with high numbers of low-income students.
- Extend the period of availability of FY 2018 funds for programs included in Title I, Parts A-D; Title II; Title III, Part A; Title IV, Parts A-B; Title V, Part B; and the McKinney-Vento Homeless Children and Youth program. LEAs would have until September 30, 2021, to use these resources.
- Permit an LEA to use its Title IV, Part A funds to best meet its needs without regard to content-area spending requirements, spending limits on technology infrastructure, or completing a needs assessment.
- Expand the definition of "professional development" for activities funded for the 2019–20 school year so that grantees may deliver timely support for educators to provide effective distance learning

As part of the federal waiver process, the State is accepting public comment on the waiver application through May 1. Comments may be sent via email to ESSA@cde.ca.gov or by mail to the California Department of Education, Government Affairs Division, 1430 N Street, Suite 5602, Sacramento, CA 95814-5901.

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FISCAL REPORT

Guest Article: Negotiations in a Time of Crisis

 [BY GREGORY J. DANNIS](#)

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posted April 6, 2020

[Editor's Note: From time to time, we publish guest articles that we think inform readers on timely and relevant issues related to bargaining and labor relations. Gregory J. Dannis of Dannis Woliver Kelley provides an editorial article on the COVID-19 crisis and its impact on bargaining throughout the state.]

The COVID-19 pandemic will go down in history as a shining example of commitment and heroism arising out of tragedy. In addition to front-line health care workers and others risking their own lives to provide for those in need, thousands of certificated and classified school employees are teaching remotely, creating a new virtual system of public education, sanitizing hundreds of classrooms and providing meals to those who depend on the schools for sustenance. These workers deserve our respect and appreciation as they continue to serve others even while caring for their own families and helping to teach their own children through distance learning.

With so many already having lost so much, you might ask why we should care about the state of negotiations at this time. Why be concerned about the legal niceties of good faith bargaining and the scope of negotiations in the middle of a global pandemic? I submit that, as labor and management engage in “crisis negotiations” throughout the state, we must revisit and reaffirm our reliance on existing negotiated contracts as well as longstanding norms of good faith collective bargaining.

We have often heard it said that we must “follow the contract” and “honor the contract.” Indeed, the collective bargaining agreement (CBA) is the Bible of workplace rules, containing covenants and commandments forged through the crucible of the negotiations process. Once in place, the CBA is the foundation and bedrock upon which the labor-management relationship rests even as the parties may agree to change it through ongoing negotiations. It is the source of stability and certainty in the workplace, based on a universal commitment to abide by and apply its terms consistent with the intent underlying its creation.

Then the COVID-19 pandemic came to America's shores and it is as if the contracts no longer existed in some places. They were tossed aside and, instead of serving as the established foundation for meeting the challenges of school closure, treated by some as almost irrelevant.

Local education agencies (LEAs) across the state immediately received demands to bargain the “change in working conditions” caused by school closures, together with boilerplate memoranda of understanding (MOUs) generated by unions at the state level which mutated into hundreds of variations at the local level. The major subjects addressed by these proposed MOUs were core subjects already addressed in every CBA: compensation, benefits, leaves of absence, hours of work, safety, assignments and transfers, evaluation and more.

My first reaction was, “Why are we being asked to renegotiate over subjects we have already spent years negotiating and reducing to binding legal documents?” Instead, my initial advice to LEAs was to sit down with their labor partners to review the CBA’s relevant areas to ensure common understanding and application of existing language in an extraordinary context. Then, as the parties identify “gaps” in the current CBA that do not address this crisis, by all means bargain them and reduce them to written MOUs.

