



To: Governor Mike DeWine
Office of Budget and Management Director Kim Murnieks
Auditor of State Keith Faber
Ohio House Finance Chairman Jay Edwards
Ohio House Finance Ranking Member Bride Rose Sweeney
Ohio Senate Finance Chairman Matt Dolan
Ohio Senate Finance Ranking Member Vernon Sykes
Ohio Legislative Service Commission Director Wendy Zhan
Eastern Gateway Community College Board of Trustees

From: Chancellor Mike Duffey, Ohio Department of Higher Education

Re: Fiscal Watch Declaration at Eastern Gateway Community College

Date: Monday, March 11, 2024

In consideration of the criteria established in paragraph (B) of Ohio Administrative Code Rule 126:3-1-01 (Reporting requirements for state universities and colleges; fiscal watch and governance authority procedures), I declare Eastern Gateway Community College (EGCC) under fiscal watch. Attached is the related document, Directive 2024-007.

Pursuant to this rule, which amplifies §3345.71 to §3345.78 of the Ohio Revised Code, Ohio's public institutions of higher education are required to disclose a variety of reportable events.

If the chancellor determines that any of the criteria set forth in paragraph (B) of this rule has been satisfied for reasons other than natural disaster, he or she shall issue a directive declaring the state university or college to be under fiscal watch. The directive identifies reportable events experienced by Eastern Gateway Community College and provides additional information about the events that led to the announcement of fiscal watch.

Now that Eastern Gateway Community College has been placed in fiscal watch, it is required to adopt a financial recovery plan among other actions required by rule. Some but not all of these requirements were also included in the Controlling Board's conditions placed on EGCC. The full list of required steps is outlined in the copy of the rule attached to this memo.

If you have any additional questions, please do not hesitate to contact me.

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Directive 2024-007

March 8, 2024

Re: Declaration of Fiscal Watch for Eastern Gateway Community College

Pursuant to Ohio Administrative Code (OAC) §126:3-1-01, which amplifies §3345.71 to §3345.78 of the Ohio Revised Code (ORC), the Department of Higher Education and the Auditor of State are required to evaluate the financial health of Ohio's public institutions of higher education. In accordance with the rule, public institutions of higher education submit their financial statements to the Auditor of State by October 31st of each year, with an annual audit completed and submitted by the end of the calendar year. The Department of Higher Education utilizes the audited financial statements to conduct a financial ratio analysis resulting in a composite score for each institution ranging from 0 to 5. The thresholds and conditions for a declaration of fiscal watch and the appointment of a conservator under specific circumstances are outlined in the rule.

OAC §126:3-1-01 also requires Ohio's public institutions of higher education to disclose a variety of reportable events, which include the following:

1. The state university or college requested an advance of state subsidy money during the quarter covered by the report;
2. The state university or college delayed or failed to make any payments to applicable retirement systems (e.g., P.E.R.S. or S.T.R.S.) required to be made during the quarter covered by the report;
3. The state university or college failed to make any scheduled payroll payments payable during the quarter covered by the report;
4. The state university or college failed to make any payments to vendors when due during the quarter covered by the report as a result of a cash deficiency or a substantial deficiency in the payment processing system of the state university or college;
5. The state university or college failed to make any scheduled payment of principal or interest for short- or long-term debt during the period covered by the report;
6. The state university or college has revised its original budget for the fiscal year and the revision will result in a substantially reduced ending fund balance or larger deficit;
7. The state university or college projects a significant negative variance between its most recently adopted annual budget and actual revenues or expenses at the end of the fiscal year.

8. The state university or college is identified by the federal government or a regional accrediting organization as subject to heightened reporting standards or special monitoring status, including but not limited to the United States department of education's heightened cash monitoring process.

Eastern Gateway has experienced multiple reportable events outlined above, including items 1, 4, 7 and 8.

Also according to OAC §126:3-1-01, if the state university or college experiences a reportable event listed above and the Chancellor determines that immediate and decisive action is necessary to improve the state university or college's financial condition, he or she shall declare the state university or college to be under fiscal watch.

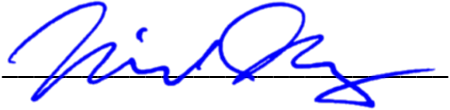
Given a) the indisputable presence of multiple reportable events at Eastern Gateway, b) my determination that immediate and decisive action is necessary to improve the college's financial condition based on the projection of a significant negative operating fund balance for fiscal year 2024, and c) the current inability to enroll and register students for semesters beyond spring semester 2024 based on a projected lack of available resources to effectively serve students during that time period, I am officially declaring that fiscal watch conditions exist at Eastern Gateway Community College.

