



# Delaware Auditor of Accounts GASB Entity Determination Analysis Memo Delaware Higher Education Commission

FSF User

Part of Primary Government

To complete our entity determination analysis, the Office of Auditor of Accounts (AOA) reviewed the following:

- GASB 14, *The Financial Reporting Entity*
- GASB 34, *Basic Financial Statements – and Management’s Discussion and Analysis – for State and Local Governments* (GASB 34 amended GASB 14, ¶9, 11, ¶12, ¶19, ¶42, ¶44, ¶50 –¶52, ¶54, ¶58, ¶60, ¶63, ¶65, ¶73, ¶74, ¶78, and¶131 and superseded GASB 14, ¶45–47, 49, 56, and ¶57)
- GASB 39, *Determining Whether Certain Organizations Are Component Units*
- GASB 61, *The Financial Reporting Entity: Omnibus an amendment of GASB Statements No. 14 and No. 34*
- *AICPA Audit and Accounting Guide – State and Local Governments*, Chapter 3: The Financial Reporting Entity
- *GASB 2011-2012 Comprehensive Implementation Guide*, Chapter 4: The Financial Reporting Entity
- *77 Del. Laws, c. 431, §2*
- *14 Del. C. c. 1, Subchapter V – Delaware Higher Education Office*

*NOTE: The analysis below is based on the documents/guidance reviewed, as detailed above. Additional information or legal interpretations of the portions of the Delaware Code reviewed could impact the analysis and impact a decision on the proper accounting treatment for the entity. The decision of what the appropriate accounting treatment is for the entity, based on a review of all applicable guidance/information, is solely the responsibility of management. As such, AOA does not make such conclusions herein.*

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| <ol style="list-style-type: none"><li>1. <i>The PCU is not legally separate. (¶ 15)<sup>1</sup></i></li><li>2. <i>The PG holds the PCU’s corporate powers. (¶ 15)</i></li></ol> |
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According to GASB, 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.

## **Application to Delaware Higher Education Commission**

The Delaware Higher Education Commission is not legally separate from the State of Delaware because it is not established as a body corporate or a body corporate and politic (14 Del. C. §180).

<sup>1</sup> Paragraph references are from GASB 14, as amended by GASB 61.



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The Delaware Higher Education Commission does not possess the corporate powers granted to a separate organization because it is an office of the Department of Education. The Delaware Code states that “The Department of Education may employ a Director of the Delaware Higher Education Office and other staff as necessary to meet its mandate and provide effective service within the limitations of and the manner prescribed by the annual Appropriations Act” (14 Del. C. §182). This section of the Delaware Code is titled, “Staff.” Further, the statutory language does not give the Delaware Higher Education Commission the corporate powers that would distinguish it as a legally separate entity (14 Del. C. §183). As per 77 Del. Laws, c. 431, §2, the Delaware Higher Education Commission shall now be known as the Delaware Higher Education Office.

Code excerpts are as follows:

#### **14 Del. C. §180 Purpose.**

The Delaware Higher Education Office serves as a source of higher education information and expertise for the executive and legislative departments of the State and for Delaware citizens who can benefit from higher education. It serves as a mechanism for members of the public and professional groups to address higher education issues and ensure that resources are continuously focused to meet state priorities. The Higher Education Office, with the Department of Education, will support student transition between K-12 education and postsecondary education environments, and support increased student achievement.

#### **14 Del. C. §182 Staff.**

The Department of Education may employ a Director of the Delaware Higher Education Office and other staff as necessary to meet its mandate and provide effective service within the limitations of and the manner prescribed by the annual Appropriations Act. Employees of the Office shall be compensated in accordance with the provisions set forth in Chapter 13 of this title.

#### **14 Del. C. §183 Regulations.**

Acting in cooperation with the Delaware Higher Education Office, the Department of Education, with the consent of the State Board, is authorized to promulgate rules and regulations to implement the purposes of this subchapter.