This profoundly new set of circumstances does not, however, require LEAs to completely renegotiate over subject matters that have already been negotiated. Nearly 40 years ago, the Public Employment Relations Board ruled that such matters need not be renegotiated “merely because events arise which were not in the contemplation of the parties during prior negotiations.” (*Mt. Diablo Unified School District (1983) PERB Dec. No. 373, page 47.*)

The ubiquitous demands to bargain “the impacts of school closure due to COVID-19,” however, violated this rule, containing proposals such as the following (with responses in italics):

- Bargaining unit members will not suffer any loss of pay or benefits relative to their regular schedules for the period of closure or curtailment.
 - *The employer cannot unilaterally reduce pay or benefits according to the CBA, as well as state laws, to say nothing of constitutional prohibitions against the taking of property without due process of law. Also, The Governor’s Executive Order N-26-20, issued early relative to these events on March 13, guaranteed the maintenance of state funding so LEAs could, among other things “Continue to pay its employees.”*
- The parties agree that all current adopted leave policies will remain in full effect for the duration of the COVID-19 pandemic.
 - *Why and how could negotiated leave provisions be changed, especially unilaterally? Why do we need to re-agree to an existing contract article?*
- Unit members shall not have any sick leave, differential pay, or salary deducted during the span of the school closures.
 - *The CBA already contains an extensive Leaves article which dictates when leaves may or must be taken.*
- The LEA shall comply with all applicable laws, rules, regulations and governmental directives, including but not limited to Cal-OSHA and other governmental agency guidelines regarding maintenance of a safe place of employment.
 - *The CBA already contains an extensive Safety article with these guarantees; even if not, LEAs have always been required to follow these laws.*

As mentioned above, there will be “gaps” that need filling. These could include transfer and assignment time lines, evaluation procedures and time lines, and notwithstanding the expansive and generous leave articles in every CBA, additional details to address coordination of pre-existing leaves with Executive Orders and new federal leave laws.

It may also be appropriate to agree upon (not demand as a matter of right) some needed flexibility in the contours of the work day as educators and students grapple together with new ways to teach and learn. Many union proposals, however, seek to *nullify* existing contract provisions rather than supplement them to address new conditions.

Perhaps even more troubling is confirmation of the complete disappearance of the few remaining boundaries around the scope of negotiations. I do not recall that the subject of whether and when students will receive grades is negotiable. Nor have I bargained over a reduction in student instructional time – even via distance learning – especially when the contract already defines the unit members' instructional day. When did the curriculum itself become negotiable (and don't LEAs already have an approved curriculum)?

Some proposals seek to bargain the *decision* whether to provide online distance learning e.g. “Teachers shall not be required to provide distance learning online and may opt instead to do so through paper materials, emails and other means.” This is not the impacts or effects bargaining mandated by the law; rather, this is a demand to bargain over the LEA's decision on *whether and how* education is to be delivered at all.

I understand and agree fully with the need for partnership, collaboration and standing together right now, but what I have seen in some places are overreaching proposals devoted in large part to what unit members shall *not* be required to do. One may disagree with school board or administration decisions regarding continuity and delivery of education, but these are precisely the kind of policy decisions they are elected and employed to make.

Employers understand and will meet the legal obligation to bargain over the effects of these decisions, tackling issues such as technology, equipment, training, professional development, privacy, use of live video or audio, and the list goes on. These are the “gaps” in the contract which should be filled through impact negotiations. If there was any doubt before, however, the distinction between non-negotiable decisions and negotiable effects can now be confirmed to be nonexistent.

One might argue that no one anticipated a global pandemic when these contracts were negotiated; therefore neither party could possibly have intended those provisions to apply to the present emergency. Applying this theory, however, renders the entire contract meaningless since the future is unpredictable. The purpose of “the living contract” is to set down jointly created rules that will apply to future, unknown environments, thereby establishing workplace stability and security.

I do not intend to paint all locals and their representatives with one broad brush. Many if not most chapters have been collaborative, cooperative, and student-oriented. These locals and their members have been partners in a herculean and largely successful effort to roll out distance learning after starting from scratch. Classified locals and their unit members have stepped forward to provide food to students, sanitize schools, get the payroll out and partner in distance learning when they can.

A few locals (and apparently the state organizations), however, have crossed the line and held distance learning hostage in pursuit of non-negotiable goals. As a result, some LEAs have swallowed hard, refrained from arguing over “scope” issues and reached less than adequate agreements in order to move on to more pressing concerns.

