

**Policy SF-A**  
**Consent to a School District Exceeding Net Indebtedness Limits**  
**and Certification of Approved Special Needs District Status**  
**by the Director of Education and Workforce**  
**November 2023**

**SF-A-01 Purpose**

The purpose of this policy is to prescribe procedures for the administration and implementation of the authority of the director of education and workforce (“Director”), jointly with the tax commissioner (“Commissioner”), to consent to the submission by a school district (“District”) to a vote of the District’s electors the question of the issuance of securities in an amount that will make the District’s Net Indebtedness after the issuance of the securities exceed an amount equal to four percent (4%) of its Tax Valuation as required in Section 133.06 of the Ohio Revised Code (“ORC” or “Revised Code”). This policy also prescribes the procedures for the administration and implementation of the certification of a District as an approved special needs District for purposes of Division (E) of ORC 133.06 and for consent to incur indebtedness without a vote in accordance with Division (H) of ORC 133.06.

**SF-A-02 Definitions**

The following terms are defined as they are used in this policy:

- (A) “Net Indebtedness” has the same meaning as in ORC 133.04, and for Districts shall exclude those items enumerated in Division (D) of ORC 133.06.
- (B) “Tax Valuation” has the same meaning as in Division (PP) of ORC 133.01.

**SF-A-03 Circumstances requiring action pursuant to this policy**

- (A) CONSENT: The following circumstances shall require action under this policy:
  - (1) Any District planning to submit to a vote of the District’s electors the question of the issuance of securities in an amount that will make the District’s Net Indebtedness after issuance of the securities exceed an amount equal to four percent (4%) of its Tax Valuation but not exceed nine percent (9%) shall be required to obtain consent to the submission granted by the Director and the Commissioner in the manner described in sections SF-A-04 and SF-A-06.
  - (2) If the electors do not approve the issuance of securities at the election for which the Director and Commissioner consented to the submission of the question, the District may submit the same question to the electors on the date that the next election may be held under ORC 3501.01 without submitting a new request for consent pursuant to these policies, provided that:
    - a) The question has the same:
      - 1) Maximum maturity;
      - 2) Principal amount; and
      - 3) Purpose clause.
    - b) Any subsequent DTE Form 13 certified assessed Tax Valuation changes do not result in the need for a determination of special needs status.

If the District seeks to submit the same question at any other subsequent election, the District shall first submit a new request for consent in the manner described in sections SF-A-04 and SF-A-06.

- (B) **SPECIAL NEEDS AND CONSENT:** The following circumstances shall require action under this policy:
- (1) Any District planning to submit to a vote of the District’s electors the question of the issuance of securities in an amount that will make the District’s Net Indebtedness after issuance of the securities exceed an amount equal to nine percent (9%) of its Tax Valuation shall be required to comply with the requirements set forth in ORC 133.06(E) and obtain both the following:
    - a) Certification by the Director that it is an approved special needs District in the manner described in sections SF-A-05 and SF-A-06; and
    - b) Consent to the submission granted by the Director and the Commissioner in the manner described in sections SF-A-04 and SF-A-06.
  - (2) If the electors do not approve the issuance of securities at the election for which the Director certified the District as a special needs District, the certification issued by the Director is no longer valid. If the District wants to subsequently proceed with another proposed issuance of securities, the District shall submit a new request for determination of special needs status and a new request for consent in accordance with this policy.
- (C) In accordance with ORC 133.06(I), any District planning to submit to a vote of the District’s electors the question of the issuance of securities in any amount for the sole purpose of raising the District portion of the basic project cost and any additional funds necessary to participate in a project under Chapter 3318 of the Revised Code, including the cost of items designated by the Ohio Facilities Construction Commission (“OFCC”) as required locally funded initiatives, the cost of other locally funded initiatives in an amount that does not exceed fifty percent (50%) of the District’s portion of the basic project cost, and the cost for site acquisition, shall not require any action pursuant to this policy. Such debt, however, is included in a District’s total Net Indebtedness for purposes of any action required pursuant to this policy for other securities issuances.

