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## Coates' Canons Blog: Allocating Operating Monies Among Local School Unit Funds: Local Current Expense Fund vs. Fund 8

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Article: <https://canons.sog.unc.edu/allocating-operating-monies-among-local-school-unit-funds-local-current-expense-fund-vs-fund-8/>

This entry was posted on June 10, 2014 and is filed under Finance & Tax, Public School Finance

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The majority of funding for North Carolina's public schools comes from the State. Each county, however, is required to annually fund most capital expenses and at least some operating expenses of its local school administrative unit(s). Questions often arise as to whether, and how, a county can direct its appropriations to specific operating expenditures. (I've blogged about a county board's authority to direct specific school expenditures [here](#).) This issue is further complicated by the fact that a local school unit must allocate a portion of its operating monies to charter schools attended by students located within the school district. There has been considerable conflict between local school units and charter schools over how to interpret this mandate. The North Carolina Court of Appeals has weighed in several times on this issue, most recently last week. The legislature also has made statutory changes over the past few years in an attempt to clarify the directive.

This blog summarizes the current law governing how county appropriations and other revenues may be allocated among the various funds to local school units for operating expenses. It defines "fund" and describes the authorized funds for local school units. It then details how a local school unit may allocate monies among the various funds while complying with the statutory mandate to direct certain operating monies to charter schools.

### Local School Unit Funds

#### *What is a fund?*

A *fund* is a separate fiscal and accounting entity having its own assets, liabilities, equity or fund balance, revenues, and expenditures. Government activities are grouped into funds to isolate information for budgeting and accounting purposes.

**G.S. 115C-426** directs the State Board of Education to promulgate a uniform budget format for local school units. According to the statute, the uniform budget format must include at least three funds—the State Public School Fund, the local current expense fund, and the capital outlay fund. The statute specifies the types of revenues (and in some cases the types of expenditures) that must be accounted for in each of these funds. The statute allows for the creation of additional funds to account for specified revenues or expenditures.

Pursuant to this authority, the North Carolina State Board of Education, through the North Carolina Department of Public Instruction, has established a **uniform chart of accounts**, which authorizes up to nine different funds.

#### **State Public School Fund**

The state public school fund, referred to as Fund 1 in the uniform chart of accounts, must include appropriations for the current operating expenses of the local school unit from monies made available by the State Board of Education.

#### **Capital Outlay Fund**

The capital outlay fund, known as Fund 4, must include any revenues allocated for the local school unit's capital expenses, regardless of the source of the funds.

#### **Local Current Expense Fund**

The local current expense fund, or Fund 2, is the primary fund to which county appropriations and other local monies are

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budgeted. Specifically, **G.S. 115C-426(e)** states that the appropriations to the fund

shall be funded by revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7 of the Constitution [penalties, fines, and forfeitures moneys], moneys made available to the local school administrative unit by the board of county commissioners [direct county appropriations], supplemental taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511, State money disbursed directly to the local school administrative unit, and other moneys made available or accruing to the local school administrative unit for the current operating expenses of the public school system.

The statute exempts “the appropriation or use of fund balance or interest income” from the local current expense fund, even if the fund balance or interest income derives from county appropriations or other monies in the local current expense fund. **G.S. 115C-448(d)** also exempts “special funds of individual schools.”

### **Other Funds**

The local current expense fund is not the only fund to which monies may be allocated for operating expenses. A local school unit is authorized, but not required, to establish other funds to account for certain revenues, specifically

“reimbursements, including indirect costs, fees for actual costs, tuition, [sales tax revenues distributed directly to a school unit that has a voted supplemental tax], sales tax refunds, gifts and grants that are restricted as to use, trust funds, and federal appropriations made directly to local school administrative units. . . .”

### **G.S. 115C-426(c).**

The statute also allows a local school unit to establish a separate fund to account for any “funds received for prekindergarten programs,” which may include county appropriations or other local funds. The uniform chart of accounts authorizes a local school unit to establish Fund 8 to account for most of these revenues and expenditures.

### **Charter School Allocations**

#### ***What funds are charter schools entitled to?***

1. *Charter schools are entitled to a proportional share of state appropriations to a local school unit.*

The State Board of Education must allocate to each charter school an amount equal to the “average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school . . . .” **G.S. 115C-238.29H**. Excluded from this calculation are funds for children with disabilities or limited English proficiency. A charter receives separate allocations to serve these student populations.

