

# SCHOOL BUDGET HANDBOOK

**RESPONSIBILITY OF BOARDS OF EDUCATION TO PREPARE BUDGETS ...** The laws of the State of New York are quite explicit as to where the responsibility of budget preparation and presentation lies. The responsibility resides with each Common, Union Free, Central and Small City School District board of education, as follows:

It shall be the duty of the board of education to present at the public hearing the proposed budget. The board of education must present its budget in three components: (1) a Program Component, (2) a Capital Component, and (3) an Administrative Component. The budget must be written in plain language. Categories of revenues, expenditures and fund balance information, as well as comparison data from the prior year's budget must be set forth in such a manner as to best promote comprehension and readability. Boards of education must attach to the proposed budget the salaries, benefits and any in-kind or other form of compensation of the superintendent, assistant or associate superintendent and any administrator who will earn over \$97,000 in the upcoming year.

Boards of education must also append to the proposed budget an annual report card prepared by the NYS Education Department which measures the academic performance of the district on a school by school basis. The report card must compare academic performance to statewide averages for all schools of comparable wealth and need. (Education Law §§1608, 1716 and 2601-a)

**LEGAL PROCESS INVOLVED IN ADOPTING BUDGETS ...** School Boards of Education must hold a public hearing to present to the voters the budget for the upcoming school year. The budget hearing must be held no more than fourteen days nor less than seven days before the date of the annual meeting and election. Notice of the date, time and place of the public hearing must be included in the notice of the annual meeting. (Education Law §§1608, 1716, 2003, 2004 & 2601-a) The annual meeting and election must be held on the third Tuesday in May, unless it conflicts with a religious observation. At the request of the school board, the Commissioner may certify by March 1 that a religious conflict exists, in which case the election and budget vote may be held on the second Tuesday in May (Education Law §§1906, 2002, 2022, 2022a and 2601-a) The board of education must notify the residents of Common, Union Free, Central and Small City School Districts of the time and place of the public hearing and the annual meeting, in accordance with Education Law. The clerk of each school district shall give notice of the time and place of the public hearing and annual meeting as required by §§1608, 1716, and 2022 of the Education Law. The published notice shall appear four times within the seven weeks preceding the district meeting. The first publication shall be at least forty-five days before said meeting. The announcement shall appear in two newspapers, if there are two, having general circulation within the district. When no newspaper has general circulation therein, the notice shall be posted in at least twenty of the most public places in the district forty-five days before the time of such meeting. (Education Law, §2004) The notice of the annual meeting (see APPENDIX D for Sample Notice) shall state:

- a) between what hours such annual meeting and election is to take place, and
- b) the place(s) where such election is to be held (Education Law §§2003, 2004, 2601-a).

**AVAILABILITY OF PROPOSED BUDGETS ...** Each board of education is required to have the proposed budget for Common, Union Free, Central and Small City schools available for public comment.

The budget must be complete and available upon request to residents within the district *seven* days before the budget hearing. The board of education, as part of the notice of the annual meeting referred to in part B. of this section, must give notice that district residents may obtain a copy of the budget, and provide time and place where budgets will be available. The budget shall be completed at least *fourteen* days before the annual or special meeting and copies thereof shall be prepared and made available, upon request, to residents within the district during the period *fourteen* days immediately preceding such meeting and at such meeting. The board shall also, as a part of the notice required, give notice that a copy of such statement may be obtained by any resident at each schoolhouse in the district in which school is maintained during certain designated hours on each day other than a Saturday, Sunday or holiday during the *fourteen* days immediately preceding such meeting. "

