



JOY HOFMEISTER

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
OKLAHOMA STATE DEPARTMENT OF EDUCATION

MEMORANDUM

TO: The Honorable Members of the State Board of Education

FROM: Joy Hofmeister

DATE: October 25, 2018

SUBJECT: General Fund for Capital Expenditures

Pursuant to the statutory flexibilities at 70 O.S. § 3-126, and the State Department of Education rule at OAC 210:35-1-4 authorizing the State Board of Education (the “Board”) to grant a school district a waiver from certain statutory provisions, Blackwell Public Schools (the “District”) has requested approval to use their general fund for capital expenditures. Specifically, the request is to use the funding to make necessary roof repairs.

Oklahoma law prohibits a school district from using its general fund for capital expenditures, unless a bond issue on that question has been rejected during the current school year, or unless the district has voted for at least 85% of its maximum allowable indebtedness. *See* 70 O.S. §1-117. While Blackwell does not fall within those specific authorizations for using general funds on capital expenditures, the administrative rule and statute above authorize a public school district to request a waiver from any statutory requirement, administrative rule, or accreditation standard that does not appear on a list of exclusions. In the opinion of counsel, the District’s request is permissible and does not come within the list of exclusions identified in 70 O.S. §3-126 or OAC 210:35-1-4. As such, and for the reasons set forth below, Board approval is recommended for the District's request.

Initially, the District attempted prior to this school year to pass a bond to make the roof repairs, but the bond issue failed to gain sufficient votes. Subsequently, the District sought to work with its insurance company to make the repairs, but the roofs were depreciated by 50% because of their age such that the District was unable to afford said repairs. Ultimately, the District determined that alternative roofing material was the best option to commence the work. However, there were additional issues, including rusted materials and the cost of the project increased significantly and there are insufficient funds remaining in their building fund to complete the roof repairs. Materials accompanying the District’s request are included for your review.



Oklahoma State Board Authorization Request Form

for use of Five Percent (5%) and/or Fifty Thousand (\$50,000) of District's General Fund for Capital Expenditures per O.S. 70 § 1-117

Submit completed form by email <State.Aid@sde.ok.gov>, fax (405) 522-3559 or mail to:
Oklahoma State Department of Education, State Aid Section, 2500 N Lincoln Blvd, Rm 427, OKC, OK 73105-4599

Date of Request:	8-14-2018	Fiscal Year of Request:	FY 19
County Number:	36	County Name:	Key
District Number:	1-045	District Name:	Blackwell
Person requesting authorization:	Rick Riggs		
Title:	Superintendent	Contact number:	1-580-363-2570
Requesting:	<input checked="" type="checkbox"/> Five Percent (5%) <input checked="" type="checkbox"/> Fifty Thousand (\$50,000)		

Type of Capital Expenditure:

- Purchase of Land or Existing Building
- Purchased of Real Property
- Ground or site improvement for construction purposes
- Additions to Buildings
- Remodeling (structural involving roof or load-bearing walls)
- Architects & Engineers (professional services, salaries & expenses, except for those covered by bond issue)
- Heat & Air (initial installation or extension of existing buildings systems)
- Destroyed building replacement
- Installments and Lease payments on property including interest, which has a terminal date and results in the acquisition of property.

Provide a detailed description of the anticipated capital expenditures, detailing purchases, construction, improvements, professional service, etc. that is to be paid with the requested District General Funds if qualified:

Blackwell Public Schools capital expenditures request is for roof repairs. The district tried to pass a bond issue for about 2 million to make repairs, but it failed. The district then started to work with insurance to make the repairs. The roofs were depreciated because of age at 50%. The district could not afford to pay for the repairs at that rate so an alternative roofing material was agreed to be used that would cost the district around \$300,000.00. The project was started and there were complications. The roof decking material was rusted and had to be replaced at the district's expense. The roofers found additional problems with a gym roof. The roofers were paid \$416,000 on the completed part of the project. The project increased in price and had to go to rebid. The new scope of work was rebid and the additional project bid will be approximately \$1,000,000 depending on how much decking has to be placed when the roofs are exposed and inspected. The additional projected district expense for the project is \$550,000. I am also sending the rebid documentation specifications with this request as supporting documentation.

