



Jeffrey C. Riley  
Commissioner  
Massachusetts Department of  
Elementary and Secondary Education



**DLS**  
DIVISION OF LOCAL SERVICES  
MA DEPARTMENT OF REVENUE

Geoffrey E. Snyder  
Commissioner of Revenue

Sean R. Cronin  
Senior Deputy Commissioner

To: Regional School District Superintendents, Business Officials and Treasurers and City Auditors/Town Accountants

From: John J. Sullivan, Associate Commissioner, District & School Finance  
Department of Elementary and Secondary Education

Deborah A. Wagner, Director of Accounts *DAW*  
Bureau of Accounts, Division of Local Services

Subject: Excess and Deficiency (E&D) above Five Percent of a Regional School District's total budget

Date: May 2023

---

The following joint guidance is issued by the Department of Elementary and Secondary Education (DESE) and the Division of Local Services (DLS), Bureau of Accounts to clarify the procedure by which a Regional School District committee must reduce the amount to be raised by assessment to member municipalities to reflect the unencumbered balance in its E&D fund certified in excess of the five percent maximum allowed under Massachusetts General Law (MGL) Chapter 71 § 16B ½.

**Background:**

Every Regional School District (RSD) shall maintain an E&D fund on its books of account. At the end of every fiscal year, any surplus or deficit in the district's general fund shall be closed to the E&D fund. (603 CMR 41.06 (1)) The Commissioner of Revenue certifies the unencumbered amount in an RSD's E&D fund at the end of each fiscal year, and the amount, if any, by which it exceeds five per cent of the district's operating budget and its budgeted capital costs for the succeeding fiscal year<sup>1</sup>, and reports this amount to the RSD administration as well as the select boards and town and city councils in each member municipality by December first of each year. If the unencumbered amount in the E&D fund of a RSD at the end of a fiscal year exceeds five percent of its operating budget and its budgeted capital costs for the succeeding fiscal year, the amount in excess of the said five percent shall be applied by the RSD committee to reduce the amount to be raised by assessment on the member municipalities in accordance with the terms of the RSD agreement for apportionment of costs. (MGL Chapter 71 § 16B ½)

---

<sup>1</sup> Succeeding fiscal year refers to the fiscal year following the fiscal year under review by DOR in certifying E&D. Any balances for the fiscal year under review will be measured against the budget for the succeeding fiscal year to determine whether the RSD has an E&D balance in excess of five percent.



## **Procedure:**

Following a notification that the RSD has an E&D balance in excess of the allowed five percent, the RSD committee must reduce the amount to be raised by assessment to the member municipalities by using either of the following options: (1) voting to reduce assessments in the current fiscal year<sup>2</sup> or (2) voting to reduce assessments in the upcoming fiscal year.<sup>3</sup>

### **Reducing the Current Fiscal Year Assessments:**

If the RSD committee votes to reduce the current fiscal year's assessments, the RSD treasurer must recertify the amounts reapportioned to the treasurers of the member municipalities within thirty days from the date of the RSD committee vote. The reapportionment to the respective member municipalities shall be based on the formula for apportioning assessments in the RSD agreement and may be reflected in a reduction in the remaining payments owed by the member municipalities to the RSD or as a payment by the RSD to the member municipalities.

If the recertification is made after the annual town meeting (after the approval of the RSD budget), the amount recertified shall be considered an amendment to the amount required to have been appropriated at that meeting without the necessity for further action by the town, and, if the annual assessment of taxes has not been made, the town assessor shall include only the amount so recertified in making the annual assessment of taxes under the provisions of MGL Chapter 59, § 23.

### **Reducing the Upcoming Fiscal Year Assessments:**

The RSD committee may vote to include the amount in excess of five percent as a revenue source for its proposed upcoming fiscal year's budget, with the amount credited and apportioned to each member municipality in accordance with the RSD agreement. If assessments are changed after the RSD budget has been approved by the member municipalities, the RSD treasurer must recertify the amounts reapportioned to the treasurers of the member municipalities within thirty days from the date on which the RSD committee votes to change the amounts to be raised by assessment.

## **Summary:**

The RSD committee must select one of the aforementioned options to reduce the assessments to reflect the amount in excess of the five percent E&D allowance. The RSD committee should inform the member municipalities of the total amount of E&D (above and below the allowed five percent) used to reduce assessments, the impact on each individual member's assessment, and the year in which the reduction will occur.

Please direct all questions regarding this matter to John Sullivan (781-338-6530) or Deborah Wagner (857-303-3108).

---

<sup>2</sup> Current fiscal year refers to the year in which the E&D certification is made by DOR (sometimes referred to in MGL. c. 71, § 16B1/2 as the succeeding fiscal year).

<sup>3</sup> Upcoming fiscal year refers to the fiscal year following the current fiscal year.