

CHAPTER 23A

ADMINISTRATIVE COST LIMITS, TRANSFERS, AND BUDGET DEVELOPMENT

Authority

P.L. 2004, c.73.

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SUBCHAPTER 1. DEFINITIONS

6A:23A-1.1 Definitions

The words and terms used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Administrative cost” means total administrative costs as defined by the Comparative Spending Guide and in accordance with the Uniform Minimum Chart of Accounts for New Jersey Public Schools and the National Center for Education Statistics classifications and other reporting directives published and distributed by the Commissioner pursuant to N.J.S.A. 18A:4.14 and N.J.A.C. 6A:23-2.

“Advertised per pupil administrative costs” means the per pupil administrative costs as defined by the Comparative

Spending Guide and advertised in the school district budget pursuant to N.J.S.A. 18A:22-11.

“Annual audit” means as defined in N.J.A.C. 6A:23-1.2.

“Annual audit program” means the uniform program published and distributed by the Commissioner for each district board of education for preparing the Comprehensive Annual Financial Report pursuant to N.J.A.C. 6A:23-2.2(i).

“Authorized membership of the school board” means the full membership of the district board of education as established pursuant to N.J.S.A. 18A:12.

“A4F” means the form every district board of education is required to use and file with the county board of taxation and other required entities for certification and reporting of school taxes.

“Comparative Spending Guide” means the annual report of comparative financial statistics of school districts compiled and published for general distribution by the Commissioner pursuant to N.J.S.A. 18A:4-30.

“Comprehensive Annual Financing Report” means as defined in N.J.A.C. 6A:23-1.2.

“Cost of Living” means the consumer price index or CPI as defined in N.J.S.A. 18A:7F-3.

“District board of education” means, for the purposes of this chapter, and unless otherwise set forth in N.J.S.A. 18A:7F-5, any local or regional school district established pursuant to Title 18A of the New Jersey Statutes, but shall not include county vocational school districts, county special services school districts, educational services commissions or jointure commissions.

“Efficiency Standards” means the standards contained in the most recently published Biennial Report on the Cost of Providing a Thorough and Efficient Education.

“Emergent circumstance” means a circumstance that must be addressed expeditiously to avoid peril to the health and safety of students and staff and/or to avert an operating deficit from the required implementation of the thoroughness standards.

“GAAP” means as defined in N.J.A.C. 6A:23-1.2.

“Legal reserve” means a reserve of fund balance as defined by the Governmental Accounting Standards Board or GASB for encumbrances, or other funds not available for appropriation due to State or other legally imposed purpose.

“Non-discretionary fixed costs” means costs incurred by a school district in its operation that are outside the control of the district board of education.

“Shared service” means as defined in N.J.A.C. 6A:23-1.2.

“Surplus” means the amount of undesignated, unreserved fund balance as of July 1 of each year.

“Thoroughness standards” means the Core Curriculum Content Standards as approved by the State Board of Education on May 1, 1996 and as thereafter revised by the State Board of Education.

“Unbudgeted revenue” means any general fund revenue realized during the budget year that was not included in the original school district budget certified for taxes.

“Underbudgeted revenue” means any general fund revenue realized during the budget year that exceeds the amount included in the original school district budget certified for taxes.

SUBCHAPTER 2. ADMINISTRATIVE COST LIMITS, TRANSFERS, AND BUDGET DEVELOPMENT

6A:23A-2.1 Transfer of surplus after April 2004 election and appropriation to three percent for 2004-05

(a) Pursuant to N.J.S.A. 18A:7F-7, any appropriation of surplus made by a district board of education, as defined in N.J.A.C. 6A:23A-1.1, following the April 2004 school budget election and prior to July 1, 2004 (the effective date of P.L. 2004, c.73) to the capital reserve or maintenance reserve account or to increase spending for the 2003-04 school year is null and void.

1. A district board of education shall reverse such transfers by board resolution and reclassify the funds as undesignated, unreserved fund balance as of June 30, 2004.

2. In accordance with GAAP, if such transfer cannot be reversed and reclassified, the district board of education shall include the amount as surplus when calculating audited excess surplus in 2004-05 pursuant to N.J.S.A. 18A:7F-7c.

