

JANET COWELL
TREASURER

STEVE TOOLE
RETIREMENT SYSTEMS DIRECTOR

Charter School Financial Review

The Agency Participation Procedure Act: an Overview

Pursuant to N.C.G.S. § 135-5.3 (b4) (S.L. 2015-168), a charter school seeking to become a participating employer in the Teachers' and State Employees' Retirement System ("TSERS") after the end of its initial year of operation shall undergo a financial review. The financial review will be based on financial statements and independent audit reports held by the Local Government Commission or functionally equivalent financial statements and independent audit reports submitted by the charter school.

Charter schools in operation for less than a year may enter the TSERS on a one-year provisional status without any action required by the Board of Trustees. Provisional entry is not contingent upon a financial and actuarial review; however, if a charter school with provisional status in TSERS desires to remain a participating member of TSERS after its provisional year has concluded, it must also undergo a financial and actuarial review prior to being approved for entry into TSERS by the Board of Trustees.

The Review Process

The Retirement Systems Division ("RSD"), in consultation with the State and Local Government Finance Division ("SLGFD"), will review a charter school's financial statements to assess the financial condition of the charter school and to determine the school's ability to make the required contributions to TSERS. The Retirement System will request that charter schools seeking full entry into TSERS provide the most recent audited financial statements and independent audit report to the Board in order for the Board to assess the charter school's financial soundness.

New charter schools completing a one-year provisional status and/or newly operational charter schools in operation for just over one year seeking to join TSERS as full participants may not have available audited financial statements. The financial review "will be based on financial statements and independent audit reports held by the Local Government Commission or functionally equivalent financial statements and independent audit reports submitted to the Board of Trustees by the charter school[.]" pursuant to G.S. § 135-5.3(b6). The RSD will make a recommendation to the Board based on its review and in consultation with the SLGFD.

Financial Statements and Documentation Available for RSD and Board Review

Statutorily required annual audits conducted by independent certified public accountants provide most of the information necessary to determine a charter school's financial performance. Based on the annual audit reports, the RSD will rely upon the following documentation to make a determination as to financial soundness:

- Audited statement of financial position
- Audited statement of activities and changes in net assets
- Audited statement of cash flows

- Notes to the audited financial statements

Additional Documentation to Determine Financial Soundness

In carrying out its statutory mandate to perform a financial review to assess financial soundness, the RSD may request from a charter school and/or from the Department of Public Instruction (“DPI”) the following documents constituting functionally equivalent financial statements to those held by the Local Government Commission:

- Business plan, charter or budget documents;
- General ledger (including detailed payroll data);
- State and federal allotments;
- Principal’s monthly report and the calculated average daily membership (ADM);
- Monthly financial reports (to determine fund balance, annual debt information, cash flow projections, burn rate, asset to liability ratio);
- Charter School Financial Performance Framework and Guidance documentation (the Framework is an annual analysis prepared by DPI for every charter school and is used to determine a charter school’s financial health);
- Bank statements and loan documents; and
- Information regarding board composition and turnover

Assessing Financial Soundness

N.C.G.S. §135-5.3(b7) provides that the Board of Trustees may grant final approval of a charter school’s application to enter TSERS if “the charter school’s most recent audited financial statements and independent audit report demonstrate that it is financially sound and can meet the financial obligations of participation in the Retirement System.”

The Retirement System’s recommendation to the Board of Trustees as to the financial soundness of a charter school will be based on the following indicators:

- **Current asset to liability ratio**
 - Target: A current ratio indicating assets exceed current liabilities and a month-to-month current ratio trending upwards.
 - Data Source: Audited financial statement; monthly financial expenditure data and operating budget documentation.
- **Student enrollment / Average daily membership (ADM)**
 - Student enrollment is a key indicator of financial health as actual funded ADM is a key driver of revenues.
 - Target: ADM variance equals or exceeds 1.0 (current actual year final ADM/actual final ADM for year prior). If considerable change in enrollment, charter school must demonstrate that it has revised its budget to address variance.
 - Data Source: Principal’s Monthly Report (PMR), a monthly record of data about a school’s student enrollment, transfers, membership, and attendance.
- **Fund Balance Ratio**