2. *Charter schools also are entitled to a proportional share of monies in the local current expense fund.*

Specifically, **G.S. 115C-238.29H(b)** requires a local school unit to “transfer to [each] charter school an amount equal to the per pupil share of the local current expense fund.” The North Carolina Court of Appeals has held that the statutory allocation applies regardless of the source of the revenues in the local current expense fund or regardless of their intended expenditure. See *Sugar Creek Charter School, Inc. v. Charlotte-Mecklenburg Bd. of Educ.*, 195 N.C. App. 348 (2009) (*Sugar Creek I*). Furthermore, if monies are allocated to the local current expense fund, they must be shared with charter schools even if those monies could have been allocated to another fund. See *Thomas Jefferson Classical Academy v. Rutherford County Bd. of Educ.*, 215 N.C. App. 530 (2011) (*Thomas Jefferson I*).

To illustrate consider monies allocated to a local school unit for pre-K programs. According to **G.S. 115C-426(c)**, these monies may be accounted for in another fund, such as Fund 8. If a school unit receives an appropriation from the county (or monies from another source) to support a pre-K program and allocates the monies to Fund 8, the school unit is not required (or authorized) to share the monies with a charter school. If, however, the local school unit allocates the monies to Fund 2 (local current expense fund), then it must share a proportional amount of the monies with an eligible charter school. This is true even if the charter school does not have a pre-K program.

In calculating a charter school's proportional share of the local current expense fund, a local school unit must include all monies in the fund, even those that are restricted as to use. See *Thomas Jefferson I*. The number of pupils included in the calculation, however, may only include those legally entitled to enroll (and actually enrolled) in the public school system or charter school. A local school unit may not, for example, include pre-K students in the calculation. Although some of the funds in the local current expense fund may be expended on pre-K programs, only children who meet the enrollment criteria in **G.S. 115C-364** may be counted.

3. *Charter schools are not entitled to a share of monies allocated to any other fund, including the capital outlay fund.*

Only monies allocated to the local current expense fund must be shared with a charter school. Revenues properly allocated to any other fund authorized by the uniform chart of accounts are not shared with a charter school.

That means that there is no statutory requirement (or authorization) for a local school unit to distribute monies allocated to the capital outlay fund to a charter school. Moreover, as discussed in this **post**, the court of appeals has held that a charter school does not have a constitutional right to receive funding for capital outlay expenses. See *Sugar Creek Charter School, Inc. v. State of North Carolina*, 214 N.C. App. 1 (2011) (*Sugar Creek II*). According to the court, there is "no basis for constitutional concern arising from the use of differing funding mechanisms to support different types of public schools that are subject to different statutory provisions."

### ***What monies for operating expenses may be allocated to another fund (other than the local current expense fund)?***

Over the past few years, in light of the court of appeals decisions cited above, local school units have increasingly allocated monies for operating expenses to funds other than the local current expense fund. (In most cases, the monies have been allocated to Fund 8 instead of Fund 2.) However, the court of appeals recently held that allocating monies to the various funds is "not solely in the discretion of the local school board. . . ." *Thomas Jefferson Classical Academy Charter School v. Cleveland County Bd. of Educ.*, No. COA13-893 (June 3, 2014). In fact, the default requirement of **G.S. 115C-426** is that all monies appropriated, made available, or accruing to the local school unit to fund its current operating expenses be allocated to the local current expense fund (and thus shared with a charter school). The court recognized that the legislature has carved out an exception to this default allocation, allowing a local unit to direct some operating monies (which the court refers to as "restricted" monies) to other funds. According to the court, though, the exception is limited to the categories specifically listed in **G.S. 115C-426(c)**:

- Reimbursements, including indirect costs
- Fees for actual costs
- Tuition
- Sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2)
- Sales tax refunds
- Gifts and grants restricted as to use
- Trust funds
- Federal appropriations made directly to local school administrative units
- Funds received for prekindergarten programs (regardless of their source)

Thus, these categories, most of which are identified by revenue source, are the only operating monies that may be allocated to Fund 8 (or any fund other than the local current expense fund).

### ***Can a local school unit change allocations among funds after their initial allocations/ appropriations?***

If a local school unit allocates one or more of these categories of monies to the local current expense fund, may it



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subsequently amend its budget resolution to move the monies to another fund? The answer is “yes,” if the amendment is done in the current fiscal year and involves monies that have not yet been expended. See *Thomas Jefferson I*. A school unit may not reallocate funds from prior fiscal years, though.

## Links

- [canons.sog.unc.edu/?p=2379](https://canons.sog.unc.edu/?p=2379)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_115C/GS\\_115C-426.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-426.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_115C/GS\\_115C-448.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-448.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_115C/GS\\_115C-238.29h.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-238.29h.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_115C/GS\\_115C-364.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-364.html)
- [canons.sog.unc.edu/?p=5195](https://canons.sog.unc.edu/?p=5195)