

Ohio Auditor of State Community School Webinar

September 18, 2017

Answers to Participant's Questions

1. QUESTION: My audit is contracted out to a CPA firm. Will they receive similar training?

ANSWER: Yes, we will be giving a similar training to AOS staff and AOS contracted CPA firms performing audits, very soon.

2. QUESTION: What will happen if we do not have a policy in place by the time of our audit? My 2017 audit has already started and is expected to be completed soon. Will the Finding for Recovery (FFR) process begin now or will we be given time to develop a policy? Will the audit completion be delayed until we have the time to develop the policy?

ANSWER: As discussed on slide 23:

- For any Community School (CS) whose Fiscal year (FY) 2016 audit fieldwork is not yet complete, this would be effective for their FY 2016 audit/financial statements.
- For most CS's this will impact their Fy 2017 audit/financial statements.
- Regardless, the true up testing will begin with the Fy 2016 Full Time Equivalent (FTE) Adjustments.

3. QUESTION: Do we have the ability to wait to true up until Ohio Department of Education (ODE) has finished the adjustment process for the year in question? If we state in our policy, the true up will not be completed until ODE has completed all FTE adjustments, will the Auditor of State abide by that time frame? Or will we be expected to perform interim calculations at each adjustment.

ANSWER: Auditors will audit according to your policy, as long as it is reasonable. Specific to this question, in regards to actual repayments/FFR's, if your policy states you will 'true up' once all FTE Adj's are complete (at the end), then the Auditor of State (AOS) will audit accordingly. However, with regards to posting receivable/payable to your financial statements, you must follow GASB standards.

4. QUESTION: We report on the GAAP basis of accounting. Our financial statements are required to be filed near the end of November. How am I expected to report a receivable or payable on my financial statements when ODE is still in the process of performing the look back. The final adjustment for 2016 did not take place until June 2017?

ANSWER: Use the best information available at the time you prepare/file your financial statements. If new information comes to light during the audit, then adjustments may be proposed, if material to the financial statements.

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5. QUESTION: If during the audit, the auditors determined an audit adjustment is required to post a receivable or payable because of the FTE adjustments, will I receive a report comment in my Schedule of Findings?

ANSWER:

- It's not automatically an internal control audit comment if we make an audit adjustment – it depends on the situation and on the nature of the adjustment to determine if a comment should be issued. Auditors follow the guidance in AICPA Auditing Standards, AU-C 265, *Communicating Internal Control Related Matters Identified in an Audit*.
- If a policy is adopted and a reasonable assessment is utilized by the School, auditors will evaluate to determine if a comment should be issued.
- Auditors do not issue internal control audit comments for information that was not available at the time you prepared/filed your financial statements.
- Auditors will assess to determine if an audit adjustment is required, but no corresponding audit comment would be issued if the information was not available to you at the time you were preparing/filing your financial statements.
- Auditors may still issue a FFR, even when there is no internal control comment, if the situation warrants it.

6. QUESTION: FTE adjustments are not new. Will we need to go back to previous years to 'true them up' as well?

ANSWER: As discussed on slide 23, auditors will check for the true up's beginning with the Fy 2016 FTE Adjustments.

7. QUESTION: Is maintaining an accounting of the over/under payments as a financial statement item (accounts receivable/accounts payable) sufficient or do attempts to actually recover the monies need to be made immediately? Is it permissible for a community school to write off these accounts receivables in future years if they so choose?

ANSWER: This would not be permissible. Per slide 29 FFR's will likely be issued when the amount due has not been repaid or is not in the process of being repaid.

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8. QUESTION: In the case of an FFR in which ODE overpaid a community school who in-turn overpaid a Vendor (i.e a Management Company); how does the flow of the money go? Does the community school need to recoup that money and then send a check to ODE? Does ODE automatically take it back from the community school by reducing future foundation amounts and it is then the community schools job to recover it? Also, where does the money go once ODE gets it? Do they return it to the public school districts? There is legislation currently under consideration that will mandate ODE to return enrollment related FFR's to the resident school districts.

ANSWER: There are 2 separate transactions here:

- ODE over/underpayment to the school is between ODE and the school.
- School over/underpayment to the Sponsor/Vendor/Management Company – these are the transactions the auditor will audit – are they in accordance with the schools policy, and action taken.

9. QUESTION: When are the final adjustments done for each fiscal year? Is there a time frame when schools can expect to see the final adjustments?

ANSWER:

- Schools would need to ask ODE for an official answer.
- The timing and number of Final FTE Adj's varies each year.
 - Fy 2017 FTE Adj's – there are 2 planned – September & December 2017
 - Fy 2016 FTE Adj's – there were 4 and the last one occurred on the June 2017 payment
 - Fy 2015 FTE Adj's – there were 5 and the last one occurred on the March 2017 payment
- Those schools with an FTE Review appeal that occurred outside the normal FTE Adj. process are handled on an individual basis and each hearing/settlement timing can vary.

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10. QUESTION: If the FTE Review determination is appealed, is the amount due resulting from the final decision pushed through the Foundation payments or does the District have to issue a check payment to ODE?

ANSWER:

- This is between the school and ODE.
- AOS' understanding is that all adjustments go through the Foundation payments, over the number of months noted in the settlement agreement/hearing.
- If the school has closed, however, a check/EFT would need issued, as there would be no further Foundation payments to deduct the overpayment from.