- Target: current financial statement demonstrates a net surplus with few variances present; sufficient explanation as to how a negative fund balance will be eliminated in the subsequent fiscal year; presence of a deficit in other funds that will have to be covered by the General Fund.
 - Demonstrates ability to account for monthly employer contributions to the Retirement System.
 - Data Source: Audited financial statement; monthly financial expenditure data and operating budget documentation.
- **Internal controls and governance measures**
 - Target: Segregation of duties related to financial transactions and indication of written policies and procedures regarding operations, accounting, personnel, and academics.
 - Data Source: Audited financial statement; charter school's website and pursuant to information provided to Department of Public Instruction.
 - **Cash flow**
 - Target: positive cash flow and minimum of one month of operating expenses cash on hand.
 - Data Source: Monthly Cash Balance Report.
 - **Presence of large loans outstanding to fund operations**
 - Target: If present, charter school must address the paying down of the outstanding obligation.
 - Data Source: Audited financial statement.

Based on the above factors, if the charter school would be found by the State and Local Government Finance Division to be at a high risk of having serious financial issues, the RSD will not recommend to the Board that it approve a charter school's entry into the Retirement System. If a charter school has been identified by DPI as being in financial distress or in Financial Noncompliance or Governance Noncompliance, the RSD may not recommend full participation of the charter school to the Board of Trustees. The Retirement System staff will monitor provisional entrants on a monthly basis to ensure the required contributions to the Retirement System under N.C.G.S. § 135-8(f) are received by the fifth business day of the month after payroll is due. Delinquent contribution submissions may result in the revocation of a charter school's provisional entry into the Retirement System.

A charter school that has elected to participate in TSERS shall maintain a minimum aggregate value of \$50,000.00 in funds for the purpose of paying expenses related to closure proceedings due to a voluntary or involuntary dissolution of the charter school. Pursuant to N.C.G.S. § 115C-218.100, permissible options to satisfy the requirements of this subsection include one or more of the following: an escrow account, a letter of credit, a bond, and/or a deed of trust.



**Application for Participation
of Charter School in the Teachers' and State Employees'
Retirement System (TSERS)**

The Board of _____ Charter School, a charter school operated by a private nonprofit corporation and approved by the State Board of Education under G.S. § 115C-218.5, hereby elects to commence full participation in the Teachers' and State Employees' Retirement System of North Carolina. We understand as a result of our election to commence full participation on this date that we are obligated to comply with all provisions governing the Teachers' and State Employees' Retirement System of North Carolina as set forth in Article 1, Chapter 135, of the General Statutes of North Carolina, and in Title 20 Chapter 2b, of the North Carolina Administrative Code, including but not limited to the obligation to:

1. Make the required employer contributions as set out in G.S. § 135-8(f) for all eligible employees employed on or before the date the charter school is granted entry into the Retirement System;
2. Make the required employer contributions as set out in G.S. § 135-8(f) for each charter school employee who is employed after the date the charter school is granted entry into the Retirement System;
3. Deduct from the salaries of employees who may become members the contributions required of members under G.S. § 135-8(f);
4. Transmit employer and employee contributions to the Board of Trustees;
5. Require all eligible employees of the charter school to participate;
6. Comply with any request from the Retirement System to provide the documents needed to complete the financial review; and
7. Undergo an actuarial and financial review. The actuarial review will result in the estimated withdrawal liability amount that would be required to cease participation in the Retirement System and is to be acknowledged and accepted by all members of the board of directors of the charter school.

We further understand that upon approval of this application by the Board of Trustees, all eligible employees will be enrolled as members of the Teachers' and State Employees' Retirement System and have deducted from their salaries the required contributions, and that this election is revocable only pursuant to the procedure and payment of a withdrawal liability as set forth in G.S. § 135-5.3(b5) and G.S. § 135-8(i). In addition, we will maintain a minimum aggregate value of funds totaling fifty-thousand dollars (\$50,000) for the purpose of ensuring payment of expenses related to closure proceedings.

