



Ohio Administrative Code

Rule 3333-1-33 Higher education fiscal caution rule.

Effective: July 2, 2026

(A) Purpose

- (1) This rule amplifies section 3345.721 of the Revised Code and is intended to support collaboration and communication between the department of higher education and state universities and colleges and support and promote long-term institutional viability at state universities and colleges.

(B) Definitions as used in this rule

- (1) "State university or college" has the same meaning as in section 3345.71 of the Revised Code.
- (2) "Enrollment" means "headcount enrollment" or "full time equivalent enrollment" as those terms are defined in rule 3333-1-02 of the Administrative Code.
- (3) "Annual reports" means the financial statements referenced in division (A)(2) of rule 126:3-1-01 of the Administrative Code.
- (4) "Indebtedness" means plant debt, obligations associated with private, public partnership arrangements, and any other significant leases for operational functions.
- (5) "Net income ratio" "plant debt," "primary reserve ratio," "reportable event," "viability ratio" have the same meaning as used in rule 126:3-1-01 of the Administrative Code (using financial statements that exclude the GASB 68 and GASB 75 pension plan adjustments).
- (6) "Current ratio" means current assets divided by current liabilities.
- (7) "Cash and short-term investments" means unrestricted cash, cash equivalents, and current investments as reported on a state university or college's audited financial statements.
- (8) "Net tuition revenue" means student tuition and fees minus student grants, scholarships, discounts, and other student aid, as reported on a state university or college's audited financial statements, that reduces what students would otherwise pay for tuition and fees as charged on the state university or college's website.
- (9) "Return on Net Assets" means the change in net assets divided by the total net assets at the beginning of the fiscal year (using financial statements that exclude the GASB 68 and GASB 75 pension plan adjustments).



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(10) "Fiscal caution review" means a summary of the findings and concerns identified through inquiries and data collected by the department of higher education.

(C) Data Collection

- (1) The chancellor of higher education may use data and information previously submitted by state universities or colleges or other information publicly available related to the definitions under paragraph (B) (1) to (9) of this rule, such as IPEDS (Integrated Postsecondary Education Data System) enrollment counts reported to the U.S. department of education, and occurrences described below under division (C) and criteria under division (D) of this rule. The chancellor may request data or information, if not available, or request additional data or information from state universities or colleges related to this rule should the chancellor determine that the data and information are needed to evaluate the fiscal condition of the state university or college. Pursuant to sections 3345.721 and 3333.07 of the Revised Code, a state university or college will cooperate with the chancellor in supplying all data and information requested under this rule in the time and manner determined by the chancellor.
- (2) General inquiries may be made by the department of higher education, in consultation with the office of budget and management, to determine if any of the following is occurring or may have occurred at a state university or college:
 - (a) A significant drop in enrollment from prior year, decline in enrollment for consecutive years, or significant increase in enrollment;
 - (b) A significant increase in adjunct faculty or other categories of employees that are not in alignment with enrollment trends or revenue trends, or a significant change of ratios in categories of employees, as determined by the chancellor;
 - (c) An increase in student complaints;
 - (d) Federal financial aid or state financial aid processing delays;
 - (e) Reduced or increased reliance on state share of instruction;
 - (f) Receipt of substantial nonrecurring revenue, from any source, that could signify a structural budget deficit;
 - (g) A failure to reconcile or file annual reports promptly or failure to submit the quarterly financial report as specified under rule 126:3-1-01 of the Administrative Code per the deadlines prescribed by the chancellor;



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- (h) A lack of proper institutional segregation of critical duties, functions, or responsibilities;
 - (i) A significant turnover of faculty, staff, or administrators, particularly the position of the chief financial officer;
 - (j) A significant increase in tuition fee waivers;
 - (k) A significant increase in indebtedness as it relates to plant debt;
 - (l) A threshold factor for the viability ratio, primary reserve ratio, or net income ratio, as defined in rule 126:3-1-01 of the Administrative Code, of less than 3.0 (using financial statement amounts excluding the GASB 68 and GASB 75 pension plan adjustments) in the most recent audited financial statements;
 - (m) A significant increase or decrease in cash and short-term investments, annually or for consecutive years;
 - (n) A significant increase or decrease in operating expenditures or specific categories of expenditures as a percentage of total operating expenditures;
 - (o) A decrease in the number of days of cash on hand;
 - (p) A return on net assets of less than 1.0 per cent;
 - (q) Declining net tuition revenue trends or net tuition trends that do not align with enrollment trends;
 - (r) Current ratio is less than 1.2, which would signify that there is a risk of insolvency in the short-term;
 - (s) A reportable event is affirmatively reported as having occurred by a state university or college through a quarterly report submission;
 - (t) A downgrade of an institution's credit rating from national rating agencies;
 - (u) Any other fiscal irregularity brought to the attention of the chancellor.
- (3) If any general inquiries are made under paragraph (C)(2) of this rule, the department of higher education may also request data or information from the state university or college to determine:



