

Superintendent File: DFA-R

CASH MANAGEMENT AND INVESTMENT REGULATION ***Second Reading Board of Education 03.05.2019***

District's Policy

It is the policy of the District that all district funds allocated to a specific use but temporarily not needed shall be invested by the Chief Financial Officer or designee or other administrator appointed by the Board in accordance with state law and in a manner designed to accomplish the following objectives:

1. ensure the safety of funds;
2. ensure that adequate funds are available at all times to meet the financial obligations of the District when due;
3. ensure a market rate of return on the funds available for investment throughout the budget cycle;
4. ensure that all funds are deposited and invested in accordance with state law.

Scope

The District is a corporate entity in the State of Colorado governed by a seven member Board. This Cash Management and Investment Regulation addresses the methods, procedures, and practices that must be exercised to ensure the effective and judicious fiscal and investment management of the District's funds. This Regulation applies to the investment of all financial assets and all funds of the District over which it exercises financial control and has been written to comply with various regulatory requirements under which the District operates.

Objectives

~~All funds that are held for future disbursement shall be deposited and invested by the District in accordance with Colorado statutes and resolutions enacted by the Board in a manner to accomplish the following objectives.~~

~~Funds shall be invested in accordance with all applicable District policies, State statutes, and Federal regulations, and in a manner designed to accomplish the following investment objectives, which are listed in priority order:~~

- ~~1. **Safety of Funds:** Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to minimize credit risk and interest rate risk.~~

~~a. Credit Risk: The District shall~~

- ~~• limit investments to those clearly outlined in CRS 24-75-601.1—*Legal investments of public funds*~~
- ~~• prequalify financial institutions, broker/dealers, intermediaries, and advisors with which the District will do business;~~
- ~~• diversify the investment portfolio minimizing potential losses associated with individual securities~~

~~b. Interest Rate Risk:~~

- ~~• structure the investment portfolio so that securities mature sufficiently close to cash requirements for ongoing operations~~
- ~~• invest operating funds primarily in shorter term securities, approved local government investment pools, approved money market mutual funds, and repurchase agreements.~~

~~2. Liquidity of Funds: The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.~~

~~The portfolio shall consist largely of securities with active secondary or resale markets so that the potential for a realized loss if an early liquidation of a security is necessary will be minimized.~~

~~A core of stable funds may be identified through cash flow analysis that is available for investing in longer term securities. Although the market value of these longer term securities may fluctuate significantly, the fluctuation will not affect the liquidity of the portfolio since they can be held to maturity in all but extreme circumstances.~~

~~3. Yield: The District's portfolio shall earn a competitive market rate of return on available funds throughout budgetary and economic cycles. In meeting this objective, investment management personnel will take into account the District's investment risk constraints and cash flow needs.~~

~~1. Safety. Safety of principal is the foremost objective of the investment program. Investments of the District shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required to reduce overall portfolio risk while attaining market rates of return.~~

~~2. Liquidity. The District's investment portfolio will remain sufficiently liquid to enable the District to meet all operating requirements which might be reasonably anticipated. The particular operating needs of each District fund shall be considered in determining investment maturities.~~

~~3. Return on investment. The District's investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the District's investment risk constraints and the cash flow characteristics of the portfolio.~~

Delegation of Authority

The Board ~~Policy DFA shall~~ designate the Superintendent and his/her designee as the investment officer(s) of the District, who are responsible for all investment decisions and investment activities. The Board, through the District's external auditors, will periodically review the compliance of the cash, treasury, and investment management practices with the District's Investment Policy and Regulation.

~~The Superintendent, and/or his/her designee, shall establish written administrative procedures for the operation of the District's investment program consistent with this Investment Policy and Regulation.~~ The Superintendent and other authorized persons acting in accordance with the Colorado statutes, the resolutions enacted by the Board, and the written Cash Management and Investment Policy and Regulation, while exercising proper due diligence in making investment decisions, shall be relieved of personal responsibility for an individual security's credit risk or market price changes. The investment officers shall be covered by the District's errors and omissions policy.

The Superintendent, and/or his/her designee, may engage the support services of outside professionals so long as it can be demonstrated that these services produce a net financial advantage and necessary financial protection of the District's resources. Such services may include engagement of financial advisors in conjunction with debt issuance, portfolio management support, special legal representation, third party custodial services, and independent rating services.

Prudence

~~The standard of prudence to be used for managing the District's assets is the "prudent investor" rule applicable to a fiduciary, which states that a prudent investor "shall exercise the judgment and care, under circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of their capital." (C.R.S. 15-1-304, Standard for Investments.)~~

The District staff and persons authorized to invest on the District's behalf shall be guided by the "Prudent Investor Rule" (C.R.S. § 15-1.1-101, et seq.), applicable state law regarding investment of public funds (including, without limitation, C.R.S. § 24-75-601, et seq.) and this Policy. Authorized persons who act within the guidelines of this Policy and exercise due diligence shall not be held personally responsible for assuring sufficient liquidity of investments to meet daily operational needs nor for losses due to financial entity failures where respective funds and securities are held, nor for an individual security's credit risk or market price changes. Deviations from these expectations shall be reported in a timely fashion to the Superintendent and appropriate action shall be taken to control adverse developments.

The District's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The District recognizes that no investment is totally without risk and that its investment activities are a matter of public record. Accordingly, the District recognizes that occasional measured losses may occur in a diversified portfolio and shall be considered within the context of the overall portfolio's return, provided that adequate diversification has been implemented and that the sale of a security is in the best long-term interest of the District.

Security/Investment Maturity and Liquidity

Securities and investments shall be limited to maturities not to exceed five years unless explicitly stated differently for specific types of securities listed below.

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.

