

An Introduction to

School District Fiscal Emergency

A brief manual designed to acquaint newly appointed members of a school district financial planning and supervision commission with guidelines for the commission's operation.

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Prepared by the State Auditor's Office

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Financial Planning and Supervision Commission

Chapter 3316: School District Fiscal Emergencies

As a newly appointed member of a financial planning and supervision commission (the commission), you are being asked to help guide a school district that is in financial trouble back to fiscal stability. The purpose of this document is to help you understand the role of the commission. This document begins with a brief summary of the nature of a fiscal emergency and the purpose of the commission. It proceeds to provide a detailed discussion of the commission's structure, its powers and duties, its operation and its responsibilities.

General Overview of a Fiscal Emergency

Chapter 3316 of the Ohio Revised Code governs the actions that the State may take when a school district is experiencing financial trouble. Depending on the severity of the problem, a school district may be placed in fiscal caution, fiscal watch or fiscal emergency. A declaration of fiscal caution is made by the Ohio Department of Education. It is the responsibility of the Auditor of State to declare a school district to be in fiscal watch or fiscal emergency. Both the Auditor and the Department are available to provide assistance to help a financially struggling school district regain its financial footing.

A school district placed in fiscal caution or fiscal watch is required to prepare a financial recovery plan acceptable to the Department. The failure of a school district in caution to submit an acceptable plan results in the school district being placed in fiscal watch; if a school district in fiscal watch is unable to submit an acceptable plan, it is placed in fiscal

emergency. There are four additional conditions that either permit or require that a school district be placed in fiscal emergency, ranging from the failure to adhere to a financial recovery plan to forecasting a significant general fund deficit by the end of the fiscal year. (For a discussion of funds and the basic accounting process followed by the school district, see the Appendix.)

Once a school district is declared in fiscal emergency, a commission is formed. The primary function of the commission is to prepare of a long-range financial recovery plan designed to remedy the school district's financial problems. The plan is intended to be a detailed, step-by-step guide agreed to and accepted by both the board of education and the commission. Once the plan is in place, the role of the commission is to insure that the plan is followed.

The Auditor of State's Office serves as the financial supervisor to a commission, providing technical support and advice. In addition to serving as financial supervisor, the Auditor of State's Office is required to review the school district's existing system of accounting and reporting and issue a report identifying needed improvements. The Auditor of State's Office, on their own initiative or at the request of the State Superintendent of Public Instruction, may also conduct a performance audit designed to discover areas of the school district's operation where potential cost savings exist.

The activity of the commission continues until the school district has eliminated the fiscal emergency conditions that prompted the initial declaration; has prepared a financial forecast that demonstrates that the school district will remain out of emergency for the next five years; has made, or is in the process of making, the necessary improvements to its accounting system; and has demonstrated that the objectives of the financial recovery plan are being met. If the fiscal emergency is terminated prior to the complete implementation of an effective financial accounting and reporting system, the Auditor of State is required to monitor the progress of the school district to insure full implementation within two years from the date the fiscal emergency was terminated.

Organization of the Commission (R.C. §3316.05)

When a fiscal emergency has been declared by the Auditor of State, a financial recovery planning and supervision commission is established. A commission consists of five voting members. Two members are ex-officio while three are appointed. The commission must include women members, as well as at least one Hispanic or African-American member if Hispanic and African-American students together constitute 20 percent or more of the student population.

Ex-Officio Members

The director of budget and management and the State Superintendent of Public Instruction serve as ex-officio members representing the State. Each ex-officio member may designate an individual to attend meetings on the member's behalf. A designee, when present, is to be counted in determining whether a quorum is present and may vote and participate in all proceedings and actions of the commission. All designations must be in writing, executed by the ex-officio member and filed with the secretary of the commission. Designations may be changed with due regard for the need for continuity.

Appointed Members

Three local members of the commission are nominated and appointed within 15 days of the declaration of fiscal emergency. One member is appointed by the Governor, one by the State Superintendent of Public Instruction and one by the mayor of the municipal corporation having the largest number of residents in the school district or, if more than 50 percent of the residents of the district reside outside the municipal corporation containing the greatest number of district residents or if there is no municipal corporation located within the district, by the county auditor. The appointees serve for the life of the commission, subject to death, resignation, incapacity or ineligibility to serve. In the event of a resignation or other vacancy, the vacancy must be filled by the original appointing authority within 15 days.