(Education Law, §§ 1608, 1716, 2003, 2004). *Common, union free, central high school district and small city school districts shall mail a school budget notice to all qualified voters of the school district after the date of the budget hearing but no later than six days prior to budget vote(s) and election. The school budget notice shall compare the percentage increase or decrease in the proposed budget over total spending under the school district budget adopted for the current year, with the percentage increase decrease in the consumer price index. Commencing with the proposed budget for the two thousand one--two thousand two school year, such notice shall also include a description of how total spending and the tax levy resulting from the proposed budget would compare with a projected contingency budget assuming that the contingency budget is adopted on the same day as the vote on the proposed budget. Such comparison shall be in total and by component (program, capital and administrative), and shall include a statement of the assumptions made in estimating the projected contingency budget. The notice shall also include a comparison of the tax savings under the basic school tax relief (STAR) exemption authorized by section four hundred twenty-five of the real property tax law and the increase or decrease in school taxes from the prior year, and the resulting net taxpayer savings, for a hypothetical home within the district with a full value of one hundred thousand dollars, under the existing school district budget with such savings under the proposed budget. The notice shall also set forth the date, time and place of the school budget vote (see [Appendix J](#), Page 71 for form). (Education Law §2022)*

**ADOPTION OF THE REGULAR BUDGET ...** The budget must be presented to the voters for their approval. The board of education may submit its budget and/or budget proposition(s) to the voters no more than two times. If the voters fail to approve the budget after the second submission, the board must adopt a contingency budget.

**CONTINGENT BUDGET ...** When a board of education is faced with adopting a contingent budget after the voters have refused or continue to refuse to approve the budget, the crucial question is the determination of what constitutes ordinary contingent expenditures. In general, except for those items for which the statutes themselves either provide mandates or give discretion to the board of education, these may be considered expenditures deemed to be absolutely necessary to operate and maintain schools. The emphasis should be on those expenditures considered essential to maintain an educational program, preserve property, and assure the health and safety of students and staff. In addition, section 2023 of the Education Law places a computed dollar cap on general fund appropriations. The administrative component of the budget is also subject to a cap.

Formal Opinion of Counsel No. 213 specifically discusses provisions for teachers' salaries as authorized by §1709, subdivision 16, of the Education Law. It also divides ordinary contingent expenditures into three categories: (1) legal expenditures; (2) expenditures specifically authorized by statute; and (3) other items necessary to maintain the education program, preserve property and assure the health and safety of students and staff. Formal Opinion of Counsel No. 213 can be used as a guide in helping the board to arrive at a determination of an "ordinary contingent expenditure." (See APPENDICES C, F AND G for further information).

It is important to note that although an item may be an ordinary contingent expenditure, the amount of the administrative component and the total amount of a contingency budget may not exceed the caps set forth under Education Law §2023. The contingency budget is capped at the lesser of: (1) the result obtained when computing 120 percent of the consumer price index (CPI)\*, or (2) four percent, over the prior year's budget. Items which shall be excluded when determining total expenditures that are subject to the contingent budget cap include:

- Costs related to increases in student enrollment including the new pre-kindergarten enrollment.
- Expenditure of gifts and grants in aid and the use of insurance proceeds.
- Non-recurring expenditures in the prior year's budget.
- Expenses related to tax certiorari proceedings.
- Expenses related to court orders or judgments.
- Emergency expenses necessary as a result of damage or destruction of a school building or school equipment.
- Capital expenditures including debt service and leases from projects approved by the voters.

**In addition to this limitation**, the administrative component of a contingent budget may not comprise a greater percentage of the contingency budget, exclusive of the capital component, than the lesser of: (1) that percentage which the administrative component had comprised in the prior year's budget; or (2) that percentage which the administrative component had comprised in the last defeated budget presented for the subsequent year. *\*NOTE: The CPI shall mean the percentage that represents the average of the National Consumer Price Indexes determined by the United States Department of Labor, for the twelve month period preceding January first of the current year.* The board of education must exercise its best judgment in determining what the minimum expenditures shall be within the limitations imposed by the administration and the contingent budget caps.

**TAXING POWER ...** Common, Union Free, Central and Small City School Districts are empowered to levy or authorize the levy of taxes after the voters have approved the budget and the resultant tax or after the board of education has adopted a contingent budget.

