

Document Status: Draft Update

Operational Services

4:40 Incurring Debt

The Superintendent or a designee shall provide early notice to the Board of Education of the District's need to borrow money. The Superintendent or designee shall prepare all documents and notices necessary for the Board of Education, at its discretion, to: (1) issue State Aid Anticipation Certificates, tax anticipation warrants, working cash fund bonds, bonds, notes, and other evidence of indebtedness, or (2) establish a line of credit with a bank or other financial institution. The Superintendent shall notify the State Board of Education before the District issues any form of long-term or short-term debt that will result in outstanding debt that exceeds 75% of the debt limit specified in State law. [PRESSPlus1](#)

Bond Issue Obligations [PRESSPlus2](#)

In connection with the Board's issuance of bonds, the Superintendent shall be responsible for ensuring the District's compliance with federal securities laws, including the anti-fraud provisions of the Securities Act of 1933, as amended and, if applicable, the continuing disclosure obligations under Rule 15c2-12 of the Securities Exchange Act of 1934, as amended.

Additionally, in connection with the Board's issuance of bonds, the interest on which is excludable from *gross income* for federal income tax purposes, or which enable the District or bond holder to receive other federal tax benefits, the Board authorizes the Superintendent to establish written procedures for post-issuance compliance monitoring for such bonds to protect their tax-exempt (or tax-advantaged) status.

The Board may contract with outside professionals, such as bond counsel and/or a qualified financial consulting firm, to assist it in meeting the requirements of this subsection. [PRESSPlus3](#)

LEGAL REF.:

Securities Act of 1933, 15 U.S.C. §77a et seq.

Securities Exchange Act of 1934, 15 U.S.C. §78a et seq.

17 C.F.R. §240.15c2-12.

Bond Authorization Act, 30 ILCS 305/2 ~~and~~

Bond Issue Notification Act, 30 ILCS 352/1 ~~et seq.~~

Local Government Debt Reform Act, 30 ILCS 350/.

Tax Anticipation Note Act, 50 ILCS 420/.

[105 ILCS 5/17-16](#), [5/17-17](#), [5/18-18](#), and [5/19-1](#) *et seq.*

CROSS REF.: 4:10 (Fiscal and Business Management)

ADOPTED: September 10, 2002

REVISED: December 5, 2006, December 1, 2009

Question 1. See Comment PRESSPlus 1. What title would the Board like to list in this policy as the person who performs the duties described? You may enter Superintendent, Business Manager, Chief School Business Official, or another locally-equivalent title.

Answer:

Question 2. See Comment PRESSPlus 2. Has the Board adopted the new, optional subsection Bond Issue Obligations? Type yes to adopt this language, or type no if the Board did not adopt the Bond Issue Obligations subsection.

Answer:

Question 3. See Comment PRESSPlus 3. If the Board has adopted the optional Bond Issue Obligations section, the final paragraph is optional. Type yes to adopt the final paragraph, or type no if the Board did not adopt the Bond Issue Obligations subsection.

Answer:

PRESSPlus Comments

PRESSPlus 1. Boards that employ business managers may want to substitute “Business Manager”, “Chief School Business Official”, or another locally-equivalent title for “Superintendent or designee” and “Superintendent” as they appear throughout this policy; the business manager most commonly performs the duties described in this policy. Please see **Question 1** to indicate the appropriate title for your district. **Issue 97, January/February 2018**

PRESSPlus 2. For continuous improvement purposes, a new, optional section has been added to expressly address districts’ obligations to comply with federal securities laws in connection with bond issues, and to authorize the creation of written procedures to protect the status of tax-exempt (or otherwise tax-advantaged) bonds issued by a board. As a matter of best practice and to reduce potential future liabilities, many attorneys recommend that board policy address these obligations. Consult the board attorney and/or bond counsel for guidance.

The Internal Revenue Service strongly encourages, but does not currently require, issuers of tax-exempt bonds to establish written post-issuance compliance monitoring procedures. For guidance regarding the recommended content of such procedures, see *IRS Publication 4079, Tax-Exempt Governmental Bonds*, at: www.irs.gov/pub/irs-pdf/p4079.pdf. Such procedures may be included in a written bond resolution for a specific bond issue, and/or they may be established more generally. Consult the board attorney and/or bond counsel regarding the establishment of such procedures for tax-exempt bonds.

For a detailed set of sample procedures designed to facilitate a district’s compliance with disclosure requirements of federal securities laws, see 4:40-AP, *Preparing and Updating Disclosures*, available by logging in to PRESS Online at www.iasb.com.

Please see **Question 2** to indicate whether your Board has adopted this new, optional section. **Issue 97, January/February 2018**

PRESSPlus 3. The final paragraph in this subsection is optional. Boards that regularly utilize outside professionals to assist them in meeting bond disclosure requirements may want to include this language to memorialize their current practice. Contracts for the services of individuals possessing a high degree of professional skill, such as attorneys and financial consultants, are exempt from competitive bidding requirements. 105 ILCS 5/10-20.21(a)(i). See **Question 3** to delete the last paragraph of this subsection if the board does not want to include a sentence in this policy that addresses the use of outside professionals for assistance with compliance. **Issue 97, January/February 2018**