Initial Meeting and Quorum

Immediately after the formation of the commission, the State Superintendent of Public Instruction calls the first meeting of the commission. Written notice of the time, date and location must be provided to each member at least 48 hours prior to the meeting. The State Superintendent of Public Instruction or the appointed designee serves as the chairperson. The commission must elect a vice-chair and may appoint a secretary and other officers as needed. These appointees may, but need not, be members of the commission. The commission may adopt and amend by-laws and rules for the conduct of its affairs.

Three members constitute a quorum for conducting business. For any action taken by a vote of the commission, three affirmative votes are required. All members of the commission may vote on all matters coming before the commission, regardless of any other office the member may hold, and may continue to exercise all functions of the other office with respect to the school district, its officers or the commission.

The school district must provide reasonable office space for the commission to conduct its business. Where feasible, the space should be in the principal building housing the administrative offices of the school district.

Auditor of State's Role

The Auditor of State serves as the financial supervisor to the commission, unless the Auditor elects to contract for that service. If requested, the Auditor will designate employees of the Auditor of State's office to assist the commission.

Attorney General's Role

The Attorney General serves as legal counsel for the commission.

State Agency Participation

Upon request of the commission, the head of any state agency will temporarily assign accounting and budgeting personnel to assist the commission.

Open Meetings

Meetings of the commission are subject to the Open Meetings law, R.C. § 121.22. Meetings may be held by teleconference, however, and commission members not physically present at the meeting may be counted toward making a quorum and may vote on actions taken by the commission provided provisions are made for public attendance at any location involved in the teleconference.

Qualifications and Disclosure Responsibilities of the Appointed Members (R.C. §3316.05)

The commission members appointed by the Governor and the mayor or county auditor must have knowledge and experience in financial matters, financial management or business organization or operations, and possess at least five years experience in either the public or private sector in the management of a business or financial enterprise, or in management consulting, public accounting or other similar professional activity. Each member's residence, office or principal place of business must be located within the school district.

The member appointed by the State Superintendent of Public Instruction must be the parent of a child currently enrolled in the school district.

The appointed members of the commission are not required to file a financial disclosure statement with the Ohio Ethics Commission; however, each appointed member is required to file a signed written statement with the commission setting forth the general nature of sales of goods, property, or services or of loans to the school district in which the appointees or members of their families have a pecuniary interest. Members must also disclose if they serve as an officer, director or partner or if they, or an immediate family member, owns more than 5 percent in any corporation, partnership or enterprise that has a pecuniary interest in any sale or loan to the school district. The statement must be supplemented from time to time to reflect any changes in the general nature of any such sales or loans.

Commission Powers and Duties (R.C. §§ 3316.06, 3316.07)

Commission Powers

The commission may elect to assume any of the powers and duties of the school board it considers necessary, including all powers related to personnel, curriculum and legal issues in order to successfully implement the actions described in the financial recovery plan. The plan will specify the level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency and enumerate the powers and duties of the commission and the powers and duties of the school board. Every commission has the following powers:

- 1 To review or develop tax budgets, tax levy and bond and note resolutions, appropriation measures and certificates of estimated resources of the school district to ensure that all are consistent with the financial recovery plan and a balanced budget for the current year; and to request and review any supporting documents;
- 2 To inspect and secure copies of any document, resolution or instrument pertaining to the effective financial accounting and reporting system, debt obligations, debt limits, financial recovery plan, balanced appropriation budgets, appropriation measures, report of audit, statement or invoice, or other worksheet or record of the school district;
- 3 To inspect and secure copies of any document, instrument, certification, records of proceedings, or other worksheet or records of the county budget commission, county auditor or other official or employee of the school district or any other political subdivision or agency of government of the state;
- 4 To review, revise and approve determinations and certifications affecting the school district made by the county budget commission or county auditor pursuant to Chapter 5705 of the Ohio Revised Code to ensure that such determinations and certifications are consistent with the laws of the state;
- 5 To bring civil actions, including mandamus, to enforce or ensure compliance with actions taken by the commission;