As required by OAC, I will be providing a copy of this Directive to certify the declaration of fiscal watch of Eastern Gateway Community College 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, and the Board of Trustees of Eastern Gateway.

The OAC provides that once a public institution of higher education is placed in fiscal watch, they shall adopt a financial recovery plan with the purpose to end fiscal watch within three years, which is approved by the Chancellor. The college is required by OAC to take multiple additional steps such as monthly reviews of finances and monthly approvals of expenditures. The full list of required steps is outlined in the attached copy of the rule, which is provided as an addendum.

As Eastern Gateway strives to adopt a financial recovery plan and reverse the current trajectory of the significant projected negative operating fund balance for fiscal year 2024, the Department of Higher Education will continue to monitor progress and provide guidance and assistance to the extent practicable.

This Directive will take effect immediately and Eastern Gateway Community College is under fiscal watch as of the date of the Directive and required to adopt a financial recovery plan within 90 days of the same date.



Mike Duffey
Chancellor

Rule 126:3-1-01 | Reporting requirements for state universities and colleges; fiscal watch and governance authority procedures.

Ohio Administrative Code / 126:3 /

Chapter 126:3-1 | Reporting Requirements for State Universities and Colleges; Fiscal Watch and Governance Authority Procedures

Effective: February 15, 2024 **Promulgated Under:** 111.15

(A) State university or college reporting requirements

(1) For the purposes of this rule:

- (a) "State university or college" shall have the same meaning as in section [3345.71](#) of the Revised Code.
- (b) "Expendable fund balances" shall include the sum of all reported fund balances (positive and negative, restricted and unrestricted, allocated and unallocated) in the current funds, quasi endowments, and balances in the unexpended plant funds, funds for renewal and replacement, and funds for the retirement of plant indebtedness.
- (c) "Plant debt" means any liability for which the corresponding asset is investment in plant.
- (d) "Total revenues" mean total current fund revenues, both restricted and unrestricted.
- (e) "Net total revenues" are total current fund revenues, restricted and unrestricted, minus total current fund expenditures and mandatory transfers, both restricted and unrestricted.

(2) Fiscal year financial statements

(a) Requirements and submission deadline; extension of submission deadline

No later than October thirty-first of each year, each state university and college shall prepare and submit to the auditor of state fiscal year financial statements for the fiscal year ending the preceding June thirtieth. The fiscal year financial statements shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by required notes and other supplemental information as may be required by the chancellor of higher education.

The chairperson of the board of trustees of a state university or college may make a request to the auditor of state for an extension of the October thirty-first submission deadline. A request for an extension must be in

writing delivered by the state university or college to the auditor of state no later than the preceding September thirtieth. The chairperson must deliver in writing a copy of the request for an extension to the chancellor and each member of the board of trustees of the state university or college. The request for an extension must include the reason the state university or college is unable to submit the financial statements by the submission deadline and the date that the state university or college proposes to submit the financial statements to the auditor of state. If the auditor determines that the request for an extension establishes extraordinary circumstances that prevent the state university or college from filing its fiscal year financial statements, the auditor of state may grant an extension of the submission deadline of no more than two months.

(b) Notification by auditor of state

If a state university or college does not submit the fiscal year financial statements by the submission deadline, the auditor of state shall send written notice within thirty days after the submission deadline to the governor, the chancellor, the director of budget and management, the legislative service commission, and the chairpersons and ranking minority members of the finance committees of the house of representatives and the senate.

(c) Written statement upon failure to file fiscal year financial statement

Upon receipt of the notice from the auditor of state that a state university or college did not submit the fiscal year financial statements by the submission deadline, the chancellor shall require the state university or college to provide a written statement identifying the reasons for failing to file the fiscal year financial statements by the submission deadline and a date on which the state university or college expects to submit the financial statements to the auditor of state. The written statement required under this paragraph shall not constitute an extension of the submission deadline for the fiscal year financial statement.

