



EDUCATION/MUNICIPAL LAW GROUP

# ALERT

## PA DEPARTMENT OF EDUCATION ACT 1 POLICY CHANGE ONLY APPLIES IN LIMITED CIRCUMSTANCES

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Recently, there have been a number of questions regarding applications for Act 1 exceptions. Generally, there has been a concern that the Pennsylvania Department of Education (PDE) has changed its policy on granting exceptions. In fact, PDE has changed their policy, but it is a change that will only apply in limited circumstances.

PDE grants exceptions and tax increases separately. Therefore, when a district requests an exception, PDE will first decide if the district qualifies for the requested exception. If so, it will grant the exception, including the dollar figure that was requested. Thereafter, PDE will separately grant permission for a tax increase that the applying district may have in excess of the index to fund the exception. This calculation need not be related to the dollar figure the exception could fund (i.e. if Special Education costs are projected to rise by 10 percent but there are other off-setting savings in the budget, a district may not need the entire 10 percent increase in the Special Education area). That decision on how to permit the funding of the exceptions is based upon the level of need, demonstrated by determining the amount of tax money needed to balance the entire preliminary budget (not just the category of the exception).

Last year, during the preparation of the budget for the current tax year, PDE limited districts that needed exceptions to balance their budget to those tax increases actually needed to balance the preliminary budget. However, if a district's final budget showed a larger tax increase than the preliminary budget, such a district was able to impose a larger tax increase than PDE originally granted, up to the full exception dollar figure.

PDE noticed, however, that it received several applications for exceptions where the tax increase in the preliminary budget was within the district's index. This meant that no exceptions were required to balance the preliminary budget, even though in some cases the funds used to balance the budget came from the district's savings (the fund balance). PDE granted those exceptions but did not permit a consequent tax increase to fund the exceptions.

This year, PDE will continue its practice of limiting the tax increases for exceptions up to the amount required to balance the preliminary budget, and will allow the tax increase to subsequently grow in the final budget up to the amount of the full exception's value. In general, PDE will be treating districts the same this year as last in that once it grants an exception a district will be able to use the entire value of the exception if needs change by the time of the final budget.

However, according to a PDE representative, there is a change in PDE policy. Under its new policy, PDE will not grant exceptions to any district that submits a preliminary budget within its index. This still permits such a district to pursue a referendum for an excess tax increase at the April primary election, but it will not otherwise permit such a district to exceed its index with PDE granted exceptions.

Therefore, if a district intends to pursue PDE index exceptions under Act 1, it may be unwise to utilize the district's savings to minimize the tax increase that appears in the preliminary budget.

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