

MODEL FINANCIAL POLICY FOR SCHOOL SUPPORT ORGANIZATIONS (PROCEDURES MANUAL)



**DIVISION OF LOCAL GOVERNMENT AUDIT
MAY 2020**

**Model Financial Policy for
School Support Organizations (SSO)**

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Preface

Section 49-2-604, TCA, also states that a school representative may not act as treasurer or bookkeeper for an SSO and that a school representative may not be a signatory on the checks of

Requirements vs. Recommendations

The *School Support Organization Financial Accountability Act*, at Section 49-2-604(e), *Tennessee Code Annotated*, requires “The organization shall adopt and maintain a written policy that specifies reasonable procedures for accounting, controlling and safeguarding any money, materials, property or securities collected or disbursed by it.”

The word “**requirement**” when used within the context of the *Model Financial Policy for School Support Organizations* means the SSO **must** perform the “requirement” to conform with the *Model Financial Policy for School Support Organizations*, the *School Support Organization Financial Accountability Act* and/or the other laws. Required policies and procedures are a matter of **legal** compliance. Required guidance is **not** optional. The words **must** or **shall** indicate required guidance.

The word “**recommended**” when used within the context of the *Model Financial Policy for School Support Organizations* means the SSO **should consider** the guidance as an approved management tool, accounting procedure, or internal control, for implementing the **requirements**. The words “**should**” or “**may**” indicate recommended guidance. The “recommended” guidance is not “required” as defined above. A recommended action that is considered the best approach, when more than one options are available, is described as a “**Best Practice**”.

Contact Information

Comptroller of the Treasury

Division of Local Government Audit

Model Financial Policy for School Support Organizations (SSO)

Requirements - Overarching

Overarching Requirements - Accounting and Internal Controls:

1. SSOs are subject to audit by the Tennessee Comptroller of the Treasury at the discretion of the Comptroller. SSOs must maintain all records in a form that will allow auditors to follow the detail of each transaction. SSOs shall provide, upon request, access to all books, records, and bank account information to the Comptroller, to school and school system officials, and to members of the organization.
2. The SSO must immediately contact the Comptroller of the Treasury, Division of Investigations at (615)-401-7907 if fraud is suspected. The SSO or individual members can also call the fraud hotline at (800)-232-5454 or file a Fraud Reporting Form by visiting <https://apps.cot.tn.gov/ANTS/Submission/Submit>.
3. An SSO's sales and use tax exemption does not exempt them from taxes due on items purchased for resale. To avoid liabilities for sales tax due to the state, and any related penalties, the organization must comply with state sales tax statutes (Section 67-6-102, *Tennessee Code Annotated* [TCA]) by remitting sales tax to the vendor or use tax to the Tennessee Department of Revenue for applicable purchases of products intended for resale.
4. Accounting and internal control policies and procedures must be designed and implemented to ensure compliance with laws and regulations, including the *School Support Organization Financial Accountability Act* and the *Model Financial Policy for School Support Organizations*; to ensure that funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and to permit the preparation of accurate and reliable financial records and reports.
5. All SSO funds must be used in support of the SSO's goals and objectives as related to supporting a school district, school, school club, or school academic, arts, athletic, or social activity.
6. Accounting and internal control policies and procedures **must** be documented and approved by the officers and/or board of directors at a regular meeting. The policies and procedures shall be distributed to all active members of the SSO. Subsequent changes to policies and procedures must also be approved by the officers and/or board of directors. In addition, to assist in the transition for incoming treasurers/bookkeepers, a checklist of monthly and annual duties, both for collection and disbursement transactions, shall be prepared.

7. The officers and/or board of directors shall designate an SSO officer as custodian of records. This officer must maintain the financial and other entity records in an organized manner and protect them from damage. The records shall be turned over to the subsequently elected and designated officer. If records are maintained in electronic files, these files must be backed up at least every week, and the backup files must be secured in an off-site location in such a manner as to protect the files from damage or theft.
8. The officers and/or board of directors shall assume responsibility for the operation of the SSO. This responsibility **cannot** be delegated. They must review all receipt and disbursement transactions and supporting documentation at least monthly. They must examine bank statements to verify appropriate transactions and bank reconciliations for accuracy each month. (Refer to Required Reporting in the Table of Contents.) The officers and/or board of directors must ensure compliance with the *School Support Organization Financial Accountability Act*, the *Model Financial Policy for School Support Organizations*, Internal Revenue Service regulations, Tennessee nonprofit laws, and other applicable federal or state laws and regulations. The officers and/or board of directors shall ensure that all active members of the organization, particularly those whose responsibilities include collecting or disbursing SSO funds, are familiar with the *Model Financial Policy for School Support Organizations* prepared by the Tennessee Comptroller of the Treasury pursuant to state statute.
9. Likewise, the officers and/or board of directors are responsible for the ethical operation of the entity. This responsibility **cannot** be delegated. They must stress ethical behavior, honesty, and integrity by setting a “tone-at-the-top” that demonstrates these qualities, and by ensuring that all active members are made aware of and are also expected to demonstrate these qualities in all organization operations.
10. The officers and/or board of directors of any SSO must comply with applicable policies of the local education agency (i.e. local Board of Education) pursuant to state statutes. The local Board of Education may adopt policies that are **more restrictive** than those specifically enumerated in state statute or in the *Model Financial Policy for School Support Organizations*. The Board of Education must **not** adopt policies that are **less restrictive** than the *Model Financial Policy*. If the Board of Education implements policies that are more restrictive than those presented in the