3. A district board of education shall be required to reverse such transfers if the appropriation was necessary for use in the 2003-04 school year to meet the thoroughness standards and no other line-item account balances were available.

4. Each district board of education shall, as part of the annual audit, submit all post-April board resolutions for appropriation of surplus for review by the public school auditor for compliance with (a)1 through 3 above, in accordance with the procedures outlined in the annual audit program.

(b) Each district board of education shall revise the 2004-05 budget and A4F to appropriate surplus over three percent

as estimated on line 1670 in the recapitulation of balances in the 2004-05 budget presented to the voters or board of school estimate.

1. District boards of education that are required to submit a revised 2004-05 A4F will be notified by the county superintendent of the amount of the additional surplus over three percent to be appropriated based on the surplus estimate included in the budget submitted to and approved by the county superintendent pursuant to N.J.S.A. 18A:22-1 et seq.

i. The district board of education shall reduce the amount of additional surplus over three percent required to be appropriated to reduce 2004-05 tax levy by any reduction made by a municipal governing body(ies) in review and certification of a 2004-05 defeated budget.

ii. The district board of education secretary shall submit the revised A4F to the county superintendent for verification of the required amount.

iii. The district board of education shall, at the next scheduled school board meeting, adopt the revised 2004-05 budget with the revisions in budgeted surplus and tax levy as verified by the county superintendent.

2. A district board of education may submit to the county superintendent a revised 2004-05 A4F in a different amount than as notified by the county superintendent only upon certification that the district board of education made a post-April 2004 election appropriation of surplus in order to meet the thoroughness standards for the 2003-04 school year and no other line-item balances were available. Such certifications shall:

i. Indicate the specific purpose for the appropriation;

ii. Specify why it was necessary to meet the thoroughness standards for the 2003-04 school year;

iii. State that no other line-item balances were available; and

iv. Be signed by the chief school administrator, business administrator, and school board president.

3. Each district board of education required to revise the 2004-05 budget and tax levy under this subsection shall, as part of the annual audit, submit the revised 2004-05 A4F and any certifications to its public school auditor for review in accordance with the procedures outlined in the annual audit program.

i. A district board of education shall reserve and designate in the 2005-06 budget any amounts not in accordance with (b)2 above.

4. A district board of education that does not revise the A4F in the amount notified by the county superintendent and does not have a certification pursuant to (b)2 above shall be subject to further review by the Department and possible withholding of State aid.

6A:23A-2.2 Legal reserves

(a) Pursuant to N.J.S.A. 18A:4-14, a district board of education shall maintain legal reserves as defined and published by the Governmental Accounting Standards Board (GASB; 401 Merit 7, P.O. Box 5116, Norwalk, CT) for encumbrances, or State or other government imposed or permitted legal restrictions.

(b) A district board of education may request approval to establish a legal reserve other than those authorized in (a) above by submitting a written request to the Assistant Commissioner of Finance in accordance with the annual audit program.

6A:23A-2.3 Transfers during the budget year

(a) A district board of education may transfer surplus or other unbudgeted or underbudgeted revenue between April 1 and June 30 only upon the approval of the transfer by the regional Assistant Commissioner, in consultation with the county superintendent as the Commissioner's designee, pursuant to N.J.S.A. 18A:22-8.1. To request approval of such transfers, a district board of education shall submit to the regional Assistant Commissioner:

1. Documentation of approval of the transfer by a two-thirds affirmative vote of the authorized membership of the school board;
2. Certification by that same membership that the transfer is necessary to achieve the thoroughness standards for the current year. Requests to appropriate surplus for textbooks, computers, equipment or other needs for use and operation for the subsequent school year is not considered a need for the current year and shall not be approved; and
3. The latest board secretary's report as documentation that appropriation balances are or will be expended or encumbered.