- 6 After consultation with the officials of the school district and the Auditor of State, to implement or require implementation of any necessary or appropriate steps to bring the books of account, accounting systems, and financial procedures and reports of the school district into compliance with requirements prescribed by the Auditor of State, and to assume responsibility for achieving such compliance and for making any desirable modifications and supplementary systems and procedures pertinent to the school district;
- 7 To assist or provide assistance to the school district or to assume the total responsibility for the structuring or the terms of, and the placement for sale of, debt obligations of the school district;
- 8 To perform all other powers, duties and functions that may be necessary in order for the commission to fulfill its responsibilities;
- 9 To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the exercise of its powers;
- 10 To consult with officials of the school district and make recommendations or assume the responsibility for implementing cost reductions and revenue increases to achieve balanced budgets and carry out the financial recovery plan.
- 11 To make reductions in force.

Reductions in Force (RIF)

The Commission is empowered to make reductions in force (RIF) in order to balance the school district's budget. The statute dictates that the commission's authority to make reductions in force is not restricted by any other statutory provision, collective bargaining agreement or employment contract. However, in implementing a reduction in force, the commission is required to:

- 1 First reduce administrative and non-teaching employees of the school district, giving due regard to ensuring the school district's ability to maintain the personnel, programs and services essential to providing an adequate educational program.

- 2 Implement the layoff procedures contained in R.C. §§124.321 to 124.327 in reducing administrative and non-teaching personnel in city school districts.
- 3 In non-city school districts, when the commission does a RIF of administrative and non-teaching employees, it must give preference to those employees with continuing contracts or non-probationary status and who have greater seniority.

If revenues and expenditure cannot be balanced by reasonable reductions in administrative and non-teaching employees, the commission may also make reasonable reductions in the number of teaching contracts. If the commission finds it necessary to suspend teaching contracts, it shall suspend them in accordance with the recommendations of the superintendent of schools who shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. (See R.C. §3319.17(C).) The commission shall consider a reduction in non-classroom teachers before classroom teachers.

Commission Duties

Review of Appropriation Measures

During the fiscal emergency period, the commission shall review the school district's appropriation measure for the next fiscal year, and do the following:

- 1 Review and determine the adequacy of all revenues to meet all expenditures for the fiscal year;
- 2 Review and determine the extent of any deficiency of revenues to meet expenditures;
- 3 Require the school district or school district superintendent to provide justification documents to substantiate, to the extent and in the manner considered necessary, any item of revenue or appropriation; and,
- 4 Report on its determination no later than 60 days after receipt of an appropriation measure for the next fiscal year.

When the period of fiscal emergency begins more than three months before the end of the current fiscal year, the report and determination shall

also be made for the appropriation measure for the current fiscal year, and the report shall be issued within 60 days after taking office.

Monthly Levels of Expenditure

During the fiscal emergency period, the commission must require the school district board to establish, by resolution, monthly levels of expenditures and encumbrances consistent with the financial recovery plan and the commission's annual review of revenues compared to expenditures, or establish such levels itself. If the commission allows the board to make expenditures, the commission must monitor the monthly levels of expenditures and encumbrances and require documentation to substantiate any departure from any approved level. Written approval of the commission is required for the school district board to make any expenditure apart from the approved level.

When making its determination with regard to appropriation measures and monthly expenditures, the commission may rely on any information considered in its judgment to be reliable or material. The commission is not restricted by any tax budget or certificate or any other document which the school district may have adopted or received from any other governmental agency.

Annual Report

Each year while the school district is in fiscal emergency, on or before the first day of April, the commission is required to report to the Speaker of the House of Representatives and the President of the Senate concerning the progress of the school district in eliminating fiscal emergency conditions, any failures to comply with Chapter 3316 and to make recommendations for further actions. Such actions may include legislative action to make provisions of law more effective or to enhance local revenue or financing capabilities. The commission may make interim reports as it deems appropriate and must provide additional reports as requested by either house of the General Assembly.