(3) Audited year-end report

(a) Each state university or college shall cooperate with the auditor of state to cause to be performed no later than December thirty-first succeeding the end of the fiscal year an annual audit of the financial records of the state university or college in accordance with generally accepted governmental auditing standards and OMB circular A-133. The auditor of state may grant an extension for the completion of the audit of no more than two months if the auditor of state determines that extraordinary circumstances justify the extension. Upon completion, the state

university or college shall deliver a copy of the annual audit to the auditor of state and the auditor shall send a copy to the chancellor.

(b) If the annual audit of a state university or college by the auditor of state discloses substantive audit findings, the auditor of state shall send written notice of the substantive audit findings to the governor, the chancellor, the director of budget and management, the legislative service commission, and the chairpersons and ranking minority members of the finance committees of the house of representatives and the senate.

Substantive audit findings include but are not limited to:

- (i) The inability to make timely payments to vendors, delays in making pension retirement contributions or requests for advanced state funding;
- (ii) A significant negative variance between budgeted and actual spending for a fiscal year;
- (iii) A significant operating deficit in the restricted and unrestricted funds that could have a negative impact on the financial condition of the state university or college for the fiscal year;
- (iv) Reportable conditions, material weaknesses, direct and material legal noncompliance or management letter comments which, in the opinion of the auditor of state, the aggregate effect of all such reported issues has a significant effect on the financial condition of the state university or college for the current and future years; or,
- (v) A qualified opinion on financial statements or grant compliance which, in the opinion of the auditor of state, has significant impact on the financial condition of the state university or college.

(4) Ratio analysis

Upon receipt of the annual audit, the chancellor shall perform a ratio analysis of the financial condition of the state university or college as follows:

(a) Calculate ratios:

- (i) Viability ratio: expendable fund balance divided by plant debt;

(ii) Primary reserve ratio: expendable fund balance divided by total current funds expenditures and mandatory transfers;

(iii) Net income ratio: net total revenues divided by total revenues.

(b) Assign threshold factors:

THRESHOLD FACTORS	0	1	2	3	4	5
Viability ratio	<0	0 to .29	.30 to .59	.6 to .99	1.0 to 2.50	>2.50
Primary reserve ratio	<-.1	-.1 to .049	.05 to .099	.10 to .249	.25 to .49	0.50 or greater
Net income ratio	<-.049	-.05 to 0	0 to .009	.01 to .029	.03 to .049	0.50 or greater

(c) If plant debt is fifty thousand dollars or greater, multiply the assigned threshold factor for the viability ratio by thirty per cent. Multiply the assigned threshold factor for the primary reserve ratio by fifty per cent. Multiply the assigned threshold factor for the net income ratio by twenty per cent.

If plant debt is less than fifty thousand dollars, do not calculate the viability ratio. Multiply the assigned threshold factor for the primary reserve ratio by eighty per cent. Multiply the assigned ratio factor for the net income ratio by twenty per cent. Add the products of the multiplication to obtain the composite result of the ratio analysis.

If the chancellor is unable to perform a ratio analysis because the state university or college has received a qualified audit opinion, the state university or college shall be deemed to have a composite result of the ratio analysis below 1.75.

(d) The chancellor shall perform an additional ratio analysis under this paragraph using the methodology outlined above exempting pension liabilities, other postemployment benefits, and related changes in revenues or expenditures due to adjustments in the audited financial statement of a state university or college as a result of the implementation of government accounting standards board statements 68 and 75. For purposes of this rule, the chancellor will determine which composite result of the ratio analysis performed under this paragraph most accurately reflects the financial condition of the state university or college.

(5) Quarterly financial report

(a) Not later than thirty days after the end of each calendar quarter, each state university and college shall submit a quarterly report to the chancellor whom shall compile the reports and distribute them to the director of the office of budget and management, the legislative service commission, and the chairpersons and ranking minority members of the finance committees of the house of representatives and the senate. The quarterly report shall be in the form prescribed by the director of budget and management. The quarterly report shall be a "statement of revenues, expenditures, and other changes" for the year to date prepared on the same basis as that used in the budget for the state university or college.