(b) Prior to April 1, a district board of education may petition the Commissioner, by a two-thirds affirmative vote of the authorized membership of the school board, for approval of a transfer of surplus or other unbudgeted or underbudgeted revenue only for an emergent circumstance. Such district board of education may be subject to an on-site inspection by the county superintendent for verification of the emergent condition and other supporting documentation. The district board of education shall submit such board-approved petition to the regional Assistant Commissioner for review in consultation with the county superintendent, for recommendation to the Commissioner. At a mini-

num, the district board of education shall include in such submission:

1. Certification that the transfer is necessary for an emergent circumstance, that no other line item balances are or will be available, and that the remaining surplus will enable the district board of education to operate in a fiscally solvent position for the remainder of the budget year;
2. Documentation that the emergent circumstance, if not addressed through an appropriation of additional revenue, would render peril to the health and safety of students or staff, and/or force the school district into an operating deficit as a result of the required implementation of the thoroughness standards;
3. The latest school board secretary's report as documentation that no other line item balances are or will be available as set forth in (b)3i below:
 - i. Any unexpended, unencumbered balances shall be for non-discretionary fixed costs and supported by historical expenditures or other documentation ensuring that the balances will be expended by June 30; and
4. Evidence of approval of the petition and supporting documentation by a two-thirds affirmative vote of the authorized membership of the school board.

(c) A district board of education may at any time and without Commissioner approval:

1. Appropriate unbudgeted or underbudgeted State aid for which the approval was granted by the Department in the written notification to the district of the additional aid;
2. Appropriate unbudgeted or underbudgeted tuition revenue generated from a school district-specific program, which is not part of a formal sending-receiving relationship pursuant to N.J.S.A. 18A:38-19 and 18A:46-21;
3. Appropriate unbudgeted or underbudgeted school transportation revenue generated from a school district's or Coordinated Transportation Services Agency's role as the host provider of school transportation services pursuant to N.J.S.A. 18A:39-11 and 18A:39-11.1;
4. Appropriate unbudgeted or underbudgeted restricted miscellaneous local revenue;
5. Appropriate unbudgeted or underbudgeted Federal revenue; and
6. Appropriate surplus generated from any Federal and/or State revenue excluded from the excess surplus calculation in the prebudget year in accordance with the annual audit program.

(d) As used in this section, general fund appropriation account means the required advertised appropriation accounts pursuant to N.J.S.A. 18A:22-1 et seq., except where consolidated as follows:

1. Basic skills, bilingual and special education instruction, including other related and extraordinary services;
2. Student activities, student athletics, and other student instructional services;
3. Student support services, including attendance, health, guidance, child study team, and media;
4. Improvement of instruction and staff training; and
5. Special programs (fund 13).

(e) For all transfers from any general fund appropriation account as defined in (d) above, and as amended to include prior year encumbrances carried forward to the current year and revenue appropriated pursuant to (c) above, the district board of education shall obtain the approval for such transfers by two-thirds affirmative vote of the authorized membership of the school board, pursuant to N.J.S.A. 18A:22-8.1.

1. When the total amount of such transfers, on a cumulative basis, exceeds 10 percent of the amount of the account that was included in the school district's budget as certified for taxes, the district board of education shall request in writing approval from the county superintendent, as the Commissioner's designee, by submitting the request and purpose for the transfer using the report pursuant to (h) below.

i. The district board of education may request approval from the county superintendent prior to obtaining the two-thirds affirmative vote of the authorized membership of the school board for such approval.

ii. A district board of education written transfer request shall be deemed approved after 10 working days of receipt of such request by the county superintendent if no county superintendent approval or denial is provided within that time frame. A district board of education shall maintain documentation of the county superintendent receipt of all transfer requests deemed approved under this subsection.

2. Prior to any transfers from capital outlay accounts to current expense, except for equipment, a district board of education shall submit a written request for approval to the county superintendent pursuant to N.J.A.C. 6A:23-8.4(e).

(f) For all transfers to the advertised appropriation accounts identified as general administration, school administration, central services and administrative information technology or other support services that, on a cumulative basis, exceed 10 percent of the amount of the account included in the school district's budget as certified for taxes, a district board of education shall, prior to such transfer, submit to the county superintendent, in a format prescribed by the Commissioner, a request for such approval.