Where a budget of expenditure is voted at an annual school meeting for school purposes during the following school year, the school authorities shall determine and levy or authorize the levy of the necessary tax, prepare the school tax roll therefor and, on or before September 1, annex thereto a warrant for its collection. (Real Property Tax Law, §1306(1))

NOTE: These procedures may vary in Nassau and Suffolk counties where the Nassau County Administrative Code and Suffolk County Tax Act govern tax collection.

**TOTAL EXPENDITURES NOT TO EXCEED APPROPRIATIONS ...** The budget of a school district is a well calculated estimate as to what will be needed for expenditures by function and object. A school district must keep its expenditures within legally authorized appropriations. The appropriate section of Education Law limiting liabilities and expenditures appears below. "No board of education shall incur a district liability in excess of the amount appropriated by district meeting unless such board is specially authorized by law to incur such liability." (Education Law, §1718).

**BUDGET TRANSFERS AND SUPPLEMENTAL APPROPRIATIONS ...** It is an exceptional budget that does not require some adjustments made to its appropriation function-object codes during the fiscal year.

The board of education has the power to make transfers between and within functional unit appropriations for teachers' salaries and ordinary, contingent expenditures. Though transfers are for contingent items, they may **not** cause the administrative or overall contingent budget caps to be exceeded. Boards of education may, by resolution, authorize the chief school officer to make transfers within the limits as established by the board. §170.2(1) of the Commissioner's Regulations **allows transfers** "between and within a functional unit appropriation for teacher's salaries and ordinary contingent expenditures" as follows:

- Transfers to be made between contingent expenditure codes.
- Transfers to be made from a non-contingent expenditure code to a contingent expenditure code.

This regulation does **not allow**:

- Transfers to be made from contingent expenditure codes to non-contingent expenditure codes.
- Transfers to be made between non-contingent expenditure codes.

Grants in aid received from the state and federal governments and other gifts which are required to be expended for particular objects or purposes, any insurance proceeds received for the loss, the damage or destruction of real or personal property, when proposed to be used or applied to repair or replace such property, may be appropriated by resolution of the board of education at any time for such objects or purposes. (§1718 of Education Law)

**INTERNAL CONTROLS ...** Districts must implement and maintain controls whereby appropriations and actual expenditures are monitored for compliance with overall and administrative component caps when administering a contingent budget. The district may be required to present evidence that these monitoring controls are in place and operating as designed. Such controls may be integrated into existing accounting and reporting systems or built-on to existing systems, such as through the use of spreadsheet or database applications software.

This page last modified 04/29/2002 08:27:24

**CONTINGENT BUDGET CAP WORKSHEET**

<b><u>2003-04 Adopted Budget</u></b>	<b>\$1,000,000</b>
<b><u>Less: (base year exclusions)</u></b>	
- Budgeted expenditures of gifts, grants in aid or insurance proceeds	50,000
- Budgeted expenditures resulting from a tax certiorari proceeding	10,000
- Budgeted expenditures resulting from a court order or judgment against the district	5,000
- Budgeted expenditures certified by the Commissioner as necessary as a result of damage to, or destruction of, a school building or school equipment	20,000
- Budgeted capital expenditures resulting from construction, acquisition, reconstruction, rehabilitation or improvement of school facilities, including debt service and lease expenditures, subject to the approval of the qualified voters  where required by law	150,000
- Non-recurring expense(s)	30,000
<b><u>Adjusted base year adopted budget</u></b>	<b><u>\$735,000</u></b>

**2004-05 Contingency Budget**

2003-04 adjusted base year x CPI (2.76%) \* **\$ 755,286**

**Add: (subsequent year exclusions)**

- Budgeted expenditures of gifts, grants in aid or insurance proceeds	\$ 25,000
- Budgeted expenditures resulting from a tax certiorari proceeding	40,000
- Budgeted expenditures resulting from a court order or judgment against the district	30,000
- Budgeted expenditures certified by the Commissioner as necessary as a result of damage to, or destruction of, a school building or school equipment	50,000
- Budgeted capital expenditures resulting from construction, acquisition, reconstruction, rehabilitation or improvement of school facilities, including debt service and lease expenditures, subject to the approval of the qualified voters where required by law	140,000
- Budget expenditures attributable to projected increases in public school enrollment	125,000
	<b>\$</b>
<b><u>Proposed budget VS Contingent budget</u></b>	<b>\$1,350,000</b>
	<b>1,165,286</b>

**Required cuts**

(\$184,714)

Non-contingency items, e.g.

