



Delaware Auditor of Accounts
GASB Entity Determination Analysis
Delaware Health Facilities Authority
June 30, 2016

Not an FSF User

Related Organization

Governmental Accounting Standards Board (GASB) Statements No. 14, 34, 39, 61, and 80 establish standards for defining and reporting on a government's reporting entity. Management is responsible for determining the reporting entity while preparing the government's financial statements. The Office of Auditor of Accounts (AOA) performed the analysis below to assess the State's reporting entity for audit purposes.

To complete our entity determination analysis, 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*¹
- 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*
- GASB 80, *Blending Requirements for Certain Component Units, an amendment of GASB Statement No. 14*
- *AICPA Audit and Accounting Guide – State and Local Governments*, Chapter 3: The Financial Reporting Entity
- *GASB 2013-2014 Comprehensive Implementation Guide*, Chapter 4: The Financial Reporting Entity
- *16 Del C. c. 92, Delaware Health Facilities Authority.*

1. The PCU is legally separate. (2100.114)²

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.

¹ GASB 34 amended GASB 14, ¶9, 11, ¶12, ¶19, ¶42, ¶44, ¶50 –¶52, ¶54, ¶58, ¶60, ¶63, ¶65, ¶73, ¶74, ¶78, and ¶131 and superseded GASB 14, ¶45–47, 49, 56, and ¶57.

² Paragraph references are from the Codification of Governmental Accounting and Financial Reporting Standards as of June 30, 2014, published by GASB.

NOTE: The format of the flowchart was revised on April 25, 2016, to more clearly define the Joint Venture/Jointly Governed path.



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Application to the Delaware Health Facilities Authority (the Authority)

The Authority is created as a separate legal entity from the State of Delaware because it is established in 16 Del. C. §9204 (a) as a body corporate and politic known as the "Delaware Health Facilities Authority." Other factors that make the Authority legally separate include the Authority's right to sue and be sued in its own name (16 Del. C. §9205 (a)(4)) and its ability to lease the location of any financed project and mortgage any project (16 Del. C. §9205 (a)). It may also acquire property under 16 Del. C. §9207.

Code Excerpts as follows:

16 Del. C. §9204. Health Facilities Authority.

- (a) There is hereby created a body politic and corporate to be known as the "Delaware Health Facilities Authority," hereinafter in this chapter called the Authority. Said Authority is constituted a public instrumentality and the exercise by the Authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function. Said Authority shall consist of 7 members to be appointed by the Governor, 1 of which shall be a resident of the City of Wilmington, 1 a resident of New Castle County, 1 a resident of Kent County, 1 a resident of Sussex County and 3 members at large, all of whom shall be residents of the State. No more than 4 shall be members of the same political party. At least 2 of the members shall be trustees, directors, officers or employees of a health care facility, at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in the field of state and municipal finance, either as a partner, officer or employee of an investment banking firm which originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio and at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in the building construction field. The terms of the members of the Authority first appointed shall be designated by the Governor to commence on June 1, 1976, and to expire, respectively, 1 on June 30th in each of the years 1977, 1978, 1979 and 1980 and 3 in the year 1981. A member of the Authority shall be eligible for reappointment. Upon the expiration of the term of any member the member's successor shall be appointed for a term of 5 years. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the Authority may be removed by the Governor for misfeasance, malfeasance or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be expressly waived in writing. Each member of the Authority, before entering upon the member's duties, shall take an oath to administer the duties of the member's office faithfully and impartially, and such oath shall be on file in the office of the Secretary of State. For the purposes of this section, a member's residency, political affiliation, position or employment, skill, knowledge and experience in a specified area shall be determined as of the date of the initial appointment of such member.

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16 Del. C. §9205. General grant of powers.