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- (a) If there has been a substantial increase in the number of third-party service providers who are paid based on success, such as meeting pre-established quotas that could negatively impact students receiving quality learning or other services;
- (b) Whether there is a significant amount of past due student receivables and if the student debt is being submitted to the attorney general's office in a timely manner;
- (c) If there are other forms of significant indebtedness related to leases or contracts other than plant debt;
- (d) Whether the institution is in compliance with U.S. department of education satisfactory academic progress (SAP) requirements, including an increase in the use of correspondence learning materials or asynchronous learning materials, or other self-paced learning materials or methods that could put students at risk of not meeting SAP;
- (e) The number of days of cash on hand at the particular time of inquiry;
- (f) Whether the institution has or is planning to offer a voluntary early retirement program; or
- (g) Other questions or concerns related to the financial viability of the state university or college.

(D) Criteria for determining fiscal caution

- (1) A fiscal caution review will be conducted by the department of higher education if any of the following occurs:
 - (a) A program review or other notable action taken by a federal agency that could adversely affect the state university or college's finances, cash management, or educational program offerings;
 - (b) Change in accreditation status by a nationally recognized accrediting agency of the entire state university or college or of an academic program of the state university or college that covers a large portion of their students;
 - (c) Significant changes in a state university or college's educational program eligibility;



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- (d) Annual financial audit is delayed beyond March 1 of the following fiscal year on which the audit is reporting; or
 - (e) The chancellor, in consultation with the office of budget and management, determines through the data or information obtained under paragraph (C) (1), (2) or (3) of this rule that a fiscal caution review is recommended to support the long-term viability of the state institution.
- (2) A fiscal caution review may be conducted for failure of the state university or college to provide data and information under this rule in a time and manner as determined by the chancellor.
 - (3) The department of higher education will provide a copy of the findings from a fiscal caution review to the office of budget and management and to the state university or college under review. After review and consultation with the office of budget and management, the department will provide a copy of the findings to the auditor of state if the state university or college is placed in a state of fiscal caution.
 - (4) Based on a fiscal caution review, or failure to submit information without a fiscal caution review, and after consultation with the office of budget and management, the chancellor, upon a determination that the state university or college is failing to take decisive action to address either concerns outlined in a fiscal caution review or the financial condition of the state university or college, may declare the state university or college to be in a state of fiscal caution. The declaration of fiscal caution may include a list of any limitations placed on the state university or college, which may include but not be limited to the following:
 - (a) Limitations on eligibility to participate in grants and programs administered by the chancellor;
 - (b) Limitations on approval of a new degree program or associated certificates;
 - (c) Suspension of additional enrollment in an educational program;
 - (d) Restriction of an increase in any special fee or the creation of a new fee;
 - (e) Limitations on the power of the board of trustees to enter into new or renewed contracts without prior approval from the chancellor; or
 - (f) Withholding approval of any controlling board request for capital projects.
 - (5) If the chancellor determines through a fiscal caution review, or a lack of information due to the failure to submit data, that the financial conditions are



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such that a state university or college warrants being placed in a state of fiscal caution, a directive will be issued declaring the state university or college to be in a state of fiscal caution, along with any limitations. The chancellor will certify the declaration of fiscal caution to the governor, the director of budget and management, the auditor of state, the legislative service commission, the chairpersons and ranking minority members of the finance committees of the house of representatives and the senate, the board of trustees, and the president and chief financial officer of the state university or college.

(E) Actions to be taken by the board of trustees and employees of a state university or college in a state of fiscal caution

(1) Within ninety days of the declaration of fiscal caution adopt a financial recovery plan with the purpose to end fiscal caution within three years and submit the plan to the chancellor. The chancellor will evaluate the initial financial recovery plan, in consultation with the director of the office of budget and management, and either approve or disapprove it within thirty calendar days from the date of its submission. If the initial financial plan is disapproved, the chancellor will provide a summary of the modifications necessary to render the financial recovery plan acceptable, which the state university or college will incorporate into the plan and return to the chancellor in revised form within thirty calendar days from the date of receipt. No state university or college may implement a financial recovery plan submitted to the chancellor under this section unless the chancellor has approved the plan. The financial recovery plan is to contain all of the following:

(a) An analysis of the financial difficulty of the state university or college and the causes of all significant revenue or expenditure problems;

(b) A description of efforts or initiatives proposed or undertaken by the state university or college to address the financial difficulties, including an estimation of the time required to resolve the financial difficulties;

(c) An analysis of how these efforts or initiatives have resolved or will resolve the financial difficulties;

(d) A description of contingency plans designed to address the financial difficulties, and other potential circumstances that could worsen the financial difficulties;

(e) Projections of revenue and expenditures over at least a three-year time horizon, as determined by the chancellor, that includes a description of key assumptions and methodology which will correct all fiscal conditions



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at the end of the time period. This forecast is to be structurally balanced and based on a set of underlying assumptions, including enrollment projections, tuition revenue, and state funding levels, that are evidence-based and practicable. Such forecast and assumptions should be included in a resolution approved by the board of trustees of the state university or college;