11. It is the responsibility of each SSO to become informed about changes to the *Model Financial Policy for School Support Organizations* on an annual basis.
12. The *Model Financial Policy for School Support Organizations* assumes that a board of directors has been appointed for each SSO. In situations where a board of directors has not been formally appointed, the officers of the SSO shall act as th

Requirements - General

General Requirements - Accounting Policies and Internal Controls:

1. To comply with the state statutes, the SSO must register (incorporate as a nonprofit) with the Secretary of State's office or be a chartered member of a nonprofit organization.
2. The SSO must annually: confirm its status as a nonprofit; describe its goals and objectives; and provide the address, telephone number and position of each officer of the SSO to the director of schools or the director's designee. (Refer to Required Reports in the Table of Contents.)
3. The SSO must obtain approval of the director of schools or the director's designee before undertaking any fundraising activity. The SSO shall maintain documentation to demonstrate the approval of the director of schools.
4. The SSO must comply with all policies and procedures of the Board of Education under which the organization operates. Furthermore, the SSO shall operate within the applicable standards set by related state organizations (e.g. Tennessee Secondary School Athletic Association (TSSAA), Tennessee PTA, etc.)
5. SSOs must not use the school's or school system's federal employer identification number (EIN) or sales tax exemption for any purpose.
6. Disbursements and collections can be made by any legal method (e.g., issuance of an official prenumbered receipt, issuance of an official prenumbered check, debit card, credit card, PayPal type accounts, crowd-funding, personal applications (apps), wire transfers, ACH type transactions, etc.) **over which adequate internal controls can be established**. Unless adequate internal controls can be designed and implemented for a given disbursement or collection method, the method shall **not** be used. Use of debit cards, credit cards, PayPal type accounts, personal apps, wire transfers, ACH transactions, crowd-funding accounts, etc. must be authorized by the officers and/or board of directors on an annual basis.
7. The officers and/or board of directors of the SSO shall maintain the following: (a) Official minutes of all meetings, copies of its charter, bylaws, and accounting and internal control policies; (b) Amendments to its charter, bylaws, and accounting and internal control policies; and (c) Documentation of its recognition as a nonprofit organization. These records shall be considered **permanent** records as long as the SSO exists, and shall be maintained for at least four years after dissolution of the SSO. All other records shall be retained for at least four (4) years (refer to number 17 below). All changes in policies or procedures shall be approved and documented in the official minutes of the officer's or board of director's meetings. The officers and/or board of directors shall conduct regular business meetings.

8. The identity of the authorized banking institution, authorized bank account(s), and authorized signatories shall be included in the minutes. New bank accounts must not be established without the approval of the officers and/or board of directors of the SSO. The number of bank accounts utilized by the SSO shall be kept to a minimum.
9. The name on any bank account, loan, security, or other investment shall be that of the incorporated SSO. SSOs are discouraged from entering into **loans** as part of their operating strategy.
10. The titled owner to any property (vehicle, computer, land, etc.) shall be the incorporated SSO. (Note: This is not intended to prevent SSOs from purchasing and donating property to the Board of Education that will then be titled by the Board of Education.)
11. Materials, supplies, and fundraising resale inventory must be stored at a location and in a manner to prevent spoilage or theft. SSOs shall account for materials, supplies, and fundraising resale inventory items on a regular basis. For all types of mass fund raising such as car washes, concessions, parking, and candy sales, **a profit analysis** shall be performed at the conclusion of the event.
12. Duties shall be segregated between officers and members of the SSO. No one person within the SSO shall be in control of a transaction from inception to recording. For example, one person shall not be solely responsible for receipting money, reconciling cash to receipts, depositing the cash, reconciling the bank statement, and recording receipts to the accounting records. Another example would be, one person shall not be solely responsible for authorizing a purchase, making the purchase, writing the check to pay for the purchase, signing the check, reconciling the bank statement, and recording the purchase to the accounting records.
13. SSOs shall not advertise that donations to the SSO are tax deductible unless the organization has achieved tax exempt status from the Internal Revenue Service (i.e., the SSO is an IRS Section 501(c)(3) organization).
14. Money shall be deposited in the bank daily if possible, but in all cases, within

17. All collection and disbursement records, bank st

Recommendations - Disbursements

Recommended Accounting Policies and Internal Controls - Disbursements:

1. OFFICIAL PRENUMBERED CHECKS:

Using official prenumbered checks for disbursements is recommended as a “**Best Practice**”. This means using official prenumbered checks for disbursements is preferred over other methods of disbursement such as debit cards, credit cards, or other methods referred to below.