#### **SF-A-04 Format of request for consent and required documentation**

- (A) No earlier than **150 days** and no later than **120 days** prior to the election at which the question is to be submitted, Districts required to receive consent shall provide concurrently to the Ohio Department of Education and Workforce (“Department”) and the Department of Taxation, the following:
- (1) Part 1 of the Ballot Consent Application (located on the Department’s website) requesting the consents and enclosing the other required materials specified in this policy.
  - (2) A statement of Net Indebtedness certified by the District treasurer on DTE Form 131 or the successor to that form as specified by the Department of Taxation, to allow for the appropriate computation of securities included or excluded from the computation of Net Indebtedness required for purposes of the administration of this policy.
    - (a) A draft DTE Form 131 may be submitted; however, a finalized version must be submitted no later than **98 days** prior to the applicable election. If the District’s Net Indebtedness exceeds nine percent (9%) of the most recently certified Tax Valuation (based on the Department of Taxation DTE Form 13, or the successor to that form as specified by the Department of Taxation), the District also must apply for special needs designation from the Director.

- (b) The Department, and the District, will use DTE Form 13 certified by the Department of Taxation in May or June of each year for all applications submitted for the November election of that year. If the current DTE Form 13 is not available 150 days prior to the election, the District should contact the Department for assistance in determining when the newlycertified DTE Form 13 will be available.
  - (3) Any additional pertinent information that the District desires to submit related to the request for consent.
- (B) Districts required to receive consent shall provide to the Department and the Department of Taxation the following additional information to the requirements of consent, referenced above in section (A), no later than **98 days** prior to the election:
- (1) Part 2 of the Ballot Consent Application (located on the Department’s website), signed by the District’s superintendent and treasurer certifying *all* documents submitted with Part 1 and Part 2 are complete, accurate and reasonable for evaluating the ballot consent request;
  - (2) A certified copy of the resolution of necessity adopted by the District board of education, as authorized by applicable law in the form and manner specified therein;
  - (3) A copy of the county auditor’s millage certificate or certificates certified to the District board of education on DTE Form 130 or the successor to that form as specified by the Department of Taxation;
  - (4) A certified copy of the resolution to proceed adopted by the District board of education and filed with the board of elections; and
  - (5) Either a final DTE Form 131 or a statement that the original DTE Form 131 remains unchanged and the original submission is final.
- (C) A District requiring a special needs designation must be certified as a special needs District to receive consent to go to the ballot.

**SF-A-05 Format for request of special needs designation and required documentation**

No earlier than **150 days** and no later than **120 days** prior to the election at which the question is to be submitted, a District that determines pursuant to this policy that it requires the Director to certify the District as an approved special needs District, shall submit the following, in addition to the submission of items required in sections SF-A-04 (A)(by 120 days) and SF-A-04 (B)(by 98 days):

- (A) A certified copy of a resolution adopted by the District board of education that contains the following determinations:
  - (1) That the student population is not being adequately serviced by the existing permanent improvement of the District; and
  - (2) That the District cannot obtain sufficient funds by the issuance of securities within the limitation of Division (B) of ORC 133.06 to provide additional or improved needed permanent improvements in time to meet the needs.
- (B) Statistical reports in the manner prescribed by the operational unit within the Department charged with the administration of this policy. Such reports shall include:
  - (1) A 10-, 11-, or 12- year history of assessed Tax Valuations, the least number of years necessary to include two sexennial reappraisal years (labeled) in the calculation of historical average growth rates.
    - a) The District will use historical assessed Tax Valuations documented on the Department of Taxation’s *certified* DTE Form 13, or the successor to that form as specified by the Department of Taxation. The Department, and the District, will use DTE Form 13 certified by the Department of Taxation in

May or June of each year as the certified tax base year for all applications submitted for the November election of that year.

