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Questions and Answers on the FY2021 Regional School District Interim or 1/12th Budget Process May 13, 2020

The Department of Elementary and Secondary Education (DESE or Department) has published [April 23, 2020 Guidelines on FY2021 Regional School District Interim or 1/12th Budget Process](#) (*Guidelines*) to address Chapter 56 of the Acts of 2020 and provide information about the FY2021 regional school district (district) budget process. The following are answers to questions we have received concerning implementation of Chapter 56 of the Acts of 2020 (the Act) and the Guidelines, in order to further support regional school committees, district administration, member municipalities (members) and other interested parties in implementation of the interim (or 1/12th) budget process in FY2021. Readers may find it helpful to review the *Guidelines* in conjunction with this document.

1. Why was the Act needed?

In order to expend general funds in FY2021, a regional school district must have an approved budget, and related assessments must be paid by the members. If a regional school district is unable to secure a locally approved budget, M.G.L. c. 71, § 16B contains a mechanism under which the Commissioner of Elementary and Secondary Education (Commissioner), or his designee, must certify a budget and order the members to appropriate funds for the budget; this is commonly known as the 1/12th budget. The 1/12th budget process as outlined in M.G.L. c. 71, § 16B, however, requires that districts and their members take a number of steps at the local level to attempt to reach an agreed upon the budget before the Commissioner can intervene and set a 1/12th budget for a district. Due to the COVID-19 outbreak, member cities and towns may be unable to vote on the proposed budget, and districts and members may consequently be unable to follow all these required steps. The Act allows the Commissioner to intervene and certify an amount sufficient to ensure the operation of the district regardless of whether all applicable steps in M.G.L. c. 71, § 16B have been followed, so that the district is able to function and expend general funds in FY 2021 even though a local budget has not yet been approved by the members.

FY2020 Regional School Committee Budget

2. Must member municipalities make all assessment payments to their regional school district(s) in FY2020, even though districts may have decreased expenditures in FY2020?

Yes. Per the Commissioner's [March 27, 2020 On the Desktop](#) message, cities and towns are expected to pay FY2020 assessments due to regional school districts to which they belong.

3. May a regional school committee reduce its FY2020 budget?

Yes, a regional school committee may vote to reduce its FY2020 budget and recalculate assessments due and payable by the members in FY2020. Districts must be aware that based on the payment schedule in their regional agreement, members may have already paid their full assessments in FY2020. Districts must continue to meet their net school spending requirements for FY2020, even if budgets are reduced.

4. Our district's FY2020 budget is very close to minimum. With school out for the remainder of the year it is likely that we will have significant surplus appropriations which will result in our district not meeting net school spending requirements. Will the DESE relax net school spending (NSS) requirements for this year?

Net school spending requirements are established under M.G.L. Chapter 70. The DESE has no authority to relax these statutory requirements. It is important to note that each district must spend at least 95% of its NSS requirement in any given year. The unexpended balance in NSS would be added to the district's requirement in the next fiscal year. Failure to comply with the NSS requirement may result in a loss of state aid and non-approval of a member municipality's tax rate. State aid penalties may be exacted if districts spend less than 95% of their NSS requirements. Districts may want to consider using their FY2020 budgets to support obligations they had planned to expend from their school choice revenue or other revolving accounts.

5. What methods are available to regional school districts to allow them to use FY2020 funds to mitigate expenses in FY2021?

Several options are available that may mitigate expenses in FY2021:

- Districts may use school choice balances or other revolving fund balances as revenue sources to supplement their spending in FY2021.
- If a district has an approved regional transportation reimbursement fund, an amount up to the transportation reimbursement received in FY2020 may be deposited in this fund. This amount must then be used in FY2021 to offset FY2021 transportation expenditures. The school committee must vote to authorize deposits into the transportation fund. Refer to the February 2015 [Advisory on the Establishment of a Regional Transportation Reimbursement Fund](#) for information on how to establish and use the transportation fund.
- If the district has an approved special education stabilization fund, it could deposit FY2020 monies into that fund, and, with a majority vote of the boards of selectmen or city councils of a majority of

the members, those monies can then be used in future years for unanticipated or unbudgeted costs of special education, out of district tuition or transportation. Refer to the [Advisory on Special Education Stabilization Fund](#) for more information.