(Requirement Reminder: When checks are utilized as a method of payment, adequate accounting policies and internal controls must be designed and implemented.)

When implementing the required accounting and internal control policies and procedures listed above, the following recommended accounting policies and internal controls over the use of official prenumbered checks should be considered:

- a. Bills should never be paid in cash. Official prenumbered checks should require two signatures. (Requirement Reminder: Pre-signing blank checks shall never be allowed.)
- b. Each disbursement by check should have an invoice or receipt to document the authenticity of the disbursement. Checks should not be signed unless the check is accompanied by supporting documentation. When a prenumbered check is used, the treasurer or bookkeeper should write the check number and date paid on the invoice or receipt.
- c. The bank reconciliation should be performed by someone who does not have signature authority over the checking account.
- d. Blank check stock should be protected in a locked environment and access should be limited to the treasurer or bookkeeper and one other person who is authorized to sign checks when the treasurer or bookkeeper is not available. The number of persons authorized to sign checks should be kept to a minimum.

2. DEBIT AND CREDIT CARDS:

(Requirement Reminder: Use of debit and credit cards must be authorized by the officers/board of directors annually. Debit and credit cards must not be utilized unless adequate accounting policies and internal controls can be designed and implemented. SSO officers and board members must be aware that authorizing the use of debit and credit cards **increases** the risk that fraud may occur.)

When implementing the required accounting and internal control policies and

- a. The number of cards issued, and the number of authorized users should be limited to the smallest number possible. If one card is used by multiple individuals, a check-out and check-in log should be maintained by the treasurer, bookkeeper, or someone else who is not authorized to use the card.
- b. Individual transaction limits and daily transaction limits should be established for each card.
- c. Allowable and prohibited types of expenditures should be established. For example, personal purchases made by means of an SSO debit or credit card should be strictly prohibited regardless of whether the purchaser has the intent to repay the SSO. Cash advances should also be prohibited. Using a credit card that is issued in the name of the SSO is a “**Best Practice.**” Purchases made on a member’s **personal** debit or credit card or by any other personal payment method should be discouraged and the number of transactions incurred by this method must be strictly limited. If purchases are made on a member’s personal debit or credit card, or by any other personal payment method, the purchase should **not** be reimbursed without adequate documentation for the purchase. Purchases for which supporting invoices or receipts cannot be obtained shall not be made.
- d. Invoices or receipts should be turned in to the treasurer or bookkeeper for all disbursements as soon as possible after the purchase is made. The person who made the purchase should sign the invoice/receipt to document who made the purchase and who received the goods or services.
- e. Original invoices and receipts should be reconciled to bank account debits and credit card

- i. Credit card statement balances should be paid monthly by someone who did not make the purchases and does not have signature authority for the card(s).

3. **PAYPAL AND SIMILAR ACCOUNTS:**

(Requirement Reminder: Use of PayPal or similar accounts must be authorized by the officers/board of directors annually. PayPal or similar accounts must not be utilized unless adequate accounting policies and internal controls can be designed and implemented. A payment method such as PayPal, shall only be used if the account is established in the name of the SSO. SSO officers and/or board of directors must be aware that

(Requirement Reminder: Use of transaction methods such as ACH, bank transfers, wire transfers, automatic withdrawals, etc. must be authorized by the officers/board of directors annually. Use of these transaction methods must only be utilized if adequate accounting policies and internal controls can be designed and implemented. SSO officers and board members must be aware that authorizing these types of transactions **increases**

Recommendations - Receipts

Recommended Accounting Policies and Internal Controls – Receipting Money:

OFFICIAL PRENUMBERED RECEIPTS:

1. Using official prenumbered receipts for collections is recommended as a “**Best Practice**”. This means using official prenumbered receipts for documenting collections is preferred over other methods of receipting such as crowd funding, Venmo, or similar methods referred to below.

(Requirement Reminder: When official prenumbered receipts are utilized as a method of payment, adequate accounting policies and internal controls must be designed and implemented.)

When implementing the required accounting and internal control policies and procedures listed above, the following accounting policies and internal controls over the use of official prenumbered receipts should be considered:

- a. An official prenumbered receipt should be issued for collections except as provided in items 2-7 below. (Requirement Reminder: When official prenumbered receipts are utilized to document collections, receipts must be issued for all transactions.)
- b. The receipts should be prenumbered and printed with duplicate carbons in a bound book as a “**Best Practice**”. (Receipt books that can be purchased at a chain store may not be adequate since anyone can purchase these types of receipt books and issue receipts in the name of the organization.) It is recommended that each receipt should have the following information:
 1. Name of the SSO should be preprinted
 2. Sequential number should be preprinted.
 3. Space for the payor.
 4. Space for the date.
 5. Space for the amount.
 6. Space to indicate whether the amount was received by check, cash, or other method of payment.
 7. Space for the signature of the person who accepted the money and issued the receipt.
- c. One copy of the receipt should be given to the payor, one copy should be attached to the related collection records, and at least one copy of the receipt should be maintained in the receipt book.
- d. Blank receipt stock should be protected in a locked environment and access should be limited to the treasurer or bookkeeper and one other person who is authorized to issue receipts when the treasurer or bookkeeper is not available.
- e. Official prenumbered receipts should be issued for all donations.

parked. Ticket sales or the number of cars parked should be reconciled with collections. Unless some method of counting is used, parking fundraisers are very susceptible to fraud.