- b) Historical values prior to 2011 shall exclude the value of general business tangible property. Historical public utility tangible personal values for 2005 through 2009 shall exclude the value of telephone or telegraph property, interexchange telecommunications company property, and personal property owned or leased by a railroad company and used in railroad operations. (See Ohio Department of Taxation (ODT) Bulletin 8.)
  - c) The District will obtain the historical assessed Tax Valuations, noted in subsection (a) above, and the exclusions noted in subsection (b) above, from the Department of Taxation's website or by contacting the Department of Taxation's Columbus Office (see ODT Bulletin 8).
- (2) A 10- year projection revealing the growth of the Tax Valuation based on the historical average growth rate calculated in (1);
  - (3) The District's calculation of maximum indebtedness per ORC 133.06(E)(4); and
  - (4) A summary document detailing:
    - a) the projected needs;
    - b) the estimated cost of the permanent improvements proposed to meet such projected needs; and
    - c) that the District does not have available sufficient additional funds from state or federal sources to meet the projected needs. If, at the time of submission of the items in this section, the OFCC has provided the district a calculation worksheet that reflects a breakdown of the District's project costs by state and local share, please include the worksheet as an exhibit to this summary document.

In the instance that a District is not required to obtain special needs certification prior to a vote of the District's electors but after said vote, and prior to the issuance of the securities, experiences a decrease in Tax Valuation resulting in the need to obtain special needs designation, submission of items in this section and section SF-A-04(A) shall be made to the Director no later than **30 days** prior to the issuance of the District's securities.

**SF-A-06 Director's granting of consent and certification of approved special needs District status**

- (A) Except as provided in (B) of this section, the Director shall grant consent to a District requesting consent if the materials provided by the District pursuant to policy SF-A-04 are found to be sufficient and accurate. Such consent shall indicate the amount of the bond issue that is being placed before the voters and for what purpose.
- (B) If a District is required to obtain special needs certification, the Director shall grant approval provided the District meets the criteria for certification as outlined in paragraph (C) of this section, and the District's Net Indebtedness does not exceed twelve percent (12%) of the District's projected Tax Valuation at the conclusion of the 10th future tax year. The special needs certification shall remain in effect for the bonds for which it was obtained unless a significant decline in the Tax Valuation of a District has occurred prior to the issuance of the securities. For purposes of this policy, a significant decline in Tax Valuation shall have occurred when the valuation certified on the Department of Taxation DTE Form 13, or the successor to that form as specified by the Department of Taxation, in any subsequent year is more than fifteen percent (15%) below the amount reported at the time the special needs designation was granted.

- (C) The Director shall certify a District as an approved special needs District if the Director finds both the following:
- (1) That the District does not have available sufficient additional funds from state or federal sources to meet the projected needs; and
  - (2) That the projection of the potential average growth of Tax Valuation during the next 5 years, according to the information certified to the Director and any other information the Director obtains, indicates a likelihood of potential average growth of Tax Valuation of the District during the next 5 years of an average of not less than one and one-half percent (1.5%) per year.

The certification made by the Director pursuant to this paragraph, shall indicate that the District has a likelihood of averaging one and one-half percent (1.5%) growth over the next 5 years, as well as what total percentage the District's Tax Valuation will likely increase by over the next 10 tax years.

- (D) The consent and/or certification shall be provided, in writing, to the District, the District's bond counsel, and the Department of Taxation within **30 days** of receiving all required documentation and any requested clarifying information and no later than **90 days** before the election.

#### **SF-A-07 Director's granting of consent to incur indebtedness without a vote**

Districts requesting consent from the Director to incur Net Indebtedness without a vote of the electors pursuant to Division (H) of ORC 133.06 must complete an application, located on the Department's website, for consent and provide all requested documentation. The Director will approve or disapprove the request within **30 days** of receiving all required documentation and any requested clarifying information.

#### **SF-A-08 Administrative responsibilities**

- (A) The Director shall designate one of the operational units of the Department as responsible for the administration of this policy. The actions of this unit shall include, but not be limited to, the following:
- (1) The development and dissemination of forms and instructions necessary to implement this policy;
  - (2) The requesting from Districts of additional or clarifying information as may be necessary to appropriately evaluate requests submitted pursuant to this policy;
  - (3) The obtaining, as deemed necessary, of additional information with which to verify District's submitted information;
  - (4) The publication of information electronically and otherwise to ensure awareness and compliance with this policy;
  - (5) Coordination of activity with the operational unit with the Department of Taxation responsible for the administration of the Department of Taxation's activity related to this policy;
  - (6) Communication and coordination with affected stakeholders, including bond counsels and associations, representing various District officials.

The Director, or a designee, is responsible for the signed approvals of the consent to a District exceeding Net Indebtedness limits and of the certification of approved special needs District status.