

ANNE ARUNDEL COUNTY COUNCIL,

Appellant

v.

ANNE ARUNDEL COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 14-16

## OPINION

### INTRODUCTION

The Anne Arundel County Council (County Council) filed a Petition for Declaratory Ruling posing three questions related to the Anne Arundel County Public School’s budget. The questions are:

- (1) What is the meaning of term “unliquidated surplus” as it is used in §5-101(b)(1)(iv) of the Education Article of the State Code? Specifically, what must be included in that category of revenue in the Current Expense Fund of the budget of a local board of education?
- (2) Is the practice of the Board of Education of Anne Arundel County of including only “liquidated encumbrances” in the “unliquidated surplus” category consistent with the intent of §5-101(b)(1)(iv) of the Education Article?
- (3) Is the practice of the Board of Education of Anne Arundel County of not including a positive fund balance in an internal service fund known as the “health insurance fund” in the “unliquidated surplus” consistent with the requirement of §5-101(b)(1)(iv) if the Education Article?

As this case progressed through Response and Replies, it appears that the parties no longer dispute the definition of “unliquidated surplus,” which is defined in statute to mean the “actual [surplus] from the previous fiscal year and the estimated [surplus] from the current fiscal year, whether accrued from revenue or expenditures.” *Id.* §5-101(b)(iv). In addition, it also appears that the question directed at “liquidated encumbrances” is no longer an issue. Therefore, as best we can tell, this case is about where in the annual budget the local board should reflect the monies in its “health insurance fund.”

### STANDARD OF REVIEW

On the issue presented here, we exercise our independent judgment in interpreting education law. COMAR 13A.01.05.05E.

## BACKGROUND

A school system's annual budget must be prepared using the major categories set forth in statute. Md. Educ. Art Code Ann §5-101(a). For the purpose of this case, the relevant major category is the Current Expense fund which includes 5 subcategories:

(1) Current Expense fund, estimated receipts:

- (i) Revenue from local sources;
- (ii) Revenue from State sources;
- (iii) Revenue from federal sources;
- (iv) Unliquidated surplus;
- (v) Revenue from other sources.

*Id.* §5-101(b).

“The Current Expense fund is the composite of the General Fund and Special Revenue Funds except the Food Service Fund and Special Revenue funds set up for capital projects. The Current Expense fund accounts for the basic education programs and includes all financial resources used for the basic operations of the school system. It may be thought of as the operating fund. The Current Expense fund is subdivided into Unrestricted Programs and Restricted Programs. Included in the Current Expense fund are the proprietary-type Internal Service Funds that shall be reported in the appropriate category, program and object in accordance with the Public School Laws of Maryland.” See *Financial Reporting Manual for Maryland Public Schools* (2009) at 5.

The local board considers its health insurance fund to be a “separate proprietary (internal service) fund.” Local Board Memorandum at 5. The *Financial Reporting Manual* directs that “proprietary-type Internal Service Funds... shall be reported in the appropriate category, program, and object” in the Current Expense fund part of the annual budget. *Id.*

The County Council argues that the positive fund balance in health insurance fund should be included in the Current Expense fund under the “unliquidated surplus” category.

The local board argues against that position stating:

Anne Arundel County Public Schools has established a separate proprietary (internal service) fund to report revenue and expenditures related to health care. Revenues include contributions from employees and retirees, federal reimbursement programs, interest income, and the employer contribution as agreed upon by various employee negotiated agreements. Expenditures include claims costs and administrative expenses. In accordance with GASB 54, any fund balance is classified as assigned, and therefore may not be used for general operating expenditures.

Local Board Memorandum at 5.

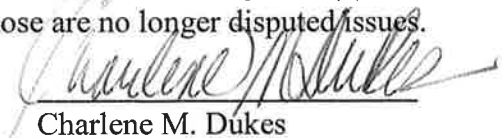
The County Council considers the GASB 54 argument unavailing. As the County Council explains it, "GASB 54 prescribes how governments should classify fund balances in governmental fund types; it does not apply to classifying net assets in proprietary-type internal service funds such as the Local Board's Health Insurance Fund." The Council finds it "ironic" that "if the Local Board chose to account for its health insurance activities in the Current Expense fund, the fund balance amounts constrained by the Local Board's intent to be used for health insurance would be reported as 'assigned fund balance.' However, because the Local Board has chosen to account for its health insurance activities in a proprietary-type internal service fund, GASB 54 is irrelevant and the net assets in the fund are not classified as assigned under GASB 54." County Council Reply at 3.

### LEGAL ANALYSIS

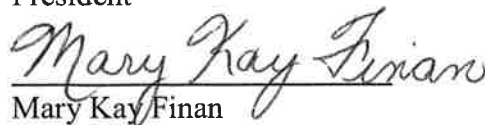
We have considered the parties' arguments. Disregarding the unhelpful and disparaging comments the parties make about each other, we have attempted to understand why it is so important to the County Council that the health insurance fund be included in the unliquidated surplus category of the local board's annual budget and why it is so important to the local board it not be. The local board seems to believe that there are maintenance of effort consequences involved here. But, the County Council makes clear that this dispute is not about using the local board's "unliquidated surplus" to meet the County's maintenance of effort target. We agree with the County Council that that would not be allowable.

As best we can tell, the County Council seems to believe that the local board is trying to hide funds that could be used for general operating expenses. Including the health insurance fund monies in the "unliquidated surplus" category, they may believe, would mean that those funds could be used to cover other school system expenses. In our view, that position seems contrary to the purpose of the health insurance fund which is set aside to pay the school system's insurance claims.

Putting aside our confusion about the reason for this case, we will decide where in the budget the health insurance fund must be placed. The *Financial Reporting Manual* requires that funds like the health insurance fund be included in the Current Expense fund part of the annual budget. There are two possible categories - - "unliquidated surplus" and "revenue from other sources." Therefore, in response to the third declaratory ruling request, we declare that the local board's practice of not including the health insurance fund in one of the Current Expense fund categories is not consistent with the requirements of Md. Educ. Art. §5-101(b). We decline to issue declaratory rulings on requests 1 and 2 as those are no longer disputed issues.



Charlene M. Dukes  
President



Mary Kay Finan  
Vice President

Absent

James H. DeGraffenreidt, Jr.

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Linda Eberhart

S. James Gates, Jr.  
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April 22, 2014