- d. **Candy sale** – Candy inventory should be reconciled with sales listings or receipts issued and collections. If a sales list is utilized, each sale should be signed by the party making the order. Unless candy inventory is reconciled with sales, candy fundraisers are very susceptible to fraud.
 - e. For all types of mass fund raising, the *Model Financial Policy for School Support Organizations* **requires** SSOs to perform a profit analysis. This practice is a good internal control measure and a good management tool.
4. (Requirement Reminder: When an SSO obtains required Board of Education and principal approval and operates a concession stand or parking at a school sponsored academic, arts, athletic, or social event, the SSO must provide the school with all relevant collection records required by the *Tennessee Internal School Uniform Accounting Policy Manual*.) (Refer to Sections 4 and 5 of the manual available online at <https://www.comptroller.tn.gov/content/dam/cot/la/documents/InternalSchoolUniformAccountingPolicy.pdf>)

CROWD FUNDING EVENTS:

5. Use of crowd-funding accounts must be authorized by the officers/board of directors annually. The use of crowd-funding accounts such as GoFundMe and similar accounts is discouraged but not prohibited. However, this method of funding may be prohibited by Board of Education policy.

(Requirement Reminder: SSO officers and board members must be aware that authorizing the use of crowd-funding or similar accounts **increases** the risk that fraud may occur. Crowd-funding type accounts must only be utilized if adequate accounting policies and internal controls can be designed and implemented.)

(Requirement Reminder: The crowd funding account must be authorized by the Board of Education. Crowd funding accounts shall not use the school district's or school's name, mascot, or logos, on the account solicitation without express permission from the Board of Education. The account must not be established using the school district's or school's EIN number. The crowd funding account must be in the name of the SSO.)

The following internal controls should be considered:

- a. The crowd-funding service should not be utilized unless the officers and/or board of directors have documented the validity of the services offered. (e.g. have other schools used the service with satisfactory results, what does the Better Business Bureau say about the Company, etc.).
- b. Only one crowd funding account should exist at a time.

- c. The crowd funding account should provide detailed accounting for donations and deposits.
- d. The crowd funding account should provide some type of receipt for donors. Electronic or message type receipts are acceptable.
- e. The crowd funding account should provide operating reports on at least a monthly basis. These reports should be presented to the officers and/or board of directors at a regular meeting.
- f. The treasurer or bookkeeper should reconcile receipts in the account to bank deposits per the monthly reports.
- g. The account should specify whether donations are tax deductible. As noted above, SSOs should not advertise that donations to the organization are tax deductible unless the organization has achieved tax exempt status from the Internal Revenue Service.

DIGITAL APPLICATIONS (APPS):

- 6. The use of applications (apps) such as Venmo or Square and similar personal applications is discouraged but not prohibited.

(Requirement Reminder: Use of digital applications (apps) must be authorized by the officers/board of directors annually. SSO officers and board members must be aware that authorizing the use of software applications such as those listed above must be used in conjunction with good accounting policies and internal controls to reduce the risk that fraud will occur. The use of these applications or similar personal applications without adequate accounting policies and internal controls **increases** the risk that fraud will occur.)

Consider the following when you are attempting to implement accounting policies and internal controls over the use of personal apps:

- a. Personal apps typically utilize credit cards or debits from personal bank accounts to collect payments rather than collecting cash. However, use of personal apps for payments can have some of the same risks as collecting cash and similar controls should be considered, such as having two persons approve transactions.
- b. When using personal apps, it is possible for money to be deposited into a personal bank account rather than the SSO's account. This could be avoided by using more than one person to approve the transaction.
- c. When using personal apps, the SSO is **more subject** to various types of hacking, malware attacks, viruses, etc. The organization should consider contacting a reputable vendor to perform a vulnerability analysis if collections from personal apps become significant to the SSO. Once personal payment data is collected by the SSO, the organization has a fiduciary responsibility to protect sensitive information that would identify, for example, a person's name with a person's bank account or credit card number.

- d. The SSO may want to consider purchasing insurance to protect against lawsuits involving the collection of personal financial data if collections from personal apps become significant to the SSO.
- e. Personal apps could be used on concession stands, car washes, fries, for magazine and candy sales, etc. The organization should be thoughtful about risks and internal controls for any fund-raising event that involves collections utilizing personal apps.

