



STATE OF TENNESSEE
 COMPTROLLER OF THE TREASURY
 DEPARTMENT OF AUDIT
 DIVISION OF LOCAL GOVERNMENT AUDIT

PUBLIC CHARTER SCHOOLS

Entity Type

For accounting, financial reporting, and auditing purposes, Tennessee public charter schools are governmental entities.

Summary of Conclusion

Paragraph 1.01 of the AICPA Audit and Accounting Guide: *State and Local Governments* provides applicable guidance for determining if an entity is governmental, and states, in part, “Public corporations and bodies corporate and politic are governmental entities.” Public corporations are defined as follows (fn. 4 of ¶1.01):

Black's Law Dictionary defines a public corporation as: “An artificial person (for example, [a] municipality or a governmental corporation) created for the administration of public affairs. Unlike a private corporation it has no protection against legislative acts altering or even repealing its charter. Instrumentalities created by [the] state, formed and owned by it in [the] public interest, supported in whole or part by public funds, and governed by managers deriving their authority from [the] state.” *Sharon Realty Co. v. Westlake, Ohio Com. Pl.*, 188 N.E.2d 318, 323, 25, O.O.2d 322. A public corporation is an instrumentality of the state, founded and owned in the public interest, supported by public funds and governed by those deriving their authority from the state. *York County Fair Ass'n v. South Carolina Tax Commission*, 249 S.C. 337, 154 S.E.2d 361, 362.

Additionally, paragraph 1.02 states, in part, “the fact that an entity is incorporated as a not-for-profit organization and exempt from federal income taxation under the provisions of Section 501 of the Internal Revenue Code is not a criterion in determining whether an entity is governmental or nongovernmental for accounting, financial reporting, and auditing purposes.”

Tennessee public charter schools meet the above described characteristics of a public corporation (i.e., governmental entity) as summarized below:

This document addresses the following topics related to Tennessee Public Charter Schools

Entity Type

Legal Standing

Audit Requirements

Reporting Requirements

Uniform Chart of Accounts

Additional Information:

Tennessee Department of Education – Charter Schools Link

http://www.tn.gov/education/schools/charter_schools.shtml

Entity Type (continued)

- **Created for the administration of public affairs**

The establishment or renewal of a charter school in Tennessee must be approved by a Tennessee Local Education Authority (LEA) or the Tennessee Achievement School District (ASD) and are intended to provide opportunities for improving public education and are approved only when the public interest is best served by their operation. (*TCA* §§ 49-13-102 and 106 and 108(b)) A charter school is defined as a “public school” in *TCA* § 49-13-104(9). Public charter schools are subject to many of the same state laws as LEAs – See *TCA* § 49-13-111.

- **No protection against legislative acts altering or even repealing its charter**

Charter school powers are granted by the legislature and may be altered at any time by the state legislature. (*TCA* § 49-13-101, et seq.)

- **Created by [the] state, formed and owned by it in [the] public interest, supported in whole or part by public funds**

Public charter schools receive “an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal law or regulation, including, but not limited to, Title I and ESEA funds.” This is the same funding that other students attending Tennessee public schools receive. (*TCA* § 49-13-112)

- **Governed by managers deriving their authority from [the] state**

Those who govern public charter schools in Tennessee, although not appointed or approved by state or local government, nonetheless derive their authority to govern from the laws enacted by the Tennessee state legislature. Section 49-13-111(f), *TCA*, states, “A public charter school shall be governed and managed by a governing body in a manner agreed to by the sponsor and chartering authority as provided in the charter agreement.”

- **Other pertinent issues related to their classification as a governmental entity for accounting, financial reporting, and auditing purposes:**

- Budgets are required to be prepared in the same format required by the state department of education for LEAs. (*TCA* § 49-13-111(l))
- Charter schools are required to participate in the group insurance plans authorized in Title 8, Chapter 27, Part 3, of *TCA* in the same manner as teachers and other full-time permanent employees of the LEA.
- There are five states with comparative charter school legislation: Arkansas, Georgia, Missouri, North Carolina, and Virginia. All of these states follow some form of GASB reporting requirements, including regulatory reporting that is based on GASB.

