

# Is your District on the Road to a State of Emergency?

Cathy Hazelwood

Deputy Superintendent, Division for Legal Affairs  
South Carolina Department of Education



---

Molly M. Spearman – State Superintendent of Education

# Districts are Expected to

- Adhere to *all* funding requirements
- Have adequate internal control systems
- Comply with state laws, federal laws, and regulations
- Meet performance expectations
- Meet *all* reporting requirements (i.e, report are complete *and* on time)



# Follow Laws, Regulations & Contract Terms

- Funding requirements (law)
- Internal control system guidance (law and regulations)
- Performance expectations (law, regulations, contract, subgrant)
- Reporting requirements (regulations, contract, subgrant)

# To be Compliant

- Laws and provisos
- Regulations
- Terms and conditions of contracts, grants, subgrants

**It all comes down to  
are you  
obeying the law?**

# Laws, Provisos, Regulations

- Education Accountability Act (EAA)
- School district fiscal practices of concern, actions authorized (Section 59-20-90; a.k.a. Fiscal Practices Statute)
- 2018–19 General Appropriations Act (Act 264)
  - Proviso 1.102, Consolidate Administrative Functions
  - Proviso 1.A.12, Technical Assistance
- 2 CFR Part 25, Universal Identifier and System for Award Management
- 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

# Education Accountability Act (EAA)

## ARTICLE 15 Intervention and Assistance

- Section 59-18-1500. Schools rated below average or school/district at risk; renewal plan and compensation packages; notice to parents and publication in newspaper; department support; regional workshops.
- Section 59-18-1510. Implementation of external review team process; activities and recommendations.
- Section 59-18-1520. Declaration of emergency; hearing; courses of action.

# EAA, continued

- Section 59-18-1560. School district rated below average; appointment of external review committee; duties; recommendations; composition.
- Section 59-18-1570. Designation of state of emergency in school district designated as school/district at risk; remedial actions.
- Section 59-18-1575. Technical assistance to underperforming schools and districts.