- (a) The purpose of the Authority shall be to assist health care facilities in the acquisition, construction, financing and refinancing of projects, and for this purpose the Authority is authorized and empowered to:
- (1) Adopt bylaws for the regulation of its affairs and the conduct of its business;
 - (2) Adopt an official seal and alter the same at pleasure;
 - (3) Maintain an office at such place or places as it may designate;
 - (4) Sue and be sued in its own name, plead and be impleaded;
 - (5) Determine the location and character of any project to be financed under this chapter, and to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, to enter into contracts for any and all of such purposes, to enter into contracts for the management and operation of a project, and to designate a participating facility as its agent to determine the location and character of a project undertaken by such participating facility under this chapter and, as the agent of the Authority, to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, and, as the agent of the Authority, to enter into contracts for any and all of such purposes, including contracts for the management and operation of such project;
 - (6) Issue bonds, bond anticipation notes and other obligations of the Authority for any of its corporate purposes, and to fund or refund the same all as provided in this chapter;
 - (7) Generally, fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with any person, partnership, association or corporation or other body public or private in respect thereof and to designate a participating facility as its agent to fix, revise, charge and collect such rates, rents, fees and charges and to make such contracts;
 - (8) Establish rules and regulations for the use of a project or any portion thereof and to designate a participating facility as its agent to establish rules and regulations for the use of a project in which such participating facility is participating;
 - (9) Employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

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- (10) Receive and accept from any public agency loans or grants for or in aid of the construction of a project or any portion thereof, and receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such loans, grants, aid and contributions are made;
- (11) Mortgage any project and the site thereof for the benefit of the holders of bonds issued to finance such project;
- (12) Make loans to any participating facility for the cost of a project in accordance with an agreement between the Authority and one or more participating facilities; provided that no such loan shall exceed the total cost of the project as determined by such participating facility or facilities and approved by the Authority;
- (13) Make loans to participating facilities to refund outstanding obligations, mortgages or advances issued, made or given by such participating facilities for the cost of the project;
- (14) Charge to and equitably apportion among participating facilities its administrative costs and expenses reasonably incurred in the exercise of the powers and duties conferred by this chapter;
- (15) Do all things necessary or convenient to carry out the purposes of this chapter.

16 Del. C. §9207. Acquisition of property.

The Authority is authorized and empowered, directly or by and through a participating facility, as its agent, to acquire by purchase solely from funds provided under the authority of this chapter, or by gift or devise, such lands, structures, property, real or personal, rights, rights-of-way, air rights, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the State as it may deem necessary or convenient for the acquisition, construction or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the Authority, or in the name of 1 or more participating facilities as its agent.

3. The PG appoints the majority of the PCU's board. (2100.121-.123)

According to GASB, if a primary government appoints a simple majority of the organization's governing board,³ it usually has a voting majority. However, if financial decisions require the approval of more than a simple majority, the primary government is not accountable for the organization.

³ This also includes situations in which a voting majority of an organization's governing body consists of the primary government's officials *servicing as required by law* (and, thus, technically not *appointed* by the primary government).

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For purposes of determining whether accountability exists, a primary government's appointment authority should be substantive. In some cases the appointment authority of a primary government's officials may be limited by a nomination process. For example, state statutes or local ordinances may require a primary government to select its appointees from a slate of candidates provided by one or more individuals or groups other than the primary government's officials or appointees. A primary government's appointment authority is not substantive if the number of candidates is severely limited by the nominating process, for example, if a primary government must select three appointees from a single slate of five candidates. Additionally, a primary government's appointment authority may not be substantive if its responsibility is limited to confirming appointments made by individuals or groups other than the primary government's officials or appointees.

In most instances, legal provisions for appointment of an organization's officials also provide for continuing appointment authority. However, in the absence of continuing appointment authority, the ability of a primary government to unilaterally abolish an organization also provides the basis for ongoing accountability. Thus, a primary government that creates an organization (creation is tantamount to the initial appointment of the governing body) is accountable for the organization if the primary government can unilaterally abolish it. A primary government is considered to be accountable for an organization as long as continuing appointments are made by the primary government, even if those appointments are made by a subsequent administration.

Application to the Authority

The Authority consists of seven members, all of which are appointed by the Governor (16 Del C. §9204).

Code Excerpts as Follows:

16 Del. C. §9204. Health Facilities Authority.

- (a) There is hereby created a body politic and corporate to be known as the "Delaware Health Facilities Authority," hereinafter in this chapter called the Authority. Said Authority is constituted a public instrumentality and the exercise by the Authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function. Said Authority shall consist of 7 members to be appointed by the Governor, 1 of which shall be a resident of the City of Wilmington, 1 a resident of New Castle County, 1 a resident of Kent County, 1 a resident of Sussex County and 3 members at large, all of whom shall be residents of the State. No more than 4 shall be members of the same political party. At least 2 of the members shall be trustees, directors, officers or employees of a health care facility, at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in the field of state and municipal finance, either as a partner, officer or employee of an investment banking firm which originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio and at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in the