CREDIT AND DEBIT CARDS:

- 7. Collections by means of customer credit/debit cards are not prohibited provided adequate accounting policies and internal controls can be designed and implemented. Internal controls should center around access to card reading equipment to process credit/debit card payments, access to customer private information, and ensure that credit/debit card payments are not diverted to someone's personal account.

(Requirement Reminder: The acceptance of credit/debit cards must be authorized by the officers/board of directors annually. SSO officers and board members must be aware that authorizing the acceptance of customer credit/debit cards without adequate accounting policies and internal controls increases the risk that fraud may occur.

**SCHOOL SUPPORT ORGANIZATIONS
PROPOSED FUNDRAISING ACTIVITIES**

*(Pursuant to Section 49-2-604, TCA,
To be submitted prior to scheduling any fundraising activity.)*

IN COMPLIANCE WITH SCHOOL BOARD POLICY _____ AND TCA SECTION 49-2-601 ET SEQ., OUR SCHOOL SUPPORT ORGANIZATION SUBMITS THIS PROPOSED FUNDRAISING ACTIVITY FOR THE DIRECTOR'S APPROVAL. WE REALIZE THAT THE DIRECTOR SHALL CONSIDER, AT A MINIMUM, THE FOLLOWING WHEN APPROVING OR DENYING A REQUEST BY A SCHOOL SUPPORT ORGANIZATION TO ENGAGE IN A FUNDRAISING ACTIVITY:

- 1) Whether the fundraising activity, as scheduled, conflicts with

School Support Organization Annual (or Monthly) Financial Report

*(Pursuant to **Section 49-2-604, TCA,***

This form must be submitted to the director of schools/designee at the end

School Support Organization Financial Review and Inspection
(This form is for internal use and must be completed each month)

Name of School support organization _____

Date _____

The reviewer/review committee members named below have reviewed the financial reports and related financial activity for the time period of _____ through _____, in detail. I/we agree that the financial report, related financial activity and records and documentation are (check one):

- Correct and adequate
- Correct and adequate, with the exceptions listed below
- Incorrect and/or incomplete (detail below)

(Examples of Exceptions would be: no documentation; lost information; missing documentation such as receipts or invoices; profit analysis not performed; deposits not made within th

Overview of Financial Activity (prepared by reviewer/committee)

Balance on Hand (date of last review) \$ _____

Receipts
(from last review to date of current review) \$ _____

Disbursements
(from last review to date of current review) \$ _____

Balance on Hand (date of review) \$ _____

School Support Organization Annual Information Form

*(Pursuant to **Section 49-2-604, TCA,***

*This form must be submitted to the director of schools prior to raising any money in the **first year** the SSO begins operation, and at the **beginning of each school year** thereafter.)*

School Year Ending _____

Organization Name _____

Goals and Objectives of Organization

- No change from previous year.
- First filing or change. Please explain.

Status

- Nonprofit
- Foundation
- Chartered member of nonprofit organization or foundation

(For initial filing, or if status has changed, attach supporting documentation for status, e.g., annual report filed with Secretary of State.)

Officers

President _____ Phone Number _____
Address _____

Vice-President _____ Phone Number _____
Address _____

Treasurer _____ Phone Number _____
Address _____

Secretary _____ Phone Number _____
Address _____

Other _____ Phone Number _____
Address _____

Other _____ Phone Number _____
Address _____

School Support Organizations (SSO)

Frequently Asked Questions and Answers

FOREWORD

It was the intent of this office, when creating the following questions and answers, to apply the School Support Organization Financial Accountability Act of 2007 (hereinafter referred to as "the Act"), as amended, to various scenarios that may arise in the day-to-day operations of schools and their valuable SSOs. The responses to the questions were crafted in a way so as to adhere to the language of the statute while also preserving the legislative intent of the Act. It is apparent from Section 3 of the Act, that the General Assembly recognizes the importance of SSOs and does not wish to create any hindrance to their objectives and desires, which are to assist and promote educational and extracurricular activities in the local school systems. The chief concern of the General Assembly, however, appears to be the implementation of greatly needed guidelines to ensure that all the funds raised for students and education are used for the benefit of students and education. Alarming, the Comptroller's Office investigates numerous instances of theft and fraud every year which costs SSOs and schools tens of thousands of dollars, not to mention the loss of public trust. The Act legislation was designed to prevent such a loss of funds and to enact safeguards to protect students, schools, and SSOs. Any controls mandated by the Act pale in comparison to the overall statewide need to protect schools and SSOs from theft and fraud, and to ensure that funds intended to benefit children and their education are used accordingly.

DISCLAIMER

The following questions and answers are intended to provide guidelines that individuals and entities may choose to follow. The views expressed in the question and answer session are not the views or policies of the Comptroller, the Secret

1. What are the major requirements for operating a school support organization (SSO)?

- Establish a Tennessee nonprofit organization and file a copy of the nonprofit charter with the Secretary of State.
- Establish and maintain a reasonable organizational structure for the SSO (bylaws, officers, rules for meetings, and membership, etc.)
- Maintain minimum internal control procedures for accounting and protecting any money raised.
- Get permission from the director of schools or his/her designee to conduct fundraisers.
- Maintain accurate records and retain those records as follows:

Permanently or until at least four years after dissolution: (a) Official minutes of all meetings, copies of its charter, bylaws, and accounting and internal control policies; (b) Amendments to its charter, bylaws, and accounting and internal control policies; and (c) Documentation of its recognition as a nonprofit organization.