Eligible Investments and Transactions

All investments shall be made in accordance with C.R.S. § 11-10.5-101, et seq. Public Deposit Protection Act; C.R.S. § 11-47-101, et seq. Savings and Loan Association Public Deposit Protection Act; C.R.S. § 24-75-601, et seq. Funds-Legal Investments; C.R.S. § 24-75-603, et seq. Depositories; C.R.S. § 22-40-105, et seq. Depositories; C.R.S. § 22-45-102, et seq. Accounts; C.R.S. § 22-45-103, et seq. Funds; and C.R.S. § 24-75-701, et seq. Investment Funds - Local Government Pooling. Any revisions or amendments to these sections of the C.R.S. will be assumed to be part of this Policy immediately upon being enacted.

This Policy further restricts the investment of District funds to the following securities and it is the intent of the District that this list be strictly interpreted. If it is in the best interest of the District, to the extent permitted by law, the Superintendent can request from the Board of Education approval of an exception to the Policy.

The ratings requirements outlined in this section are those as published by Standard & Poor’s (“S&P”), a Nationally Recognized Statistical Rating Organization (“NRSRO”). Securities purchased may be rated by Standard & Poor’s, Moody’s Investors Service, or Fitch Ratings, therefore, the ratings equivalents of those referenced by S&P are listed below:

<u>LONG-TERM RATINGS</u>		
<u>Standard & Poor's</u>	<u>Moody's Investors Service</u>	<u>Fitch Ratings</u>
<u>AAA</u>	<u>Aaa</u>	<u>AAA</u>
<u>AA+</u>	<u>Aa1</u>	<u>AA+</u>
<u>AA</u>	<u>Aa2</u>	<u>AA</u>
<u>AA-</u>	<u>Aa3</u>	<u>AA-</u>
<u>A+</u>	<u>A1</u>	<u>A+</u>
<u>A</u>	<u>A2</u>	<u>A</u>
<u>A-</u>	<u>A3</u>	<u>A-</u>

<u>SHORT-TERM RATINGS</u>		
<u>Standard & Poor's</u>	<u>Moody's Investors Service</u>	<u>Fitch Ratings</u>
<u>AAAm</u>	<u>Aaa</u>	<u>AAAmmf</u>
<u>AAAf</u>	<u>Aaa-bf</u>	<u>AAAf</u>
<u>A-1+</u>	<u>P-1</u>	<u>F1+</u>
<u>A-1</u>	<u>P-1</u>	<u>F1</u>

Securities that have been downgraded below minimum ratings described herein may be sold or held at the District's discretion. The Portfolio will be brought back into compliance with Policy guidelines as soon as is practical. All securities and transactions shall be affected within generally accepted procedures and modern processes.

The diversification requirements shall apply to all of the District's funds and portfolios (the "Portfolio") in aggregate.

Eligible investments are as follows:

1. U.S. Treasury Obligations: Any security with maturities not exceeding five years from the date of trade settlement issued by, fully guaranteed by, or for which the full credit of the United States Treasury is pledged for payment including, but not limited to, Treasury bills, Treasury notes, Treasury bonds and Treasury STRIPS. 100% of the Portfolio may be invested in U.S. Treasury Obligations.

2. Federal Agency and Instrumentality Securities: Any security with maturities not exceeding five years from the date of trade settlement issued by, fully guaranteed by, or for which the full credit of the following is pledged for payment: The federal farm credit bank, the federal land bank, a federal home loan bank, the federal home loan mortgage corporation, the federal national mortgage association, the export-import bank, the Tennessee Valley Authority, the government national mortgage association, the world bank, or an entity or organization that is not listed in this paragraph but that is created by, or the creation of which is authorized by, legislation enacted by the United States congress and that is subject to control by the federal government that is at least as extensive as that which governs an entity or organization listed in this paragraph. Subordinated debt may not be purchased. The aggregate investment in Federal Agency and Instrumentality Securities shall not exceed 100% of the Portfolio, and no single issuer shall exceed 35% of the Portfolio.

3. Corporate Bonds with a maturity not exceeding three years from the date of trade settlement and issued by any corporation or bank organized and operating within the United States. Such securities must be dollar-denominated and rated at least AA- or the equivalent at the time of purchase by at least two NRSROs. No more than 50% of the Portfolio may be invested in corporate debt, and no more than 5% may be invested in the obligations of any one issuer.

4. Municipal Bonds: General Obligation Bonds and Revenue Obligation Bonds of state or local governments with maturities not exceeding five years from the date of trade settlement. Such obligations of Colorado (or any political subdivision, institution, department, agency, instrumentality, or authority of the state) shall be rated at least A- or the equivalent by at least two NRSROs. Such obligations of any other governmental entity shall be rated at least AA- or the equivalent by at least two NRSROs.

In addition, certificates of participation or other security evidencing rights in payments to be made by a school district under a lease, lease-purchase agreement, or similar agreement if the security carries at least two ratings by NRSROs and each rating is at least A or the equivalent at the time of purchase.

The aggregate investment in Municipal Bonds shall not exceed 50% of the Portfolio, with no more than 5% of the Portfolio invested with a single issuer.