The Financial Recovery Plan (R.C. §§ 3316.06 and 3316.061)

In the approach created by the Ohio legislature, the key to a school district's eventual financial recovery is the development of a sound, complete and detailed financial recovery plan. The primary responsibility of the commission is the development of a workable plan and continuing oversight of the school district to insure that the plan is being followed.

The Commission's Role

Within 120 days after the first meeting of the commission, the commission must adopt a detailed financial recovery plan and immediately submit the plan to the State Superintendent of Public Instruction. During the formulation of the plan, the commission is required to seek appropriate input from the school district board and from the community. The plan is to contain the following:

- 1 Actions to be taken to:
 - a Eliminate all fiscal emergency conditions;
 - b Satisfy any judgments, past due accounts payable, and all past due and payable payroll and fringe benefits;
 - c Eliminate the deficits in all deficit funds;
 - d Restore to special funds any moneys from such funds that were used for purposes not within the purposes of such funds, borrowed from such funds by the purchase of debt obligations of the school district with the moneys of such funds or missing from the special funds and not accounted for, if any;
 - e Balance the budget, avoid future deficits in any funds and maintain on a current basis payments of payroll, fringe benefits and all accounts;
 - f Avoid any fiscal emergency condition in the future;
 - g Restore the ability of the school district to market longterm general obligation bonds under provisions of law applicable to school districts generally.

- 2 The management structure that will enable the school district to take the actions enumerated in (1) above, and:
 - a The level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency;
 - b The powers and duties of the commission and the powers and duties of the school board during that period. The commission may elect to assume any of the powers and duties of the school district it considers necessary, including all powers related to personnel, curriculum and legal issues in order to successfully implement the actions described in (1) above.
- 3 The target dates of the commencement, progress upon, and completion of the above actions, and a reasonable period of time expected to be required to implement the plan. The commission shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the plan. The plan shall be consistent with that time schedule.
- 4 The amount and purpose of any debt obligations that will be issued, together with assurances that any debt obligations will not exceed debt limits supported by appropriate certifications by the school district and the county auditor.

Immediately following its adoption, the commission submits the recovery plan to the State Superintendent of Public Instruction for approval. The State Superintendent evaluates the plan and either approves or disapproves it within 30 calendar days from the date of its submission. If the plan is disapproved, the State Superintendent must recommend modifications that will render it acceptable. The commission may not implement the financial recovery plan until the State Superintendent of Public Instruction has approved it.

Amendment and Update of a Financial Recovery Plan

Any financial recovery plan may be amended subsequent to its adoption in the same manner as the passage and approval of an initial plan. Each financial recovery plan must be updated annually. Each time the plan is updated it must again be submitted to, and approved by, the State Superintendent of Public Instruction prior to its implementation.

Failure to Submit or Comply with a Financial Recovery Plan

If a school district commission fails to submit an acceptable financial recovery plan to the State Superintendent of Public Instruction, or if the State Superintendent and the director of the budget and management find that a commission is not materially complying with the provisions of its financial recovery plan, the State Superintendent of Public Instruction and the director may jointly dissolve the financial planning commission and jointly appoint an individual to act as the fiscal arbitrator of the school district.

Fiscal Arbitrator

The fiscal arbitrator becomes the successor to the commission. The fiscal arbitrator directly manages the school district in place of the commission, and is vested with all the rights, powers and duties given to the commission by law. Business that was commenced but was not completed by the commission shall be completed by the fiscal arbitrator. The law does not include any minimum qualifications for the position; however, the State Superintendent of Public Instruction is required to issue guidelines establishing the criteria to be utilized in selecting qualified fiscal arbitrators.

Adherence to the Financial Recovery Plan (R.C. §§ 3316.12 and 3316.14)

There are two aspects of the school district's ongoing financial activity where adherence to the constraints of the financial recovery plan is critical: (1) the budgetary process and (2) the issuance of debt. The involvement of the commission in each of these activities is designed to prevent the school district from diverging from the approved plan.

Budgetary Process

Before spending any money, every school district must comply with the budgetary process set forth in Chapter 5705 of the Ohio Revised Code. This chapter establishes restrictions on the financial activities of school districts which are designed to insure that expenditures are limited to

estimated available resources. A school district that is in fiscal emergency is likely to have violated one or more of these restrictions. The budgetary process created by the chapter includes guidelines for appropriations, estimated resources and the preparation of an annual tax budget. For a school district in fiscal emergency, this process is further limited by the inability to vary from the actions contained in the financial recovery plan.

