TENNESSEE COMPTROLLER OF THE TREASURY

PROCEDURES MANUAL

MODEL FINANCIAL POLICY FOR SCHOOL SUPPORT ORGANIZATIONS

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Comptroller of the Treasury

DIVISION OF
LOCAL GOVERNMENT AUDIT

Model Financial Policy for
School Support Organizations (SSO)

Table of Contents

	Page
Preface	**2-4**
Contact Information	**5**
Required Policies and Procedures:	
Accounting and Internal Controls – *Overarching Requirements*	**6-8**
Accounting and Internal Controls – *General Requirements*	**9-11**
Recommended Policies and Procedures:	
Accounting and Internal controls – *Disbursements*	**12-15**
Accounting and Internal Controls – *Receipting Money*	**16-20**
Required Reporting – Sample Forms:	
SSO Proposed Fundraising Activities	**21**
SSO Annual (or Monthly) Financial Report	**22**
SSO Financial Review and Inspection	**23-24**
SSO Annual Information Form	**25**
Frequently Asked Questions and Answers	**26-39**

Preface

Public Chapter 326, amending *Tennessee Code Annotated*, Title 49, Chapter 2, requires that school support organizations (SSO) "adopt and maintain a **written policy** which specifies reasonable procedures for accounting, controlling and safeguarding any money, materials, property or securities collected or disbursed by it." **The statute further authorizes the Comptroller of the Treasury to prepare a model financial policy for the school support organizations.**

Accordingly, the **Division of Local Government Audit** has prepared the "*Model Financial Policy for School Support Organizations*" (i.e. this document) which fulfills this responsibility. It provides **minimum required** accounting policies and internal controls to assist SSO members and officers in improving accountability over SSO funds. As such, SSOs must follow the required accounting policies and the required internal control procedures listed herein.

In addition, this document provides **recommendations** for procedures that should be considered as a method to implement the required minimum procedures. The manual also includes basic contact information as well as some sample forms.

School Support Organization (SSO) Fundraising Activities:

Section 49-2-604, *Tennessee Code Annotated* (TCA), states the local school board shall adopt policies regarding the use of school facilities for fundraising purposes, cooperative agreements, and SSOs. A group or organization may not use a school district's or school's name, mascot, or logos, property or facilities for the raising of money, materials, property, or securities until such policy is in place.

The policy must include the following provisions:

1. Prior to raising money, an SSO shall submit to the director of schools a form that documents:
    a. the organization's non-profit status;
    b. the goals and objectives of the organization; and
    c. the telephone number, address, and position of the organization's officers.

2. Thereafter, prior to the beginning of each school year, the SSO shall submit a form to the director of schools that, verifies the SSO's continued status as a non-profit entity; explains the goals and objectives of the SSO; and updates the contact information for current officers.

3. Thereafter, before the end of each school year, the SSO shall provide to the director of schools, a statement of total revenues and disbursements.

4. SSOs must also obtain the approval of the director of schools prior to scheduling any fundraising activity.

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 an SSO. (Accordingly, a school representative would also be prohibited from having a debit card, credit card, or any other type of disbursement account related to an SSO account.) The law prohibits a majority of the voting members of the board of an SSO from being comprised of school representatives.

School Support Organizations (SSO)—Defined:

SSOs include the following organizations that collect or receive money, materials, or property from students, parents, or members of the general public and whose primary purpose is to support a school district, school, school club, or academic, arts, athletic, or social activities related to a school:

1. booster club
2. foundation
3. parent-teacher association
4. parent-teacher organization
5. parent-teacher support association, or
6. any other nongovernmental organization

School Representative—Defined

If the SSO's primary purpose is to support a school system or individual school, then a school representative includes:

1. a school board member;
2. the director of schools;
3. a principal; and
4. any person primarily responsible for accounting for either school system or individual school funds.

If the SSO's primary purpose is to support a local school club or academic, arts, athletic, or social activity related to a school, then a school representative includes:

1. a school board member;
2. the director of schools;
3. a principal;
4. any person primarily responsible for accounting for either school system or individual school funds; and
5. any school system employee who is charged with directing or assisting in directing the related school club or activity.

School representative does specifically include coaches, assistant coaches, band directors, or any other school sponsor of a related club or activity.

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
Cordell Hull Building
425 Rep. John Lewis Way North
Nashville, TN 37243
Phone: 615-401-7841
https://www.comptroller.tn.gov/office-functions/la.html

Fraud Waste and Abuse Hotline
1-800-232-5454

Tennessee Secretary of State

Information related to obtaining nonprofit status from the State of Tennessee

Division of Business Services
312 Rosa L. Parks Avenue
6th Floor, Snodgrass Tower
Nashville, TN 37243
Phone: (615) 741-2286
https://sos.tn.gov/business-services

Tennessee Department of Revenue

Information related to obtaining state sales and use tax exemption

Statewide toll-free: (800) 342-1003
Nashville and out-of-state: (615) 253-0600
https://www.tn.gov/revenue/taxes/sales-and-use-tax.html

Application for Employer Identification Number
Information related to obtaining 501 (federal) tax exempt status
https://www.irs.gov/charities-non-profits/charitable-organizations

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 polices that are more restrictive than those presented in the *Model Financial Policy*, the more restrictive policies of the Board of Education shall be applied. Representatives of the Board of Education are authorized to make the determination of whether their policies are more restrictive than the *Model Financial Policy*. However, this determination is subject to review by representatives of the Comptroller of the Treasury.