- 5. Non-negotiable Time Certificates of Deposit (“Time CD”)** with a maturity not exceeding one year in any FDIC insured state or national bank located in Colorado that is an eligible public depository as defined in C.R.S. § 11-10.5-103. Certificates of deposit that exceed FDIC insurance limits shall be collateralized as required by the Public Deposit Protection Act. No more than 5% of the Portfolio may be invested in Time CDs, and no single issuer shall exceed 2% of the Portfolio.
- 6. Negotiable Certificates of Deposit (“Negotiable CD”)** with a maturity not exceeding three years from the date of trade settlement and issued by any corporation or bank organized and operating within the United States. Negotiable CDs must be dollar-denominated and must, at the time of purchase, have either a) a long-term rating of at least AA- or the equivalent by at least two NRSROs, or b) short-term ratings of at least A-1 or the equivalent by two NRSROs. No more than 50% of the Portfolio may be invested in Negotiable CDs, and no single issuer shall exceed 5% of the Portfolio.
- 7. Commercial Paper** with an original maturity of 270 days or less from the date of trade settlement, issued by any corporation or bank organized and operating within the United States, and rated at least A-1 or the equivalent at the time of purchase by at least two NRSROs. No more than 50% of the Portfolio shall be invested in commercial paper at the time of purchase, and no more than 5% may be invested in the obligations of any one issuer.
- 8. Local Government Investment Pools (“LGIPs)** organized pursuant to the provisions of Article 75, Title 24, Part 7 of C.R.S. 100% of the Portfolio may be invested in LGIPs. The LGIP portfolios must be rated either AAAM or AAAs by any NRSRO.
- 9. Money Market Mutual Funds** registered under the Investment Company Act of 1940 that: 1) are “no load” (no commission or fee shall be charged on purchases or sales or shares); 2) seek a constant net asset value of \$1.00 per share; 3) have a maximum stated maturity and weighted average maturity in accordance with Rule 2a-7 of the Investment Company Act of 1940; and 4) have a rating of AAAM or the equivalent by each NRSRO that rates that fund. 100% of the Portfolio may be invested in money market mutual funds.
- 10. Repurchase Agreements** with a maturity date of five years or less collateralized by U.S. Treasury obligations or Federal Agency and Instrumentality securities as outlined herein. For the purpose of this section, the term collateral shall mean purchased securities under the terms of the Master Repurchase Agreement as modified by the District’s Master Repurchase Agreement Annex. The purchased securities shall have a minimum market value including accrued interest of 102% of the dollar value of the transaction. Collateral shall be held in the District’s third-party custodian bank as safekeeping agent, and the market value of the collateral securities shall be marked-to-the market daily.

Repurchase Agreements shall be entered into only with dealers that have executed a Master Repurchase Agreement with the District and are recognized as Primary Dealers by the Federal Reserve Bank of New York or with firms that have a Primary Dealer within their holding

company structure. Approved Repurchase Agreement counterparties shall have a short-term credit rating of at least A-1 or the equivalent and a long-term credit rating of at least A or the equivalent by each NRSRO that rates the firm. No more than 100% of the Portfolio may be invested in repurchase agreements.

11. Bankers Acceptances with maturity not exceeding 180 days from the date of trade settlement and issued by and FDIC insured state or national bank with combined capital and surplus of at least \$250 million. Banker's Acceptances shall, at the time of purchase, be rated at least A-1 or the equivalent by at least two NRSROs. No more than 50% of the Portfolio may be invested in Banker's Acceptances, and no more than 5% may be invested in the obligations of any one issuer.

Maximum Credit Exposure

The Portfolio will be limited to an aggregate exposure of 50% for the following investment types: Corporate Bonds, Banker's Acceptances, Commercial Paper, and Negotiable Certificates of Deposit.

All investments will be made in accordance with governing law.

See C.R.S. § 24-75-601.1. Legal investments of public funds (complete statute included in Appendix)

1. U.S. Treasury Obligations: Treasury Bills, Treasury Notes, Treasury Bonds, and Treasury Strips with maturities not exceeding five years from the date of purchase.
2. Federal Instrumentality Securities: Debentures, discount notes, callable securities, and stripped principal or coupons with final maturities not exceeding five years from the date of purchase issued by the following only: Federal National Mortgage Association (FNMA), Federal Farm Credit Banks (FFCB), Federal Home Loan Banks (FHLB), Federal Home Loan Mortgage Corporation (FHLMC), and Student Loan Marketing Association (SLMA). For the purposes of this paragraph a "weighted average life" will not constitute a stated maturity.
3. Prime Commercial Paper issued on U.S. companies and denominated in U.S. currency that, at the time of purchase, is rated in its highest rating category by a minimum of two nationally recognized organizations which regularly rate such obligations. The aggregate amount of securities purchased from any one Commercial Paper issuer shall not exceed 50 percent of the District's portfolio at the time of purchase.
4. Any corporate or bank security that is denominated in United States dollars, that matures within three years from the date of settlement, that at the time of purchase carries at least two credit ratings from any of the nationally recognized statistical ratings organizations, and that is not rated below:
 - a. "A1, P1, or F1" or their equivalents by either rating used to fulfill the requirements of this subparagraph (I) if the security is a money market instrument such as commercial paper

~~or bankers' acceptance; or~~

~~b. "AA or Aa3" or their equivalents by either rating used to fulfill the requirements of this subparagraph (I) if the security is any other kind of security.~~

~~5. At no time shall the book value of a public entity's investment in notes evidencing a debt pursuant to this paragraph (m) exceed the following:~~

~~a. Fifty percent of the book value of the public entity's investment portfolio unless the governing body of the public entity authorizes a greater percent of such book value; or~~

~~b. Five percent of the book value of the public entity's investment portfolio if the notes are issued by a single corporation or bank unless the governing body of the public entity authorizes a greater percent of such book value.~~

~~6. No subordinated security may be purchased pursuant to this paragraph (m). No security issued by a corporation or bank that is not organized and operated within the United States may be purchased pursuant to this paragraph (m) unless the governing body of the public entity authorizes investment in such securities.~~

~~7. Eligible Bankers Acceptances, with an original maximum maturity not exceeding 180 days, issued on domestic banks or branches of foreign banks domiciled in the U.S. and operating under U.S. banking laws, whose senior long term debt is rated, at the time of purchase AA by Standard and Poor's, Aa by Moody's, or AA by Duff and Phelps. The aggregate amount of securities purchased from any one Bankers Acceptance issuer shall not exceed 10 percent of the District's portfolio at the time of purchase.~~

~~8. Repurchase Agreements with a defined termination date of 180 days or less collateralized by U.S. Treasury securities listed in Item #1 above or Federal Instrumentality securities listed in Item #2 above. The maturity of the collateral shall not exceed 10 years. For the purpose of this section, the term collateral shall mean purchased securities under the terms of the District's approved Master Repurchase Agreement. The purchased securities shall have an original minimum market value including accrued interest equal to or exceeding 102 percent of the dollar value of the transaction and the collateral maintenance level shall be 101 percent. Collateral shall be held in the District's custodial bank as safekeeping agent, and the market value of collateral securities shall be marked to the market daily based on that day's bid price.~~

