



MEMORANDUM

DATE: August 10, 2022
TO: President Siddon and the Juneau Board of Education
FROM: Robert Palmer, Municipal Attorney
SUBJECT: JSD Appropriation and Expenditure Process

Consistent with AS 14.17.910(b) and AS 14.14.060, the Charter of the City and Borough of Juneau provides clear direction for the appropriation and expenditure process in relation to the Juneau School District finances.

The annual budget process is provided by Charter § 13.6 and § 13.7, which states the Superintendent proposes a budget; the Board of Education (“Board”) reviews, approves a budget, and submits the budget to the Assembly; and the Assembly determines how much local money is available and ultimately appropriates money to the Board for the total budget. AS 14.14.060(c). Importantly, while the Assembly appropriates the Juneau School District budget, the Board is empowered to decide how the money is expended. *See* Charter § 13.4 (empowering the Board to set the policies of the district); AS 14.14.060; AS 14.14.090; *Municipality of Anchorage v. Repasky*, 34 P.3d 302 (Alaska 2001); *Macauley v. Hildebrand*, 491 P.2d 120 (Alaska 1971).

Notably, Charter § 13.7 limits the authority of Juneau School District staff to preserve the Board’s policy authority and to preserve the Assembly’s appropriation authority. *See also* AS 14.14.130(b) (stating that a Superintendent is tasked with administering the Board policies). Charter § 13.7 explicitly states the Superintendent is prohibited from obligating or making a payment without an appropriation, and the Juneau School District cannot exceed the total budget without Assembly approval. CBJ Charter Minutes at 810; AS 14.14.060(c); *Repasky*, 34 P.3d at 313 (“...between the school board and the [Assembly], the legislature chose to delegate the final budget approval power to the [Assembly]... Doing so, in our view, does not detract from the school board's role in proposing a budget, deciding how to spend amounts appropriated and setting educational policy, or administering expenditures after appropriation.”). Charter § 9.10 authorizes the Assembly to make supplemental appropriations from revenue sources that were not anticipated in the annual budget. Thus, Charter § 13.7 prohibits the Superintendent from independently making expenditure decisions without an appropriation from the Assembly, which requires Board approval prior to Assembly action.

Charter § 9.13(b) provides that every obligation incurred and every payment made in violation of the Charter is illegal and void. Any employee that knowingly authorizes or makes such payment is personally liable to the municipality. However, the elected officials have discretion to cure an employee’s fiscal Charter deviations if the Board and the Assembly, if necessary, believe that is in the best interests of the Juneau School District and the community.

AS § 14.14.060. Relationship between borough school district and borough; finances and buildings

...

(c) Except as otherwise provided by municipal ordinance, the borough school board shall submit the school budget for the following school year to the borough assembly by May 1 for approval of the total amount. Within 30 days after receipt of the budget the assembly shall determine the total amount of money to be made available from local sources for school purposes and shall furnish the school board with a statement of the sum to be made available. If the assembly does not, within 30 days, furnish the school board with a statement of the sum to be made available, the amount requested in the budget is automatically approved. Except as otherwise provided by municipal ordinance, by June 30, the assembly shall appropriate the amount to be made available from local sources from money available for the purpose.

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AS § 14.17.910. Restrictions governing receipt and expenditure of district money

(a) Each district shall maintain complete financial records of the receipt and disbursement of state aid, money acquired from local effort, and other money received or held by the district. The records must be in the form required by the department and are subject to audit by the department at a time and place designated by the department.

(b) State aid provided under this chapter is for general operational purposes of the district. All district money, including state aid, shall be received, held, allocated, and expended by the district under applicable local law and state and federal constitutional provisions, statutes, and regulations, including those related to ethical standards and accounting principles.

CBJ Charter § 9.10. Supplemental and emergency appropriations.

(a) If during any fiscal year there are available revenues received from sources not anticipated in the budget for that year or revenues received in excess of budget estimates, the assembly by ordinance may make supplemental appropriations for the year up to the amount of the additional revenues.

...

CBJ Charter § 9.13. Administration of budget.

(a) No payment may be made and no obligation incurred against the municipality except in accordance with appropriations duly made. No payment may be made and no obligation incurred against any appropriation unless the manager ascertains that there is a sufficient unencumbered balance in the appropriation and that sufficient funds are or will be available to cover the obligation.