(b) Reportable events

In addition to the requirements of paragraph (A)(5)(a) of this rule, the quarterly report shall contain a narrative statement indicating whether any of the following events have occurred during the period covered by the report:

- (i) The state university or college requested an advance of state subsidy money during the quarter covered by the report;
- (ii) The state university or college delayed or failed to make any payments to applicable retirement systems (e.g., P.E.R.S. or S.T.R.S.) required to be made during the quarter covered by the report;
- (iii) The state university or college failed to make any scheduled payroll payments payable during the quarter covered by the report;
- (iv) The state university or college failed to make any payments to vendors when due during the quarter covered by the report as a result of a cash deficiency or a substantial deficiency in the payment processing system of the state university or college;
- (v) The state university or college failed to make any scheduled payment of principal or interest for short- or long-term debt during the period covered by the report;
- (vi) The state university or college has revised its original budget for the fiscal year and the revision will result in a substantially reduced ending fund balance or larger deficit;

(vii) The state university or college projects a significant negative variance between its most recently adopted annual budget and actual revenues or expenses at the end of the fiscal year.

(viii) The state university or college is identified by the federal government or a regional accrediting organization as subject to heightened reporting standards or special monitoring status, including but not limited to the United States department of educations heightened cash monitoring process.

(c) If any reportable event listed in paragraph (A)(5)(b) of this rule has occurred, in addition to the requirements of paragraphs (A)(2)(a) and (A)(5)(a) of this rule, the state university or college shall describe to the chancellor in a separate document:

(i) The reason for the reportable event;

(ii) The action(s) taken by the state university or college to resolve the reportable event; and

(iii) The action(s) taken by the state university or college to prevent a reoccurrence of the reportable event.

(B) Criteria for determining fiscal watch

(1) The state university or college fails to submit its fiscal year financial statements in accordance with paragraph (A)(2)(a) of this rule;

(2) The state university or college fails to obtain an audited year-end report as required by paragraph (A)(3)(a) of this rule;

(3) The state university or college has a composite result of the ratio analysis calculated in accordance with paragraph (A)(4) of this rule of 1.75 or less for two consecutive fiscal years;

(4) The state university or college has a composite result of the ratio analysis calculated in accordance with paragraph (A)(4) of this rule of 1.75 or less and the chancellor has determined that the state university or college has failed to take decisive action to improve its financial condition;

(5) The state university or college has a composite result of the ratio analysis calculated in accordance with paragraph (A)(4) of this rule of 1.75 or less and one or more of the reportable events listed in paragraph (A)(5)(b) of this rule has occurred during the reporting period;

(6) The state university or college has a composite result of the ratio analysis calculated in accordance with paragraph (A)(4) of this rule of 1.75 or less and the auditor of state has reported one or more substantive audit findings; or

(7) The state university or college receives a disclaimer of opinion on its last audited financial statement.

(8) The state university or college experiences a reportable event listed in paragraph (A)(5)(b) of this rule and the chancellor determines that immediate and decisive action is necessary to improve the state university or colleges financial condition.

(C) Declaration of fiscal watch

If the chancellor determines that any of the criteria set forth in paragraph (B) of this rule has been satisfied for reasons other than natural disaster, he or she shall issue a directive declaring the state university or college to be under fiscal watch. The chancellor shall certify the declaration of fiscal watch 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, and the board of trustees of the state university or college under fiscal watch.

(D) Actions to be taken by the board of trustees and employees

(1) The board of trustees of a state university or college under fiscal watch shall:

(a) Within ninety days of the declaration of fiscal watch adopt a financial recovery plan with the purpose to end fiscal watch within three years, which is approved by the chancellor. The financial recovery plan shall contain:

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

(ii) 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;

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

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

(v) A financial forecast for three years, including a description of key assumptions and methodology which will correct all fiscal conditions at the end of the three year period;

(vi) Such other information, reports, and documentation as the chancellor may request.

(b) 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. The auditor of state shall provide a written report to the board of trustees 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.

(c) Direct the state university or college to 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.

(d) Establish a process by which the board of trustees or a committee thereof will undertake monthly reviews of revenues, expenditures, and encumbrances consistent with the financial recovery plan required by paragraph (D)(1)(a) of this rule.

(e) Approve and monitor the monthly levels of expenditures and encumbrances and require supporting documentation to substantiate any departure from any approved level.

(2) The employees of the state university or college shall 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.

(E) Reporting obligations of state university or college under fiscal watch and board of trustees

(1) Each quarter during the fiscal watch, a state university or college under fiscal watch shall provide to the board of trustees and the chancellor the quarterly financial report required in paragraph (A)(5)(a) of this rule, the narrative required in paragraphs (A)(5)(b) and (A)(5)(c) of this rule, and any significant

changes to the financial recovery plan adopted pursuant to paragraph (D)(1)(a) of this rule or significant areas of noncompliance with the financial recovery plan.

