**Establishing an LLC for Facilities Purposes**

*New charter school may elect to establish the entities detailed below. None of the information below should be construed as legal advice. Schools should work with their own attorneys to make determinations about the best legal structure to undertake and how.*

* Many **CMOs** form three entities:
	+ One **non-profit holds the CMO** home office, keeps a separate bank account, and receives the philanthropic funds.
	+ The **schools are each their own separate non-profit**, and they hold the public funds.
	+ And the **LLC** is a separate entity that holds the building.
* This structure is common in CA (e.g., Summit, Rocketship) and it is used largely to protect against liability – if an issue with the building or the school arises, the other entity is protected.
* School is the tenant and LLC is the landlord. School pays rent to cover the costs of the loan payments.
	+ For example, Impact Public Schools is the sole member of the LLC.
		- There is a little more flexibility for the LLC to get payments out quickly, etc.
* The LLC structure gives banks some confidence that the school is safeguarding its entities. That the bank values having an LLC that keeps the asset separate from the school. It is cleaner and less complex from a legal structure perspective.
* Many schools elect to keep separate bank accounts. It is important to be clear about where money comes from and where it goes (i.e., into which entity).
	+ Note that this can be lot to plan for. The school team must know the fiscal policies for each entity. This creates additional complexity from an operational perspective.
* The typical make-up of the governing bodies for each entity is generally:
	+ They can share board members if there are no more that XX common board members for each of the entities.  It will be important to have some continuity between the governance of the different entities so unless there is a legal reason not to, it would probably be good to have at least one common board member.

**Questions for the school’s attorney:**

* How can the school build this structure on the existing structures they have in place (e.g. an existing LLC?)
* Does the facility LLC need to be a 501 c3 to meet requirements for property tax exemption or would the non-profit operator qualify regardless?
* How many board members can be shared in common between the entities?