Four years: Collection and disbursement records, bank statements, imaged checks, receipts/invoices for disbursements, copies of the monthly treasurer's report, payroll reports, other financial and informational reports, and reports filed with state and federal agencies.

- Annually file a statement of total receipts and disbursements with the director of schools or his/her designee before the end of the school year.
-

3. Is there a distinction between school sponsored events and SSO sponsored events?

Yes. A 2008 Amendment changed the language so that, if the booster club or SSO **sponsors** the fundraiser, then the SSO is responsible for collecting and accounting for the money, even if the fundraiser is held on school property during the school day with students and teachers involved. Generally, it depends on who assumes responsibility for the fundraiser and sponsors the event.

4. Is there a distinction between volunteers who assist in a school sponsored event and SSO sponsored events?

Yes. A 2008 Amendment clarified who is considered an SSO and thereby required to file as a nonprofit and who is not. The Amendment makes it more clear that a group of people or volunteers, who assist in the raising of funds for a specific purpose under the sponsorship of the school or a school employee, where the funds are turned over to and accounted for by the school, are not considered to be an **SSO**. Such groups of people do not have to file a charter with the Secretary of State and comply with the requirements of this Act if that group of people or volunteers just assists the school and the school is responsible for the fundraising and accounting of the money. But, importantly, if the money was raised

6. Is an individual school or school principal legally responsible for the actions of an SSO?

No. SSO organizations are legally separate entities from the Board of Education and individual schools. SSOs are responsible for compliance with the Act and the *Model Financial Policy for School Support Organizations*. Likewise, schools and Boards of Education are only responsible for complying with the Act. The Act specifically exempts school boards, school directors, school principals, or any other officials from liability for the failure of an SSO to safeguard SSO funds. However, caution is advised when a Board of Education or school representatives knowingly allows SSOs to violate the Act or becomes aware of illegal solicitation or fraudulent practices.

7. May a school board establish policies that are more restrictive than the minimum requirements under the Act?

Yes. School Boards are allowed to make more restrictive policies than the minimum requirements to implement the Act. More restrictive policies must be adopted by the Board of Education rather than the director of schools or principals. Furthermore, the board may also adopt more restrictive policies than those listed in the *Model Financial Policy for School Support Organizations*.

8. May students turn in money collected during the school day for an SSO sponsored event, whether inside or outside the school, to a school representative for temporary safekeeping?

Yes. With approval from the principal and pursuant to board policy, students can turn in money collected, whether inside or outside of school, for an SSO organization sponsored fundraiser during the school day, so long as the money is in a **sealed envelope** and **never opened by anyone other than the member of the SSO responsible for handling that money**. The school and its employees who take up the envelopes merely act as a "pass through" for the sealed envelopes and the funds inside, on behalf of the SSO. This money should be given to the appropriate SSO member as soon as possible after the event but the time frame must not be longer than three days. The school should be advised as to who the responsible SSO member(s) are. There can be no accounting for the funds at the school by school personnel or employees. *While this situation is allowable, it is not preferable. The preferred practice would be for students to turn the money into an SSO member on the day of collection.*

9. May an SSO operate a bookstore that is located on school grounds?

Yes. A principal can grant permission to a booster club/SSO to operate a bookstore located on school grounds so long as the SSO runs, collects and accounts for the money, and spends 100% of the profits in support of the school. The SSO is required to comply with the *Tennessee Internal School Uniform Accounting Policy Manual (ISUAPM)* when handling, collecting, and accounting for the money at the bookstore.

10. What type of documentation is required for recognition as a nonprofit entity?

An SSO, under the Act, must show proof of its "continued existence as a nonprofit entity" at the beginning of **each** school year (i.e. on an annual basis). Annual registration documentation with the Secretary of State should be provided to the Board of Education to fulfill this requirement.

It is the opinion of this office that in order to exist in the State of Tennessee as a nonprofit entity, the organization must incorporate as a nonprofit entity by filing a copy of its charter with the Secretary of State, Division of Business Services or be a chartered member of a nonprofit organization or foundation. It was also the intent of the legislature that SSOs incorporate in this state as non-profit entities. The forms and procedures necessary for incorporating as a nonprofit entity with the Secretary of State can be found at website listed on the contact page above.

It is the responsibility of the SSO to ensure that all filing requirements or any guidelines for incorporation required by the Secretary of State are met and continue to be met on an annual basis.

If an organization is not incorporated as a nonprofit entity or is not a chartered member of a nonprofit organization or foundation, that organization cannot be considered an SSO within the Act. There are no exceptions or exemptions within the Act that would permit an improperly formed SSO to operate in conjunction with a school without filing a charter (incorporating) with the Secretary of State. This typically requires the assistance of an attorney.