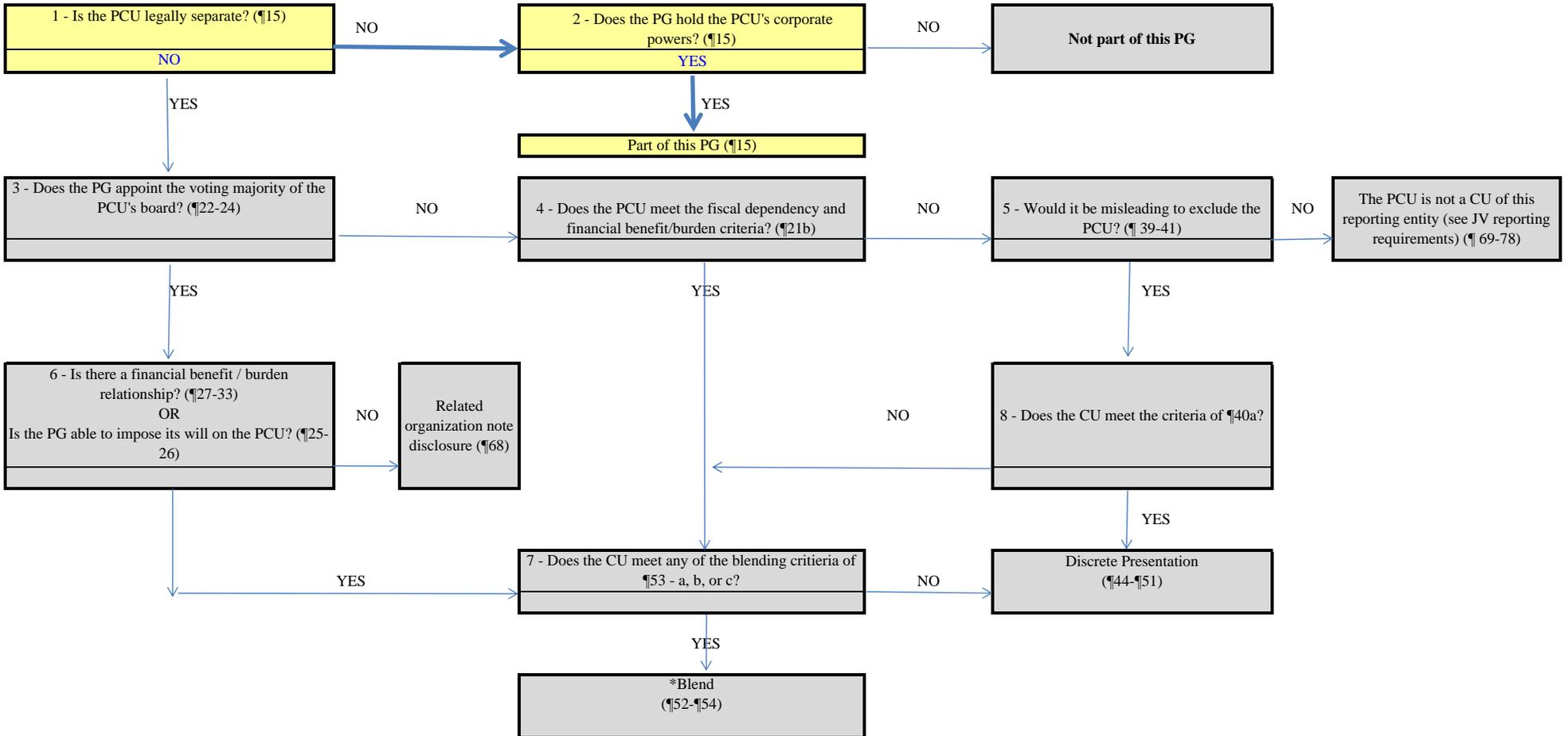
#### **77 Del. Laws, c. 431, §2**

Amend §§180 and 181, Title 14 of the Delaware Code by striking the word "Commission" each time it appears in either Section and substituting the word "Office" in lieu thereof.

**Delaware Auditor of Accounts  
GASB Determination Analysis Flowchart  
Delaware Higher Education Commission**

See below for GASB 61 flowchart analysis (refer to the entity determination analysis memo that expands of the guidance used to answer each question in the flowchart below).

*Note: Paragraph references are from GASB 14, as amended by GASB 61.*



\*Note: A potential component unit for which a primary government is financially accountable may be fiscally dependent on and have a financial benefit or burden relationship with another government. An organization should be included as a component unit of only one reporting entity. Professional judgement should be used to determine the most appropriate reporting entity (§21b and §34-§38). A primary government that appoints a voting majority of the governing board of a component unit of another government should make the disclosures required by §68 for related organizations.

PCU = Potential Component Unit  
PG = Primary Government  
CU = Component Unit  
JV = Joint Venture