Entity Type (continued)

- The authority for charter schools to levy taxes or issue bonds is limited by state statute. (*TCA* § 49-13-124)
- The power for charter schools to (1) sue and be sued, (2) contract for services, (3) buy, sell or lease property, (4) borrow funds, and/or (5) pledge its assets as security is provided by state statute. (*TCA* § 49-13-124)
- Employees and teachers of charter schools participate in the Tennessee Consolidated Retirement System (TCRS). (*TCA* § 8-35-242) The chartering authority retains responsibility for TCRS contributions should the charter school fail to make payments.
- Records of public charter schools are open for public inspection. (*TCA* § 49-13-140)
- Schools are subject to the same statutory web site information requirements as LEAs (i.e., notice of public meetings, agendas, policies, and names of the governing board). (*TCA* § 49-13-139)
- Meetings of the governing body are deemed public business and are subject to public meeting requirements outlined in Title 8, Chapter 44, Part 1 of *TCA*. (*TCA* §§ 49-13-111(h) and 49-13-138)
- The governing body of a charter school has the same limits of liability as local school systems and are required to provide insurance in accordance with *TCA* § 49-13-107 for any liability exposure.
- Conflicts of interest are subject to the public contracts statutes at *TCA* §§ 12-4-101 and 12-4-102. (*TCA* § 49-13-111(g))
- Surety bond requirements for charter school officials are the same as for public officers, as prescribed by *TCA* § 8-19-101. (*TCA* § 49-13-111(n))
- Tuition limitations are defined by state statute. (*TCA* §§ 49-13-105 and 49-13-111(k))
- Schools must report on a fiscal year end of June 30. (*TCA* § 49-13-111(l))
- Charter schools are subject to a “chartering authority” and “chartering agreement” as outlined in *TCA* § 49-13-110, et seq.
- Approval to operate under a charter agreement may be revoked or denied renewal by the chartering authority. (*TCA* § 49-13-122)
- Student enrollment is regulated by state statute. (*TCA* § 49-13-113)

Entity Type (continued)

- All contracts for goods in excess of ten thousand dollars (\$10,000) are required to be bid and approved by the governing body of each public charter school. (*TCA* § 49-13-111(e))
- *TCA* § 49-13-112(a) states that, “All funds received by a charter school shall be spent according to the budget submitted or as otherwise revised by the public charter school governing body, subject to the requirements of state and federal law.”

Legal Standing

The GASB *Codification of Governmental Accounting and Financial Reporting Standards*, Section 2100.114, provides guidance in determining the legal status of a governmental entity:

Determining Separate Legal Standing

.114 An organization has separate legal standing if it is created as a body corporate or a body corporate and politic, or if it otherwise possesses the corporate powers that would distinguish it as being legally separate from the primary government. Generally, corporate powers give an organization the capacity to have a name; the right to sue and be sued in its own name without recourse to a state or local governmental unit; and the right to buy, sell, lease, and mortgage property in its own name. The corporate powers granted to a separate organization are enumerated in its corporate charter or in the legislation authorizing its creation. A special-purpose government (or any other organization) that is not legally separate should be considered, for financial reporting purposes, part of the primary government that holds the corporate powers. [GASBS 14, ¶15]

Tennessee charter schools are considered to be legally separate in accordance with the above guidance because *TCA* § 49-13-124 provides, in part, that the governing body of a charter school may:

- sue and be sued,
- buy, sell or lease property, and
- borrow funds as needed.

Legal Organization of Individual Charter Schools

There is no requirement that each public charter school operating from the authority of an approved charter agreement establish legal separateness by the creation of a separate legal charter with the Tennessee Secretary of State’s Office. In practice, the legal structure or form varies. Some public charter schools are structured to be part of the same legal entity (i.e., the sponsor organization or the Charter Management Organization). Others are legally formed with separate charters for each school. The legal organization and form are at the option of the governing body. As explained above, because of the powers granted by state statute, charter schools and Charter Management Organizations are in substance legally separate entities, regardless of their legal form.

Audit Requirements

In accordance with *TCA* § 49-13-127, public charter schools shall have an annual audit of its accounts and records, including internal school activity and cafeteria funds. The audits shall meet minimum audit standards and regulations prescribed by the Comptroller of the Treasury.