~~Repurchase Agreements shall be entered into only with dealers who have executed a Master Repurchase Agreement with the District and who are recognized as Primary Dealers with the Market Reports Division of the Federal Reserve Bank of New York.~~

~~9. Flexible Repurchase Agreements, as provided by Colorado law, entered into by the District with approved counter parties. These flexible repurchase agreements may be closed out in varying amounts and at varying times at the option of the District. These agreements are deemed by both parties to be purchases and sales of securities and are not loans.~~

- ~~—All such Flexible Repurchase Agreements shall be determined as legal and valid for both parties and shall have a fixed rate during the entire life of the agreement. The District has the option of varying the dollar amount and the timing of the draw down by an agreed upon percentage of the anticipated draw down and a specified number of days. The District and the counter party to the agreement will specify the details of the allowable variance when the agreement is structured. In addition, the District may draw down in excess of the variance up to the remaining balance in the agreement for a bona fide, unanticipated cash need.~~
- ~~—The collateral shall be limited to U.S. Treasury securities listed in Item #1 above or Federal Instrumentality securities listed in Item #2 above. The maturity of the collateral shall mean purchased securities under the terms of the District's approved Master Repurchase Agreement. The purchased securities shall have an original minimum market value including accrued interest equal to or exceeding 102 percent of the dollar value of the transaction and collateral maintenance level shall be 101 percent. Collateral shall be held in the District's custodial bank as safekeeping agent, and the market value of the collateral securities shall be marked to the market daily based on that day's bid price.~~
- ~~—Repurchase Agreements shall be entered into only with dealers who have executed a Master Repurchase Agreement with the District and who are recognized as Primary Dealers with the Market Reports Division of the Federal Reserve Bank of New York.~~
- 10. ~~Local Government Investment Pools authorized under C.R.S. 24-7-701, 702 which: 1) are "no load" (i.e., no commission fees shall be charged on purchases or sales of shares); 2) have an objective of maintaining a constant daily net asset value per share (usually \$1.00 per share); 3) limit assets of the fund to U.S. Treasury securities and Repurchase Agreements outlined in Item #5, Federal Instrumentality securities, and Commercial Paper; 4) have a maximum stated maturity in accordance with Federal Securities Law Regulation 2A-7; and 5) have a rating of AAAm by Standard and Poor's or AAA by Moody's or AAA/V-1+ by Fitch IBCA, Inc. The District's investment shall not exceed 10 percent of the outstanding shares of any one local government investment pool at the time of purchase.~~
- 11. ~~Time Certificates of Deposit or savings accounts in state or national banks or state or federally chartered savings and loans which are state approved depositories per C.R.S. 24-75-603 et seq. (as evidenced by a certificate issued by the State Banking Board) and are insured by the FDIC. Certificates of Deposit will have a maximum maturity of five years. Certificates of Deposit which exceed the FDIC insured amount shall be collateralized in accordance with Colorado Public Deposit Protection Act. This collateral will have a market value equal to or exceeding 102 percent of the difference between the insured amount and the District's total deposit for all funds within the institution. The aggregate amount of Certificates of Deposit purchased from any one bank or savings and loan shall not exceed 25 percent of the District's portfolio at the time of purchase.~~
- ~~—The Superintendent, or his designee, shall take steps on a routine basis to obtain copies from the banks and savings and loans of the periodic certification of collateral which is sent to the banking board.~~

~~12. Money Market Mutual Funds registered under the Investment Company Act of 1940 which: 1) are “no-load” (i.e. no commission fee shall be charged on purchases or sales of shares); 2) have a constant daily net asset value per share (usually \$1.00); 3) limit assets of the fund to those securities authorized in this Policy; 4) have a maximum stated maturity and weighted average maturity in accordance with Federal Securities Regulation 2A-7; and 5) are rated either AAA by Standard and Poor’s or AAA by Moody’s or AAA/V-1+ by Fitch IBCA, Inc. The District’s investment shall not exceed 10 percent of the outstanding shares of any one money market mutual fund at the time of purchase.~~

~~If the District uses a “sweep” account at the bank so that any remaining balances at the end of the day in any of the District’s bank accounts can be captured in one account and invested overnight in a money market mutual fund designated by the District, the District’s “sweep” account will not be subject to the limits described in the preceding paragraph because of the short-term nature (overnight) of the investment.~~

~~13. Municipal Notes or Bonds that are an obligation of any State of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any such governmental entities which qualify under Colorado statutes. The municipal bonds or notes must be general obligation or revenue bonds with an effective final maturity of five years or less (the maturity for a pre-refunded bond will be its refunding date) and a rating of Aa or better by Moody’s or AA or better by Standard and Poor’s: original obligation or revenue bonds that are insured by the MBI, FGIC, or AMBAC Indemnity Corporation (as long as MBIA, FGIC, and AMBAC maintain their AAA rating), or are escrowed to maturity in U.S. Treasury collateral.~~

~~14. Guaranteed Investment Contracts shall, at the time the contract or agreement is entered into, be only with a party providing the investment whose long-term credit rating is rated in one of the two highest rating categories by Moody’s, Standard and Poor’s or Fitch. The final maturity shall not exceed five years. The District has the option of varying the dollar amount and the timing of the draw down by an agreed upon percentage of the anticipated draw down and a specified number of days. The District and the other party to the agreement will specify the details of the allowable variance when the agreement is structured. In addition, the District may draw down in excess of the variance up to the remaining balance in the agreement for a bona fide, unanticipated cash need, subject in all cases to compliance with applicable Colorado law.~~

The District will strictly interpret the ~~foregoing~~ list of authorized securities identified in C.R.S. 24-75-601.1.