(b) Every obligation incurred and every authorization of payment in violation of this Charter shall be void. Every payment made in violation of the provisions of this Charter shall be illegal. All officers or employees of the municipality who knowingly authorize or make such payment shall be jointly and severally liable to the municipality for the full amount so paid. The manager shall proceed forthwith to collect the indebtedness unless otherwise directed by the assembly.

...

CBJ Charter § 13.4. Powers.

The board shall have all powers and duties provided by Title XIV, Alaska Statutes, consistent with this Charter, including but not limited to the following:

- (a) Set the broad, general policy for the operation of public schools in the municipality;
- (b) Establish the educational policy including but not limited to approval of curriculum study guides, curriculum materials and textbooks;
- (c) Serve as a board of appeals for certificated education personnel appealing decisions of the superintendent;
- (d) Be responsible for the appointment, promotion, demotion, suspension, removal, compensation, and control of all school employees and administrators and hear and determine grievances related thereto. For these purposes, the board shall be controlled by and derive its powers, duties and guidelines from the following sources, which are listed in direct order of priorities should any inconsistencies arise in the provisions thereof:
 - (1) The provisions of this Charter.
 - (2) Title XIV, Alaska Statutes.
 - (3) The provisions of the municipality's comprehensive personnel system plan, enacted pursuant to Section 3.14 of this Charter.
- (e) Meet at least once a month with meetings open to the public.

CBJ Charter § 13.6. Budget.

(a) Upon submission to the board by the superintendent, the school budget shall be a public record available for public inspection and for distribution at such reasonable price as the board may direct. The board shall hold a public hearing on the school board budget before approval and submission to the assembly for final action.

(b) The board shall submit the annual budget for the following school year to the assembly by April 5 of the current year for approval of the total amount. Within 30 days after receipt of the budget, the assembly shall determine the amount to be made available from local sources for school purposes, and shall furnish the board with a statement of the sum to be made available. If the assembly does not, within 30 days, furnish the board with a statement of the sum to be made available, the amount requested in the budget is automatically approved. By May 31, the assembly shall appropriate the amount to be made available from local sources from money available for the purpose.

CBJ Charter § 13.7. Administration of budget.

No payment may be made and no obligation incurred except in accordance with appropriations duly made. No payment may be made and no obligation incurred against any appropriation unless the superintendent ascertains that there is a sufficient unencumbered balance in the appropriation and that sufficient funds are or will be available to cover the obligation. After adoption of the school budget by the assembly, the board shall not exceed the total budget without assembly approval.

CBJ Charter Minutes at 810-811 (September 2, 1969)

“(49) Mr. Engstrom moved to amend sec. 13.7 by changing the last sentence to read "After the adoption of the school budget by the assembly the board shall not exceed the total budget without assembly approval" and strike "allocation for any major expenditure". Mr. Engstrom said his reason for proposing this amendment was because you get extra money from the federal and state government during the school year. The school board has a budget of 3 million dollars but during the year it gets say, \$100,000 for one program and \$100,000 for another that is completely unrelated to programs existing under the budget. In other words it isn't the type of money that is extra money that could slip into the budget, these are either designated or separate programs and the money has to be used for these program. Prior to this year the school board on its own has used these monies and spent them and in the last few years the school board has overspent the budget by these extra sums of money that have come in. Now, because of an interpretation of state law by the Attorney General's office it's required for any of these extra monies over and above the budget to get assembly approval before they can be spent. Mr. Engstrom felt if the assembly had total budgetary

control that that would be sufficient and even though it is covered by state law he would like to see it in the charter to make it clear.

(50) Mr. Schmitz seconded. The question was called and the following vote was recorded:

<u>Yes</u>	<u>No</u>
Engstrom	Halsted
Schmitz	
Grummett	
Kline	
Loken	
Russo	
Parker	

The Motion passed, 7 to 1.”