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building construction field. The terms of the members of the Authority first appointed shall be designated by the Governor to commence on June 1, 1976, and to expire, respectively, 1 on June 30th in each of the years 1977, 1978, 1979 and 1980 and 3 in the year 1981. A member of the Authority shall be eligible for reappointment. Upon the expiration of the term of any member the member's successor shall be appointed for a term of 5 years. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the Authority may be removed by the Governor for misfeasance, malfeasance or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be expressly waived in writing. Each member of the Authority, before entering upon the member's duties, shall take an oath to administer the duties of the member's office faithfully and impartially, and such oath shall be on file in the office of the Secretary of State. For the purposes of this section, a member's residency, political affiliation, position or employment, skill, knowledge and experience in a specified area shall be determined as of the date of the initial appointment of such member.

- 6. *There is not a financial benefit/burden relationship. (2100.126-.132)***
AND
The PG is not able to impose its will on the PCU. (2100.124-.125)

Financial Benefit to or Burden on a Primary Government

An organization can provide a financial benefit to, or impose a financial burden on, a primary government in a variety of ways. The benefit or burden may result from legal entitlements or obligations, or it may be less formalized and exist because of decisions made by the primary government or agreements between the primary government and a component unit. If a primary government appoints a voting majority of an organization's officials or if the organization is fiscally dependent on the primary government *and* there is a potential for those organizations either to provide specific financial benefits to, or to impose specific financial burdens on, the primary government, the primary government is financially accountable for those organizations. An organization has a financial benefit or burden relationship with the primary government if, for example, *any one* of these conditions exists:

- a. The primary government is legally entitled to or can otherwise access the organization's resources.
- b. The primary government is legally obligated or has otherwise assumed the obligation to finance the deficits of, or provide financial support to, the organization.
- c. The primary government is obligated in some manner for the debt of the organization.

Exchange transactions between organizations and the primary government should not be considered manifestations of a financial benefit or burden relationship. In an exchange transaction, such as a purchase or sale of goods or services, each participant (the government or its employees rather than the citizenry) directly receives and sacrifices value. For example, funding by a primary government for higher

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education is not equivalent to purchasing educational services and would be considered a manifestation of a financial burden on the primary government.

The effect of the financial benefits or burdens on the primary government can be either direct or indirect. A direct financial benefit or burden occurs when the primary government itself is entitled to the resources or is obligated for the deficits or debts of the organization. An indirect benefit or burden exists if one or more of the primary government's component units is entitled to the resources or is obligated for the deficits or debts of the organization. For purposes of this Statement, a financial benefit or burden relationship exists if the primary government is either directly or indirectly entitled to the resources or is either directly or indirectly obligated for the deficits or debts of an organization.

Legally Entitled to or Can Otherwise Access the Organization's Resources. The ability to access the resources of an organization—not necessarily whether there was an actual transaction during the period—is the important factor for determining when a primary government is entitled to an organization's resources. However, the ability to access the resources of an organization should be judged in light of the organization as a going concern; that is, a residual interest in the net assets of an organization in the event of dissolution is not equivalent to being entitled to its resources. If a primary government appoints a voting majority of an organization's officials *and* is legally entitled to or can otherwise access the organization's resources, the primary government is financially accountable for that organization.

Resources may flow from a component unit to a primary government for several reasons. Some organizations may operate activities, such as off-track betting or lotteries, for the principal purpose of generating net revenues that are accessible to the primary government. These organizations provide financial benefits to the primary government. Other organizations may operate activities (for example, public utilities) for the purpose of providing basic public services and charge rates sufficiently high to also provide a financial benefit to the primary government. These benefits may be characterized as "payments in lieu of taxes" or "contributions," or they may simply be amounts remitted on request of the primary government. These organizations also provide financial benefits to the primary government.

