



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

## TENNESSEE 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**

**[School Choice - Charter Schools](#)**

- **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), the Tennessee Public Charter School Commission, or the Tennessee Achievement School District (ASD). Charter schools are intended to provide opportunities for improving public education and are approved only when the public interest is best served by their operation. (Tennessee Code Annotated (TCA) §§ 49-13-102 and 106 and 108(b)). A charter school is defined as a “public school” in TCA § 49-13-104(12). 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**

A local board of education shall allocate to the charter school an amount equal to:

- A. The total of the state and local student-generated funds for member students in the charter school for the prior year in alignment with the Tennessee Investment in Student Achievement (TISA) pursuant to chapter 3, part 1 of this title;
- B. The average per pupil local funds received by the district in the current school year above those required by the TISA for each member student in the charter school in the prior year;
- C. The per student state and local funds received by the LEA for member students in the charter school in the current school year beyond the prior year’s membership; and
- D. All appropriate allocations under federal law or regulation, including, but not limited to, IDEA 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. TCA § 49-13-111(a)(2) states, “A public charter school shall, at a minimum: operate as a public, nonsectarian, nonreligious public school, with control of instruction vested in the governing body of the public charter school under the general supervision of the authorizer and in compliance with the charter agreement and this chapter.”

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

- A public charter school is subject to state audit procedures and audit requirements. (TCA § 49-13-111(k))
- A public charter school shall be operated on a July 1 to June 30 fiscal year and the governing body shall adopt and operate under an annual budget for the fiscal year. The budget shall be prepared in the same format as that required by the state department of education for LEAs. (TCA § 49-13-111(l))
- A public charter school shall maintain the school’s accounts and records in accordance with accounting principles generally accepted in the United States and in conformity with the uniform chart of accounts and accounting requirements prescribed by the comptroller of the treasury. The public charter school shall

## PUBLIC CHARTER SCHOOLS

prepare and publish an annual financial report that encompasses all funds. The annual financial report must include the audited financial statements of the public charter school. (TCA § 49-13-111(m)).

- Teachers, as defined in § 8-34-101, and other full-time permanent employees of a public charter school, including a public charter school authorized by the achievement school district or the commission, are eligible to participate in the group insurance plans selected by the governing body of the public charter school. Public charter schools, including public charter schools authorized by the achievement school district or the commission, are entitled to participate in the state group insurance plans selected by the governing body of the public charter school in accordance with § 8-27-303. (TCA § 49-13-119)
- The governing body may not levy taxes or issue bonds except in accordance with state law. (TCA § 49-13-124(a))
- 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)
- All teachers and employees of a public charter school that converts from a public school shall continue to participate in the same retirement program as the teachers and employees of the local board of education to which the charter school is associated. (TCA § 8-35-242(a))
- All teachers and employees of a new public charter school shall participate in the same retirement program as the teachers and employees of the local board of education to which the charter school is associated. (TCA § 8-35-242(b)).
- The board of education shall be responsible for all reporting and submission of funds to the appropriate retirement system. (TCA § 8-35-242 (b)).
- All records of a public charter school are open for personal inspection and duplication by any citizen of this state to the extent that records of public schools operated by an LEA are open. (TCA § 49-13-111(g)).
- 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. All information providing notice of public meetings as required under § 8-44-103 must be kept current by a public charter school on the public charter school's website. The board of directors of a Charter Management Organization (CMO) may conduct a board meeting concerning a public charter school located in this state by teleconference, videoconference, or other electronic means in compliance with § 8-44-108, except that § 8-44-108(b)(2) and (3) shall not apply to such a meeting if a physical quorum is not present at the location stated in the notice of the meeting. (TCA § 49-13- 111(h))
- The governing body of a charter school has the same limits of liability as local school systems. Types and amounts of insurance coverage to be held either by the charter school or approved by the authorizer, including provisions for assuring that the insurance provider will notify the department of education within ten (10) days of the cancellation of any insurance it carries on the charter school. (TCA § 49-13-107(b)(19)).
- Conflicts of interest are subject to the public contracts statutes at TCA §§ 12-4-101 and 12-4-102. (TCA § 49-13-111(f))
- 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))

