

# CHAPTER 18. FINANCIAL RECOVERY

## § 18.1 Statutory Authority

The Statutory Authority for this chapter is the School Code.

## § 18.2 Purpose

The purpose of this Chapter is to establish criteria the Secretary may consider in determining whether to issue a declaration that a school district is in financial recovery status and criteria for the Secretary to consider in determining whether a school district is in moderate or severe recovery status.

## § 18.3 Definitions

*Claim* – A right to: 1) payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or 2) an equitable remedy for breach of performance if the breach gives rise to a right to payment, whether or not the right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

*Deficit* – The excess of expenditures over revenues, calculated as a percentage of revenue, during an accounting period, and which calculation includes all governmental fund types and all proprietary fund types, but excludes all fiduciary fund types of the school district.

*Expenditures* – Reductions in fund equity, including current operating expenses that require the use of fund equity, debt service and capital outlays. The term shall not include interfund transfers.

*Financial Recovery School District* – A school district of the first class A, second class, third class or fourth class declared by the Secretary to be in financial recovery status under Section 621-A.

*Fund equity* – Excess of assets of a fund over its liabilities. The term shall include a fund balance.

*Revenues* – Additions to fund equity other than from interfund transfers, proceeds of debt and proceeds of disposition of general fixed assets.

*School District* – A school district of the First Class A, Second Class, Third Class and Fourth Class and a Financial Recovery School District. The term does not include a school district of the First Class.

#### **§18.4 Issuance of Declaration**

- a) The Secretary shall issue a declaration that a school district is in financial recovery status when either of the following applies:
  - 1) The school district has an average daily membership greater than 7,500 and receives an advance of its basic education subsidy at any time.
  - 2) The school district receives an advance of its basic education subsidy at any time and either of the following applies:

- i. The school district is subject to a declaration of financial distress under section 691.
  - ii. The school district is engaged in litigation against the Commonwealth in which the school district seeks financial assistance from the Commonwealth to allow the school district to continue in operation.
- b) The Secretary may issue a declaration that a school district is in financial recovery status after considering the following criteria:
- 1) The school district receives at least 85 percent of its per pupil funding from the Commonwealth and collects less than 50 percent of local taxes levied to fund the school district.
  - 2) The school district's *unassigned* unreserved fund balance has declined for three consecutive years and is less than 5 percent of the school district's annual expenditures.
  - 3) ~~The school district's~~ *fixed costs* are at least 30 percent of the school district's total annual expenditures.
    - 1) *define fixed costs*
    - 2) *total annual expenditures* -  $\frac{\dots}{\dots}$
  - 4) The school district's total outstanding debt is greater than the school district's annual expenditures.
  - 5) The salaries of any teachers or other employees of the school district are unpaid at least 15 days after payment is due.
  - 6) The school district is subject to withholding of its state appropriation under section 633.  $\rightarrow$
  - 7) *U.S. District Court* The school district has defaulted on the payment of a debt due to any school district, intermediate unit or charter school that remains unpaid on or after January

1 of the year following the school year it was due and there is no dispute regarding the validity or amount of the claim.

8) The school district's assigned and unassigned total fund balance is less than zero in the school district's general fund.

9) The school district's assigned and unassigned total fund balance in the school district's general fund as a percentage of total expenditures is less than 3 percent.

10) The school district experiences a delinquent tax rate of more than 10 percent.

11) The assessed valuation of taxable real estate in the school district has not

~~11) increased over the previous five years.~~

— school year / calendar year?

12) Any amount due a joint board of school directors under a joint board agreement remains unpaid beyond the due date specific in the joint board's articles of agreement.

13) The school district has contracted a loan not authorized by law.

~~14) The school district has accumulated and operated with a deficit equal to at least 2 percent of the assessed valuation of the taxable real estate within the school district for two successive years.~~

← fiscal

& declining unassigned fund balance

15) A new, merged or union school district has been formed and one or more of the former school districts which compose the merger or union school district was a distressed school district under section 691 or a financial recovery school district under this article at the time of the formation of the new, merged or union school district.

in conjunction w/ other factors ←

STEP

fiscal

16) Whether the school district previously was designated in financial watch status per Chapter 731 (pertaining to Early Warning System) and the actions taken as a result of that designation.

- c) No school district shall be declared in financial recovery status if the circumstances enumerated in subsections (a) and (b) have been caused by the failure of the Commonwealth to make any payment of money due to the school district at the time the payment is due, including payment of any federal funding that is distributed through the Commonwealth.
- d) The Secretary may decline to issue a declaration that a school district is in financial recovery status where the Secretary determines that the school district, within the previous five years, has faced an emergency that caused the occurrence of a circumstance set forth in subsection (a).
- e) No more than nine school districts may be under a declaration of financial recovery status or in receivership at any time.

#### **§18.5 Moderate and Severe Recovery Status**

#### **§18.6 Appeal**

A school district may appeal the Secretary's declaration of financial recovery status under 2 Pa. C.S. (relating to administrative law and procedure).