11. QUESTION: Do districts typically choose the amount of months in the settlement with ODE?

ANSWER: AOS' understanding is that ODE determines the repayment period based upon the length of the Sponsor contract (remaining) and discussions with the school.

12. QUESTION: Please differentiate between a "full time student" who attends an e-school vs. brick and mortar (B&M) school. B&M schools are not funded on an attendance basis per the FTE Review Manual. (Discussion from Slide 10.)

ANSWER: Nonclassroom participation must be evidenced for both e-schools and the online portion of any blended learning B&M school where participation takes place outside of the classroom/school facility. Also, FTE adjustments as part of the normal year end reconciliation/true up process can still impact a B&M school even when all instruction is provided in the classroom. Therefore, AOS believes all community schools should evaluate whether they need repayment policies and procedures in place for their Sponsor, Management Company, and other Vendor contracts.

13. QUESTION: Why is a repayment agreement needed if there are adequate provisions in the Management agreement or Sponsor agreement providing for the true up and repayment?

ANSWER: First, this is a review and decision for Management of the school to make. If the original agreement contains language that provides for the "true up" and repayment, it may be adequate. This issue will be reviewed during the next regular audit, along with the repayment that is occurring/has occurred to determine if it is acceptable and if any comments should be issued by the auditor.

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14. QUESTION: What is a claw-back?

ANSWER: A "claw-back" is the amount of money ODE determines the community school owes back to the State following an ODE FTE review.

15. QUESTION: Will the written policy be required through the Ohio Revised Code, and will AOS provide a model policy?

ANSWER: No, however a policy establishes practice and is the best model for how to handle these transactions. While AOS stated that a policy determining how the school will address any potential overpayment of fees to the Sponsor, Management Company or/and Vendor is needed, the policy is only considered a procedural matter. There should be an enforceable agreement in place between the school and the company/entity for which the overpayment has occurred to ensure repayment. Furthermore, there must be proof to show the school and company/entity are adhering to such agreement. For instance, if the school and Management Company agree that future payments to the company will be reduced over a two year period to effectuate, then proof must be provided to the auditors to show the payments have been reduced over this timeframe. Schools should work with their sponsors to help develop appropriate policies.

16. QUESTION: What if the school owes more money to the Management Company as a result of FTE adjustments but the management company has waived the amount owed to them by the school?

ANSWER: If there is a written agreement, approved by the School Board and signed by the Management Company, the agreement will be reviewed during the next regular audit to determine if it is acceptable.

17. QUESTION: In the case of a school closing and owing money to ODE, against whom will the FFRs be issued? Treasurer, Management Company, Sponsor, Board members?

ANSWER: With regards to FTE adjustments, there are two situations where proposed FFRs could be issued:

1. FFR issued against the school in favor of ODE for the overpayment of Foundation revenues to the school.
2. FFR(s) against the Vendor/Management Company/Sponsor in favor of the school.

Both situations would be fact specific, based on the circumstances and contract language. If a community school closes, subsequent to recovery of the FFR, the distribution of the community school's assets will follow statute.

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18. QUESTION: In practice, overpayments from a previous year are resolved by reducing Foundation payments in the current year. Doing so results in the Sponsor/Vendor/Management Company that was overpaid being underpaid in the current year; thereby reconciling any amounts due back.

ANSWER: As Auditor Yost discussed earlier with a newspaper outlet, this approach may be a potential method to "true up" payments made to the Sponsor/Vendor/Management Company. However, each case will be looked at during the next regular audit to determine if a repayment is due and if the reduction of Foundation payments in the current year satisfies as repayment.

19. QUESTION: Is an FFR avoided by proof of an attempt to collect the funds owed, or does it have to be collected. What if the attempt was made but never collected (even after a year or two)?

ANSWER: While the determination in a situation like this is fact specific, if the amount due to the school has not been repaid, the AOS will most likely issue the FFR and refer the matter to the Attorney General and local prosecutor for collection.

20. QUESTION: Will participants in the webinar receive CPE certificates for participating.

ANSWER: The AOS will not be sending our certificates for participation in this webinar.

21. QUESTION: Your presentation suggests that a community school should have a policy on payments resulting from claw-backs, and that the school must use an independent attorney in formulating such a policy. Is it the position of the Auditor of State that Section 3314.036 requires that, in such situations, the school employ independent legal counsel?

ANSWER: Section 3314.036 of the Ohio Revised Code requires that "[t]he governing body of a community school shall employ an attorney, who shall be independent of the school's Sponsor or the Operator with which the school has contracted, for any services related to the negotiation of the school's contract with the Sponsor or the school's contract with the Operator."

The Auditor of State suggests that each community school that enters into contracts which base payment upon percentages of moneys received or head counts, adopt a policy dealing with repayments resulting from claw-backs and that the processes be fully addressed in any such contract between the school and its Sponsor or Operator. The section requires that, in the negotiation of such a contract the school be represented by independent legal counsel. As noted on slide 21, it is the position of the Auditor of State that the requirement that the school utilize independent legal counsel is not strictly limited to the formative process, but that the school is required to utilize independent counsel in relation to any disputes arising under the contracts, negotiations incident thereto, and the analysis and interpretation of the same. Any other arrangement would substantially reduce the benefit of securing independent legal counsel in the contract negotiation process and work to the potential detriment of the school.