An SSO does not automatically become a tax-exempt organization before the IRS by merely incorporating in Tennessee as a nonprofit entity. An SSO must separately file with the Internal Revenue Service as a 501(c)(3) corporation but filing as a 501(c)(3) with the IRS is **not** required by the Act. In addition, the SSO must follow all necessary procedures established by the Tennessee Department of Revenue in order to be exempted from paying state sales and use taxes.

14. Does the Act require SSOs to have an audit?

No. The Act does not require SSOs to have an audit. However, federal, state, grant, local board of education, or other regulations may require some type of audit. The Act requires SSOs to provide, at a minimum, a statement of total revenue and disbursements to the director of schools or his/her designee before the end of the school year.

Please note that although the Act does not require SSOs to have an audit, the Act provides that the Office of the Comptroller of the Treasury has the authority to perform audits of such organizations at the Comptroller's discretion. In addition, the Act authorizes the Comptroller of the Treasury to "adopt a model financial policy for school support organizations." The adopted model policy suggests that SSOs conduct a "financial review."

15. Can a school be responsible for accounting for the funds of an SSO by mutual agreement?

No. *Tennessee Code Annotated* 49-2-604(g), expressly prohibits a school representative (i.e., a school board member, director of schools, principal, or any individual who is primarily responsible for accounting for school system funds or the funds of an individual school) from acting as a treasurer or bookkeeper for an SSO.

Any funds turned over to the school by an SSO would be considered internal school funds and would belong to the school and be handled by school personnel. However, part 607, section (b) of the Act specifically requires that:

Any donation made by a school support organization to a board of education or school shall be disbursed only in accordance with written conditions that the school support organization may place upon the disbursement of the funds and shall be in accordance with the goals and objectives of the school support organization.... School support organization funds that are donated to an individual school shall not be considered as student activity funds. These funds shall be considered instead as internal school funds from the point of their donation to the respective school....

Keep in mind that, even if an SSO does not maintain a separate bank account and, instead, turns over all proceeds from every event directly to the school, the organization would still fall under the purview of the Act if the organization is soliciting, raising, or collecting money, materials, property, or securities to support a school district, school, school club, or any academic, arts, athletic, or social activity or event related to a school while using the school district or individual school's name, mascot, property or logo.

Assuming proper local board policy is in place, nothing in the Act would prohibit a group or organization from assisting with school-sponsored fundraisers or events, or from

soliciting donations to be given directly to the school by the donor.

Moreover, the Act (as amended in 2008) expressly allows community volunteers/parents to assist and collaborate with a school or a school employee supervising a fundraising activity which raises money for a specific school club, art, academic or athletic event or purpose and the *Tennessee Internal School Uniform Accounting Policy Manual* requires the funds raised for a specific purpose to be spent accordingly.

Many questions are raised that relate to money received for social events held at or in connection with a school, including school dances, proms, banquets, etc., that are sponsored by an SSO. As noted above, the Act (as amended, 2008) makes it clear that all money received from any source for "school-sponsored" student activities held at or in connection with a school including "school-sponsored" social events such as student dances, etc., are considered student activity funds. However, the Act neither inhibits nor impairs in any way, the ability of SSOs to sponsor their own social event and retain the funds in the name of the SSO.

Many questions have also been raised regarding money received from fundraisers in which students, school personnel, and/or school property are involved. As stated above, funds raised at "school-sponsored" events or activities held during the school day at which school personnel, students, and school property are involved, are student activity funds. Moreover, if a school employee supervises a "school-sponsored" fundraising event at which students are involved, those funds are student activity funds. However, funds raised at "SSO sponsored" events, regardless of whether they are held on school property during the day, belong to the SSO.

Please note that the *Tennessee Internal School Uniform Accounting Policy Manual* requires internal school funds to be used for the purposes for which they were received. Therefore, if school personnel and community volunteers collaborate on a project or event designed to raise money for a particular purpose, then a school official is prohibited from using that money for another purpose.

The following questions address specific examples of fundraisers involving students and/or school personnel. The answers presume that the SSO involved has been recognized by the local board of education and has received required approval for the fundraising activity.

16. Can an SSO organization use school facilities to conduct a fundraiser? If so, can such a fundraiser be held during the school day as defined by the Act?

The answer **depends** on local school board policy. The Act states that a group or organization may not use school facilities for raising money, materials, property, or securities until the local board of education has adopted a policy, including required minimum provisions set forth in the Act, concerning cooperative agreements, SSOs, and the use of school facilities for fundraising purposes. Therefore, local school board officials must decide whether the use of school facilities for fundraising purposes by SSOs or other outside groups or organizations will be allowed, then adopt appropriate policy.

17. Would an SSO be allowed to retain collections

19. Could the soccer coach participate in a car wash fundraiser sponsored by the soccer booster club to benefit the soccer team?