Investment Diversification

~~It is the intent of the District to diversify the investments within the portfolio to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions, or maturities. The asset allocation in the portfolio should, however, be flexible depending upon the outlook for the economy, the securities market, and the District’s anticipated~~

~~cash flow needs. A minimum of 50 percent of the investable assets of the District will be maintained in aggregate in the following:~~

~~U.S. Treasury Obligations
Federal Instrumentality Securities
Repurchase Agreements
Local Government Investment Pools
Money Market Mutual Funds
Time Certificates of Deposit
Flexible Repurchase Agreements
Guaranteed Investment Contracts~~

Selection of Broker/Dealers and Financial Institutions Acting As Broker/Dealers

The District shall purchase securities only from authorized broker/dealers. To be eligible, a firm must meet at least one of the following criteria:

1. Be recognized as a Primary Dealer by the Federal Reserve Bank of New York,
2. Qualify under Securities and Exchange Commission Rule 15c3-1 (Uniform Net Capital Rule).

Broker/dealers shall be selected on the basis of their expertise in public cash management and their ability to provide service to the District's account.

In the event that an external investment advisor is not used in the process of recommending a particular transaction in the Portfolio, authorized broker/dealers shall attest in writing that they have received a copy of this Policy.

If the District engages the services of an investment advisory firm to assist in the management of its Portfolio and to purchase and sell investment securities in accordance with this Policy, the firm shall be authorized to utilize its own approved list of broker/dealers.

Competitive Transactions

All investment transactions shall be executed competitively with authorized broker/dealers. At least three broker/dealers shall be contacted for each transaction and their bid or offering prices shall be recorded. If the District is offered a security for which there is no other readily available competitive offering, quotations for comparable or alternative securities will be documented.

~~See attached Appendix sections (2.3), (2.5), (3.5), and (4)
C.R.S. § 24-75-601.1. Legal investments of public funds~~

~~The District shall maintain a list of authorized broker/dealers and financial institutions which are approved for investment purposes, and it shall be the policy of the District to purchase securities only from those authorized institutions and firms.~~

~~To be eligible, a broker/dealers or bank must meet at least one of the following criteria:~~

- ~~1. Be a member in good standing of the National Association of Securities Dealers AND registered with the State of Colorado, Department of Regulatory Agencies or; (This is to include Colorado banks, S & Ls and local brokers.)~~
- ~~2. Be recognized as a Primary Dealer by the Market Reports Division of the Federal Reserve Bank of New York; or;~~
- ~~3. Report voluntarily to the Market Reports Division of the Federal Reserve Bank of New York. (This is to include national banks.)~~

~~Each broker/dealer or financial institution will be sent a copy of this Policy and a list of those persons authorized to execute investment transactions. Each firm must acknowledge receipt of such materials to qualify for the Approved List of Brokers/Dealers and Financial Institutions.~~

~~Broker/dealers and other financial institutions will be selected by the District on the basis of their expertise in public cash management and their ability to provide service to the District's account. Each broker/dealer, bank, or savings and loan that has been authorized shall be required to submit and annually update a District approved Broker/Dealer Information Request Form which includes the firm's most recent financial statements. The District shall maintain a file of the most recent Broker/Dealer Information Forms submitted by each firm approved for investment purposes.~~

~~The District may purchase commercial paper from direct issuers as long as they meet the criteria outlined in item 3 of the Eligible Investments and Transactions section of this Investment Regulation.~~

Selection Of Banks And Savings And Loans As Depositories And Providers Of General Banking Services

The District shall maintain a list of authorized banks and savings and loans which are approved to provide depository and other banking services for the District. To be eligible for authorization, state or national banks and state or federally chartered savings and loans must be state approved depositories per C.R.S. 24-75-603 et seq. (as evidenced by a certificate issued by the State Banking Board) and insured by the FDIC. Banks or savings and loans who fail to meet this criteria, or in the judgment of the District's finance staff no longer offer adequate safety to the District, will be removed from the list. The list will be updated annually to ensure current compliance.

The intent of the District is to support the financial institutions located within the District. Investments in institutions located outside of the District will be made only when competitive rate, adequate collateral, allocation of assets and stability do not permit the use of a local financial institution, or when investment timing or other substantial reasons make use of a local financial institution incompatible with the best interests of the District.

Safekeeping And Custody

The District shall approve one or more financial ~~institutions- banks~~ to provide safekeeping and custodial services for the District. A District approved Safekeeping Agreement shall be executed

~~with each custodian bank prior to utilizing that bank's safekeeping services. The District's safekeeping banks shall qualify as eligible public depositories as defined in C.R.S. § 11-10.5-103 and be a Federal Reserve member financial institution. Custodian banks will be selected on the basis of their ability to provide service to the District's account and the competitive pricing of their safekeeping related services.~~

~~The purchase and sale of securities and repurchase agreement transactions shall be settled on a delivery-versus-payment basis. All investment securities purchased by the District shall be delivered by either book entry and will be held in third-party safekeeping by the District approved custodian bank, its correspondent bank or the Depository Trust Company ("DTC").~~

~~The District's custodian will be required to furnish the District a monthly report of safekeeping activity, including a list of month-end holdings.~~

~~Except for non-negotiable Certificates of Deposit, Local Government Investment Pools, and Money Market Funds, all investment securities purchased by the District will be delivered by either book entry or physical delivery and will be held in third party safekeeping by a District approved custodian bank, its correspondent New York bank, or the Depository Trust Corporation (DTC).~~

~~All non-book entry (physical delivery) securities shall be held by the custodian bank's correspondent bank in New York City and the custodian bank shall issue a safekeeping receipt to the District evidencing that the securities are held by the correspondent bank for the District. The District may utilize the services of the Depository Trust Corporation (DTC), through the custodian bank, as a depository for delivery of non-writable securities.~~

~~It is the objective of the District that all owned securities be perfected in the name of the District. The District's perfected ownership of all book entry securities shall be evidenced by a safekeeping receipt issued to the District by the custodian bank who acts as the District's safekeeping agent. The safekeeping receipt shall state that the securities are held in the Federal Reserve system either in a Customer Account/1030 for the custodian bank which will name the District as "customer" or in a Trust Account/1050 with the trust department named as agent for the District.~~

