

MDE Changes Enforcement of Budgeting Act

We want to inform you of an important change in Michigan Department of Education (MDE) policy concerning the enforcement of the Uniform Budgeting and Accounting Act (Public Act 2 of 1968). Letters from MDE will be going out as early as July 31st and will be addressed to school board presidents, with copies to superintendents and business officials.

While we have been concerned about the implementation of these changes for a while as mentioned at MSBO workshops and committee meetings, we continued to work with the Department - but recently, their position on this issue solidified. During this time, we held a meeting and continued ongoing discussions between MSBO, CPA firm representatives and MDE about our concerns, including a difference of opinion on the interpretation of a section of the Act, a reasonable threshold for materiality, providing copies of correspondence to business officials, and the retroactive enforcement policy change. Some of our issues were satisfactorily addressed by MDE, but we continue to be concerned about others with ongoing discussions occurring since the spring. We had hoped for all issues to be resolved by the time we sent this update, but felt we needed to inform you about these changes now that the Department will be sending out letters this week.

From their perspective, MDE is making this policy change in an effort to elevate awareness of the importance of proper budgeting and the need for district procedures to be in place to detect budget violations. MDE has not aggressively pursued these violations in past years, but has stated their intention to change that policy retroactively to the 2004-05 fiscal year. For that year, the Department has indicated that they are only focusing on the General Fund and will only act upon *Total Expenditures* violations that exceed 1% of the Total Expenditures budget and *Total Other Financing Uses* violations that exceed 1% of the Total Other Financing Uses budget.

Currently identified violations of the Act include, but are not limited to:

- ***incurring expenditures in excess of the appropriation approved by the school board (overspending your budget),***
- ***ending the fiscal year with a deficit (negative fund balance), and***
- ***adopting a budget that, when implemented, would put the district in a deficit.***

This underscores the need for each district to review your budget and for your board to formally adopt updates to your original budget at strategic times throughout the fiscal year, including, but not limited to:

- late fall when student count, state aid and employee wages settlements are hopefully known,
- winter for any new changes necessary, and
- late spring/end of year to ensure all expenditure and revenue budgets are adjusted appropriately.

Amending your budget before June 30 of each year is the main way to avoid receiving a violation letter in the future. However, we know that because of year-end entries and late property tax settlements from your county, this is not always possible. We will continue to work with the Department to development reasonable rules.

The Act calls for the Department to report violations to the Attorney General in the absence of reasonable procedures in use by the school district to detect such violations. The Attorney

General then reviews the report and may initiate actions against the school board, superintendent, business official, and/or other employees of the school district, including possible civil action to recover the overspent funds for the school district from the individual(s) responsible.

MDE will be sending letters addressed to school board presidents (with a copy to superintendents and business officials) for those districts that they allege have violated the Act for the 2004-05 year and later. The letters are being issued by the Department as they complete their review of individual district audit reports. Audit reviews indicate that about 11% of districts may receive a violation letter, although early indications were for a much higher percentage.

For those districts found in violation of the Act, the Department will request documentation of “reasonable procedures in use by the school district to detect such violations.” Districts that provide adequate and acceptable documentation to MDE by the date requested will not be referred to the Attorney General.

Also, based on their interpretation of Section 17(2) of the Act, ***the Department is currently considering that a violation of the Act also includes the situation where a district did not achieve their full revenue budget and, at the same time, depleted the district fund balance beyond what had been approved by their school board.*** During our meeting with MDE, the Department agreed to await a review by the Attorney General on the Department’s interpretation of this section, and will move forward with the other violation letters. Department representatives have indicated that they plan to apply this additional violation test to the 2005-06 fiscal year. MSBO has obtained a legal opinion that is at odds with the current Department interpretation of Section 17(2). According to MDE an additional 5% of districts appear to have violated this interpretation.

MSBO recommends that districts amend their budgets for the 2006-07 fiscal year to comply with this new interpretation. MSBO does not agree with the retroactive application of these changes to 2004-05 or to 2005-06.

MSBO will:

- continue to provide updates as new information is available,
- inform superintendents and school board presidents of this change in enforcement policy
- continue to work with MDE and represent your interests

Districts should:

- review and adjust your budget updates to ensure that:
 - o your actual revenues will exceed your revenue budgets, including other financing sources and uses
 - o your actual expenditures will not exceed your functional level budgets, including other financing uses
 - o ensure that you don’t budget a negative fund balance

If you have any questions or concerns, please let me know.

David Martell
Michigan School Business Officials