(2) On or before the anniversary of the declaration of fiscal watch by the chancellor and annually thereafter during the fiscal watch, the board of trustees shall make 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 watch 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.

(F) Criteria for termination of fiscal watch

- (1) The chancellor shall terminate the fiscal watch of a state university or college when in its opinion:
- (a) The state university or college under fiscal watch achieves a composite result of the ratio analysis calculated in accordance with paragraph (A)(4) of this rule of at least 2.40 for a fiscal year;
 - (b) The state university or college has remediated all of the conditions that led to the fiscal watch, including any cash flow problems, the inability to prepare fiscal year financial statements in a timely manner, substantive audit findings, or reportable events; and
 - (c) No other condition exists or is likely to materialize that could result in a declaration of fiscal watch.
- (2) If in the opinion of the chancellor the fiscal watch should be terminated, the chancellor shall issue a directive declaring the termination of the fiscal watch and shall 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, and the board of trustees of the state university or college.
- (3) The chancellor may consult with the auditor of state, the office of budget and management, and the legislative service commission in reaching his or her opinion as to whether the fiscal watch shall be terminated.

(G) Conservatorship

(1) Criteria for certifying appointment of conservator

(a) The state university or college has a composite result of the ratio analysis calculated in accordance with paragraph (A)(4) of this rule of 0.75 or less and, in the judgment of the chancellor, after consultation with the office of budget and management, the state university or college is experiencing a serious failure of financial administration and has failed to take decisive action to restore financial health; or

(b) The state university or college has been under fiscal watch for three full consecutive years, and in the judgment of the chancellor, after consultation with the office of budget and management, the state university or college is experiencing serious failure of financial administration.

If the criteria in paragraph (G)(1)(a) or (G)(1)(b) of this rule are met, the chancellor shall determine that the state university or college under fiscal watch is experiencing sufficient fiscal difficulties to warrant the appointment of a conservator. The chancellor shall request certification from the office of budget and management that the state university or college is experiencing sufficient fiscal difficulties to warrant the appointment of a conservator. Upon receipt of the certification from the office of budget and management, the chancellor shall then certify this determination to the governor.

(c) The state university or college has one or more reportable events listed in paragraph (A)(5)(b) of this rule, and in the judgment of the chancellor, after consultation with the office of budget and management, the state university or college is experiencing serious failure of financial administration and has failed to take decisive action to restore financial health.

(2) Development of a financial stability plan by governance authority

Within ninety days after the appointment of the governance authority for a state university or college pursuant to section [3345.75](#) of the Revised Code, the governance authority shall develop a financial stability plan, the provisions of which are subject to the approval of the chancellor, after consultation with the director of budget and management. The financial stability plan shall be designed to achieve the objectives established by paragraphs (G)(3)(b) to (G)(3)(e) of this rule as expeditiously as possible, thereby permitting the termination of the conservatorship for the state university or college.

(3) Termination of governance authority

The governance authority shall certify to the governor that the state university or college is experiencing sufficient fiscal stability to warrant termination of the governance authority when:

- (a) In the opinion of the governance authority, the state university or college has prepared a financial recovery plan required by paragraph (D)(1)(a) of this rule and has satisfied all of the conditions stated in the financial recovery plan;
- (b) In the opinion of the governance authority, the state university or college has demonstrated the ability to produce materially accurate and complete financial statements and other reports of account balances and transactions for internal and external use on a timely basis, as certified by the governing authority;
- (c) In the opinion of the governance authority, key financial administration positions at the state university or college are filled by appropriately qualified and trained personnel;
- (d) In the opinion of the governance authority, there is a material improvement in the fiscal stability of the state university or college as indicated by the viability, primary, and net income ratios as calculated in paragraph (A)(4) of this rule. For the purposes of this paragraph, "material improvement" means that, in the judgment of the governance authority, a reasonable financial stability plan is in place to achieve a composite result of the ratio analysis of 2.40 for the state university or college within three fiscal years; and
- (e) In the opinion of the auditor of state, there are no material weaknesses in the internal controls of the state university or college.

Last updated February 15, 2024 at 1:46 PM

Supplemental Information

Authorized By: [3345.72](#), [3345.73](#)

Amplifies: [3345.72](#), [3345.73](#), [3345.74](#), [3345.75](#), [3345.76](#), [3345.77](#)

Five Year Review Date: 10/1/2025

Prior Effective Dates: 11/1/1997, 12/20/2015