~~All custodied securities that are registered shall be registered in the name of the District or in the name of a nominee of the District or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee. The District's custodian will be required to furnish the District with monthly reports of holdings of custodied securities.~~

Reporting

~~Accounting and reporting on the District's investments and deposits shall conform with Generally Accepted Accounting Principles (GAAP) and the accounting standards promulgated by the Governmental Accounting Standards Board (GASB). On a monthly basis, an investment report shall be prepared and submitted to the Superintendent or his designee and the Board of Education Finance Sub-Committee listing the investments held by the District, the current market valuation~~

~~of the investments, and performance results. The report shall include a summary of investment earnings during the period. A record shall be maintained by the District of all bids and offerings for security transactions in order to ensure that the District receives competitive pricing.~~

Ethics And Conflicts Of Interest

Officers and employees involved in the investment process shall not engage in personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the Superintendent any material financial interest in financial institutions that conduct business with the District and they shall further disclose any large personal financial investment positions that could be related to the performance of the District's portfolio. Employees and officers shall subordinate their personal investment transactions to those of the District particularly with regard to the timing of purchases and sales.

Adopted: June 20, 2000

Revised: December 3, 2002

Revised: July 6, 2004

Revised: October 18, 2005

Revised: August 6, 2013

Revised: _____

LEGAL REFS.:

C.R.S. 11-10.5-101 et seq.

C.R.S. 11-47-101 et seq.

C.R.S. 24-75-601 et seq.

C.R.S. 24-75-701 et seq.

CROSS REF.:

~~DG/DGA, Banking Services (and Deposit of Funds)~~

Appendix

~~C.R.S. 24-75-601.1~~

~~COLORADO REVISED STATUTES~~

~~*** This document reflects changes current through all laws passed at the Second Regular and First Extraordinary Sessions of the Sixty-Eighth General Assembly of the State of Colorado 2012 and Constitutional and Statutory amendments approved at the General Election on November 6, 2012 ***~~

~~TITLE 24. GOVERNMENT -- STATE STATE FUNDS ARTICLE 75. STATE FUNDS PART 6. FUNDS -- LEGAL INVESTMENTS~~

~~C.R.S. 24-75-601.1 (2012)~~

~~24-75-601.1. Legal investments of public funds~~

~~(1) It is lawful to invest public funds in any of the following securities:~~

~~(a) Any security issued by, fully guaranteed by, or for which the full credit of the United States treasury is pledged for payment and, notwithstanding paragraph (a) of subsection (1.3) of this section, inflation indexed securities issued by the United States treasury. The period from the date of settlement of this type of security to its maturity date shall be no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.~~

~~(b) (1) Any security issued by, fully guaranteed by, or for which the full credit of the following is pledged for payment: The federal farm credit bank, the federal land bank, a federal home loan bank, the federal home loan mortgage corporation, the federal national mortgage association, the export import bank, the Tennessee valley authority, the government national mortgage association, the world bank, or an entity or organization that is not listed in this paragraph (b) but that is created by, or the creation of which is authorized by, legislation enacted by the United States congress and that is subject to control by the federal government that is at least as extensive as that which governs an entity or organization listed in this paragraph (b). The period from the date of settlement of this type of security to its maturity date shall be no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.~~

~~(H) No subordinated security may be purchased pursuant to this paragraph (b).~~

~~(c) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)~~

~~(d) (I) Any security that is a general obligation of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any of such governmental entities.~~

~~(II) No security may be purchased pursuant to this paragraph (d) unless:~~

~~(A) At the time of purchase, the security is rated in one of its two highest rating categories by two or more nationally recognized organizations that regularly rate such obligations.~~

~~(B) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)~~

~~(C) The period from the date of settlement of this type of security to its maturity date shall be no more than three years unless the governing body of the public entity authorizes investment for a period in excess of three years.~~

~~(e) (I) Any security that is a revenue obligation of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any of such governmental entities.~~

~~(II) No security may be purchased pursuant to this paragraph (e) unless, at the time of purchase, the security is rated in its highest rating category by two or more nationally recognized organizations that regularly rate such obligations.~~

~~(III) The period from the date of settlement of this type of security to its maturity date shall be no more than three years.~~

~~(f) and (g) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)~~

~~(h) Any security of the investing public entity or any certificate of participation or other security evidencing rights in payments to be made by the investing public entity under a lease, lease-purchase agreement, or similar arrangement;~~

~~(h.5) Any certificate of participation or other security evidencing rights in payments to be made by a school district under a lease, lease-purchase agreement, or similar arrangement if the security, at the time of purchase, carries at least two credit ratings from any of the nationally recognized credit rating agencies and is rated at or above "A" by all such credit agencies that have provided a rating;~~

~~(i) Any interest in any local government investment pool organized pursuant to part 7 of this article;~~

~~(j) The purchase of any repurchase agreement concerning any securities referred to in paragraph (a) or (b) of this subsection (1) that can otherwise be purchased under this section if all of the conditions of subparagraphs (I) to (VI) of this paragraph (j) are met:~~

~~(I) The securities subject to the repurchase agreement must be marketable.~~

~~(II) The title to or a perfected security interest in such securities along with any necessary transfer documents must be transferred to the investing public entity or to a custodian acting on behalf of the investing public entity.~~

~~(III) Such securities must be actually delivered versus payment to the public entity's custodian or to a third-party custodian or third-party trustee for safekeeping on behalf of the public entity.~~

~~(IV) The collateral securities of the repurchase agreement must be collateralized at no less than one hundred two percent and marked to market no less frequently than weekly.~~

~~(V) The securities subject to the repurchase agreement may have a maturity in excess of five years.~~

~~(VI) The period from the date of settlement of a repurchase agreement to its maturity date shall be no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.~~