- If the district has an approved regional stabilization fund under [M.G.L. c. 71, § 16 G½](#), FY2020 funds may be deposited for future use. In any given year, expenditures from the fund may be authorized by a vote of two-thirds of all the members of the regional school committee. If the funds are to be used for a purpose for which the district is permitted to borrow, no further approval is required. These purposes are listed in M.G.L. c. 71, § 16(d), and generally encompass what are considered capital costs. If the funds are to be used for any other purpose (for example, to cover unexpected increases in operating costs), then the approval of the Commissioner is also required. Refer to the [Advisory on Regional School District Stabilization Funds](#) for additional information.
- The district may use FY2020 budgeted funds to prepay for certain services to be provided in FY2021.
 - M.G.L. c. 40, § 4E states “[a] school committee of a ...regional school district...may authorize the prepayment of monies for an educational program or service of the education collaborative to the treasurer of an education collaborative, and the city, town or regional school district or charter school treasurer shall be required to approve and pay the monies in accordance with the authorization of such school committee ...”
 - M.G.L. c. 71 § 71D states that “[a] school committee of any ... regional school district may authorize the prepayment of tuition for a period not exceeding three months to any approved private school or approved program source which a student is attending under the provisions of chapter seventy-one B, and the ... regional school district treasurer shall be required to approve and pay such monies in accordance with the authorization of the school committee.”

6. Must the regional school district amend the FY2019 End of Year Report (EOYR) Schedule 19 if the FY2020 budget as previously reported has changed?

Amendments must be filed to Schedule 19 of the FY2019 EOYR if any changes have been made in the FY2020 budget or in the assessments to members.

FY2021 Regional School Committee Budget

7. Must regional school committees pass a FY2021 budget?

Yes. Regardless of delay due to the Covid-19 outbreak, regional school committees must approve a budget for FY2021. The treasurer of the district must certify and transmit the budget and the assessments to each member within 30 days after the school committee's adoption of the budget.

8. What will happen if a regional school committee is unable to pass a budget before the start of FY2021 (July 1, 2020), due to the COVID-19 outbreak?

As noted above, it is expected that all regional school committees will be able to approve a FY2021 budget. However, in the unlikely event that the school committee is unable to approve a budget, due to the COVID-19 outbreak, please contact the DESE's Office of Regional Governance (ORG) as soon as possible. In these

circumstances, the Commissioner or his designee will set a 1/12th budget, consistent with the Act. Please refer to the *Guidelines* for further details about the information the Department will require in order to set this budget.

9. What if the regional school committee approves a FY2021 budget that is a decrease from the FY2020 budget due to the revenue decreases anticipated due to this pandemic?

The approved FY2021 school committee budget proposed for member town approval would reflect the lower amount. The school committee should notify ORG of the difference in the two budgets and the reason for the decrease when it requests a 1/12th budget (by June 1) so that the Commissioner or his designee may consider this when setting a 1/12th budget for FY2021.

10. After the regional school committee has approved a FY2021 budget and sent certified assessments to the members, may it decrease the budget and/or assessments, before members hold city council or town meetings?

M.G.L. c. 71, § 16B states that “[a]t any time after the adoption of the annual budget, the regional district school committee may reduce the amount to be raised by assessment to the several municipalities and reapportion the reduced amount in accordance with the terms of the regional school district agreement for apportionment of costs.” The statute further states that following the reduction in assessments, “[t]he regional school district treasurer shall recertify the amounts reapportioned to the treasurers of the several municipalities within thirty days from the date on which the regional district school committee votes to reduce the annual budget or assessments.”

