

Retroactive Assumed Amortization Waiver Guidelines
March 2002

Under Education Law § 3602(6)(e)(6), school districts may apply to the Commissioner of Education for a waiver relating to the application of assumed amortization to bonds or other amortizations, or lease-purchase or equivalent agreements, in existence as of July 1, 2002. The waiver may adjust the period of assumed amortization, and/or the interest rate and/or the annual assumed payments to equal those of the existing amortization.

- ◆ Waivers will be granted where the school district can demonstrate to the Commissioner that it is precluded by Federal or State law from refinancing or that bonds cannot be refinanced or advance refunded and retain their tax-exempt status due to restrictions in State or Federal law.

In addition, waivers may be granted if the district can demonstrate other extenuating circumstances that warrant a waiver. Examples of situations in which waivers may be available include, but are not limited to, the following:

- ◆ Bond issues that have their last payment in the 2002-03 school year and:
 - Have been financed for at least 90 percent of the blended maximum useful life of the projects associated with that bond issue, as determined by the Commissioner; and
 - The outstanding principal on July 1, 2002 is less than \$500,000.
- ◆ Bond issues that have their last payment in the 2003-04 school year and:
 - Have been financed for at least 90 percent of the blended maximum useful life of the projects associated with that bond issue, as determined by the Commissioner; and
 - The outstanding principal on July 1, 2003 is less than \$500,000.
- ◆ School districts that would:
 - Exceed 95 percent of their constitutional debt limit as a result of the refinancing, exclusive of any bonds or notes which the District is authorized to issue in excess of such limit and taking into account the additional costs of refinancing the State share of debt with principal outstanding as of July 1, 2002, and
 - If the approved costs of projects in the District's five-year capital plan on file with the State Education Department as of December 1, 2001 cause it to exceed its constitutional debt limit as a result of the additional costs of refinancing, where the district can document to the satisfaction of the Commissioner, its commitment to implement such projects in that five-year capital plan.
- ◆ Bonds where:
 - The refinancing and issuance costs, if amortized, would result in a negative cash flow for the State in the 2002-03 and/or 2003-04 school years; and

- The district has provided estimates for the cost of refinancing and issuance from at least two independent sources including the Dormitory Authority of the State of New York.

- ◆ Additional extenuating circumstances may be submitted as justification for a waiver. If those extenuating circumstances are determined by the Commissioner to provide adequate justification for a waiver, the Department would seek amendment of these guidelines pursuant to subparagraph 6 of paragraph e of subdivision 6 of section 3602 of the education law.