I certify that all General Revenue Funds requested and expended for the above referenced capital expenditure, will comply with O.S. 70 § 1-117.

Authorized Signature: Rick Riggs

Date: 08-14-2018

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	Circle		Initials	Date
Bonded within the preceding 3 school years	YES NO	Financial Acct. reviewed	_____	Submit to Board _____
Valuation/ADA Per Capita < 60% of state average	YES NO	State Aid reviewed	_____	

70 O.S. § 1-117 Definition of General Fund of School District - Capital Expenditures – Noncapital Expenditures

A. The general fund of any school district is hereby defined as a current expense fund and shall consist of all revenue or monies that can legally be expended within a certain specified fiscal year, but shall not be considered as including any money derived from a special building fund levy made in accordance with the provisions of Section 10 of Article X of the Oklahoma Constitution, nor shall it include any monies derived from the sale of bonds issued under the provisions of Section 26 of Article X of the Oklahoma Constitution. All monies derived from the proceeds of the school levies made pursuant to the provisions of Section 9 of Article X of the Oklahoma Constitution shall be placed in the general fund provided by this section. Expenditures from the general fund shall be noncapital in nature. All monies derived from state-dedicated revenue, state-appropriated revenue unless otherwise provided for by law, and county sources shall be placed in the general fund provided for by this section. Except as provided for in subsections K and L of this section, a district shall not be authorized to make capital expenditures as defined by this section from the general fund.

B. For purposes of this section, state-dedicated revenue shall be any registration or license fees, taxes, or penalties collected at the state level and distributed to common school districts. County sources shall be all funds collected by the county and distributed to common school districts but shall not include any funds derived from the building fund levy made in accordance with the provisions of Section 10 of Article X of the Oklahoma Constitution or funds derived from the sinking fund levy made in accordance with the provisions of Section 26 of Article X of the Oklahoma Constitution.

C. For the purposes of this section, a capital expenditure shall be an expenditure which results in the acquisition of fixed assets or additions to fixed assets. Capital expenditures shall include, but shall not be limited to, purchases of land or existing buildings, purchases of real property, improvements of grounds and sites for construction purposes, all expenditures for construction of buildings unless authorized by the State Board of Education or the State Board of Career and Technology Education upon application to the appropriate state board pursuant to subsection F of this section, additions to buildings, remodeling of buildings if such remodeling involves changes to roof structures or load-bearing walls, professional services, salaries and expenses of architects and engineers hired or assigned to capital projects except for such services, salaries and expenses as are applicable in preparation for a bond issue, expenditures for the initial installation and extension of service systems and built-in heat or air equipment to existing buildings, expenditures for the replacement of a building which has been destroyed, installments and lease payments on property, including interest, that have a terminal date and result in the acquisition of property, and expenditures for preliminary studies made prior to the time that authority to proceed with a construction project is given if authority is received within the same fiscal year that the expenditure was made.

D. Noncapital expenditures shall include, but shall not be limited to expenditures for maintenance, repair and replacement of property and equipment, initial or additional purchases of furniture and equipment, direct expenses for maintenance of plant, including grounds, salaries for maintenance of plant, including salaries for the upkeep of grounds, and repair and replacement of building structures which do not add to existing facilities and which do not involve changes in roof structures or load-bearing walls and which are not classified as a capital expenditure by this section.

E. The State Board of Education shall adopt and amend regulations regarding the classification, definition and financial administration of funds, accounts and expenditures in accordance with the requirements of this section.

F. A school district shall be authorized to make capital expenditures from the general fund to defray the cost of rebuilding a school building only if a school building or facility has been destroyed by a fire or natural disaster, such as flood, tornado or other act of God, or by an act of a public enemy of the United States or this state and monies received by the district through insurance coverage, federal reimbursement, contributions and allocation from the State Board of Education from the State Public Common School Building OSCN Found Document:Definition of General Fund of School District - Capital Expenditures - Noncapital Expenditures Equalization Fund are insufficient to rebuild the facility. Capital expenditures from the general fund pursuant to this subsection shall be limited to an amount necessary to defray the cost of rebuilding the facility which exceeds monies received by the school district through insurance, federal reimbursement, contributions and state allocations.