It is important to note that the school committee may vote to reduce the assessments and/or reduce the proposed FY2021 budget.

The school committee may reduce only the FY2021 assessments to the members by using E & D, other general fund revenues or increased state aid to replace a portion of the FY2021 member assessments. This would not result in a decrease to the budget, but would result in the replacement of revenues that were previously expected from member assessments with revenue from other sources. In this case, the school committee would revoke its budget to reflect the increased revenues and accordingly decrease the member assessments to reflect the use of these additional revenue. The district treasurer would then send revised assessments to the members within 30 days of the school committee vote, indicating the reason for the reduction in assessments.

The school committee may also choose to decrease only the FY2021 budget, which requires decreasing expenditures. In this case, the school committee would vote to rescind the previously approved budget, vote to adopt the new budget, and send a copy of the revised budget to the members. If member assessments are also decreased, the committee must follow the process outlined in the preceding paragraph.

FY2021 1/12th Budget

11. Will the regional school district's FY2021 1/12th budget be the same as the FY2020 budget?

In most cases, the FY2021 1/12th budget will be based on the FY2020 budget. However, the Commissioner will consider all information submitted in setting the budget. (See question 16 below concerning calculation of assessments under the 1/12th budget, noting that even if the FY2021 1/12th budget is based on the FY2020 budget, FY2021 assessments will differ from FY2020 assessments.)

12. How are the regional school district and members notified that a 1/12th budget is set by the Commissioner, and what happens next?

The Department will send a letter from the Commissioner to the superintendent of the regional school district authorizing the district to continue its operations and to spend up to the amount indicated in the Commissioner's letter in each month of FY2021 until the district's FY2021 budget has been locally approved, or until December 1, 2020, whichever comes first. This letter will clarify the assessment method to be used, as defined in 603 CMR 41.01. The district treasurer must calculate and certify the assessments to the members based on the Commissioner's 1/12th budget to ensure the continued provision of services by the district until such time as a budget is adopted and approved by the regional committee and members.

13. What assessment is a member municipality obligated to pay when a 1/12th budget is set by the Commissioner?

The members are required to appropriate and pay to the district such assessments as are calculated by the district treasurer for the support of the 1/12th budget, as outlined in the Commissioner's letter.

14. How will the Commissioner determine which method must be used by a regional school district to calculate member assessments?

The method used to calculate assessments to members will be based on the statutory assessment method unless the alternative method is noted in the Commissioner's letter. As outlined in the *Guidelines*, to the extent the district seeks a 1/12th budget and use of the alternative (or agreement) assessment method, the district must provide:

- letters of support for using the alternative (agreement) assessment method for the FY2021 budget from every member's select board and/or mayor; and
- acknowledgement that the district's budget will be calculated using the statutory assessment method if any member disapproves the FY2021 budget when the members vote.

NOTE: DESE has been asked if a signed agreement including an alternative method is sufficient to meet the documentation requirement above. The documentation above is required of every district that requests that the DESE use its alternative (agreement) method in calculating assessments under the 1/12th budget. Use of the alternative method requires an annual unanimous vote of the appropriating authorities of the members.

The information is required to ensure that the members' representatives are amenable to using the alternative method, and to ensure that the members understand the limitations on the use of the method."

15. Must the member assessments for FY2021 be based on October 1, 2019 enrollments or October 1, 2018 enrollments?

Assessments calculated under either a locally approved budget or a 1/12th budget established by the Commissioner must be based on October 1, 2019 enrollments.