- Student supplies
- Community use of buildings and grounds
- Certain equipment
- Certain salary increases

**\*2004-05 Consumer Price Index**

(for purposes of preparing the school budget notice and calculating contingent budget cap for 2004-05 budgets)

Chapter 436 of the Laws of 1997 establishes a limit of a contingent budget over the district budget for the prior year. After certain expenditure categories are excluded, the overall increase cannot exceed the **lesser** of four percent or 120% multiplied by the average of the national consumer price indexes determined by the U.S. Department of Labor for the 12 month period preceding January first of the current year. That average for calendar year 2003 is 2.3%. The average is multiplied by 120% to calculate the **2.76%** contingent budget cap for 2004-05.

## **BOARD OF EDUCATION RESPONSIBILITY FOR THE DETERMINATION OF ORDINARY CONTINGENT EXPENSES ...**

In all school districts of the state school budgets are determined by the qualified voters of the school district. In the event the voters reject a proposed budget, the board of education is empowered to levy a tax sufficient to defray the cost of those items specifically authorized by statute, and the cost of those items determined by the board to constitute "ordinary contingent expenses." In addition, Section 2023 of the Education Law places a computed dollar cap on general fund appropriations. The administrative component of the budget is also subject to a cap. Therefore, even if the item is an ordinary contingent expense, the total amount of the administrative component and the total amount of the contingency budget may not exceed the caps set forth pursuant to the following formula:

The contingency budget is capped at the lesser of: (1) the results obtained when computing 120 percent of the consumer price index (CPI)\*, or (2) 4 percent over the prior year's budget. \*NOTE: The CPI shall mean the percentage that represents the average of the National Consumer Price Indexes determined by the United States Department of Labor, for the twelve month period preceding January first of the current year.

The following items shall be excluded when determining total expenditures that are subject to the percentage limitation under a contingent budget:

- Costs related to increases in student enrollment including pre-kindergarten enrollment.
- Expenditure of gifts and grants in aid and use of insurance proceeds.
- Non-recurring expenditures in the prior years budget.
- Expenses related to tax certiorari proceedings.
- Expenses related to court orders or judgements.
- Emergency expenses necessary as a result of damage or destruction of a school building or school equipment.
- Capital expenditures including debt service and leases resulting from projects approved by the voters.

In addition to this limitation, the administration component of a contingent budget may not comprise a greater percentage of the contingency budget, exclusive of the capital component, than the lesser of: (1) that percentage in the prior year's budget; Or (2) that percentage in the last defeated budget presented for the upcoming year.

After assuring that the budgetary "caps" are adhered to, the board of education must follow some basic guidelines. The underlying rule is found in Education Law, Section 1718, which reads as follows:

"Section 1718. Limitation upon expenditures

1. No board of education shall incur a district liability in excess of the amount appropriated by a district meeting unless such board is specially authorized by law to incur such liability."

The exceptions from this basic rule are contained in Section 2023 of the Education Law, Levy of Tax for certain purposes without vote, which reads as follows:

"1. If the qualified voters shall neglect or refuse to vote the sum estimated necessary for teachers' salaries, after applying thereto the public school moneys, and other moneys received or to be received for that purpose, or if they shall neglect or refuse to vote the sum estimated necessary for ordinary contingent expenses, including the purchase of library books and other instructional materials associated with library and expenses incurred for interscholastic athletics, field trips and other extracurricular activities, the sole trustee, board of trustees, or board of education may levy a tax for the same, in like manner as if the same had been voted by the qualified voters subject to the limitations imposed by the administrative and contingent budget caps.