# Fiscal Practices Statute

Section 59-20-90 School district fiscal practices of concern, actions authorized

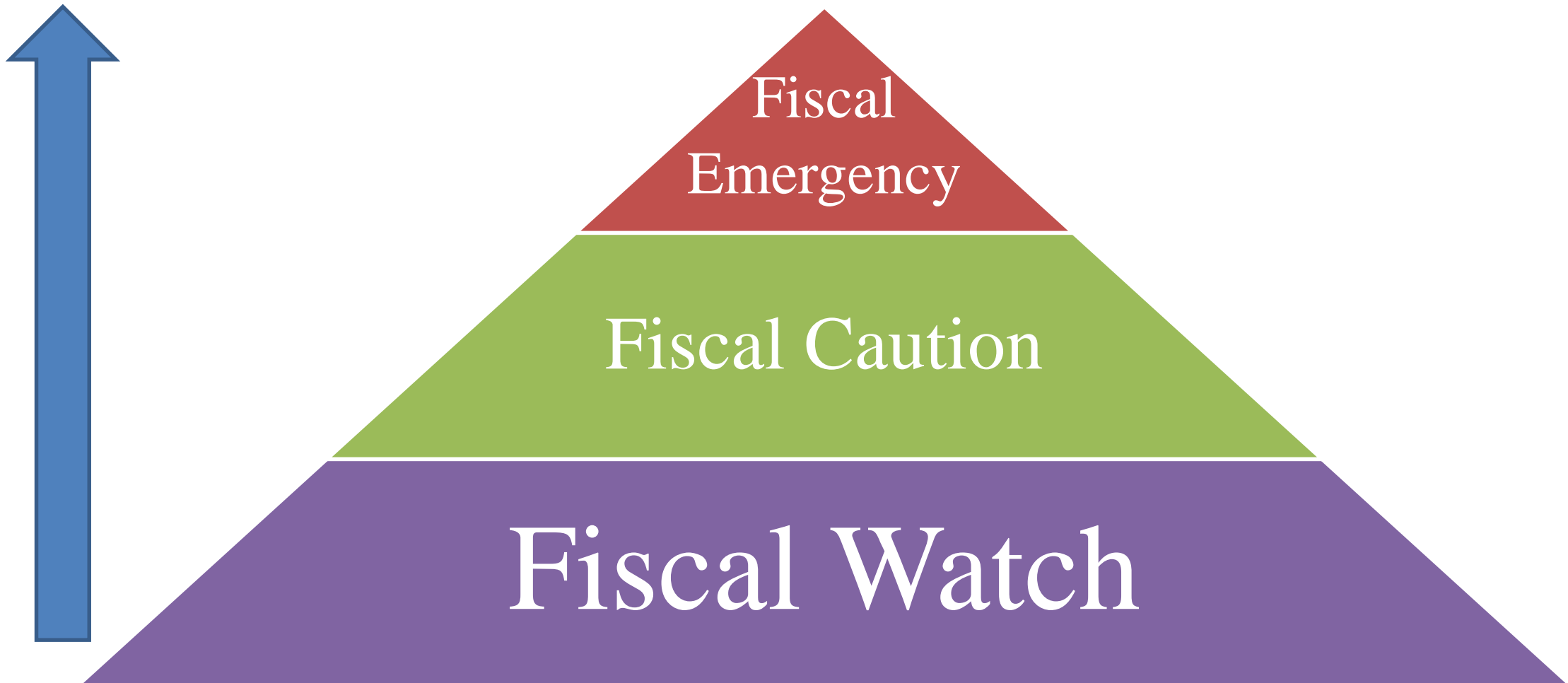
## Escalating Levels of Concern

- Fiscal Watch
- Fiscal Caution
- Fiscal Emergency

Each level requires district to develop and submit a financial recovery plan to the SCDE.



# Escalating Levels of Concern



# Fiscal Emergency

1. Failure to submit an acceptable fiscal caution recovery plan
2. Failure to comply with a fiscal caution recovery plan
3. Risk of debt default
4. Three fiscal years of fiscal watch or caution
5. Necessary to correct fiscal problems.

# **Fiscal Practices Statute, continued**

(E)(7). If the State Superintendent finds a district has not made reasonable proposals or taken action to correct the practices or conditions that led to the declaration, the Superintendent may make a recommendation to the State Board of Education that the department take over financial operations of the district for the fiscal year in which a fiscal emergency is declared as part of the technical assistance offered to the district

# **Fiscal Practices Statute, (E)(7) continued**

...Upon approval of the recommendation by the State Board of Education, the department may maintain financial operations until the district is released from a fiscal emergency.

## **Proviso 1.102.**

For the current fiscal, any school district that has an average daily membership of less than 1,500 students, has been designated in Fiscal Watch, Caution or Emergency status, has a risk assessment of medium or high, has a school or is a district with an accreditation status of probation or denied, or has a school or schools that have been in improvement status for three years may be directed by the State Superintendent of Education to consolidate administrative and professional services with one or more school districts.

## **Proviso 1.102 defines services**

Administrative and professional services may include, but are not limited to: finance, human resources, procurement, administrative functions, transportation and collaboration on increasing instructional offerings.

## **Proviso 1.102 continues**

...The Superintendent shall notify a district in writing that they meet one or more of the criteria. The district then has thirty business days from receipt of the notification to deliver a plan to the Superintendent for her approval. The Superintendent must either approve or amend the plan within fifteen days. Plans must be implemented within sixty days of approval....

## **Proviso 1.102 concludes**

If a district fails to submit a plan, the Superintendent shall direct the consolidation of services with another school district and if the district fails to comply, the department shall withhold one percent of the districts EFA allocation until the district does comply. At that time, the EFA payments shall resume and any EFA funds withheld shall be allocated to the district.



# Proviso 1A.12

State Superintendent may declare a state of emergency

- in a **district** if:
  - accreditation status is probation or denied;
  - majority of the schools fail to show improvement;
  - district is classified as being in high risk status financially; or
  - financial mismanagement has resulted in a deficit.
- in a **school** if:
  - accreditation status is probation or denied, or
  - school fails to show improvement.

## More from Proviso 1A.12

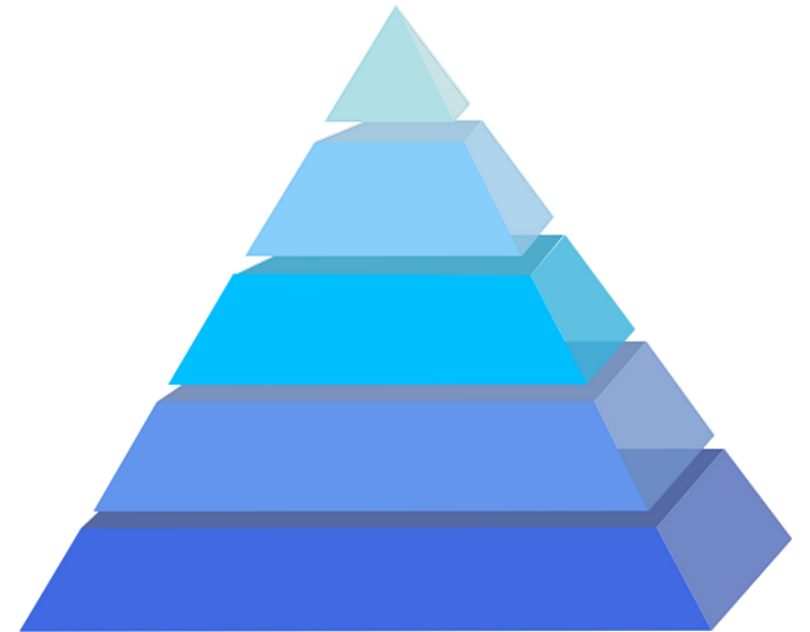
Upon declaration of a state of emergency, the Superintendent may take over management of the school or district.

Management of the school or district may include direct management, consolidation with another district, charter management, public/private management, or contracting with an educational management organization or another school district.