The contrasting responses to this crisis from some representatives and those they represent could not be more striking. Even before Friday March 13th – the day most LEAs learned they would be closed on Monday 16th – teachers had begun preparing new lessons, developing schedules and devising innovative ways to deliver education remotely. School staffs, site instructional leaders and LEA administrators collaborated powerfully to ensure the engine of education continued to run uninterrupted (perhaps with a few misfires) on Monday morning.

Statewide, we witnessed an impressive if not astonishing display of individual and collective professionalism, dedication and true grit, both from newer educators familiar with current technology, and by experienced professionals who strived mightily to overcome understandable doubts and fears associated with learning and using new ways of teaching on the spot.

Meanwhile, some state and local labor representatives were drafting proposals to restrict how, what and when teachers could teach and whether, when and how teachers should communicate with students, parents and administrators. By the time these fully realized demands made it to the bargaining table, fortunately (especially for students), in many cases the education train had already left the station.

With millions of jobs lost and billions in tax revenue evaporating, LEAs now face a secondary but certain crisis: a recession of epic proportions that might impact schools even more than the last two. This crisis may well require changes in contractual conditions that cost money, such as class size, staffing, hours of work, compensation and benefits.

LEAs will face yet another entirely unforeseen set of circumstances and will look to their labor partners again to answer the call for collective problem solving and assistance. Based on negotiations over recent school closure, we can be confident that many local unions and their members will step up once more and do what is best for students, staff and the organization as a whole.

One also hopes this experience has taught or reminded us that starting at extreme or one-size-fits-all bargaining positions in order to finally arrive at a sensible center solution is inefficient and often unproductive. All stakeholders are better served by focusing on the unique needs of each educational community especially when it is in all parties' interest to respond quickly to emergencies. This can best be accomplished without the unnecessary and counterproductive conversations by honoring the contract and the longstanding principles underlying the good faith negotiations process.

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FISCAL REPORT

Charter School Petition, Oversight, and Proposition 39 Reminders

 [BY BRIANNA GARCÍA](#)

 [BY KATHLEEN SPENCER](#)

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posted April 6, 2020

We at School Services of California Inc. (SSC) know that this is an especially difficult time for all of us personally and professionally, and the last thing on all of your minds is likely statutory timelines. However, though our state and federal tax deadlines have been delayed due to the COVID-19 pandemic, this is not the case for the statutory timelines or requirements for the charter school petition and petition renewal processes, oversight responsibilities, and Proposition 39 (2000) process for charter school facilities. In addition, chartering agencies must be prepared to address the new timelines and requirements as a result of new charter school legislation, most of which becomes operative on July 1, 2020. A summary of the key issues and changes to keep on your radar is provided below:

Petition Process

Significant changes are on the horizon for the petition process due to changes in law in Assembly Bill (AB) 1505 (Chapter 486/2019), Senate Bill (SB) 75 (Chapter 51/2019) and SB 126 (Chapter 126/2019). These following changes, with the two noted exceptions, become operative on July 1, 2020.

- The timeline is extended for chartering authorities to review new or renewal charter school petitions from 60 days to 90 days, and an additional public hearing is required
- Certain new prohibitions related to student enrollment based on academic performance or student characteristics (operative January 1, 2020)
- New requirements to adhere to conflict-of-interest standards (operative January 1, 2020)
- Additional reasons for charter school denial for new petitions

- Changes to the petition appeals

Charter School Oversight

Significant changes to the renewal process become operative on July 1, 2020, which creates three tiers of petition renewal based upon a charter school's performance on the California School Dashboard. As a result, the renewal term of a charter petition is dependent on a charter school's performance and can range from two to seven years. In addition, AB 1507 (Chapter 487/2019), effective January 1, 2020, eliminated the ability of a charter school to locate outside of the geographic boundaries of its chartering authority and made other changes to the establishment of resource centers.

Proposition 39: Charter School Facilities

The current COVID-19 crisis has not paused the Proposition 39 (2000) process through which charter schools request facilities from school districts. One deadline occurred just last week, while the final one is quickly approaching — April 1 and May 1. On April 1, school districts should have provided final offers to charter schools for facilities. And by May 1, or 30 days after the school district's final offer, the charter school must notify the school district, in writing, whether or not it plans to occupy the offered space. The most recent *Fiscal Report* article on the Proposition 39 (2000) Facilities Request process (see "[The End of the Proposition 39 \(2000\) Facilities Request Process](#)," in the current *Fiscal Report*) discusses this final deadline.