16. What other factors must be considered when calculating assessments under a 1/12th budget?

Under a 1/12th budget, the district treasurer must use the final or most recent state aid amounts and minimum local contributions for the FY2021 budget year. Since state aid and minimum local contributions for members may change between the time the initial budget is proposed by the school committee and the time a 1/12th budget is established by the Commissioner, the final or most recent minimum local contributions and state aid amounts must be used in calculating assessments under the 1/12th budget. *Assessments to members, therefore, will not be the same as the assessments that supported the FY2020 budget even if the total budget is the same as FY2020.*

17. How much can the regional school district spend each month under the 1/12th budget?

The district can spend the amount authorized in the Commissioner's letter approving the 1/12th budget each month, beginning in July 2020. If the district does not use the full 1/12th amount authorized in a given month, the district may carry the remaining sum forward for use in future months until a budget is approved. *For example:* In a district with a \$12 million dollar annual budget, \$1 million may be spent in July 2020. If the district only spends \$500,000, then the district would have \$1.5 million to spend in August 2020 – the \$1 million budgeted for August plus the remaining \$500,000 from July. In the unlikely event the district spent no funds in August 2021, then the district would have \$2.5 million to spend in September 2020 - \$1 million budgeted for September plus the remaining \$1 million from August and \$500,000 from July.

18. May a regional school committee spend any other funds not authorized under a 1/12th budget?

Yes. The committee may continue to expend funds from balances in authorized school choice or revolving accounts and may continue to expend grant funds as authorized by state or federal law.

19. If the boards of selectmen in the member municipalities have submitted and had approved, by the Division of Local Services (DLS), a 1/12th budget that includes funding that is less than the assessments resulting from the 1/12th budget established by the Commissioner, how will the conflict between the two budgets be resolved?

DESE will work with DLS to ensure any conflicts between member municipalities' and regional school districts' 1/12th budgets will be resolved.

20. How long will a regional school district's 1/12th budget remain in effect?

The 1/12th budget remains in effect until such time as a budget is adopted and approved by the regional school committee and member municipalities, or December 1, 2020, whichever comes first. In the event the district's FY2021 budget is not approved by the members by December 1, 2020, the law requires the Commissioner to assume fiscal oversight of the district and set a budget for the remainder of the fiscal year. For more information, please see: [Fiscal Intervention and Oversight — Guidance for Regional School Districts](#).

Local Approval of FY2021 Regional School Committee Budget

21: If two-thirds of the members approve the regional school committee's proposed FY2021 budget before July 1, but remaining members are not holding city council or town meetings until after June 30, is the budget approved?

If the proposed regional school committee budget used the statutory assessment method to calculate the member assessments, then the district would have an approved budget once 2/3 of the member municipalities voted approval. All members would be required to pay their allocated assessments to the district. Any member that had not approved the school committee's budget would need to hold a meeting of its appropriating authority to authorize its assessment, even though such vote was not necessary for the approval of the budget. If the proposed regional school committee budget used the alternative assessment method to calculate the member assessments, then approval of the budget would require the unanimous approval of the appropriating authorities of the members.

22. While the regional school committee and members continue to negotiate a locally approved budget, how should the district treasurer calculate the member assessments?

While the 1/12th budget is in effect, the assessment method set by the Commissioner will remain in place from month to month. As the district and its members work to secure a local budget, the proposed assessments to be voted on by the committee and the members may be calculated using either the statutory assessment method or the alternative assessment method, as defined in 603 CMR 41.01. However, the district's budget will be calculated using the statutory method if any member disapproves the FY2021 budget when the members vote.

23. Can you clarify how regional school districts should inform members that the initial assessments prepared by districts may change in the weeks and months to come due to changes in minimum local contributions and/or changes in state aid?

Because of the legal timelines for regional school committee approval of a budget and notification to member municipalities, many districts rely on the Governor's budget in preparing budgets and assessments. Members, accordingly, approve the budget and/or the assessments based on these early budget figures. Using this data in preparing the district budget and member assessments generally does not have a

significant impact. However, it has always been the case that if a district is under a 1/12th budget, the district must use the most recent or final state budget figures in calculating assessments. Given the volatility of the FY2021 state budget, it is advisable that districts use the most up to date state budget information as they continue to work to secure locally approved budgets. School committees may wish to reconsider their budgets based on updated information that may be presented in either the House or Senate proposals for the state FY2021 budget.