Yes. If the car wash fundraiser is "sponsored" by the SSO, the soccer coach could participate in washing cars. However, the soccer coach could not be responsible for supervising the event for the SSO, including any related financial activities.

According to the Act, the soccer coach would be considered a "school representative" in relation to the soccer team and its booster club. The Act prohibits a school representative from acting as treasurer or bookkeeper of an SSO, or from being a signatory on checks. The Act does not prohibit a school representative from taking part in a related SSO fundraiser, so long as the school representative is not responsible for collecting, counting, or depositing the funds raised.

20. Could the band director (a school employee) sell fruit or other items in a fundraiser sponsored by the band booster organization and turn his/her related collections over to the band booster treasurer for that event?

Yes. The band director could personally sell fruit or other items in a fundraiser sponsored by the band booster club.

According to the Act, the band director would be considered a "school representative" in relation to the band booster club, and therefore, could not act as bookkeeper or treasurer, or be a signatory on the bank account. The Act does not prohibit the band director from individual participation in a resale fundraiser conducted by an SSO as long as the director is not responsible for supervising the event, including the financial activities.

21.

The following questions address individual accounts (for example for an athlete) within fundraisers as well as considerations related to coaches pay. The answers presume that the SSO involved has been recognized by the local board of education and has received required approval for the fundraising activity. The views expressed within the examples are not intended to be legal advice but serve only to provide additional guidelines for SSOs (Also see the Forward and Disclaimer) based on our experience.

24. Can an SSO reward players/students for their fundraising efforts with credits against their individual accounts (what they must pay for a trip or for gear, etc.)?

No.

Parent Booster USA: The IRS has found that the use of individual fundraising accounts frequently results in illegal private benefits and strongly encourages its members not to use individual fundraising accounts since they may result in fines and penalties from the IRS and/or loss of tax- exempt status. In 2007 and 2008, at least three booster clubs in Kentucky were assessed fines and penalties by the IRS for engaging in fundraising activities in which parents and students were given credit for volunteering and fundraising. In one of the letters to a booster club, Lois Lerner, Director of Exempt Organizations for the IRS, reportedly stated that any booster club that raises money to benefit *an individual rather than the group is in violation of federal law* and stands to lose its tax-exempt status. An individual fundraising account is any method by which a booster club credits an individual or family for all, or a portion, of the funds raised by the individual, family or organization.

Kentucky Department of Education Redbook FAQ: Why does the IRS have a rule that fundraising cannot be tracked by individual student? When fundraising proceeds are attributed to specific students and used to offset fees or costs incurred by those students based upon the amount sold or the amount of time worked, it represents income to the students/parents. It is considered private benefit or inurement to the individuals. Booster groups in Kentucky were audited by the IRS several years ago and were fined tens of thousands of dollars for unreported income, penalties, and interest as a result of noncompliance with the private benefit and inurement prohibition.

PTO Today: Article - "Tax Court Rules on Common Fundraising Practice" (A Virginia booster club was faulted for giving credit to families based on the amount they raise.) Fundraising credits are not charitable.... the judge wrote that the club's point system may well be a rational and wholesome way to raise money to benefit young athletes. However, he also wrote that the point system does not advance a tax-exempt purpose. To receive a 501(c)(3) federal tax exemption, an organization must exist to benefit a public good, not individual people.

25. Can a booster club give gift cards to players as an incentive to make good grades?

No. Giving cash or cash equivalent incentives to high school student athletes is against the TSSAA amateur rule and could cause the student to become ineligible to play in the sport for 12 months. See below excerpt from the TSSAA Handbook. (Note: It is of utmost importance that a booster club never give an athlete anything of value without first consulting with the sc

The SSO must not make salary supplement payments of any kind unless the Board of Education has approved fund raising for that purpose. The Board of Education and the SSO need to be fully aware of the possibility of legal liabilities arising from interactions with students related to school activities and events.

In addition, the Board of Education and the SSO need to be fully aware of the possibility of legal liabilities arising from any and all discriminatory practices.

27. Can an SSO recruit student athletes?

No. This is not a proper function for an SSO. Recruiting, whether directly or indirectly appears to be in violation of TSSAA rules even if a school board or school official authorized fund raising for this purpose.

28. May an SSO charge and collect fees for school-sponsored activities?

No. SSOs must not charge fees to students to participate in school-sponsored activities or events. *Tennessee Code Annotated* 49-2-603(6)(f) defines fees charged to students for school sponsored academic, art, athletic or social events as student activity funds. As such, they must be accounted for by the school and deposited in the school bank account. Likewise, state law makes no provisions for SSOs to charge fees to students or their parents for participation in school-sponsored activities or events.

29. May an SSO require donations or participation in fundraisers as a fundraising method for students to participate in school sponsored activities?

No. Required or “suggested minimum” financial participation of students or their parents, whether through donations or required fundraising, will be interpreted as charging fees, and, as noted in 25 abn256 Tw2 7.16 00d.TJaa71 0 ygm” finan6-0256fnts ds6hr “su4.9(t)en256 --.000sin