



What If My School District Runs Out of Money?

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With the current climate of sparse education funding becoming a stark reality year after year, many questions arise as to what will happen to an employee's pay if a school district either runs short of money during the fiscal year, or runs out of money before the end of the current fiscal year. There are several remedies available to address either scenario.

If a school district does not have sufficient funds in its bank account to cover the cost of issuing payroll or other checks, one remedy is for the district to issue what are referred to as non-payable warrants. A non-payable warrant has the same value to an employee or vendor as a regular school check. Even though the warrant is titled non-payable, the warrant can still be submitted to a bank for deposit, just like any other check.

When issuing a non-payable warrant, the school district makes arrangements with its bank to issue the non-payable warrant and the bank agrees to cover the amount of the warrant. In return, the school district promises to pay the bank at some point in the future the cost of the non-payable warrant plus applicable interest. Issuing a non-payable warrant is a method of dealing with cash flow shortages that may occur during a fiscal year, particularly when state aid allocations have been reduced as is the case for the current school year. Non-payable warrants are not an appropriate remedy for when a school district runs out of money during a fiscal year.

If a school district actually runs out of money during a fiscal year, yet still owes money for services already performed or for contracts that have been made and approved within the fiscal year budget, then a more complex scenario may be required to collect the money owed for the services performed or the balance of an employment or other contract. An employee or vendor will likely be required to take legal action against a school district, sometimes referred to as a "friendly suit" since there is typically no dispute that the money is owed, only that the district does not have sufficient funds to pay what it has lawfully obligated itself to pay during the particular fiscal year.

In those instances, an employee or vendor must first file a lawsuit against the school district alleging that they have a lawful claim for money against the school district. Next, a court must rule that the school district owes the money for the services performed or for the balance of a contract, often referred to as the "entry of judgment."

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Finally, once the court enters a judgment, state law requires that any money judgment against a school district be paid out of the sinking fund of the school district over a three-year period. Judgments against a sinking fund may be assigned to a financial institution that will typically pay the employee or vendor face value for the judgment and then collect the judgment and accrued interest on the judgment from the sinking fund over the three-year period.

Some school districts have recently attempted to avoid having lawsuits filed against them for payment of back wages when they have run out of money during a fiscal year. Some have resorted to community fund-raising and other mechanisms in an attempt to raise other revenue that can be used to pay a portion of back wages. In those instances, school districts attempt to “negotiate” with employees who have not been paid their contractual wages and ask them to agree to a lesser amount to satisfy their contractual obligation. School employees are not required to negotiate a lower amount for back wages and should avoid those discussions whenever possible.

The bottom line is that a school district is legally obligated to pay their contractual obligations when they are owed and if they have no funds to do so, then a legal remedy is the only option available to satisfy that obligation under Oklahoma law.

If you are in a district that refuses to cooperate in acknowledging its obligation and you have not been paid your contractual wages within three days of the regularly designated payday, then you have a legal case against the school district. The school district could also be fined and subject to criminal penalties for violating the protection of labor statutes found in Title 40 of the Oklahoma Statutes. These issues are serious and should be taken seriously by those school districts that face these unfortunate circumstances – the failure to pay wages due and owing employees should be immediately addressed and refusal to do so should result in litigation seeking to remedy the non-payment of wages as well as any administrative or criminal remedies imposed by the Oklahoma Department of Labor.

While issuing non-payable warrants is a simple and convenient method of quickly paying employees or vendors when a school district suffers cash flow problems during a fiscal year, the legal process of collecting a sinking fund judgment is more time consuming and may result in a delay in ultimately collecting wages owed an employee. Additionally, there may be remedies available with the Oklahoma Department of Labor against the school district for any failure to pay contractual wages when due and owing to an employee.

If any of these scenarios occur in your school district, you should contact your OEA Regional Advocacy UniServ Specialist or the OEA Center for Legal and Corporate Services for assistance in dealing with these issues.

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