Legally Obligated or Has Otherwise Assumed the Obligation to Finance the Deficits of, or Provide Financial Support to, the Organization. A primary government may be obligated to finance the deficits of, or provide financial support to, an organization in different ways. It could be legally obligated to do so, or it may choose to do so for a variety of reasons. If a primary government appoints a voting majority of an organization's officials *and* is legally obligated or has otherwise assumed the obligation to finance the deficits of, or provide financial support to, that organization, the primary government is financially accountable for that organization. The following are examples of financial burdens assumed by a primary government in support of certain organizations:

- a. Some organizations provide public services financed by user charges that are not expected to be sufficient to sustain their operations. This situation often results from providing services such as mass transit, higher education, and healthcare. In these cases, public policy may dictate that a state or local government provide financial support to the organization to increase the availability and affordability of the service to a broader segment of the citizenry. Examples of support include

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annual appropriations to help meet operating expenditures/expenses, periodic capital grants, and direct payment of capital expenditures or debt service.

- b. A primary government may assume an obligation to finance the deficits of an organization. These deficits may or may not be expected to recur annually. A financial burden exists if the primary government is obligated to finance an organization's deficits even though there has not been, and may never be, a deficit to subsidize.

Some organizations' operations are fully or partially funded by revenues generated through tax increment financing. Legally separate development or redevelopment authorities sometimes receive the incremental taxes that result from a tax increment financing arrangement. When this is done, *a taxing government temporarily waives its right to receive the incremental taxes from its own levy*. The incremental taxes instead are remitted to the separate organization. For purposes of this Statement, this type of tax increment financing should be considered evidence of an obligation to provide financial support to an organization (a financial burden), regardless of whether the primary government collects the taxes and remits them to the organization or the incremental taxes are paid directly to the organization.

Obligated in Some Manner for the Debt of an Organization. An obligation for the debt of an organization is similar to the notion that a primary government may be obligated for future operating deficits. The obligation can be either expressed or implied. A primary government is obligated in some manner for the debt of an organization if (a) it is legally obligated to assume all or part of the debt in the event of default or (b) it *may* take certain actions to assume secondary liability for all or part of the debt, *and* the government takes, or has given indications that it will take, those actions. Conditions that indicate that a primary government is obligated in some manner include:

- a. The primary government is *legally obligated* to honor deficiencies to the extent that proceeds from other default remedies are insufficient.
- b. The primary government is *required* to temporarily cover deficiencies with its own resources until funds from the primary repayment source or other default remedies are available.
- c. The primary government is *required* to provide funding for reserves maintained by the debtor organization, or to establish its own reserve or guarantee fund for the debt.
- d. The primary government is *authorized* to provide funding for reserves maintained by the debtor organization or to establish its own reserve or guarantee fund *and* the primary government *establishes* such a fund. (If a fund is not established, the considerations in subparagraphs f and g may nevertheless provide evidence that the primary government is obligated in some manner.)
- e. The primary government is *authorized* to provide financing for a fund maintained by the debtor organization for the purpose of purchasing or redeeming the organization's debt, or to establish a similar fund of its own, *and* the primary government *establishes* such a fund. (If a fund is not

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established, the considerations in subparagraphs f and g may nevertheless provide evidence that the primary government is obligated in some manner.)

- f. The debtor government explicitly indicates by contract, such as the bond agreement or offering statement, that in the event of default the primary government *may* cover deficiencies although it has no legal obligation to do so. That is, the bond offering statement may specifically refer to a law that authorizes the primary government to include an appropriation in its budget to provide funds, if necessary, to honor the debt of the organization.
- g. Legal decisions within the state or previous actions by the primary government related to actual or potential defaults on another organization's debt make it *probable* that the primary government will assume responsibility for the debt in the event of default.

If a primary government appoints a voting majority of an organization's officials *and* is obligated in some manner for the debt of that organization, the primary government is financially accountable for that organization.

Imposition of Will

A primary government that is accountable for an organization because it appoints a voting majority of that organization's governing body frequently has the ability to affect that organization's operations. Sometimes, however, based on the provisions of law or contract, the primary government has little influence over the organization's operations. Certain conditions indicate the primary government's ability to affect the day-to-day operations of an organization. These conditions are referred to in this Statement as a government's ability to impose its will on an organization. If a primary government appoints a voting majority of an organization's officials *and* has the ability to impose its will on the organization, the primary government is financially accountable for that organization.

A primary government has the ability to impose its will on an organization if it can significantly influence the programs, projects, activities, or level of services performed or provided by the organization. The existence of any one of the following conditions clearly indicates that a primary government has the ability to impose its will on an organization:

- a. The ability to remove appointed members of the organization's governing board at will.
- b. The ability to modify or approve the budget of the organization.
- c. The ability to modify or approve rate or fee changes affecting revenues, such as water usage rate increases.
- d. The ability to veto, overrule, or modify the decisions (other than those in b and c) of the organization's governing body.

