

Nonprofit School Organizations - 501(c)(3)

New Legislation

House File 882 was enacted during the 2005 legislative session pertaining to a variety of statutory issues, including school district audit requirements and nonprofit school organizations.

HF 882 amended Chapter 11.6(1)(a) as follows:

“The examination of school offices shall include an audit of all school funds, the certified annual financial report, the certified enrollment as provided in section 257.6, and the revenues and expenditures of any nonprofit school organization established pursuant to section 279.62.”

HF 882 added Chapter 279.62 pertaining to “Nonprofit School Organizations.” This section states:

“The board of directors of a school district may take action to adopt a resolution to establish, and authorize expenditures for the operational support of, an entity or organization for the sole benefit of the school district and its students that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. The entity or organization shall reimburse the school district for expenditures made by the school district on behalf of the entity or organization. Prior to establishing such an entity or organization, the board of directors shall hold a public hearing on the proposal to establish such an entity or organization. Such an entity or organization shall maintain its records in accordance with chapter 22, except that the entity or organization shall provide for the anonymity of a donor at the written request of the donor. The board of directors of a school district shall annually report to the department of education and to the local community the administrative expenditures, revenues, and activities of the entity or organization established by the school district pursuant to this section. The department shall include in its annual condition of education report a statewide summary of the expenditures and revenues submitted in accordance with this section.”

Note: “Authorizations granted to school boards under this section apply to entities or organizations established by a board of directors of a school district before, on, or after July 1, 2005.”

In addition, HF 882 provided for retroactive applicability for nonprofit school organizations. Specifically, “the provisions of section 279.62, as enacted by this division of this Act, authorizing the board of directors of a school district to establish and authorize expenditures for the operational support of an entity or organization for the sole benefit of the school district and its students, apply to entities or organizations established by the board of directors of a school district before, or, or after July 1, 2005.”

Reporting Entity vs. HF 882

Audits of school districts will continue to require evaluation of nonprofit entities or organizations, such as school district foundations for proper reporting consistent with GASB Statements 14 and 39. However, it is important to determine whether the nonprofit school entities or organizations have been established by the board of directors as described in Chapter 279.62 of the Code of Iowa.

School districts may “authorize expenditures for the operational support” of a nonprofit school entity or organization established pursuant to Chapter 279.62 of the Code of Iowa. For example, school districts may include the nonprofit school entity organization on its insurance policy. However, the nonprofit school entity or organization must pay for its own insurance or other expenditures paid by the school district on behalf of the nonprofit school entity or organization.

Nonprofit school entities or organizations established by the board of directors of a school district pursuant to Chapter 279.62 of the Code of Iowa will be:

1. Included in the school district’s reporting entity as a fund of the school district since the school district created the nonprofit school entity or organization. The type of fund will vary depending on the purpose of the nonprofit school entity or organization. For example, a nonprofit school entity or organization established for the purpose of providing scholarships to graduating seniors would be properly classified as a private-purpose trust fund.
2. Audited pursuant to Chapter 11.6(1)(a) of the Code of Iowa including an audit conducted in accordance with U.S. Generally Accepted Auditing Standards and Government Auditing Standards. The nonprofit school entity or organization may be audited with and as part of the school district’s annual audit or audited separately.

- a. It is not necessary to issue a separate audit report of the nonprofit school entity or organization to comply with the statutory audit requirement.
 - b. If audited with and as part of the school district's annual audit, the nonprofit school entity or organization would be included in the school district's fund structure depending on the purpose of the nonprofit school entity or organization, as previously noted.
 - c. If a separate report is issued, the reporting should be consistent with reporting requirements for 501(c)(3) entities or organizations. However, a copy of the separate report must be filed with the Auditor of State to comply with Chapter 11.6 (1)(a) of the Code of Iowa.
3. Required to report annually to the Iowa Department of Education and local community the administrative expenditures, revenues, and activities of the nonprofit school entity or organization.
 - a. The Iowa Department of Education will include the information in its annual condition of education report.

Many nonprofit school entities or organizations meet the criteria of component unit under the GASB reporting entity standards. However, many of these nonprofit school entities or organizations were established outside of the school district by members of the community rather than the board of directors of the school district. As such these nonprofit school entities or organizations will continue to be subject only to the reporting requirements of GASB Statements 14 and 39 and not the statutory provisions of Chapter 279.62 of the Code of Iowa.

Other provisions include retroactive application of these provisions, in essence, legalizing nonprofit school entities or organizations established by a school board of directors prior to this legislation.

Summary

Audit: As a result of this legislation, nonprofit school entities or organizations such as foundations, which have been established by the board of directors as provided in Chapter 279.62 of the Code of Iowa, must be audited.

- The Auditor of State has revised the school district audit program to include a requirement to address this audit requirement during audit planning.

Public hearing: As a result of this legislation, the board of directors of a school district must adopt a resolution and hold a public hearing prior to establishing nonprofit school entities or organizations such as foundations.

- The Auditor of State has included a provision in the school district compliance guide to address the requirements to adopt a resolution and hold a public hearing prior to establishing a nonprofit school entity or organization.

Open records: As a result of this legislation, the records of nonprofit school entities or organizations such as foundations, which have been established by the board of directors as provided in Chapter 279.62 of the Code of Iowa, are subject to the provisions of Chapter 22 of the Code of Iowa, commonly known as the open records law.

- The Auditor of State has included a provision in the school district compliance guide to address the requirement for compliance with Chapter 22 of the Code of Iowa.

Reimbursement for expenditures: As a result of this legislation, school districts may make expenditures, such as for insurance, on behalf of nonprofit school entities or organizations such as foundations, which have been established by the board of directors as provided in Chapter 279.62 of the Code of Iowa, provided the school district is reimbursed.

- The Auditor of State has included a provision in the school district compliance guide to address the requirement for reimbursement.