

## CHAPTER 18. FINANCIAL RECOVERY

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### Authority

The provisions of this Chapter 18 issued under section 621-A(a)(2)(i) of the Public School Code of 1949 (24 P.S. § 6-621-A(a)(2)(i)), unless otherwise noted.

### Source

The provisions of this Chapter 18 adopted August 12, 2016, effective August 13, 2016, 46 Pa.B. 4955.

### § 18.1. Statutory authority.

The statutory authority for this chapter is section 621-A(a)(2) of the School Code (24 P.S. § 6-621-A(a)(2)).

### § 18.2. Purpose.

Consistent with section 621-A(a)(2) of the School Code (24 P.S. § 6-621-A(a)(2)), the purpose of this chapter is to establish criteria that the Secretary may consider in determining whether to issue a declaration that a school district is in financial recovery status, and whether a school district in financial recovery status is in moderate or severe recovery status.

### § 18.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Average daily membership*—The final average daily membership of a school district as most recently determined by the Department in accordance with procedures established by the Secretary under section 2501(3) of the School Code (24 P.S. § 25-2501(3)).

*Claim*—The term as defined in section 602-A of the School Code (24 P.S. § 6-602-A).

*Deficit*—The term as defined in section 602-A of the School Code.

*Expenditures*—The term as defined in section 602-A of the School Code.

*Financial recovery school district*—The term as defined in section 602-A of the School Code.

*Fixed costs*—Expenditures for utility services, insurance-general, communications, energy and debt service as defined in the *Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems*.

*Fund equity*—The term as defined in section 602-A of the School Code.

*Revenues*—The term as defined in section 602-A of the School Code.

*School Code*—The Public School Code of 1949 (24 P.S. §§ 1-101—27-2702).

*School district*—The term as defined in section 602-A of the School Code.

*Total annual expenditures*—

(i) Reductions in fund equity (including current operating expenses that require the use of fund equity), debt service and capital outlays (including all governmental fund types and all proprietary fund types) as defined in the *Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems*, excluding all fiduciary fund types of the school district.

(ii) The term does not include interfund transfers.

*Unassigned fund balance*—Amounts available for any purpose within the general fund only as defined in the *Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems*.

#### **§ 18.4. Issuance of declaration under section 621-A(a)(1) of the School Code.**

(a) As provided by section 621-A(a)(1) of the School Code (24 P.S. § 6-621-A(a)(1)), the Secretary will 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 over 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 of the School Code (24 P.S. § 6-691).

(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) As provided by section 621-A(a)(1)(ii)(B) of the School Code, the Secretary may decline to issue a declaration that a school district is in financial recovery status when the Secretary determines that the school district, within the previous 5 years, has faced an emergency that caused the occurrence of a circumstance in subsection (a).

(c) As provided by section 621-A(b) of the School Code, a school district will not be declared in financial recovery status if the circumstances in subsection (a) have been caused by the failure of the Commonwealth to make a payment of money due to the school district at the time the payment is due, including payment of Federal funding that is distributed through the Commonwealth.

**§ 18.5. Issuance of declaration under section 621-A(a)(2) of the School Code.**

(a) Consistent with section 621-A(a)(2)(i) of the School Code (24 P.S. § 6-621-A(a)(2)(i)), the Secretary may consider the following criteria when determining whether to issue a declaration that a school district is in financial recovery status:

(1) The school district receives at least 85% of its per pupil funding from the Commonwealth and collects less than 50% of local taxes levied to fund the school district.

(2) The school district's unreserved fund balance has declined for 3 consecutive years and is less than 5% of the school district's annual expenditures. As used in this paragraph, a school district's unreserved fund balance means the school district's unassigned fund balance.

(3) The school district's fixed costs are at least 30% of the school district's total annual expenditures.

(4) The school district's total outstanding debt is greater than the school district's total annual expenditures.

(5) The salaries of 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 of the School Code (24 P.S. § 6-633).

(7) The school district is subject to withholding of its State appropriation under section 785 of the School Code (24 P.S. § 7-785).

(8) The school district is subject to withholding of its State appropriation under 53 Pa.C.S. § 8283(c) (relating to remedies).

(9) The school district has defaulted on the payment of a debt due to a 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 not a dispute regarding the validity or amount of the claim.

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

(11) 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%.

(12) The school district experiences a delinquent tax rate of more than 10%.

(13) The assessed valuation of taxable real estate in the school district, as certified by the State Tax Equalization Board, has not increased over the previous 5 years.

(14) An 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.

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

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

(17) The school district experiences a deficit of 3% or more for 3 consecutive school years resulting in a reduction of unassigned fund balance each year.

(18) A new, merged or union school district has been formed and one or more of the former school districts which compose the merged or union school district was a distressed school district under section 691 of the School Code (24 P.S. § 6-691) or a financial recovery school district under Article VI-A of the School Code (24 P.S. §§ 6-601-A—6-693-A) at the time of the formation of the new, merged or union school district.

(b) As provided by section 621-A(b) of the School Code, a school district will not be declared in financial recovery status if the circumstances in subsection (a) have been caused by the failure of the Commonwealth to make a payment of money due to the school district at the time the payment is due, including payment of Federal funding that is distributed through the Commonwealth.

(c) The Secretary may decline to issue a declaration that a school district is in financial recovery status when the Secretary determines that the school district, within the previous 5 years, has faced an emergency that caused the occurrence of a circumstance in subsection (a).

(d) When the Secretary issues a declaration that a school district is in financial recovery status, the Secretary will specify the criteria in this section that placed the school district in financial recovery status.

#### Cross References

This section cited in 22 Pa. Code § 18.6 (relating to limitation).

### § 18.6. Limitation.

(a) As provided by section 621-A(a)(1)(ii)(A) of the School Code (24 P.S. § 6-621-A(a)(1)(ii)(A)), no more than nine school districts may be under a declaration of financial recovery status or in receivership at any time.

(b) The Secretary may not use information that is more than 5 years old when considering criteria under § 18.5 (relating to issuance of declaration under section 621-A(a)(2) of the School Code).

### § 18.7. Moderate and severe recovery status for declarations issued under section 621-A(a)(2) of the School Code.

(a) *Moderate recovery status.* The Secretary will issue a declaration that a financial recovery school district is in moderate recovery status under section 621-A(a)(2) of the School Code (24 P.S. § 6-621-A(a)(2)) if the financial recovery school district is not declared by the Secretary in severe recovery status.

(b) *Severe recovery status.* The Secretary will issue a declaration that a financial recovery school district is in severe recovery status under section 621-A(a)(2)

of the School Code if the financial conditions of the school district indicate that the school district is unable, or is reasonably unlikely to be able, to fulfill the 180 days of instruction for pupils requirement provided by section 1501 of the School Code (24 P.S. § 15-1501) for the present school year or for the following school year due to the lack of existing revenue sources and additional revenue sources as are provided by and allowed under law, including the Taxpayer Relief Act (53 P.S. §§ 6926.101—6926.5006).

**§ 18.8. Appeal.**

As provided by section 621-A(c) of the School Code (24 P.S. § 6-621-A(c)), a school district may appeal the Secretary's declaration of financial recovery status under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law).

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