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# Fiscal Caution, Watch & Emergency

## An Overview of ORC Section 3316

**Finance and Management Services**  
Center for School Finance  
Ohio Department of Education  
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# Finance & Management Services

- Our mission is to be an effective and highly valued resource for school districts regarding issues of school finance, management and fiscal oversight.
- We have nine School Finance Area Offices are staffed throughout Ohio with support from a central administrative office in Columbus.



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# Finance & Management Services

Our Objectives are:

- To provide consistent, high-quality services that meet the needs of school administrators;
- To help school districts maximize and efficiently manage their limited resources;
- To help school districts stay advised of and in compliance with state and federal laws; and
- To restore the fiscal integrity of school districts placed in fiscal caution, watch or emergency.



# The Bottom Line

- School district expenditures cannot exceed available resources. [*ORC section 5705.36(A)(5).*]
- School districts cannot shorten the school year to avoid a deficit. [*ORC section 3313.483(C).*]
- School districts cannot borrow money to avoid a year end deficit. [*In 1997, H.B. 412 removed the authority for school districts to borrow by deleting ORC sections 3313.48.3 to 3313.48.11.*]



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# The Bottom Line

- Districts that cannot avoid a current year deficit may need to be placed in Fiscal Emergency in order to remain solvent.
- Districts in fiscal emergency are eligible for a two-year interest free advance of their state foundation money. *[ORC section 3316.20]*



# Fiscal Caution

(ORC 3316.031, effective 4/10/01)

- May be declared if ODE determines through the five-year forecast that conditions exist that could result in a future declaration of fiscal watch or emergency.
- May be declared if AOS reports any “conditions or practices” that could result in a future declaration of fiscal watch or emergency.
- Must be declared if AOS certifies a current year deficit between 2% and 8% and elects not declare fiscal watch. *[ORC section 3316.031(B)(3)]*



# Fiscal Caution

(ORC 3316.031, effective 4/10/01)

- After consulting with AOS, guidelines for declaring fiscal caution were developed.
- The guidelines are available on the ODE web site at [www.ode.state.oh.us/school\\_finance](http://www.ode.state.oh.us/school_finance). Choose the link to fiscal caution, watch and emergency.
- In general, districts are given the opportunity to develop and implement proposals to avoid potential deficits without being placed in fiscal caution.
- Districts cannot request to be placed in fiscal caution to help pass a levy.



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# Fiscal Caution

## (What Does it Mean?)

- District is labeled a fiscal caution district.
- District must submit a written proposal that eliminates the conditions that led to the declaration of fiscal caution.
- ODE will monitor the district to ensure implementation of the written proposal.
- AOS may conduct a performance audit at no cost to the district.
- AOS may place the district in fiscal watch if an acceptable proposal is not submitted or if the district does not comply with its proposal.



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# Fiscal Caution

(How is it Different than Watch or Emergency)

- Declaration and termination of fiscal caution is controlled by ODE (as opposed to AOS).
- Guidelines for declaring fiscal caution are more general than the laws for declaring fiscal watch or emergency.
- Termination of fiscal caution can happen when positive fund balances are projected for only the current and next fiscal year.
- No solvency assistance advance is available under fiscal caution.



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# Fiscal Caution

(How is it Similar to Watch and Emergency)

- The financial aspects of districts in fiscal caution, watch or emergency are monitored by ODE.
- A “plan” to eliminate any current year deficit and avoid future year deficits will need to be developed.
- A performance audit may be conducted under caution, watch or emergency.



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# Fiscal Watch

## (What does it Mean?)

- Only the Auditor of State can declare or terminate fiscal watch.
- The Board of Education must submit a financial recovery plan to ODE within 60 days.
- The financial recovery plan must be approved by State Superintendent of Public Instruction.
- Failure to submit, update or implement the financial recovery plan could result in AOS placing the district in fiscal emergency.



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# Fiscal Watch

## (What does it Mean?)

- Implementation of the financial recovery plan will be monitored by ODE.
- Accounting and reporting compliance issues identified by AOS must be address before termination.
- No solvency assistance advance is available to districts in fiscal watch.