1. Such approval will not be granted, except as provided in (f)2 below and N.J.A.C. 6A:23A-2.4(b)2, if:

i. The school district's budget currently exceeds the administrative cost limits; or

ii. The transfer would place the school district's budget in excess of the administrative cost limits in the applicable budget year, as prescribed in N.J.A.C. 6A:23A-2.4.

2. Transfers may be approved to support a contractual obligation or one-time increase in spending as justified by district board of education documentation. A district board of education that is granted such approval remains subject to the requirements set forth in N.J.A.C. 6A:23A-2.4.

(g) For all transfers to the advertised appropriation accounts identified as capital outlay, excluding equipment, a district board of education shall, prior to such transfer, submit to the county superintendent in a format prescribed by the Commissioner a request for such approval. The district board of education shall include in the request:

1. Documentation that the funds to be transferred will supplement a capital project previously approved pursuant to N.J.A.C. 6A:23-8.4; or

2. Documentation that the funds to be transferred are necessary to support an emergent circumstance as required in (b)2 above. Such school district shall be subject to an on-site inspection by the county superintendent for verification of the emergent circumstance.

(h) Each district board of education shall maintain a report of current month and year-to-date transfers between general fund appropriation accounts as defined in (d) above, in a format prescribed by the Commissioner, or in a format developed locally and approved by the county superintendent, and submit such report to the county superintendent with any transfer requests and in accordance with the submission requirements of the board secretary's and treasurer's financial reports under N.J.A.C. 6A:23-2.11.

6A:23A-2.4 Administrative cost limits

(a) Each district board of education shall budget and report administrative costs using the minimum chart of accounts and other reporting directives published and distributed by the Commissioner pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:23-2, which includes, but is not limited to, recording the full salary of the business administrator and the chief school administrator as administrative costs. If the chief school administrator also acts as a building principal, the salary may be prorated between general administration and school administration. Consistent with the minimum chart of accounts, a district board of education shall not further prorate the chief school administrator or business administrator salaries between other functions, except to instruction and only for any portion of those salaries providing direct classroom instruction as part of the district's regular curriculum.

(b) Pursuant to N.J.S.A. 18A:7F-5, per pupil administrative cost limits are calculated as follows:

1. For the 2005-06 school year, per pupil administrative cost limits are calculated individually for each of the three regions, North, Central and South, using audited expenditure data from the 2003-04 school year. Each district board of education will receive a statement of its regional administrative cost limit with the annual state aid notices. The district board of education shall prepare and submit to the county superintendent a proposed budget consistent with N.J.S.A. 18A:7F-5, N.J.S.A. 18A:22-1 et seq. and N.J.A.C. 6A:23, in which the advertised per pupil administrative costs do not exceed the lower of the following:

i. The school district's advertised per pupil administrative costs for the 2004-05 school year included in the budget certified for taxes and adjusted in (b)2 below if applicable, inflated by the cost of living or 2.5 percent, whichever is greater; or

ii. The per pupil administrative cost limits for the school district's region as defined in (b)1 above.

2. A district board of education may submit to the department a revision to the school district's 2004-05 advertised per pupil administrative cost if upon review and recommendation by the school district's auditor, the district board of education determines the costs were not budgeted in the 2004-05 budget certified for taxes consistent with the Uniform Minimum Chart of Accounts for New Jersey Public Schools and the definition of administrative cost.

i. The district board of education shall include in such submission documentation of the existing and revised per pupil cost calculations based on auditor recommendation.

ii. The district board of education shall submit to the county superintendent all such revisions for review and approval as part of the 2005-06 budget approval process.

3. For the 2006-07 school year and each school year thereafter, per pupil administrative cost limits for each of the three regions, North, Central and South, is equal to the prior year's limit inflated by the cost of living or 2.5 percent, whichever is greater. Each district board of education shall prepare and submit to the county superintendent a proposed budget consistent with N.J.S.A. 18A:7F-5, N.J.S.A. 18A:22-1 et seq. and N.J.A.C. 6A:23, in which the advertised per pupil administrative costs do not exceed the lower of the following:

i. The school district's adjusted, as of February 1, prebudget year per pupil administrative costs as reported in the proposed budget; or

ii. The per pupil administrative cost limits for the school district's region as defined in (b)3 above.