For a detailed review of the new requirements and existing timelines for charter school petitions, oversight, and facilities, consider signing up for SSC's on-demand webinars, Charter Schools—A Three Part Series. For more information, click [here](#).

[Click Here for COVID-19 Related Resources](#)

FISCAL REPORT

Ask SSC . . . What Changes Have Occurred in Attendance Reporting as a Result of COVID-19?

 **BY MATT PHILLIPS, CPA**

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Q. My district is currently preparing our attendance reports to be submitted to the State for Second Principal Apportionment (P-2). Can you please summarize the changes that have occurred as a result of COVID-19?

A. In a time of change, and unprecedented occurrences such as social distancing and distance learning for K-12, the attendance reporting process is relatively unchanged. The one significant change occurred as a result of the Executive Order N-26-20 dated March 13, 2020, that amended the P-2 and P-Annual reporting periods.

Current law defines the P-2 reporting period as all full school months that were completed on or before April 15. The P-Annual reporting period is all school months that are completed on or before June 30th. Although the P-2 period is used by the State as the funding period for measuring attendance that is used to derive most revenues, P-Annual attendance is the funding period for other programs. Our article (see "[Ask SSC . . . Do I Use the P-2 or P-Annual ADA as a Basis for Funded ADA?](#)" in the August 2015 *Fiscal Report*) details which programs are funded on P-2 and which programs are funded on P-Annual.

The Executive Order did not amend which programs are funded by P-2 and P-Annual, but it did amend the calendar used to determine each period. For the 2019–20 school year, the P-2 and P-Annual reporting periods will cover the same time period—all school months that end on or before February 29, 2020. The periods were shortened significantly to mitigate the drop in attendance as a result from COVID-19 and shelter-in-place orders.

Most attendance will be calculated based on the number of school days in the school months that end on or before February 29th, but a handful of programs use fixed divisors for P-2 and P-Annual (135 and 175 days, respectively). The Data Reporting Instruction Manual published by the California Department of Education (CDE) summarizes the programs that have fixed divisors, as well as the period used to fund those programs.

Attendance School District, Attendance Supplement School District, Attendance Basic-Aid Choice/Court-Ordered Voluntary Pupil Transfer, Attendance Basic-Aid Open Enrollment Average Daily Attendance (ADA) Categories	Local Control Funding Formula (LCFF) Funded Period	AB 602 Funded Period
Regular ADA (includes Opportunity Classes, Home and Hospital, Special Day Class, and Continuation Education), funded as either LCFF Base Grant or Necessary Small School (NSS)	P-2	P-2
Extended Year Special Education [Education Code Section (EC §) 56345(b)(3)] (Divisor 175), funded as either LCFF Base Grant or NSS	Annual	Annual
Special Education—Nonpublic, Nonsectarian Schools [EC § 56366(a)(7)] and/or Nonpublic, Nonsectarian Schools—Licensed Children's Institutions	Annual	Annual
Extended Year Special Education—Nonpublic, Nonsectarian Schools [EC § 56366(a)(7)] and/or Nonpublic, Nonsectarian Schools—Licensed Children's Institutions (Divisor 175)	Annual	Annual

Note: The bold programs use fixed divisors

The CDE published guidelines for calculating the attendance for programs with fixed divisors. As a result of the shortened P-2 window, and the alignment of P-2 and P-Annual, local educational agencies shall calculate the total number of school days that occur between their P-2 date under current law and their P-2 date under Executive Order N-26-20. The difference should be subtracted from 135 days and that shall be the fixed divisor used for the corresponding programs. The guidance is included as part of the COVID-19 FAQ, and can be accessed by clicking [here](#).

As a reminder, the P-2 reports are due to the CDE by May 1, 2020. The software used to enter the attendance information for population into state forms can be found [here](#).