~~(j.5) Any reverse repurchase agreement concerning any securities referred to in paragraph (a) or (b) of this subsection (1) that can otherwise be purchased under this section if all of the conditions of subparagraphs (I) to (VII) of this paragraph (j.5) are met:~~

~~(I) Any necessary transfer documents must be transferred to the investing public entity.~~

~~(II) Cash must be received by the investing public entity or a custodian acting on behalf of the investing public entity in a deliver versus payment settlement.~~

~~(III) The cash received from a reverse repurchase agreement must be collateralized at no more than one hundred and five percent and marked to market no less frequently than weekly.~~

~~(IV) The repurchase agreement is not greater than ninety days in maturity from the date of settlement unless the governing body of the public entity authorizes investment for a period in excess of ninety days.~~

~~(V) The counter-party meets the credit conditions of an issuer that would qualify under paragraph (m) of this subsection (1).~~

~~(VI) The value of all securities reversed under this paragraph (j.5) does not exceed eighty percent of the total deposits and investments of the public entity.~~

~~(VII) No securities are purchased with the proceeds of the reverse repurchase agreement that are greater in maturity than the term of the reverse repurchase agreement.~~

~~(j.7) A securities lending agreement in which the public entity lends securities in exchange for securities authorized for investment in this section, if all of the following conditions are met:~~

~~(I) Any necessary transfer documents must be transferred to the investing public entity.~~

~~(II) Securities must be received by the investing public entity or a custodian acting on behalf of the investing public entity in a simultaneous settlement.~~

~~(III) The securities received in the securities lending agreement must be no less than one hundred two percent of the value of the securities lent and marked to market no less frequently than weekly.~~

~~(IV) The counter party meets the conditions of an issuer specified in paragraph (m) of this subsection (1).~~

~~(V) In the case of a local government, the securities lending agreement shall be approved and designated by written resolution adopted by a majority vote of the governing body of the local government, which resolutions shall be recorded in its minutes.~~

~~(k) Any money market fund that is registered as an investment company under the federal "Investment Company Act of 1940", as amended, if, at the time the investing public entity invests in such fund:~~

~~(I) The investment policies of the fund include seeking to maintain a constant share price;~~

~~(II) No sales or load fee is added to the purchase price or deducted from the redemption price of the investments in the fund and no fee may be charged unless the governing body of the public entity authorizes such a fee at the time of the initial purchase;~~

~~(III) The investments of the fund consist only of securities with a maximum remaining maturity as specified in rule 2a-7 under the federal "Investment Company Act of 1940", as amended, or any successor regulation under such act regulating money market funds, so long as such rule 2a-7 is not amended to, or such successor regulation does not, increase the maximum remaining maturity of such securities to a period that is greater than three years, and if the fund has assets of one billion dollars or more, or has the highest current credit rating from one or more nationally recognized organizations that regularly rate such obligations.~~

~~(IV) The dollar-weighted average portfolio maturity of the fund meets the requirements specified in rule 2a-7 under the federal "Investment Company Act of 1940", as amended, or any successor regulation under such act regulating money market funds, so long as such rule 2a-7 is not amended to increase the dollar-weighted average portfolio maturity of a fund to a period greater than one hundred eighty days.~~

~~(l) (I) Any guaranteed investment contract, guaranteed interest contract, annuity contract, or funding agreement if, at the time the contract or agreement is entered into, the long-term credit rating, financial obligations rating, claims paying ability rating, or financial strength rating of the party, or of the guarantor of the party, with whom the public entity enters the contract or agreement is, at the time of issuance, rated in one of the two highest rating categories by two or more nationally recognized securities rating agencies that regularly issue such ratings.~~

~~(II) (Deleted by amendment, L. 2004, p. 950, 7, effective May 21, 2004.)~~

~~(III) (A) Except as provided in sub-subparagraph (B) of this subparagraph (III), the contracts or agreements purchased under this paragraph (l) shall not have a maturity period greater than three years.~~

~~(B) Contracts or agreements with a maturity period greater than three years shall only be purchased with proceeds of the sale of securities of a public entity and proceeds of certificates of participation or other securities evidencing rights in payments to be made by a public entity under a lease, lease-purchase agreement, or other similar arrangement or if purchased by revenues pledged to the payment of such securities or certificates; except that no contract or agreement may be purchased pursuant to this paragraph (l) with the proceeds of any of the foregoing that are held in an escrow or otherwise for the purpose of~~

~~refunding bonds or other obligations of a public entity.~~

~~(m) (I) Any corporate or bank security that is denominated in United States dollars, that matures within three years from the date of settlement, that at the time of purchase carries at least two credit ratings from any of the nationally recognized statistical ratings organizations, and that is not rated below:~~

~~(A) "A1, P1, or F1" or their equivalents by either rating used to fulfill the requirements of this subparagraph (I) if the security is a money market instrument such as commercial paper or bankers' acceptance; or~~

~~(B) "AA- or Aa3" or their equivalents by either rating used to fulfill the requirements of this subparagraph (I) if the security is any other kind of security.~~

~~(H) At no time shall the book value of a public entity's investment in notes evidencing a debt pursuant to this paragraph (m) exceed the following:~~

~~(A) Fifty percent of the book value of the public entity's investment portfolio unless the governing body of the public entity authorizes a greater percent of such book value; or~~

~~(B) Five percent of the book value of the public entity's investment portfolio if the notes are issued by a single corporation or bank unless the governing body of the public entity authorizes a greater percent of such book value.~~

~~(H) No subordinated security may be purchased pursuant to this paragraph (m). No security issued by a corporation or bank that is not organized and operated within the United States may be purchased pursuant to this paragraph (m) unless the governing body of the public entity authorizes investment in such securities.~~

~~(n) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)~~

~~(1.3) (a) Except as provided in paragraph (a) of subsection (1) of this section and except as provided in paragraph (b) of this subsection (1.3), public funds shall not be invested in any security on which the coupon rate is not fixed, or a schedule of specific fixed coupon rates is not established, from the time the security is settled until its maturity date, other than shares in qualified money market mutual funds, unless the coupon rate is:~~