4. A district board of education may submit to the county superintendent any shared services agreements and documented costs for the provision of administrative services to other school districts or governmental units. A county superintendent may take into consideration such contractual agreements and documented costs in the calculation of total administrative spending in the prebudget and budget year for purposes of determining the district board of education's adherence with the per pupil cost administrative cost limits.

(c) Each district board of education that anticipates that the per pupil costs in its 2005-06 proposed budget will exceed the administrative cost limits as set forth in (b)1 above shall:

1. Prior to January 2005, participate with the county superintendent in a review of its 2004-05 administrative operation to identify potential areas of inefficiencies to be addressed in the 2005-06 budget. The county superintendent may recommend revisions to the proposed budget to achieve efficiencies in areas that include, but may not be limited to:

i. Shared administrative functions;

ii. Purchasing administrative services from other school districts;

iii. Participation in the Alliance for Competitive Telecommunications (ACT) joint purchasing program;

iv. Programs, services, positions and other costs that cannot be supported as necessary to ensure implementation of the thoroughness standards; and

v. Any other programs or services that can be demonstrated to result in reduction from the prior year's cost;

2. No later than two weeks prior to the 2005-06 budget submission, submit to the county superintendent an action plan to address the inefficiencies identified in (c)1 above, including a timeline for completion of such action; and

3. With the 2005-06 budget submission, submit to the county superintendent a statement documenting that all potential efficiencies identified in (c)1 above are incorporated into the district's operations, including, but not limited to, the areas listed in (c)1 above. The county superintendent may disapprove the school district's 2005-06 proposed budget, disapprove a separate proposal, and/or disapprove use of banked cap as authorized at N.J.S.A. 18A:7F-5a and pursuant to N.J.A.C. 6A:23-8.9, if he or she determines that the district board of education has not implemented all potential inefficiencies in the administrative operations of the school district.

(d) For the 2005-06 school year and each school year thereafter, a district board of education shall submit to the county superintendent a proposed budget in which the

advertised per pupil administrative cost is within the per pupil administrative cost limits in (b)1 and 3 above. A district board of education may include as a separate proposal for voter or board of school estimate approval any excess administrative spending above the cost limits only if such proposals are consistent with the requirements in N.J.A.C. 6A:23A-2.5 and 6A:23-8.5.

(e) For the 2006-07 school year and each school year thereafter, pursuant to N.J.S.A. 18A:7F-5, a district board of education may request approval of the county superintendent, as the Commissioner's designee, to exceed the school district's prebudget year per pupil administrative costs up to 2.5 percent or the cost of living, whichever is greater, as follows:

1. The district board of education shall submit such request to the county superintendent in writing no less than four weeks prior to budget submission; and

2. The district board of education shall include with such request any additional documentation that supports the request, for factors including, but not limited to:

- i. Enrollment changes;
- ii. Administrative changes to fulfill mandated requirements;
- iii. Changes to nondiscretionary fixed costs as defined in N.J.A.C. 6A:23A-1.1;
- iv. Participation in a shared services agreement as a provider;
- v. Opening a new school; and
- vi. Other mitigating factors including, but not limited to, those factors listed in (c)1 above.

(f) A district board of education that submits to the county superintendent a proposed budget in which the advertised per pupil administrative cost exceeds the per pupil administrative cost limits in (b)1 and/or (b)3 above and has not received county superintendent approval to exceed this requirement as set forth in (e) above will not receive budget approval.

1. The district board of education shall resubmit to the county superintendent a budget that has met the administrative cost limits, through either a reduction in administrative costs and/or submission of a separate proposal for voter or board of school estimate approval of the excess administrative costs, no later than five working days prior to the last day to advertise for the public hearing.

2. A district board of education that does not resubmit a budget in accordance with (f)1 above within this time frame:

i. Shall lose the authority and decision-making capacity for development of the final administrative budget for advertisement to the voters and shift this responsibility to the county superintendent, as the Commissioner's designee. The county superintendent will conduct all necessary budgetary reallocations and reductions to meet these requirements; and

ii. May be subject to withholding of State aid pursuant to N.J.S.A. 18A:7F-9.