All audits shall be conducted in accordance with *Government Auditing Standards*. A uniform contract to audit accounts should be executed annually utilizing the Comptroller's online Contract and Report System (CARS), accessible at https://www.comptroller.tn.gov/RA_Upload/.

Audits of Multiple Schools Operated by a Charter Management Organization (CMO)

A **Charter Management Organization (CMO)** is defined as “a nonprofit entity that operates multiple charter schools at least one (1) of which is in Tennessee” (*TCA* § 49-13-104(4)). A CMO has one of two options regarding the annual audit for the charter schools they govern:

- (1) A separate audit for each individual charter school.
- (2) A single or combined audit for all schools. *TCA* § 49-13-127(b)(3) authorizes a CMO to have a single audit for all charter schools operated in Tennessee by the CMO.

Contracting for the Audit – Special Considerations for CMOs

Separate Audits for Each School

When contracting for the annual audits of the different schools operated by the CMO, separate audit contracts should be executed in the name of each individual school.

One Audit Report for All Schools Operated by the CMO

When contracting for a combined annual audit for all schools operated by the CMO, the audit contract should be executed in the name of the CMO. However, in accordance with *TCA* § 49-13-127(b)(3), the audit scope shall encompass the financial activities of the Tennessee public charter schools operated by the CMO, but not the activities of the CMO itself.

Reporting Requirements

As explained above, Tennessee public charter schools meet the definition of a government for accounting, financial reporting, and auditing purposes. For GASB reporting purposes, Tennessee public charter schools are defined as a special purpose government. The operations of public charter schools are very similar to the operations of a Local Education Agency (i.e., county and municipal boards of education). Under GASB standards, charter school operations meet the criteria for being reported as governmental funds.

Reporting Requirements (continued)

Additional Reporting Requirements for Charter Management Organizations (CMOs) that Choose to Have One Audit of All Schools Operated by the CMO

As explained above, a CMO has the option of having (1) a separate annual audit for each charter school they govern or (2) a single or combined audit for all schools. CMOs that have a combined audit should include the following.

Title Page

The title page of the financial report should include the name of the CMO as well as the name of each Tennessee public charter school operated by the CMO. For example:

Annual Financial Report
Tennessee Public Charter Schools Operated By
ABC Public Charter Schools

School A
School B
School C

Financial Statements

The financial report should include government-wide financial statements and governmental fund financial statements for the charter schools operated by the CMO.

Individual schools are not required to be reported separately (i.e., in separate funds) in the basic financial statements. When schools are combined and reported together, reporting by individual school should be included as supplemental information as described herein. (If each school is reported as a separate special revenue fund, the supplemental information described below is not required.)

Other Supplementary Information

TCA § 49-13-127(b)(3) authorizes a single audit of multiple schools provided that “such audit includes all information under this section for each school.” Accordingly, the annual audit report shall include supplemental financial information in accordance with the following:

- a) Required Schedules:
 - i. Schedule of Assets, Liabilities and Fund Balance(s)
 - ii. Schedule of Revenues, Expenditures and Changes in Fund Balance(s)
- b) The schedules shall be consistent with GASB reporting requirements for governmental fund financial statements.

Reporting Requirements (continued)

- c) Separate schedules shall be included for each school that is operating from a distinct charter agreement.
- d) The schedules shall be presented as Other Supplemental Information (OSI).
- e) An opinion on whether the schedules are fairly stated in all material respects in relation to the basic financial statements taken as a whole is required.

Internal School Funds

The reporting for internal schools funds, including money raised by student club accounts, is addressed in Section 7 of the *Tennessee Internal School Uniform Accounting Policy Manual*, accessible at: <http://www.tn.gov/education/districts/finance/July2011TISUAPM.pdf>.

Uniform Chart of Accounts

TCA § 49-13-111(m) requires public charter schools to maintain their accounts and records in accordance with generally accepted accounting principles and in conformance with the uniform chart of accounts and accounting requirements prescribed by the Comptroller of the Treasury. Charter schools should utilize the County Uniform Chart of Accounts, accessible from the Division of Local Government's website. Because the operations of charter schools are similar to a local education agency (i.e., board of education), the County Uniform Chart of Accounts provides the necessary account structure and classifications for the charter schools to maintain their accounts in compliance with applicable GASB reporting standards.