Nature of Appropriations

The primary responsibility of the board of education of any school district is to determine how to allocate available financial resources to meet the educational needs of the community. The document used to make this allocation is the appropriation measure. The appropriation measure is classified by fund and then usually by function (instruction, support services, etc.) and object (salaries, fringe benefits, etc.) within each fund. The amount of money allocated by the board of education to each account within the appropriation measure sets a limit on how much may be spent for that purpose during the fiscal year. The appropriation measure may be amended during the year by the board of education as circumstances change.

Existing Appropriation Measure

Any existing appropriation measure that is not consistent with the initial approved plan is ineffective for purposes of any expenditures to the extent it authorizes expenditures in excess of the revenues available after approval of the plan. If not amended by the commission, the board of education is required to amend the appropriation measure to make it consistent with the financial recovery plan.

New Appropriation Measures

No appropriation measure may be adopted nor any expenditure made contrary to the approved financial recovery plan. Any appropriation measure proposed by the board of education is subject to the approval by the commission and must be reviewed to determine its consistency with the financial recovery plan. The commission reports to the board of education any modifications in the appropriation measure considered necessary to conform to the financial recovery plan.

Estimated Resources

Prior to giving the original or an amended certificate of estimated resources to the school district, the county budget commission is to consult with the commission, and the commission must revise the certificate or amended certificate in any respect in which the certificate is, in its judgment, inconsistent with the plan.

County Budget Commission (R.C. §5705.27)

In each county, a county budget commission oversees the budgetary process. The members of the budget commission are the county auditor, county treasurer and the county prosecutor.

Tax Budget

For most school districts, the budgetary process begins with the preparation of the tax budget. The tax budget sets forth by fund the amount the school district estimates it will have available to spend in the following year and, by fund, function and object, the amounts the school district would like to spend during the following year. It is prepared after consultation with the administration within the school district and after public hearings where the community is offered an opportunity for input. The completed tax budget is filed with the county budget commission and is used to set the rates at which property taxes will be levied for the following year.

Any tax budget of the school district must be consistent with the approved financial recovery plan. Before submitting the tax budget to the county auditor, the school district board of education must submit the tax budget to the commission and cooperate in its review. The school district must make the modifications to the tax budget that the commission determines to be necessary to conform to the financial recovery plan. If the school district fails to make these modifications, the commission must certify the modifications to the budget commission. The budget commission shall then make these modifications.

In several counties, the budget commission has replaced the tax budget with less detailed data specified by the budget commission. This less

detailed information should still be reviewed by the commission to insure conformance with the plan.

Limitations on Revenue Estimates

For purposes of the financial recovery plan, tax budgets and certificates of estimated resources, the revenue estimates shall not include revenues conditioned upon future favorable actions by the electorate of the school district or by the General Assembly or Congress, other than appropriations of moneys for existing and continuing programs at current levels. The estimate of revenues for any month must separately list revenues that are conditioned upon the future issuance of debt obligations, transfers of funds, advances from funds, payments or reimbursements from the sale of debt obligations, sale of capital assets of the school district, increases in or implementation of fees or other charges or imposition of or increases of taxes, and shall be accompanied by documentation showing that the officials with authority to act to achieve realization of such conditional revenues have acted in time for realization of such revenues in the month or months indicated. The commission may exclude from revenue estimates any amounts that it considers uncertain of realization.

Debt Obligations

The school district may not issue or incur any debt obligation without the prior approval of the commission. The commission must disapprove any issuance of debt obligations that it believes would impede the purposes of a financial recovery plan or that would cause the school district to exceed its debt limits.

Conditions for Approving the Issuance of Debt

The commission may not approve the issuance of debt obligations unless:

- 1 The resolution authorizing their issuance, the resolution providing for their award and every document forming part of the contract with the purchasers of such debt obligations from the school district has been approved by the commission;
- 2 The resolution authorizing the debt obligations contains a covenant to the effect that the school district will comply with all provisions of Chapter 3316, with the orders, directions and requests of the

commission and the Auditor of State, and with the financial recovery plan. The commission may prescribe the form of the covenant.