(g) A district board of education that fails to submit to the county superintendent an approvable budget in a second consecutive year or any year thereafter shall be subject to:

1. A more restrictive fiscal and budgetary review and approval process as deemed appropriate by the Commissioner; and

2. Withholding of State aid pursuant to N.J.S.A. 18A:7F-9.

6A:23A-2.5 Additional spending proposals

(a) Notwithstanding any provisions at N.J.A.C. 6A:23-8.5 to the contrary, a district board of education may submit to the voters at the annual school budget election or to the board of school estimate a separate proposal(s) for additional general fund tax levy, pursuant to N.J.S.A. 18A:7F-5d(9), as follows:

1. The district board of education shall not include in such separate proposal(s) any programs and services that were included in the school district's prebudget year net budget.

2. The district board of education shall not include in such separate proposal(s) any programs and services necessary for students to achieve the thoroughness standards established pursuant to N.J.S.A. 18A:7F-4.

3. The district board of education may submit to the county superintendent a written request for approval of an exemption to (a)1 above. The district board of education shall include in such request a board resolution documenting that the cost of retaining the program in the base budget will necessitate reduction in programs and services necessary to achieve the thoroughness standards established pursuant to N.J.S.A. 18A:7F-4.

(b) The district board of education shall ensure pursuant to N.J.A.C. 6A:23A-2.4(c)3, upon review of the separate proposal(s) that all potential efficiencies in the administrative operations of the school district are in effect.

(c) All separate proposals are subject to review by the county superintendent.

6A:23A-2.6 Capital reserve and maintenance reserves

(a) A district board of education or board of school estimate, as appropriate, may utilize a capital reserve or maintenance reserve in accordance with N.J.A.C. 6A:26-9.1 and 6A:26A-4.2, and pursuant to P.L. 2004, c.73 and N.J.S.A. 18A:21-1 et seq. as set forth herein.

(b) A district board of education or board of school estimate may, at any time, establish by board resolution a capital reserve account.

(c) A district board of education or board of school estimate, as appropriate, may increase the balance in the capital reserve by appropriating funds in the annual general fund budget certified for taxes to supplement funds in the account as required to meet the needs of the long-range facilities plan.

(d) A district board of education may request approval from the county superintendent as the Commissioner's designee, to appropriate any excess unreserved general fund balance as calculated in the supporting documentation of the proposed budget into a capital reserve in the proposed budget pursuant to N.J.S.A. 18A:7F-7b only when all of the following conditions are met:

1. The district board of education has formally established a capital reserve account;
2. The district board of education has an approved long-range facilities plan (LRFP) in accordance with N.J.A.C. 6A:26-2; and

3. The district board of education has appropriated at least fifty percent of the excess surplus in the proposed budget for property tax relief.

(e) A district board of education may request express approval of the voters for appropriation of additional amounts into the capital reserve by a separate proposal at budget time or by a special question at one of the four special elections authorized pursuant to N.J.S.A. 19:60-2. A district board of education may request approval of a board of school estimate for appropriation of additional amounts into a capital reserve by a separate proposal at budget time or by special resolution. The amount expressly approved by the voters or board of school estimate for deposit into a capital reserve may be from surplus or unrestricted local miscellaneous revenue only if such source is delineated in the question and/or special resolution.

(f) A district board of education or board of school estimate, as appropriate, may increase the balance in the maintenance reserve account by appropriating funds in the annual general fund budget certified for taxes.

6A:23A-2.7 Appeals

(a) Decisions of the Commissioner issued pursuant to this subchapter may be appealed to the State Board of Education pursuant to N.J.A.C. 6A:4.

(b) Decisions of the Assistant Commissioner and county superintendent issued pursuant to this subchapter may be appealed to the Office of Controversies and Disputes pursuant to N.J.A.C. 6A:3.

Amended by R.2005 d.411, effective November 21, 2005.
See: 37 N.J.R. 2278(a), 37 N.J.R. 4403(a).

In (a) and (b), substituted "Decisions" for "Orders."