2. Notwithstanding the defeat of a school budget, school districts shall continue to transport students for interscholastic athletics, field trips, and other extracurricular activities, and, to and from the regular school program in accordance with the mileage limitations previously adopted by the qualified voters of the school district. Such mileage limits shall change only when amended by a special proposition passed by a majority of the qualified voters of the district."

The reason for these provisions is found in the State Constitution which requires, as interpreted by the courts, that the schools of the state must be kept in operation at all times so that the youth of the state may have access to uninterrupted education.

The responsibility for determining which items in a school district budget fall under the concept of "ordinary contingent expenses" rests with the board of education.

Where individual citizens disagree with such a determination of a board of education, they are authorized to present the question to the Commissioner of Education who then pursuant to Section 2024 of the Education Law, determines the issue.

The purpose of this Appendix is to summarize the relevant statutory provisions and the general information contained in Formal Opinion of Counsel, No.213, dated July 6, 1967 (which replaces No.93, dated April 28, 1961). A copy of No.213 is attached. This opinion, in general terms, sets forth the rationale behind pertinent decisions of Commissioner of Education over the years and statutory provisions, as they affect the determination of the term "ordinary contingent expenses."

While it is not possible in this document to answer every question which may be raised concerning contingent budgets, it is hoped that it will help to clarify those questions most frequently asked.

## **OPTIONS OPEN TO THE BOARD OF EDUCATION**

There are several options open to a board when its budget is defeated, such as:

1. The board may prepare and adopt a contingent budget without going back to the voters.
2. The board may present only one additional revised budget at a special district meeting.

## **MISCONCEPTIONS**

Many misconceptions have arisen concerning defeated school budgets. The most common of these, together with comments about each, are as follows:

**Misconception No. 1 ...** "The Commissioner of Education imposes a budget if the voters continue to turn the budget down." The Commissioner does not have this authority. It is the responsibility of the board of education to adopt a contingent budget, if the voters refuse to pass the budget.

**Misconception No. 2 ...** "A special meeting must be called in the event of a defeated budget." This is at the discretion of the board of education, unless a petition for such a meeting is properly filed in accordance with Section 2008 of Education Law.

**Ordinary Contingent Expenses ...** When a board of education is faced with adopting a contingent budget after the voters have refused or continued to refuse to approve the budget, the crucial question is the determination of what constitutes ordinary contingent expenses. In general, except for those items over which the statutes themselves either provide mandates for or give discretion to the board of education, these may be considered those expenditures deemed to be absolutely necessary to operate and maintain schools. The emphasis should be on those expenditures considered essential to maintain an educational program, preserve property, and assure the health and safety of students and staff. The board of education must exercise its best judgment in determining what those minimum expenditures shall be.

Formal Opinion of Counsel No.213 specifically discusses provisions for teachers' salaries as authorized by Section 1709, subdivision 16, of the Education Law. It also divides ordinary contingent expenses into three categories: (1) legal expense; (2) expenditures specifically authorized by statute; and (3) other items necessary to maintain the educational program, preserve property, and assure the health and safety of students and staff.

Examples are given in Opinion 213 of some expenditures which are not considered to be acceptable ordinary contingent expense items. In general, these may be defined as those items which are not required to maintain a minimum educational program, to preserve property, and to assure the health and safety of pupils and staff. Excluded are those expenditures which, by law, only the voters can authorize. Example of the latter are the purchase of new equipment, and budgetary subsidies for school food service.

There are certain items of expenditure which require a fuller explanation than was possible to give in Opinion 213. These are discussed below:

### **Public Employees Fair Employment Act (Taylor Law)**

- a. Agreement entered into under the provisions of this Act must be honored by the board of education.
- b. In the case of noninstructional employees, the board of education is still required to determine the number necessary under a contingent budget, as indicated in Opinion 213, page 5, item 4. If the salaries for the required number of these employees have been determined by agreements under the Public Employees Fair Employment Act, such salaries are an ordinary contingent expense.