~~(I) Established by reference to the rate on a United States treasury security with a maturity of one year or less or to the United States dollar London interbank offer rate of one year or less maturity, or to the cost of funds index or the prime rate as published by the federal reserve; and~~

~~(H) Expressed as a positive value of the referenced index plus or minus a fixed number of basis points.~~

~~(b) A municipal index may be used for the investment of bond or note accounts from issues with coupons linked to the same index.~~

~~(c) For purposes of this section, "maturity date" means the last possible date, barring default, that principal can be repaid to the purchaser.~~

~~(1.5) Any firm that sells any financial instrument that fails to comply with the provisions of this section to any public entity in the state of Colorado shall, upon demand of the public~~

~~entity through the state treasurer, repurchase such instruments for the greater of the original purchase principal amount or the original face value, plus any and all accrued interest, within one business day of the demand.~~

~~(2) Investments made pursuant to this section shall be made in conformance with the standard set forth in section 15-1-304, C.R.S.~~

~~(2.3) Public entities shall adopt criteria designating eligible broker-dealers for the purchase of term securities, except for bond proceed investments, under this section.~~

~~(2.5) (a) If a public entity invests public moneys through an investment firm offering for sale corporate stocks, bonds, notes, debentures, or a mutual fund that contains corporate securities, the investment firm shall disclose, in any research or other disclosure documents provided in support of the securities being offered, to the public entity whether the investment firm has an agreement with a for-profit corporation that is not a government-sponsored enterprise, whose securities are being offered for sale to the public entity and because of such agreement the investment firm:~~

~~(I) Had received compensation for investment banking services within the most recent twelve months; or~~

~~(II) May receive compensation for investment banking services within the next three consecutive months.~~

~~(b) For the purposes of this subsection (2.5), "investment firm" means a bank, brokerage firm, or other financial services firm conducting business within this state, or any agent thereof.~~

~~(3) Nothing in this section is intended to limit:~~

~~(a) The power of any public entity to invest any public funds in any security or other investment permitted to such public entities under any other valid law of the state; or~~

~~(b) The power of any home rule city, city and county, town, or county to invest any public funds in any security or other investment permitted under the charter or ordinance of such home rule city, city and county, town, or county; or~~

~~(c) The authority of the state board of regents to invest any funds available to the board in any security or other investment otherwise provided by law.~~

~~(3.5) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)~~

~~(4) Nothing in this section is intended to apply to public funds held or invested as part of any pension plan, full or supplemental retirement plan, or deferred compensation plan.~~

HISTORY: Source: . L. 89: Entire section added, p. 1102, § 2, effective July 1. L. 91: (4) amended, p. 1917, § 39, effective June 1. L. 93: (1)(k)(II), IP(1)(k)(III), and (1)(k)(III)(C) amended and (1)(k)(IV) added, p. 1260, § 7, effective June 6. L. 94: (1)(k)(III) amended and (1)(m) added, p. 449, § 1, effective March 29. L. 95: IP(1)(j), (1)(k)(II), (1)(k)(III)(C), and (1)(k)(III)(D) amended and (1.3) and (1.5) added, p. 772, § 1, effective May 24. L. 2000: (1)(n) added, p. 182, § 2, effective August 2; (3.5) added, p. 811, § 1, effective August 2. L. 2002: (1)(d)(II) and (3.5) amended, pp. 258, 259, § § 2, 3, effective April 12. L. 2003: (1)(l)(I) amended, p. 623, § 40, effective July 1; (2.5) added, p. 674, § 3, effective

~~August 6.L. 2004: (1)(j)(I) and (1)(I) amended, p. 950, § 7, effective May 21.L. 2006: Entire section amended, p. 552, § 3, effective August 7.L. 2009: (1)(h.5) added, (SB 09-256), ch. 294, p. 1569, § 36, effective May 21.L. 2012: (1)(b)(II) and (1)(m)(I) amended and (1)(m)(II) added, (HB 12-1005), ch. 6, p. 19, § 1, effective March 7.~~

~~Cross references: For the legislative declaration contained in the 2002 act amending subsections (1)(d)(II) and (3.5), see section 1 of chapter 94, Session Laws of Colorado 2002.~~

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RECENT ANNOTATIONS

~~When a public entity purchases unlawful securities under this section, disgorgement is not an available remedy against the seller. While the legislature expressly provided a damages remedy, an equitable remedy, and a regulatory remedy, it did not provide a disgorgement remedy under a theory of common law restitution. Under these circumstances, the addition of disgorgement would impermissibly alter the extensive and detailed remedial scheme adopted by the legislature. *Capital Sec. of Am. v. Griffin*, 2012 CO 39, 278 P.3d 342.~~

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ANNOTATION

~~This section is not preempted by federal law. It is not preempted by 15 U.S.C. § 77r of the National Securities Markets Improvement Act because it does not impose any broad registration or qualification requirements or other merit-based conditions on the offering or sale of covered securities within the state, nor does it achieve a similar objective by totally prohibiting the sale of such securities within the state for failure to fulfill a merit-based condition. *Griffin v. Capital Sec. of Am.*, --- P.3d --- (Colo. App. 2010), rev'd on other grounds, 2012 CO 39, 278 P.3d 342.~~

~~It is not preempted by the Federal Home Loan Mortgage Corporation Act, as the act contains an express allowance for state laws such as the one contained in this section. The state's enforcement of this section by holding violators liable does not create a conflict. *Griffin v. Capital Sec. of Am.*, --- P.3d --- (Colo. App. 2010), rev'd on other grounds, 2012 CO 39, 278 P.3d 342.~~

~~Subsection (1.5) does not create an implied damages remedy. Because the legislature expressly provided three statutory remedies for violations of this section pursuant to §§ 11-51-402, 11-51-410, and 24-75-601.5, the court refused to infer one. *Griffin v. Capital Sec. of Am.*, --- P.3d --- (Colo. App. 2010).~~

