

COVID-19: Contributing School District Equipment and Supplies to Local Health Care Providers

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In a recent press release, the Governor has encouraged businesses to donate essential medical supplies and personal protection equipment to local health care providers to be used in their COVID-19 efforts. The release listed the most needed items which included hospital gowns, ventilators, sanitizer (hand/wipe), gloves, surgical masks, masks N95 - N100, and no-touch thermometers. Several of our school district clients have asked us if they have the legal authority to contribute equipment and supplies to local health care providers. We thought it would be helpful to share our response to these inquiries.

Under the Michigan Revised School Code, school districts are deemed general powers school districts and under these general powers have the authority generally to expend public funds for expenditures that have a reasonable “educational nexus” to the operation of the school district in carrying out its educational mission. In addition to these general powers, the Revised School Code provides various specific limitations or restrictions on the expenditure of public funds which might limit a school district’s general powers authority. The Revised School Code and the State School Aid Act set forth various limitations and restrictions on the use of public school funds. For instance, there are specific limitations provided for the expenditure of State School Aid, operating taxes and voter authorized debt, sinking fund and other millages. In addition, the Revised School Code provides certain specific prohibitions based on certain uses (e.g. golf, jewelry, alcohol, chauffeurs, etc.).

These type of expenditures (i.e. the contribution of safety equipment and supplies to local health care providers) would be allowable if the school district can establish an educational nexus between the contribution and the operation of the school district. We believe that a reasonable argument for this educational nexus could be based on the fact that the purpose of providing the equipment and supplies would be to assist in the communities’ efforts to both control the spread of COVID-19 and to facilitate the treatment of COVID-19 patients. The ultimate goal of these efforts being an end to the COVID- 19 crisis and the reopening of school buildings in the State, including the school district. Once school buildings are reopened, these efforts also should contribute to the safety and wellbeing of the students attending the school district.

Further analysis may be required in a case where the equipment and supplies were purchased from restricted sources. As an example, assume that a school district purchased equipment and supplies with the proceeds of a vocational education millage. The expenditure of this millage is limited to the operation of the vocational education programs. This would be a further specific limitation on the expenditure in addition to the above general powers limitation. There is a reasonable argument that the proposed expenditure could be an allowable operating cost of the vocational education program in our example, as the purpose and goal of contributing the equipment and supplies is to assist the communities’ efforts to combat the COVID-19 crisis, which should result in the reopening of school buildings in the State including all of the programs administered and operated by the school district.

This is part of a series of Miller Canfield **COVID-19 alerts** providing clients with practical advice on measures they can take to navigate through these challenging times. Please contact the authors or your Miller Canfield attorney to discuss any issue further.

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This information is based on the facts and guidance available at the time of publication, and may be subject to change.