- 3 The school district, at the time of such approval, is in compliance with the laws governing the operation of the school district during a fiscal emergency.

Termination of the Commission (R.C. §3316.16)

Conditions for Termination

A commission continues to function until a determination is made by either the Auditor of State or the commission that the school district has achieved all of the following:

- 1 Has begun the process of good faith implementation of an effective financial accounting and reporting system, and it is reasonably expected that such implementation will be completed within two years;
- 2 Has corrected and eliminated all of the fiscal emergency conditions that existed at the time the school district was declared to be in fiscal emergency, and no new fiscal emergency conditions have occurred;
- 3 Has met the objectives of the financial recovery plan; and,
- 4 Has prepared a financial forecast for a five-year period in accordance with the standards issued by the Auditor of State and the Auditor has rendered an opinion on the forecast that is non-adverse.

Request to Terminate the Commission

The school district board of education, the Governor or the commission may make a written request to the Auditor of State to conduct an analysis to determine if the conditions exist to terminate the commission, or the Auditor of State may initiate the process. The decision to terminate the commission is certified to the commission, the Auditor of State, the Governor, the director of budget and management and the budget commission.

Commission's Final Report

At the time the decision to terminate is certified, the commission is required to prepare and submit a final report of its activities, in an appropriate form, for the purpose of providing a record of its activities and assisting other commissions created under Chapter 3316 in the conduct of their functions. All of the books and records of the commission are to be delivered to the Auditor of State for retention and safekeeping.

Monitoring by the Auditor of State after Termination

If, at the time of termination, an effective financial accounting and reporting system has not been fully implemented, the Auditor of State must monitor the progress of implementation and exercise the authority to secure full implementation at the earliest time feasible, but within two years from termination of the commission.

Cooperation with the Commission (R.C. §§ 3316.07, 3316.11, 3316.13)

County, state and school district officers or employees must assist the commission diligently and promptly in the prosecution of its duties, including the furnishing of any materials required. The school district board and all district officers and employees who have possession of fiscal information, or the responsibility for developing that information, must at all times cooperate with the commission. They are required to provide, on a continuing basis, all information requested, ordered or needed by the commission to formulate judgments regarding (a) revenue and expenditure estimates; (b) the financial plan or any modifications of the plan; (c) the monitoring of the implementation of the financial plan; and (d) consideration of any amendments of the financial plan. All information and reports by the school district board and its officers and employees must be in the form and detail as requested by the commission.

The commission may direct its certifications, notifications, orders or requests to particular officers of the county, school district or the State, or to the county budget commission, by mail or other delivery. Any directives are effective and binding upon the officer, county budget commission,

school district board of education and upon officials and employees who have the responsibility to act in the matter, have within their control the authority to perform consistent with the directive or have in their possession the information required or requested. The duty to act pursuant to any certification, notification, order or request may be enforced by writ of mandamus petitioned for by the commission on behalf of the State.

Power to Remove Superintendents or Treasurers (R.C. § 3316.17)

A commission may remove any school district superintendent or treasurer for failing to comply with the commission's orders concerning the execution or preparation of a financial recovery plan.

Commission Compensation (R.C. § 3316.09)

The members of the commission serve without compensation, but are paid necessary and actual expenses that are incurred while engaged in the business of the commission. Any expense or obligation incurred by the commission is payable solely from appropriations made by the General Assembly.

Liability for Claims or Damages (R.C. § 3316.05)

The members of the commission, the State Superintendent of Public Instruction, the Auditor of State and any person authorized to act on the commission's behalf or assist the commission are not personally liable or subject to any suit, judgment or claim for damages resulting from the exercise of or failure to exercise the powers, duties and functions granted to them under Chapter 3316. These individuals and the commission are subject to mandamus proceedings to compel the performance of their duties.

Annual Deficit Analysis and Tax Levy (R.C. §3316.08)

During the period of a fiscal emergency, the Auditor of State must determine annually, or at any time upon request of the commission, whether the school district will incur an operating deficit. If the Auditor of State determines that the school district will incur an operating deficit, the Auditor certifies that determination to the commission, the board of education and the Superintendent of Public Instruction. Upon receiving the certification, the commission must adopt a resolution requesting that the board of education work with the county auditor or Tax Commissioner to estimate the amount and rate of either an income or property tax necessary to produce a positive fund balance by the fifth year of the current five-year forecast.

