

**IOWA DEPARTMENT
OF EDUCATION
(Cite as 25 D.o.E. App. Dec. 183)**

In re Petition for Declaratory Order

Auditor of State,	:	
Petitioner,	:	
for a Declaratory Order as to	:	REVISED
Intradistrict Fund Loans	:	DECLARATORY ORDER [Adm. Doc. #4672]

On or about April 11, 2008, the Auditor of the State of Iowa ["AOS"] filed a petition for declaratory order. The AOS seeks a review of this agency's Declaratory Ruling #28, dated December 23, 1981. That Ruling stated that loans between funds of a school district are allowable if three conditions are met. Those conditions are as follows:

1. That all interfund loans be accomplished through official board action;
2. That a note be executed between the two funds at an interest rate which complies with the current rate as set by the State; and
3. That the loan must be repaid by the end of the fiscal year.

Pursuant to this 1981 Declaratory Ruling, AOS has taken the position that it will not issue an audit exception in regard to temporary loans between funds when all three conditions are met. Now, AOS asks whether, in light of generally accepted accounting principles ("GAAP"), it is reasonable to continue to require all three conditions.

With the advent of GAAP accounting standards imposed upon school districts in 1997, AOS has been of the opinion that loans no longer need to be repaid by the end of the fiscal year and questions have been raised about the need for board approval and execution of a note. AOS notes that before 1997, school districts reported on a cash basis, under which an outstanding loan at the end of the fiscal year resulted in an over/under-statement of the funds involved in the loan. Under GAAP, an interfund loan is "booked" and reflected in the district's financial statements; fund balances appropriately reflect their true financial position as of fiscal year-end.

According to the Government Finance Officers Association, Governmental, Accounting, Auditing and Financial Reporting (GAAFR), interfund loans are defined as "amounts provided between funds and blended component units of the primary government with a requirement for repayment."

Interfund loans have been used by school districts and other municipalities as an alternative to stamping warrants or issuing anticipatory warrants pursuant to Iowa Code chapter 74. If certain conditions are met, interest on those warrants may be exempt from federal taxation. Accordingly, we have reviewed certain provisions of Iowa Code chapters 74 and 298A, Iowa Code sections 24.22, 278.1, and 279.33, and the Internal Revenue Code and Regulations with respect to working capital financings in our analysis of the questions raised by AOS.

Chapter 74 of the Iowa Code applies to all warrants which are legally drawn on a public treasury which, when presented for payment, cannot be paid for want of funds and to anticipatory warrants issued by a school corporation¹ in an amount legally available and believed to be sufficient to cover the anticipated deficiency. Iowa Code § 74.1.

As a general proposition under federal tax law, a school corporation may issue anticipatory warrants, the interest on which is excluded from gross income for federal tax purposes, to finance working capital shortfalls to the extent that working capital expenditures exceed available amounts. Working capital expenditures relate to non-capitalized budget expenditures during a fiscal year. Under the federal regulations the cash flow deficit is computed by comparing all “available amounts” with expenditures. “Available amounts” include any amounts available to the issuer for working capital expenditures including cash, investments and other amounts ... if those amounts may be used by the issuer without legislative [board authorization] or judicial action or without a legislative, judicial or contractual requirement that those amounts be reimbursed.” Treas. Reg § 148-6(d)(3). The temporary period for the proceeds of an issue reasonably expected to be allocated to working capital expenditures is thirteen months. Treas. Reg. 1-148-2(e)(3)

Iowa Code chapter 298A (the successor to section 281.13, cited in our 1981 Declaratory Ruling) establishes the fund structure for school districts. Section 298A.14 authorizes a school district to “establish other funds in accordance with generally accepted accounting principles... .The status of each fund must be included in the [district’s] annual report. The treasurer shall keep a separate account for each fund, and shall not pay an order that fails to state the fund upon which it is drawn and the specific use to which it is to be applied.”

Under Iowa Code section 24.34 a school corporation “may establish an encumbrance system for any obligation not liquidated at the close of the fiscal year in which the obligation has been encumbered. The encumbered obligations may be retained upon the books of the [school corporation] until liquidated, all in accordance with generally accepted governmental accounting practices.”

Iowa Code section 279.33 provides that each school board must examine and settle its financial records at a meeting “held on or after August 31 and prior to the organizational meeting held after the regular school election. ... The treasurer at the time of settlement shall furnish the board with a statement from each depository showing the balance then on deposit in the depository.”

After examining these laws, and harmonizing them with each other and with GAAP, it is the order of the Iowa Department of Education that the 1981 Declaratory Ruling is modified as follows:

1. All loans between funds within a fiscal year must be accomplished through official board action and may not be accomplished until the board by

¹ School corporations include school districts, area education agencies, and community colleges.

resolution authorizes the loan. An interfund loan must not constitute an amendment to the budgeted revenues or expenditures for the fiscal year.

2. The resolution must specify the funds from which and to which the transfer will be made. A note is not necessary if the resolution specifies the terms of repayment including the payment of interest.
3. Interest must be paid from the borrowing fund on the unpaid balance at the rate in effect at the time of the loan as established by rule pursuant to Iowa Code section 74A.6, subsection 2.
4. The loan must be repaid before October 1 of the fiscal year following the fiscal year within which the loan occurred.² In the event repayment cannot be made by that time, the school corporation must proceed under the provisions of Iowa Code chapter 74 to issue anticipatory warrants or seek approval of the voters pursuant to Iowa Code section 278.1(5) for transfer of surplus funds from the debt service, physical plant and equipment levy, capital projects, or public education and recreation levy funds to the general fund, or, for other transfers, seek approval from the state appeal board pursuant to Iowa Code section 24.22³. Interfund loans within a fiscal year do not require state appeal board approval so long as they are repaid by October 1 of the following fiscal year.

This declaratory order has the same status and binding effect as a final order issued in a contested case proceeding.

Issued this 22nd day of October, 2009.

/s/ _____
Judy A. Jeffrey, Director

² Our Declaratory Order at 25 D.o.E. App. Dec. 76, dated June 16, 2008, stated that the loan must be repaid “before October 1 or the date of the organizational meeting of the board of the school corporation, whichever is last.” The 2008 Iowa Legislature changed school election dates to every other year for election of board members. Thus, the organizational meeting for the first regular meeting after the canvass for the regular school election is not an annual occurrence. The intent of the Declaratory Order is not to extend time of repayment another year. For that reason, this sentence is amended herein.

³ Iowa Code section 24.22 states, “Upon the approval of the state [appeal] board, it is lawful to make temporary or permanent transfers of money from one fund to another fund of the municipality. The certifying board or levying board shall provide that money temporarily transferred shall be returned to the fund from which it was transferred within the time and upon the conditions the state board determines. However, it is not necessary to return to the emergency fund, or to any other fund no longer required, any money transferred to any other fund.”