RHP/jc

cc: Dr. Bridget Weiss, JSD Superintendent
Cassee Olin, JSD Director of Administrative Services

CITY AND BOROUGH OF JUNEAU SCHOOL DISTRICT
(A Component Unit of the City and Borough of Juneau)
Schedule of Federal Findings and Questioned Costs, continued
Year ended June 30, 2022

FINDINGS – FINANCIAL STATEMENT AUDIT

2022-001 **Significant Deficiency in Internal Controls over Financial Reporting and Compliance with CBJ Charter, Article 13, Section 7 (Section 13.7)**

New or Repeat: New

Criteria: The Charter of the City and Borough of Juneau, Section 13.7, *Administration of Budget*, limits the authority of Juneau School District staff to preserve the School Board’s policy authority and to preserve the Assembly’s appropriation authority. The CBJ Charter Section 13.7 reads as follows:

No payment may be made and no obligation incurred except in accordance with appropriations duly made. No payment may be made and no obligation incurred against any appropriation unless the superintendent ascertains that there is a sufficient unencumbered balance in the appropriation and that sufficient funds are or will be available to cover the obligation. After adoption of the school budget by the assembly, the board shall not exceed the total budget without assembly approval.

Condition: Controls were not designed or implemented to ensure compliance with Section 13.7. As a result the School District is in violation of Section 13.7 due to deficits in fund balance in the Operating Fund of \$620,407 and \$63,175 in total governmental funds.

Cause: The budget preparation for fiscal year 2022 did not include a reconciliation of the approved budget (School Board approved) to the budget in the accounting system. Unassigned fund balance in the Operating Fund, used to balance the fiscal year 2022 budget, was not updated after the fiscal year 2021 audited financial statements were completed. In addition, there were significant costs increases for expenses, outside School District control, including insurance and heating fuel and projected revenues were not received as budgeted. Quarterly budget reports, used for monitoring, were not utilized in accordance with JSD Board Policy (BP) 3460 *Periodic Financial Reports*, and monitoring was not sufficient to detect and correct the violation with the CBJ Charter in a timely manner or to enforce budgetary controls.

Context and effect: For the year ended June 30, 2022, total spending in the Operating Fund exceeded budgeted expenditures by \$506,679, actual revenues were \$1,150,430 less than budgeted revenues, and there was no unassigned fund balance available from fiscal year 2021 per prior year audited financial statements (budgeted \$1,300,000 to be used in FY22 budget). The combination of these issues resulted in a \$2,684,774 decrease in Operating Fund balance as of June 30, 2022. All other governmental funds had a net

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\$27,317 decrease in fund balance, for a total decrease in School District fund balance of \$2,712,091, for fiscal year 2022, which exceeded total beginning (July 1, 2021) governmental fund balance and resulted in an ending deficit balance of \$63,175 as of June 30, 2022.

Recommendation: We recommend the School District work closely with CBJ to determine the impact of noncompliance resulting from deficits as of June 30, 2022. In addition, we recommend improvements to controls over budget and appropriations be implemented to ensure (1) compliance with Section 13.7, (2) accurate and timely reports prepared for management and School Board use in accordance with BP 3460, (3) budget amendments be completed in a more timely manner, (4) improvements to the budget documentation provided to the board for approval, and (5) a reconciliation between the approved budget and budget in the accounting system be completed and included for review by the School Board.

View of responsible officials: Management concurs with this finding, see corrective action plan.

2022-002 Significant Deficiency in Internal Controls over Medicaid Billing

New or Repeat: New

Criteria: The Juneau School District has a Medicaid Provider Agreement for school based services which allows eligible services to be billed to Medicaid. Eligible services can be billed up to one year after the service is provided, but must meet certain documentation requirements.

Condition: Juneau School District failed to design and implement controls related to Medicaid billing to ensure documentation required for billing was captured and billing was completed in a timely manner.

Cause: The Medicaid billing system which was designed to capture treatment documentation necessary for billing, failed during the fiscal year, and resulted no billing in fiscal year 2022. Issues contributing to the failure to bill included newly implemented software not capturing information necessary for billing, transition back to previous software, missing and incomplete treatment notes and lack of oversight over the capturing of documentation needed for the billing process.

Context and effect: The fiscal year 2022 budget included \$200,000 for estimated Medicaid revenues. The lack of billing contributed to the deficit in the Operating Fund.

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Recommendation: We recommend the School District work closely with its 3rd party billing contractor to re-design its billing process, ensure the software system captures the documentation needed, and implement adequate oversight of its processes to ensure billing and collection is occurring in a consistent and timely manner.

View of responsible

officials: Management concurs with this finding, see corrective action plan.

FINDINGS AND QUESTIONED COSTS – MAJOR FEDERAL AWARD PROGRAMS AUDIT

No findings reported for fiscal year 2022