The board of education then communicates to the commission its support for, or its opposition to, the tax levy, and provides any documentation supporting its recommendation. After considering the board of education's recommendation and supporting documentation, the commission must adopt a resolution to either submit a ballot question proposing the tax levy or declare that it will not submit the question. If a ballot issue is to be submitted, the commission, in consultation with the board of education, shall determine at which election the issue is to be submitted. The resolution proposing the tax levy must be submitted to the county board of elections at least 75 days prior to the election. The board of elections certifies the results of the election to the board of education and the commission.

Performance Audits (R.C. §3316.042)

The Auditor of State may initiate and conduct a performance audit of any school district in fiscal caution, watch or emergency. The Auditor must conduct a performance audit of any school district in caution, watch or emergency when requested to do so by the State Superintendent of Public Instruction. During a performance audit, the Auditor will review any programs or areas of operation in which the Auditor believes that greater operational efficiencies or enhanced program results can be achieved. The

performance audit may not include any review or evaluation of a school district's academic performance. The cost of the performance audit is paid by the department of education.

School District Solvency Assistance Fund (R.C. §3316.20)

The Solvency Assistance Fund provides assistance and grants to school districts to enable them to remain solvent and to pay unforeseen expenses of a temporary or emergency nature that they cannot pay from existing resources. Two accounts, the Shared Resource Account and the Catastrophic Expenditure Account, have been created within the Fund.

Shared Resource Account

The Shared Resource Account consists of money appropriated to it by the General Assembly. The money in the account is to be used solely for solvency assistance to school districts that have been declared to be in fiscal emergency.

Catastrophic Expenditures Account

The Catastrophic Expenditures Account consists of money appropriated to the account by the General Assembly plus all investment earnings of the fund. The money in the account is to be used for solvency assistance, in the event the all money in the Shared Resource Account has been used, and for the issuance of grants to any school district that has suffered an unforeseen catastrophic event that severely depletes the school district's financial resources.

Repayment

Money provided to a school district for solvency assistance must be repaid by the end of the second fiscal year following the year in which the payment was made. If not made directly by the school district, payment is made by the director of budget and management from the school district's foundation payments. Grants received from the Catastrophic Expenditures Account are not required to be repaid unless the school district receives money from the State or a third party specifically to compensate the school

district for revenue lost or expenses incurred as a result of the unforeseen catastrophic event.

Penalties (R.C. §3316.19)

During the period of the fiscal emergency, the officers and employees of the school district are prohibited from knowingly entering into an obligation or making an expenditure that is contrary to the approved financial plan, knowingly entering into financial transactions that require commission approval without first receiving that approval, knowingly failing or refusing to prepare or amend a financial plan, knowingly preparing or presenting to the commission information that is false or misleading or knowingly using moneys of a fund for a purpose other than the purpose for which the fund was created.

In addition to any other penalty or liability provided by law for a school district board member, officer or employee, the violation of any of these prohibitions is a second degree misdemeanor. Upon conviction of a violation of any of these prohibitions, the officer or employee also forfeits his or her office or employment with the school district.

APPENDIX

School District Financial Records

School districts receive money from a variety of sources including property and income taxes from residents, grants from the State and Federal government and fees from people to whom they provide services. Many of these revenues are restricted as to how they may be spent. For example, voters may have approved a property tax levy that is specifically for the construction of schools or the State may have provided a grant that must be used to operate a pre-school program. It is the responsibility of the school district to be able to demonstrate that each of these resources was used for the intended purpose. If the school district maintained its financial records as one single entity (like one giant checkbook), it would be very difficult to determine that the resources were being used for the appropriate purposes. The financial records of school districts are therefore split into many individual funds. The purpose of a fund is to segregate the resources that are restricted to be used for a particular purpose from the other resources of the school district. Each school district maintains the following types of funds.