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- e. The ability to appoint, hire, reassign, or dismiss those persons responsible for the day-to-day operations (management) of the organization.

Other conditions may also indicate that a primary government has the ability to impose its will on an organization. In determining whether imposition of will exists, a distinction should be made between substantive approvals and ministerial (or compliance) approvals as discussed in 2100.116 and .117.

Application to the Authority

There is not a financial benefit/burden relationship between the State of Delaware and the Authority for the following reasons:

- a. According to the Fiscal Year 2015 Budget and Bond Bills, the State did not provide any funding to the Authority in Fiscal Year 2015. The Authority's statute is silent in regard to the State's legal obligation to finance the deficits of or provide financial support to the Authority, as well as the State's ability to access the Authority's resources.
- b. Further, 16 Del. C. §9213 states that bonds or notes issued by the Authority shall not be deemed a debt or liability of the State or a pledge of the faith and credit of the State. In addition, the Authority shall not be terminated by law unless all bonds, notes, and other outstanding obligations are satisfied. Upon termination, all of the Authority's rights and properties shall pass to and be vested in the State (16 Del. C. §9221).

The State cannot impose its will on the Authority based on the following conditions:

- a. The Governor can only remove appointed members of the Authority for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing (16 Del. C. §9204 (a)).
- b. The Authority may fix, revise, charge and collect rates, rents, fees and charges. Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department (16 Del. C. §9214).

Code excerpts as follows:

16 Del. C. §9213. Credit of State not pledged.

Bonds or notes issued under this chapter shall not be deemed to constitute a debt or liability of the State or of any political subdivisions thereof, other than the Authority, or a pledge of the faith and credit of the State or of any such political subdivision, other than the Authority, but shall be payable solely from the funds herein provided therefor. All such bonds or notes shall contain on the face thereof a statement to the effect that neither the State nor any political subdivision thereof other than the Authority shall be obligated to pay the same or the interest thereon except from revenues of the project or projects or the portion thereof for which they are issued and that neither the faith and credit

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nor the taxing power of the State or of any political subdivision thereof other than the Authority is pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under this chapter shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor, or to make any appropriation for their payment. Nothing contained in this section shall prevent or be construed to prevent the Authority from pledging its full faith and credit or the full faith and credit of a participating facility to the payment of bonds or issue of bonds authorized pursuant to this chapter.

16 Del. C. §9221. Continued existence of Authority.

The Authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the Authority shall have bonds, notes or other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the existence of the Authority, all its rights and properties shall pass to and be vested in the State.

16 Del. C. §9204. Health Facilities Authority.

- (a) There is hereby created a body politic and corporate to be known as the "Delaware Health Facilities Authority," hereinafter in this chapter called the Authority. Said Authority is constituted a public instrumentality and the exercise by the Authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function. Said Authority shall consist of 7 members to be appointed by the Governor, 1 of which shall be a resident of the City of Wilmington, 1 a resident of New Castle County, 1 a resident of Kent County, 1 a resident of Sussex County and 3 members at large, all of whom shall be residents of the State. No more than 4 shall be members of the same political party. At least 2 of the members shall be trustees, directors, officers or employees of a health care facility, at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in the field of state and municipal finance, either as a partner, officer or employee of an investment banking firm which originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio and at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in the building construction field. The terms of the members of the Authority first appointed shall be designated by the Governor to commence on June 1, 1976, and to expire, respectively, 1 on June 30th in each of the years 1977, 1978, 1979 and 1980 and 3 in the year 1981. A member of the Authority shall be eligible for reappointment. Upon the expiration of the term of any member the member's successor shall be appointed for a term of 5 years. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the Authority may be removed by the Governor for misfeasance, malfeasance or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be expressly waived in writing. Each member of the Authority, before entering upon the member's duties, shall take an oath to administer the duties of the member's office faithfully and impartially, and such oath shall be on file in the office of the Secretary of State. For the purposes of this section, a member's residency, political

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affiliation, position or employment, skill, knowledge and experience in a specified area shall be determined as of the date of the initial appointment of such member.