### **Transportation**

- a. The cost of transportation for; (1) pupils to and from regular school programs in accordance with mileage limitations previously adopted by the qualified voters and, (2) interscholastic athletics, field trips and other extracurricular activities are ordinary contingent expenses. Mileage limits for pupils to and from regular school programs shall change only when amended by a special proposition passed by a majority of the qualified voters of the district. Transportation of nonpublic school pupils beyond the mileage limitation is an ordinary contingent expense up to fifteen miles. If transportation is provided to public school pupils attending public schools other than BOCES facilities within the district for distances in excess of fifteen miles, transportation for nonpublic school pupils attending nonpublic schools within the district is an ordinary contingent expense up to the maximum distance such public school pupils reside from the schools they legally attend and to which they are transported. If public school pupils are transported outside the district, under tuition contract, the rule is similar. (Education Law 305.14)
- b. Shuttle service between public schools for instructional purposes is an ordinary contingent expense.
- c. Transportation, pursuant to article 89, for all handicapped children living up to and including 50 miles is an ordinary contingent expense.

**Public Library...** If no separate proposition to raise money for the public library had been included in the budget vote, or if the amount requested had been greater than that included in the prior year's budget, the same amount approved by the voters in the year prior to defeating the budget becomes an ordinary contingent expense.

**Use of School Buildings and Grounds by Outside Agencies ...** If there is no identifiable expense to the taxpayers, or where such extra costs are paid in advance in full by donations, the board of education may grant the use by outside agencies of school buildings and grounds. This does not apply to public school activities.

**Equipment ...** The cost of equipment does not normally constitute an ordinary contingent expense, as indicated in item 14 on page 5 of Opinion 213. This is true regardless of whether the equipment is to be purchased, leased or lease-purchased in accordance with the provisions of Section 1725 of the Education Law. Where equipment is to be lease-purchased pursuant to Section 109-b of the General Municipal Law, a separate referendum is required.

**Pupil Supplies ...** When appropriations for free pupil supplies have not been approved by the voters, it becomes the responsibility of the parents or guardians to see that their children are provided with the items needed to attend upon instruction, as required by the Compulsory Education Law. The responsibility of the school district, on the other hand, is to determine what supplies are considered pupil supplies as contrasted to those which should be called teacher supplies. Pupil supplies should be deemed to be those supplies that are essentially retained by the pupil such as writing pads, looseleaf binders, pencils, rulers, etc. and other supply items required by the pupil and which are readily available from sources other than the school district; all other supply items required by the educational program approved by the board of education but which are not readily available from sources other than the school district should be deemed to be teacher supplies and therefore a contingent expense.

The following is an illustrative list of supplies which may be deemed to be pupil supplies and which are readily available from sources other than the school district: writing pads, lined composition paper, excluding wide lined primary paper, typing paper, carbon paper, pencils, excluding primary pencils and special testing pencils. Pens, erasers, rulers, yardsticks, notebooks, but not workbooks which are considered textbooks, gym shorts, t-shirts, sinkers, paper clips, compass, protractor, mucilage, index cards, rubber bands

Of primary concern in the determination of pupil supplies is that the list be a reasonable one and that the parent be granted the option of purchasing such items from sources other than the school.

In the event that the parent or guardian opts to purchase such supplies from a source other than the school, no charge may be imposed by the district.

The Commissioner in Matter of Hasslacher (Decision 9459) has determined that the school district need not afford parents the opportunity to make a piecemeal selection of items they may wish to purchase but may instead offer any or all supplies at a given total price.

**Budget Format:** The requirements as to budget format and availability of copies to voters applicable to budgets presented at the annual district meeting also apply to budget-related propositions for presentation at special meetings. Sections 1608, 1716 and 2601-a of the Education Law require that copies of proposed budgets be made available to residents during the seven days prior to the budget hearing (presentation) and fourteen days prior to the annual meeting/budget vote. This requirement also applies to budget proposals for presentation at special meetings.

This page last modified 03/25/2002 10:33:34