- (f) A comprehensive review of current staffing levels, a comparison of staffing levels to the number of enrolled students, and a five-year historical summary of staffing levels;
 - (g) A review of the most recent submission of institutional recommendations for courses and programs based on enrollment and duplication with other state institutions of higher education, submitted under section 3345.35 of the Revised Code, and submission of revised recommendations as determined to be necessary;
 - (h) A review of any approved tuition waivers, tuition guarantees, reciprocity agreements, or scholarship programs;
 - (i) A plan to reduce expenditures over a six-month, twelve-month, eighteen-month, and twenty-four-month period, as necessary, to align ongoing revenue with ongoing expenses;
 - (j) A review of contracts that are the largest portion of the state university or college's expenditures for early termination, notice of nonrenewal, or potential renegotiation of contract terms;
 - (k) A program viability analysis, or analyses, as determined by the chancellor to be necessary in accordance with section 3333.073 of the Revised Code;
 - (l) Actions taken in response to findings of the fiscal caution review;
 - (m) Actions taken to comply with any limitations placed on the state university or college while in a state of fiscal caution; and
 - (n) Such other information, reports, and documentation as the chancellor may request.
- (2) Consult with the auditor of state regarding any necessary or appropriate steps to bring the books of account, accounting systems, and financial procedures and reports of the state university or college into compliance with requirements prescribed by the auditor of state, regarding desirable modifications and supplementary systems and procedures pertinent to the university or college.



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The auditor of state will provide a written report to the board of trustees, with a copy to the chancellor, outlining the nature of the financial accounting and reporting problems of the state university or college and recommendations for actions to be undertaken to correct the financial accounting and reporting problems.

- (3) Develop an effective financial accounting and reporting system by promptly bringing its existing system of financial accounting and reporting into compliance with the standards required by the auditor of state.
 - (4) Establish a process by which the board of trustees or a committee thereof will undertake monthly reviews of cash balances, significant changes in liabilities and receivables, revenues, expenditures, and encumbrances consistent with the financial recovery plan submitted under this rule.
 - (5) Approve and monitor the monthly levels of expenditures and encumbrances and use supporting documentation to substantiate any departure from any approved level.
 - (6) The employees of the state university or college will diligently and promptly assist the board of trustees in the performance of its duties under this rule, including the furnishing of any supporting documentation or other information requested.
 - (7) The board of trustees of a state university or college in a state of fiscal caution may request a performance audit be conducted by the auditor of state.
- (F) The following are reporting obligations of a state university or college in a state of fiscal caution and its board of trustees
- (1) A state university or college will provide regular reports to the board of trustees and the chancellor on any of the matters under paragraph (E) of this rule or new matters identified by the auditor of state or the chancellor as contributing to the reason for the declaration, preventing the recovery of the state university or college, or the inability to be removed from fiscal caution.
 - (2) Each quarter during the fiscal caution, a state university or college in a state of fiscal caution is to provide to the board of trustees and the chancellor the quarterly financial report submitted pursuant to rule 126:3-1-01 of the Administrative Code and any narrative statements or separate documents on reportable events related to this report and any significant changes to the financial recovery plan adopted pursuant to paragraph (E)(1) of this rule or significant areas of noncompliance with the financial recovery plan.



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(3) On or before the anniversary of the declaration of fiscal caution by the chancellor and annually thereafter during the fiscal caution, the board of trustees will submit reports to the governor, speaker of the house of representatives, the president of the senate, the chancellor, the auditor of state, the legislative service commission, and the director of the office of budget and management detailing the progress of the state university or college to eliminate fiscal caution conditions, failures of the state university or college to comply with this rule, and plans for further actions to attain the objectives of this rule. The board of trustees may make such interim reports as it may determine to be appropriate for such purposes or as may be requested by the governor, either house of the general assembly, the director of the office of budget and management, or the chancellor.

(G) Criteria for termination of fiscal caution

(1) The chancellor, after consulting with the auditor of state and office of budget and management, may terminate the fiscal caution of a state university or college when in his or her opinion:

(a) The state university or college has remediated all of the conditions that led to the fiscal caution, including any cash flow problems, the inability to prepare fiscal year financial statements in a timely manner, substantive audit findings, an audit that discloses no substantive findings, or reportable events and has addressed the financial accounting and reporting problems noted in the report issued under paragraph (E)(2) of this rule by the auditor of state upon the chancellor's declaration of fiscal caution; and

(b) No other condition exists or is likely to materialize that could result in a declaration of fiscal caution.

(2) If in the opinion of the chancellor the fiscal caution should be terminated, the chancellor will issue a directive declaring the termination of the fiscal caution and will certify the termination to the governor, the speaker of the house of representatives, the president of the senate, chairs and ranking members of the house and senate finance committees, the legislative service commission, the director of the office of budget and management, the auditor of state, and the board of trustees of the state university or college.