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# Fiscal Emergency

(What Does It Mean?)

- Makes the district eligible for an advance from the state's **Solvency Assistance Fund**.
- Establishes a **Financial Planning and Supervision Commission**.
- Requires that the Commission develop and implement a **Financial Recovery Plan**.



# The Solvency Assistance Fund

- Two year, interest free advance on the district's state foundation payments.
- Must be in fiscal emergency to be eligible.
- Requires State Controlling Board approval.
- Repayment starts in the next fiscal year.



# The Financial Planning and Supervision Commission

Consists of five voting members.

- State Superintendent of Public Instruction or designee.
- Director of the Office of Budget & Management or designee.
- Parent with child enrolled in district appointed by the Superintendent of Public Instruction.
- Business person that lives or works in the district appointed by the Governor.
- Business person that lives or works in the district appointed by the Mayor or County Auditor.



# The Financial Planning and Supervision Commission

- The Commission is to be appointed within 15 days of the declaration of fiscal emergency.
- The Superintendent of Public Instruction or designee serves as chairperson.
- The Commission shall elect a vice-chair.
- The Commission shall appoint a secretary who need not be a member of the Commission.
- Within 120 days of its first meeting, the Commission must adopt a Financial Recovery Plan.



# The Financial Recovery Plan

- The Plan must be approved by the Superintendent of Public Instruction.
- The Plan can not be implemented until it is approved.
- The Plan can be amended at anytime but must be updated annually.
- The Department of Education will monitor the implementation of the Plan and will inform the Commission as to the progress.
- If the Commission fails to submit an acceptable Plan or does not materially comply with the Plan, the Commission can be dissolved and an arbitrator can be appointed.



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# The Financial Recovery Plan

1. Details the actions that will be taken to restore the fiscal integrity of the school district.
2. Specifies the level of fiscal and management control that the Commission will exercise.
3. Sets target dates for implementation of action plans.
4. Specifies the amount and purpose of any issuance of debt obligations.



# Restoring Fiscal Integrity

(Through the Financial Recovery Plan)

Eliminate the conditions that prompted the Auditor's declaration and avoid future fiscal emergency conditions.

- Satisfy all of the current financial obligations of the school district.
- Restore any money borrowed or transferred from other funds.
- Eliminate any current year deficits in all funds.
- Maintain a balanced budget.
- Avoid deficits in future years.
- Restore the district's ability to market long-term general bond obligations.



# Fiscal and Management Control

## (Through the Financial Recovery Plan)

- The plan should specify the level of fiscal and management control the Commission will exercise during the period of fiscal emergency.
- The Commission may assume any of the powers and duties of the school board it considers necessary in order to successfully implement the recovery plan.



# Powers of the Commission

## (ORC 3316.07)

- To review or assume responsibility for tax budgets, levy requests, appropriation measures, certificates of estimated resources, five-year forecasts, etc. to ensure a balanced budget.
- To inspect and secure copies of documents effecting district finances.
- To bring civil actions to enforce this chapter of the law.
- To implement steps to bring accounting reports and procedures into compliance with Auditor of State requirements.
- To assist or assume responsibility for the terms and conditions of school debt.
- To make and enter into contracts necessary to perform its duties.



# Powers of the Commission

## (ORC 3316.07)

- To make recommendations and implement cost reductions and revenue increases to achieve balanced budgets and carry out the recovery plan.
- To make reductions in force to bring the district's budget into balance notwithstanding any provisions to the contrary in the collective bargaining agreement.
- When making reductions in force, the Commission must first consider reductions among administrative and non-teaching employees.
- To remove the superintendent or treasurer for failing to comply with the Commission's orders concerning the preparation or implementation of the financial recovery plan (ORC 3316.17).



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# Further Questions?

If you have questions please contact:

- Your School Finance Area Office or
- Roger W. Hardin at (614) 466-5568 or e-mail [roger.hardin@ode.state.oh.us](mailto:roger.hardin@ode.state.oh.us).