

Effective: November 3, 2022

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**Policy Outline**

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**I. Policy Value Statement**

The Board of Education recognizes that the foundation of any well-managed debt program is a comprehensive debt policy. The debt policy formalizes a binding commitment to full and timely repayment of all debt as a necessary element to entry into the capital markets. Adherence to a debt policy assists in assuring that the Howard County Public School System maintains a sound debt position and its credit quality is protected and enhanced.

**II. Purpose**

This policy sets forth the parameters and processes for issuing debt as well as managing outstanding debt. The scope of this policy is limited to lease obligations, financed purchases (previously referred to as capital leases), and subscription-based information technology arrangements (SBITAs) of the Board and does not include or envision debt incurred on the Board's behalf by the State of Maryland or the Howard County Government.

**III. Standards**

- A. Lease obligations, SBITAs, and management are entrusted to the Board and the Superintendent/designee.
- B. The use of lease financing, financed purchases, and SBITAs may be used when economical and efficient, and permitted by law.
- C. The Superintendent/designee will evaluate all funding sources, including grants, operating funds, capital funds, and any other possible sources prior to recommending contracts to the Board for lease financing, financed purchases, or SBITAs. If deemed appropriate, the Superintendent/designee will recommend a contract for Board approval. A report will be presented to the Board by the Superintendent/designee if the

debt is greater than or equal to five million dollars, or the debt is greater than or equal to five years in maturity.

- D. The source of repayment for debt will be an appropriation of the budget by the Board and may be secured by the underlying goods and/or services purchased. All debt will be issued on a tax-exempt basis and sourced via a Request for Proposal (RFP) or other acceptable lease or financing vehicles. All tax-exempt debt will comply with the United States Internal Revenue Service federal regulations and Maryland state law.
- E. Debt limitation for lease obligations will be as follows:
  - 1. For all proposed debt offerings, an identifiable source of repayment will be paramount to the decision to finance. The source of repayment will be of sufficient duration and annual amount as to fully liquidate the debt within the life of the secured asset. The identifiable source should further be clarified as coming from federal, state, local, or private sources.
  - 2. Total debt outstanding at the time of issuance, is limited to six percent (6%) of the total of the current operating budget; debt service is limited to three percent (3%) of the total of the current operating budget. The only exception to this limitation is self-liquidating debt.

#### **IV. Responsibilities**

The Superintendent/designee will ensure compliance with the standards of this policy.

#### **V. Delegation of Authority**

The Superintendent is authorized to develop procedures to implement this policy.

#### **VI. Definitions**

Within the context of this policy, the following definitions apply:

- A. Debt Service – The monetary amount that is required to cover the repayment of interest and principal on a debt for a particular period.
- B. Financed Purchases – A contract that transfers ownership of the underlying asset to the purchaser by the end of the contract and does not contain termination options. The contract may contain a fiscal funding or cancellation clause that is not reasonably certain of being exercised.
- C. Lease – A contract that conveys control of the right to use another entity's nonfinancial asset (the underlying asset) as specified in the contract for a period of time in an exchange or exchange-like transaction.

1. "Contract" must be enforceable
  2. "Control of the right to use" must be exclusive and substitution is permitted
  3. "Another Entity's nonfinancial asset" must not include interfund or inter-activity leases
  4. "As specified in the contract" may limit the purposes for which lessee may use the underlying asset
  5. "For a period of time" specifies no permanent rights-of-way, no contracts that transfer ownership, unless cancellation, and that the time periods covered by the lease may be noncontiguous
  6. "In an exchange or exchange-like transaction" stipulates no contracts with nominal lease payments
- D. Lease Financing – Payment of acquired assets over time which do not require the full faith and credit of the public entity; these include but are not limited to leases and lease purchase transactions in which the asset being financed provides security for the financing.
- E. Lease Obligation – The liability resulting from a lease, financed purchase, or SBITA; the obligation to pay future lease payments including financing fees.
- F. Self-liquidating Debt – Debt to fund projects that create savings in excess of operating costs in sufficient amounts to service the underlying debt. (The Energy Performance Contract is an example of self-liquidating debt.)
- G. Subscription-Based Information Technology Arrangements (SBITAs) – A contract that conveys control of the right to use another party's (a SBITA vendor's) information technology (IT) software, alone or in combination with tangible capital assets (the underlying IT assets), as specified in the contract for a period of time in an exchange or exchange-like transaction.

## **VII. References**

- A. Legal  
Md. Ann. Code, Education Article, Section 4-126  
Md. Ann. Code, Education Article, Section 5-101  
Md. Ann. Code, Education Article, Section 5-112
- B. Board Policies  
Policy 4050 Procurement of Goods and/or Services  
Policy 4070 Fund Balance
- C. Relevant Data Sources  
GASB Statement No. 87, Leases  
GASB Statement No. 96, Subscription-Based Information Technology Arrangements

- D. Other  
(none)

## VIII. History<sup>1</sup>

ADOPTED: April 10, 2008  
REVIEWED: February 24, 2022  
MODIFIED: November 3, 2022  
REVISED: February 11, 2016  
EFFECTIVE: November 3, 2022

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<sup>1</sup> Key: *Adopted*-Original date the Board took action to approve a policy; *Reviewed*-The date the status of a policy was assessed by the Superintendent's Standing Policy Group; *Modified*-The date the Board took action to alter a policy that based on the recommendation of the Superintendent/designee did not require a comprehensive examination; *Revised*-The date the Board took action on a policy that based on the recommendation of the Superintendent/designee needed a comprehensive examination; *Effective*-The date a policy is implemented throughout the HCPSS, typically July 1 following Board action.

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**I. Issuance of Lease Obligations**

- A. Justification for each proposed lease transaction will be determined and documented by the Superintendent/designee. The justification should include an explanation for not recommending county financing through general obligation debt financing, current revenue, or transfer tax funding. An analysis of various financing strategies should be performed to allow for the lowest possible costs to for Board.
- B. For each lease transaction, the Superintendent/designee will provide a projected lease payment and a cash flow statement for the life of the transaction.
- C. The scheduled maturity may not exceed the anticipated useful life of the capital item.

**II. Debt Procedures for Lease Obligations**

- A. Calculations will ensure that new lease transactions are within the total debt and debt service limits established within this policy.
- B. Amortization of principal resulting in level debt service will be requested in order to match the useful life of the asset with financing.
- C. Debt service payments will be budgeted using the actual debt service for each lease obligation. The fund to be used for repayment must be identified at the inception of the lease obligation.

**III. Management of Lease Obligations and Subscription-Based Information Technology Arrangements (SBITAs)**

- A. The Superintendent/designee will review all lease agreements, SBITAs, and will report and/or record obligations in accordance with generally accepted accounting principles and Governmental Accounting Standards Board Statements.
- B. Financial advisors will be selected as necessary according to state statutes and Howard County Public School System procurement policies.
- C. All lease agreements and SBITAs will be reviewed by the Purchasing Officer, the Superintendent/designee, and legal counsel for consistency with school system policy and Maryland law before being presented to the Board for approval.

#### IV. Monitoring

Policy 4090 implementation procedures will be overseen by the Division of Administration.

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