G. Schools which receive gifts or donations or state-appropriated monies for the purpose of capital expenditures or projects shall place such monies in the building fund, as provided by Section 1-118 of this title, and not in the general fund. School districts which receive gifts, grants, or donations of monies for noncapital expenditures may place the monies in the general fund, and such monies shall not be required to be used during the year in which the money was received but may accumulate from year to year and shall not be considered a part of the general fund collections when calculating the general fund carryover as provided for in subsection G of Section 18-200.1 of this title.

H. School districts which receive monies from rental, sale, or lease of buildings, impact aid monies, or grants, gifts or donations for capital purposes, whether from state, federal, or other sources, may place such monies in the building fund authorized by Section 1-118 of this title or the general fund authorized by this section.

I. Any construction of a building included as a capital expenditure from the general fund of a school district which is authorized and has had a contractual agreement concerning such construction executed prior to July 1, 1991, may be proceeded with and completed as authorized prior to July 1, 1991, as a capital expenditure from such general fund.

J. School districts receiving revenues authorized by Section 9B of Article X of the Oklahoma Constitution shall be authorized to make capital expenditures from the general revenue fund no greater than the amount levied by the incentive millage.

K. Upon the approval of the State Board of Education, a school district shall be authorized to make capital expenditures as defined in this section from its general fund if:

1. A bond issue has been rejected at an election by the school district electors voting on that question within the current school year, as certified by the secretary of the county election board; or

2. The school district has voted indebtedness at any time within the preceding three (3) school years through the issuance of bonds or through approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Board of Equalization for the current school year and certifications by the Attorney General prior to April 1 of the current school year. The State Board of Education shall establish the rules to administer the provisions of this subsection which shall include, but not be limited to, specification of a maximum amount of general fund monies to be used for capital expenditures, the purposes for which such funds may be expended and the period of time in which such funds shall be encumbered.

L. Other provisions of this section notwithstanding, a school district shall be authorized to make capital expenditures from the general fund if the total assessed property valuation per average daily attendance is less than sixty percent (60%) of the state average total assessed property valuation per average daily attendance and if, for each year in which general fund revenue is used for capital expenditures, the district has voted the five-mill building fund levy authorized in Section 10 of Article X of the Oklahoma Constitution and has voted indebtedness through the issuance of new bonds for at least eighty-five percent (85%) within the last three (3) years of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Board of Equalization for the current school year and certifications by the Attorney General prior to April 1 of the school year. Provided, the maximum amount of general fund revenue used for capital expenditures pursuant to this subsection shall not exceed five percent (5%) of the total yearly revenue to the general fund. Said fund may not be used for capital expenditures for more than five (5) consecutive years and may only be utilized for remodeling or construction of classroom facilities and such ancillary facilities to said classrooms as may be necessary. Provided, further, the State Superintendent of Public Instruction shall certify in writing, prior to the expenditure of the funds for which provision is made in this subsection, that such expenditures are in compliance with the provisions of this subsection.

OAC 210:25-5-4. Accounting

(f) Upon the approval of the State Board of Education, school districts may make capital expenditures up to a maximum amount of \$50,000 (fifty thousand dollars) during the current fiscal year within the General Fund pursuant to 70 O.S. 2001, § 1-117, if the school district meets the established criteria as outlined in the Statutes. School districts shall be voting the maximum five (5) building fund mills. General Fund monies authorized by the State Board of Education for expenditures must be expended within the current fiscal year. Any such funds encumbered as of June 30th of the current fiscal year, but not expended by November 15th of the subsequent fiscal year, shall lapse and return to the original purpose of such funds.

(g) A school district shall be authorized to utilize general fund monies for capital expenditures, in addition to the amount specified in subsection (c), pursuant to the provisions of 70 O.S. 2001, § 1-117.