24. If the locally approved FY2021 regional school district budget is less than the 1/12th budget established by the Commissioner, must the district return the excess funds that were paid by the members during the months the district was under the 1/12th budget?

If the final FY2021 budget, as approved by the member municipalities, is less than the 1/12th budget established by the Commissioner, the regional school district treasurer must adjust the final member assessments such that the total amount of the assessments supporting the budget for the 12 months equals the FY2021 budget that was locally approved. Member payments would accordingly be reduced in future payment periods.

25. How will the Department know when the district has secured a locally approved budget?

The Department asks that the superintendent or business manager contact ORG as soon as the district's FY2021 budget has been approved. When the local budget is approved the district is no longer on a 1/12th budget and assessments must be recalculated by the district treasurer and paid by the members based on the approved local budget, according to the payment period in the regional district agreement.

Use of Excess and Deficiency (E & D) funds in the FY2021 Budget

26. How can a district use Excess and Deficiency funds in its FY2021 budget?

A regional school district may use its certified FY19 E & D balance (as certified by the Department of Revenue) as a revenue source for its proposed FY2021 budget. A regional school district must use the amount in excess of 5% of its operating budget and its budgeted capital costs for the succeeding fiscal year as a revenue source. The amount in excess of the said 5% must be used to reduce the amount to be raised through member assessments and must be applied to the member assessments pursuant to the assessment provisions of the regional school district agreement. (See [M.G.L. c. 71, §16B1/2.](#)) The amount of E & D apportioned to each member may be used to reduce the local assessments for capital, transportation or other expenses as well as to satisfy the local contribution required under Chapter 70. The district treasurer must include in the certification of the assessments to members the proportionate share of any such excess in the E & D fund by which the member's assessment for FY2021 was reduced.

27. May the regional school committee approve an increase in the amount of E & D used in its FY2021 budget?

School committees that wish to supplement their budgets or account for decreased assessments or state aid due to COVID-19 may want to include or increase the amount of E & D in their proposed FY2021 budgets. E & D must be included in a school committee’s proposed FY2021 budget prior to the setting of a 1/12th budget and prior to member approval. E & D used in FY2021 must reflect the FY2019 amount certified by the DOR.

28. Is DESE or DOR able to waive the 5% cap on E & D or allow districts to use uncertified E & D?

Both of these limitations are in statute, and neither DESE nor DOR can waive statutory requirements. Legislative action would be required.

Fiscal Oversight

29. What must a district do if it appears that it may not have a budget approved by the members by December 1, 2020?

The district must notify ORG **by November 1, 2020** if the district has not yet secured a locally approved budget, even if further meetings are planned before the deadline for securing the budget (December 1, 2020). The Department will then contact district and local officials in the member municipalities to allow them to submit additional information for the Commissioner’s consideration prior to the possible establishment of the final budget for the year. For more information, please see: [Fiscal Intervention and Oversight — Guidance for Regional School Districts](#).

OTHER INFORMATION

30. What other information is helpful to regional school districts that have not had a 1/12th budget in recent years.

The following information is applicable to 1/12th budgets:

- A 1/12th budget is intended to be temporary, or interim, while the district and members continue to negotiate a locally approved budget, using the procedures outlined in law and regulations.
- A 1/12th budget is not a statement from Commissioner that it is an appropriate budget for the district.
- Neither a district nor a member municipality will receive additional state aid as a result of the establishment of an interim 1/12th budget.

Please send questions via email with the following in the subject line: “**{name of district}– 1/12th budget**” to either Michelle Griffin at Michelle.L.Griffin@mass.gov or Christine Lynch at ChristineM.Lynch@mass.gov