Special revenue funds – these funds account for resources which are restricted for use within the operation of a specific program of the school district. A grant for the operation of a pre-school program would be accounted for in a special revenue fund.

Capital projects funds – these funds account for resources that are restricted for the acquisition or construction of major capital assets, like buildings or equipment. A property tax levy for the construction of school buildings would be accounted for in a capital projects fund.

Debt service funds – these funds account for receipts that are to be used for the payment of principal and interest on debt.

Enterprise funds – activities which are supported by charges to the recipient of the services being provided are accounted for in enterprise funds. Food service and adult education programs are routinely accounted for in enterprise funds.

Internal service funds – like enterprise funds, these funds account for payments for services. The difference is that the services are being

provided to and the charges are being paid from departments within the school district. An example of an internal service fund activity is an employee medical benefits self-insurance program, where the school district has elected to pay the medical claims of its employees itself rather than contract with an insurer and pay premiums.

Fiduciary funds – there are several types of fiduciary funds, but the common characteristic is that the money in these funds is held or used for the benefit of other governments, individuals or organizations. No money for programs of the school district itself is accounted for in fiduciary funds.

General fund – the general fund accounts for all resources not required to be accounted for somewhere else. The general fund accounts for resources which are unrestricted as to how they may be used. All school districts have a general fund.

Within each fund, a school district utilizes an account structure to help it track where its revenues come from (sources) and how its money is spent (uses). In Ohio, the account structure for school districts is prescribed by the State Auditor’s Office and is called the Uniform School Accounting System (USAS). The use of this system provides the information necessary to manage, control and report on the school district’s varied activities. Accounts used to identify revenue sources include:

- Property Tax
- Income Tax
- Charges for Services
- Tuition
- Dues and Fees
- Contributions and Donations
- Grants
- Interest

Each major source category is further classified either by the specific nature of the revenue (i.e. real property tax, personal property tax, etc.) or by the department or activity that generated the revenue (i.e. fees-sport oriented activity or fees-honor society activities).

Each use of the school district's resources (expenditure or disbursement) is also classified using categories such as function (instruction, support service), object (salaries, fringe benefits) and subobject (regular or overtime, health insurance or retirement contribution). This account structure identifies where the financial resources come from and how they were used. A simple financial operating statement might look like this:

	General Fund	Title V Special Revenue Fund	Debt Service Fund	School Capital Projects Fund
Receipts:				
Property Taxes	10,000	4,500	2,300	
Charges for Services	2,000			
Grants				15,000
Other	750			
Total	\$12,750	\$4,500	\$2,300	\$15,000
Disbursements:				
Instruction:				
Regular	1,200	3,600		
Special	3,250			
Support Service:				
Administration	5,000			
Capital Outlay	600			13,250
Debt Service:				
Principal			2,000	
Interest			150	
Total	\$10,050	\$3,600	\$2,150	\$13,250
Excess of Receipts over Disbursements	2,700	900	150	1,750
Fund Balance Beginning of Year	6,500	1,800	900	0
Fund Balance End of Year	\$9,200	\$2,700	\$1,050	\$1,750

When a school district encounters financial problems, the underlying fund structure of the district must be recognized when formulating a recovery plan. Even though the school district may have cash in the bank, the use of that cash may be restricted because the cash “belongs” to a fund where the use of the money is restricted. A school district with \$250,000 in the bank may appear to have the necessary resources with which to operate, but a closer look as to how that money is allocated among its funds may present a completely different picture. For example, the cash could be allocated like this:

General Fund	(\$175,000)
Title V	205,000
Debt Service	44,000
Capital Projects	176,000
Total	\$250,000

This is an example of a school district that has been using restricted resources to operate activities that are accounted for within the general fund. Instead of taking action to raise general fund revenues or to reduce general fund costs, the district spent restricted resources for inappropriate purposes. Now the school district is faced with the more difficult task of restoring the general fund to a sound financial position. This will likely require more severe measures than those that would have prevented this situation in the first place.

DISCLAIMER

This publication is intended to provide an overview of the issues contained within and should not be utilized in the place of advice from legal counsel or in the place of the Ohio Revised Code.



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Auditor of State of Ohio

88 East Broad Street

Columbus, Ohio 43215

Toll Free: 800-282-0370