We further attest that within 30 days of the board's election to become a participating employer in the Retirement System or within 30 days of making an initial offer of employment to an employee, whichever is later, the board shall notify each of its employees in writing of the board's election to join the Retirement System. If, for any reason after the submission of this application for entry to the Board of Trustees, the charter school does not become a participating employer with the Retirement System, the board shall provide notice to its employees including a statement that the employees shall have no legal recourse against the board or the State for any possible credit or reimbursement under the Retirement System other than for any credit or contributions accrued by the employees during the employer's provisional participation in the Retirement System. The employee shall provide written acknowledgement of receipt of such notification to the board.

We further attest that _____ Charter School has not been identified as inadequate by the State Board of Education as provided in G.S. § 115C-218.95(b).

This, _____ day of _____, _____

_____ Charter School

BY: _____
Chair, Board of Directors

Attest: _____
Secretary



Acknowledgement and Acceptance of Withdrawal Liability Obligation

The members of the Board of Directors of _____ Charter School, which seeks enrollment in the North Carolina Teachers' and State Employees' Retirement System for its employees, hereby acknowledge and accept that the estimated withdrawal liability amount that would be required under G.S. § 135-8(i) to cease participation in the Retirement System after five years is \$#####, and the amount that would be required to cease participation after 10 years is \$#####. We understand that the board of directors of a charter school may elect to cease participation in the Retirement System for all of its employees and are obligated to comply with the provisions of G.S. § 135-8(i) including, but not limited to, the obligation to:

1. Declare, through its governing body, its intent to withdraw completely from the Retirement System;
2. Provide written notification to its employees and the Board of Trustees of its decision to withdraw from the Retirement System; and
3. Remit the lump-sum withdrawal liability payment to the Retirement System within 90 days of the complete withdrawal date.

We further understand that the estimated withdrawal liability amount is based on the results of the [VALUATION DATE], actuarial valuation, and the actual withdrawal liability amount would be based on the results of the actuarial valuation adopted by the Board of Trustees immediately prior to the withdrawal. The cost of performing this actuarial review shall be paid by the charter school unless the charter school was initially granted provisional entry into the Retirement System. The cost of the actuarial review shall not exceed \$2,500 and any subsequent withdrawal liability estimate requested by the charter school shall be paid by the charter school.

We further understand that an employer that does not pay the lump-sum withdrawal liability amount and the actuarial costs to determine the withdrawal liability amount within 90 days of the complete withdrawal date, [CHARTER SCHOOL] will continue to be a participating employer in the Teachers' and State Employees' Retirement System.

We further understand that once an employer has withdrawn from the Retirement System all employees of the withdrawing employer will be ineligible to accrue future benefits with the Retirement System due to employment with the withdrawing employer. Moreover, a withdrawing employer is ineligible to become a participating employer in the Retirement System for five years from the date of complete withdrawal. The date of complete withdrawal is the first day of the month following the date the employer ceases to employ active members or the first day of the month following 60 days from the date the Retirement System receives the employer's written request to withdraw.

We further attest that we have reviewed the attached copy of G.S. § 135-8(i) for additional information on the procedure to cease participation and the payment of the withdrawal liability.

We further attest that we have reviewed the attached copy of the letter from the Retirement Systems Division's consulting actuary, Buck Consultants, explaining the withdrawal liability estimate applicable to [CHARTER SCHOOL].

This, _____ day of _____, _____

_____ Charter School

BY: _____
Chair, Board of Directors

BY: _____
Member, Board of Directors

BY: _____
Member, Board of Directors

BY: _____
Member, Board of Directors

BY: _____
Member, Board of Directors

BY: _____
Member, Board of Directors

BY: _____
Member, Board of Directors

BY: _____
Member, Board of Directors

BY: _____
Member, Board of Directors

BY: _____
Member, Board of Directors

Attest: _____
Secretary