- A public charter school shall not charge registration fees, enrollment fees, or tuition; provided, however, that tuition may be charged if, in accordance with § 49-13-113(b), the governing body of the public charter school approves a student's transfer from another LEA to the public charter school pursuant to § 49-6-3003. (TCA § 49-13-106(e)).
- 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)
- 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)(1))  
(Charter School located in a county with population less than 40,000.)
- All contracts for goods in excess of twenty-five thousand dollars (\$25,000) are required to be bid and approved by the governing body of each public charter school. (TCA § 49-13-111(e)(2))  
(Charter School located in county with population 40,000 or more.)
- TCA § 49-13-112(a)(3) 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 Government Auditing Standards Board (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.
- pledge its assets as security; provided, however, that those assets are not leased or loaned by the state or local government.

### 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 their 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](#)).

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

A **Charter Management Organization (CMO)** is defined as “a nonprofit entity that manages or operates two or more charter schools” (TCA § 49-13-104(5)). A CMO has one of two options regarding the annual audit for the charter schools they govern:

- Option 1:** A separate audit for each individual charter school.
- Option 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; provided, that such audit includes all information required under § 49-13-127 **for each school**.

### Contracting for the Audit – Special Considerations for CMOs

#### Separate Audit for Each School

When a CMO chooses Option 1, separate contracts should be executed in the name of each individual school.

#### One Audit Report for All Schools Operated by the CMO

When a CMO chooses Option 2, the audit contract should be executed in the name of the CMO. Although the audit contract is executed in the name of the CMO, the audit should include financial information required by TCA § 49-13-127 for **each school**.

## 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). Charter school operations should be reported as governmental activities and governmental funds in accordance with GASB standards.

### 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 school reporting should be presented as supplemental information as described in the following Supplementary Information section.

#### 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 for each school (as combining or individual 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.
- c) Separate schedules (i.e., separate columns in combining schedules or individual schedules) shall be

included for each school that is operating from a distinct charter agreement.

- d) The schedules shall be presented as Supplementary Information (SI).
- 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 (ISF)**

#### **GASB Statement No. 84 Impact on charter schools’ internal school funds**

Governmental Accounting Standards Board (GASB) Statement No.84 applies to public charter school’s financial statements. Because schools have administrative involvement with internal school funds, they are not considered fiduciary in nature. Internal School Funds can be presented as a special revenue fund or as part of the general fund.

When internal school funds are presented within the general fund, separate line items for revenues and expenditures should be used. The separate revenue and expenditure line items must be clearly labeled in the financial report as “revenues-internal school funds” and “expenditures-internal school funds.” Remaining funds at the end of the fiscal year should be classified as restricted fund balance and restricted net position due to constraints imposed by law through enabling legislation. (TCA § 49-2-110).

When internal school funds are presented as a special revenue fund, combining or individual schedule for each school should be presented in the supplementary information section of the report.

#### **Internal School Funds – Separate Audited Financial Statements**

A uniform contract to audit accounts should be executed separately for charter schools, and the charter schools’ internal school funds. The internal school funds’ financial report should be prepared in accordance with the accounting and reporting requirements for internal schools funds, a regulatory basis of accounting as addressed in the [\*Internal School Funds Manual\*](#).

If a charter school has an insignificant or trivial (i.e., immaterial) amount of financial activity for internal school funds in-relation to the individual charter school’s financial statements, detailed financial information of the internal school funds should be provided to our office annually in a format prescribed by the Division of Local Government Audit. The Division of Local Government Audit will determine if a separate audit report needs to be issued for the charter school’s internal school funds.

### **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. The public charter school shall prepare and publish an annual financial report that encompasses all funds. The annual financial report must include the audited financial statements of the public charter school. Charter schools should utilize the County Uniform Chart of Accounts, accessible from the Division of Local Government Audit’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.