16 Del. C. §9214. Revenues.

The Authority may fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by each project and to contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof. Such rates, rents, fees and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees and charges from such project so as to provide funds sufficient with other revenues, if any, (1) to pay the principal of and the interest of such project as the same shall become due and payable and (2) to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such revenue bonds of the Authority. Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this State, other than the Authority. A sufficient amount of the revenues derived in respect of a project shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is pledged to, and charged with, the payment of the principal of and the interest on such bonds or notes as the same shall become due, and the redemption price or the purchase price of bonds or notes retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other money so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in records of the Authority. The use and disposition of money to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or notes of such trust agreement. Except as may otherwise be provided in such resolution or trust agreement, such sinking or other similar fund shall be a fund for all such bonds or notes issued to finance a project or projects at 1 or more participating facilities as the case may be, without distinction or priority of 1 over another; provided the Authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project at a facility and for the bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of bonds or notes having a subordinate lien in respect of the security authorized to other bonds or notes of the Authority and, in such case, the Authority may create separate or other similar funds in respect of such subordinate lien bonds.

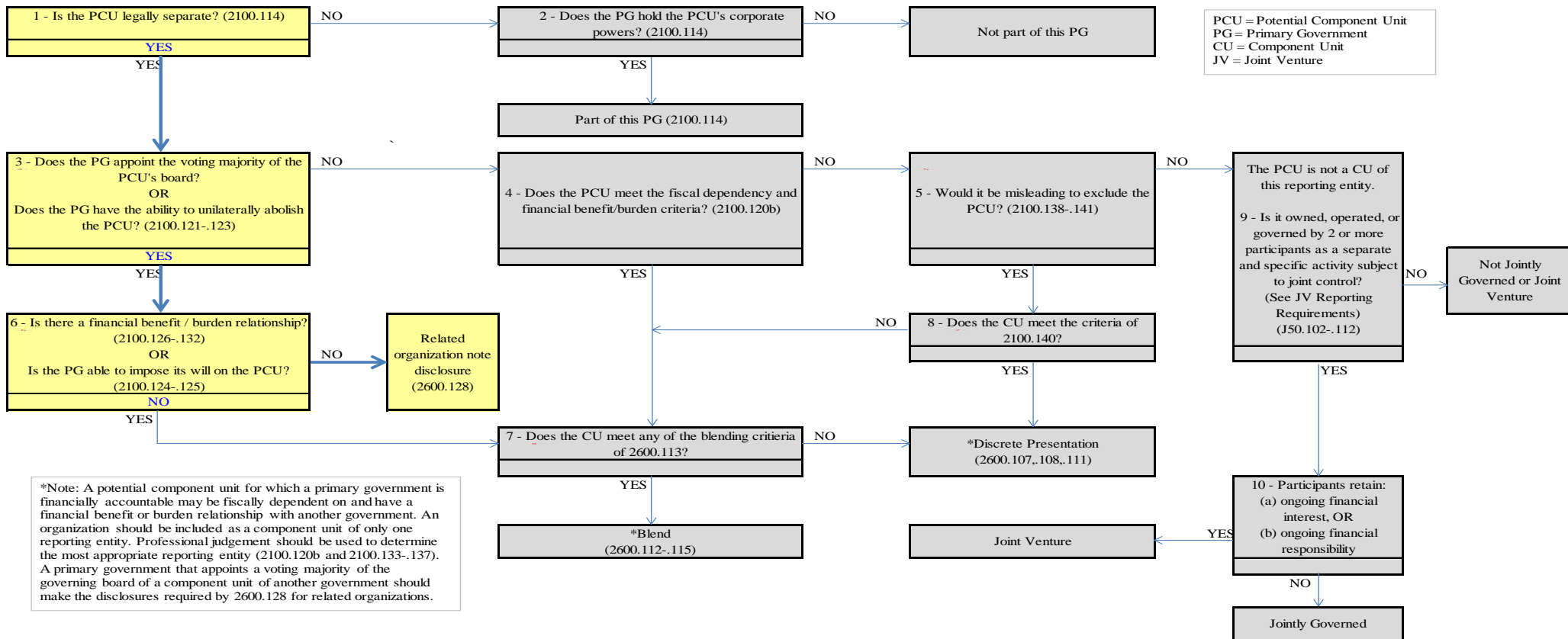
NOTE: The format of the flowchart was revised on April 25, 2016,
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Delaware Auditor of Accounts
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 Delaware Health Facilities Authority
 June 30, 2016

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