# Tiers of Technical Assistance

- Tier 1: Basic Support
- Tier 2: Moderate Support
- Tier 3: Intense Support
- Tier 4: SCDE declares a state of emergency and assumes management of school or district.



# Federal Uniform Grant Guidance

2 CFR Part 200, Uniform Administrative Requirements,  
Cost Principles, and Audit Requirements for Federal  
Awards (a.k.a. UGG)



# UGG

- Effective for federal grant awards and subawards as of 12/24/14
- Incorporates administrative regulations, cost principles, and audit regulations into **one set of regulations**
- Goals - streamline federal regulations and strengthen oversight to **reduce risk** of waste, fraud, and abuse

# 2 CFR Part 200.500 Subpart F

## Auditee and Auditor Responsibility

### AUDITEE

- Identify all federal awards received and expended by program title, CFDA title and number, award number and year, federal awarding agency, and name of pass-through entity.
- Maintain internal control over federal programs that provide assurance that the auditee is managing federal awards in compliance with applicable laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs.
- Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its federal programs.

### AUDITOR

- Perform procedures to obtain an understanding of internal control over federal programs sufficient to plan the audit to support a **LOW ASSESSED LEVEL OF CONTROL RISK FOR MAJOR PROGRAMS**. Section\_.514(c)(2)
- Plan the testing of internal control over major programs to support a low assessed level of control risk for assertions relevant to compliance for major programs. Section\_.514(c)(3)(i).
- Perform internal control testing as prescribed in Section \_\_.514(c)(3)(ii).
- Determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on.

# CORRECTIVE ACTION PLAN

District's management must submit to SCDE (with the single audit reports) a plan for corrective action to remedy any material weakness in the internal control structure or material instances of noncompliance found during the audit.

# Corrective Action Plan (CAP) must

- Address each audit finding that affects federal awards
- Include reference numbers auditor assigns to audit findings,
- List name(s) of contact person(s) responsible for corrective action,
- Describe the corrective action planned, and
- State the anticipated completion date.

If the auditee does not agree with the audit findings or believes that corrective action is not required, then the CAP must include an explanation and specific reasons.



# What Can You Do?



# Mitigate Risks

- Maintain a well-designed and tested system of internal controls
- Examine operations to determine vulnerabilities
- Implement specific fraud prevention strategies
  - Educate staff about risks
  - Increase awareness to increase prevention and detection
- Ensure appropriate separation of duties
- Identify potential conflicts of interest
  - Disclose to SCDE for specific guidance and advice.



# More Ways to Mitigate Risk

- Ensure *all* financial reports and other certifications are adequately supported with documentation and evidence
- Follow a fair and transparent procurement process
  - Ensure rate of pay is reasonable and justified
  - Ensure work product is well-defined and documented
  - Oversee all contracts.



# Risk Assessment

- Criteria 1-Personnel Turnover (weighted - 4,2,1)
- Criteria 2-Required Reporting (weighted - 4,2,1)
- Criteria 3-Program Compliance (weighted - 5,3,1)
- Criteria 4-Fiscal Compliance (weighted - 5,3,1)



# Risk Assessment, cont'd

- Criteria 5-Performance (weighted - 5,3,1)
- Criteria 6-Technical Assistance (weighted - 4,2,1)
- Criteria 7-Audit Report (weighted 4,2,1)
- Criteria 8-Management Systems (weighted - 5,3,1)

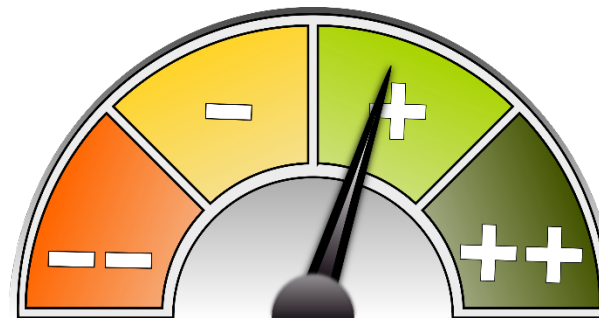


# Risk Assessment, cont'd

- Criteria 9-Financial Stability (weighted - 4,2,1)
- Criteria 10: Other Material Factors such as Accreditation and Test Security and Cheating Violations (weighted 5,3,1)

## Rating key

- 9-18 = Low Risk
- 19-28 = Medium Risk
- 29 or higher = High Risk



# Accreditation



- The State Board of Education (SBE) accredits all public education units—boards of trustees and district operations, elementary schools, middle schools, secondary schools, and career and technology education centers—under the provisions of SBE Regulation 43-300. A set of accreditation standards derived from state statutes and/or regulations governs each educational program. One key standard for all education units is that professional staff members must hold the appropriate credentials for the positions they occupy.
- ALL Districts and schools must annually apply for Accreditation by completing the online Accreditation Compliance Form by October 15, 2018.

# Q&A



Cathy Hazelwood

[chazelwood@ed.sc.gov](mailto:chazelwood@ed.sc.gov)

803-734-8218