    Some examples of policies that might need to be addressed by the Board of Education to comply with the above requirements depending on the circumstances are as follows: a) Director of School's designee, if any; b) reporting for SSOs that have a calendar year-end rather than a June 30 year-end; c) dates reports must be submitted by; d) form of the annual report if different from the reports included in the *Model Financial Policy*; e) the frequency of meetings for the SSO; f) composition of the SSO Board: g) the Board of Education's response to late reports or inadequate reports; h) the Board of Education's response if fraud is discovered within the SSO; etc.

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 the board of directors for purposes of implementing the requirements of the *Model Financial Policy for School Support Organizations* only. This statement of responsibility under the *Model Financial Policy for School Support Organizations* is not intended to address any legal issues related to the appointment or non-appointment of a board of directors.

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 **three days** of collection. Deposit slips must include an itemized listing of checks.

15. The treasurer or bookkeeper must provide a signed summary listing of collections and disbursements to organization officers and/or board of directors on a **monthly** basis. (Refer to Required Reports in the Table of Contents.) The summary report must be supported by detailed transaction records and agree with the bank statements.

16. Bank accounts must be reconciled promptly at the end of each month. A copy of the bank statement and the **front and back of imaged deposit slips and checks** must be provided for inspection to each officer or board member on a monthly basis. Each officer/board member shall review the bank statement and imaged deposit slips and checks (or other types of bank transaction records provided, such as bank debits) presented in the bank statement as soon as possible after the bank statement is issued. The reviewers shall initial the documents after their review. In addition, pre-signing blank checks shall never be allowed.

17. All collection and disbursement records, bank statements, imaged checks, receipts/invoices for disbursements, along with copies of the monthly treasurer's report, payroll reports, other financial and informational reports, and reports filed with state and federal agencies, shall be organized and maintained by the treasurer or bookkeeper by fiscal year. These records must be maintained for at least **four** years.

18. The SSO shall maintain documentation of any ***written*** conditions for any donations to the board of education or the school. Pursuant to state law, the school board or school must, in good faith, disburse the funds in accordance with those conditions.

19. If the SSO collects **"school funds"**, whether voluntarily or inadvertently, the SSO shall immediately remit those funds to school officials. This would include money collected and accounted for by coaches, band directors, or other school representatives, which by definition (i.e. state law), is school money.

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 procedures listed above, the following recommended accounting policies and internal controls over debit and credit cards should be considered:

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 statements. (Requirement Reminder: Vendor monthly "statements" such as a credit card end of month billing statement must not be used as a substitute for original invoices and receipts.)

f. When possible, debit and credit card purchases should be approved by an officer or a designee of the officers of the SSO in advance of the purchase, such as by using purchase orders or requisitions.

g. A listing of all debit and credit card transactions and the bank or credit card statement should be presented to and approved by the officers and/or board of directors of the SSO at least monthly. This listing should be supported by the original vendor invoices or receipts which should also be provided for inspection.

h. PIN numbers should be protected as confidential information. Passwords to online bank or credit card accounts should also be protected as confidential information. Access to PIN numbers and passwords should only be permitted to the few individuals that are allowed to use the cards. Exception - the treasurer or bookkeeper may have necessary access codes to view the account, to determine what purchases have been made, and to reconcile the accounts, but the treasurer or bookkeeper should not be authorized to use the cards. PIN numbers and passwords should be changed regularly and especially so after someone who had access leaves the SSO.

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 authorizing the use of PayPal or similar accounts **increases** the risk that fraud may occur.)

When implementing the required accounting and internal control policies and procedures listed above, the following recommended accounting policies and internal controls over PayPal or similar accounts should be considered:

a. PayPal accounts should be authorized by the officers and/or board of directors of the SSO at a regular meeting. (Requirement Reminder: Personal PayPal accounts or the use of personal debit or credit cards within such an account, must not be used.)

b. Only one PayPal or similar account should be established.

c. Only one individual should be authorized to make purchases through the PayPal or similar account. The treasurer or bookkeeper may have necessary access codes to view the account and to determine what purchases have been made, but the treasurer or bookkeeper should not be authorized to make purchases through the account.

d. When possible, PayPal or similar account purchases should be approved by the officers and/or board of directors of the SSO in **advance** of the purchase, such as by using purchase orders or requisitions.

e. A listing of transactions related to the PayPal or similar account should be presented to and approved by the officers and/or board of directors of the SSO at a regular meeting. This listing should be supported by the original vendor invoices or receipts which should also be provided for inspection.

f. If the system will not allow for an electronic invoice or receipt to be printed for the purchase transactions, PayPal or similar accounts should **not** be used.

4. **OTHER DISBURSEMENT METHODS:**

Use of transaction methods such as ACH, bank transfers, wire transfers, automatic withdrawals, etc. is acceptable practice.

(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** the risk that fraud may occur.)

When implementing the required accounting and internal control policies and procedures listed above, the following recommended accounting policies and internal controls should be considered:

a. Transactions should be approved in advance by the officers and/or board of directors of the SSO. The treasurer or bookkeeper should not be authorized to execute these types of transactions without prior approval of the officers and/or board of directors.

b. Automatic withdrawals should be reauthorized by the officers and/or board of directors at least annually.

c. The officers and/or board of directors should authorize only one person within the organization to execute the approved transactions.

5. The above policies and procedures are recommended policies and procedures for disbursements. Implementing the recommended policies and procedures would ensure compliance with the requirements of the *Model Financial Policy for School Support Organizations.* Additional information can be found in Section 4 of the *Tennessee Internal School Uniform Accounting Policy Manual* at https://comptroller.tn.gov/content/dam/cot/la/documents/InternalSchoolUniformAccountingPolicy.pdf

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.

f. All money collected should be deposited intact (i.e. in the form and amount collected). (Requirement Reminder: Deposits should be made to the bank daily if possible, but in all cases, must be made within three days of collection.)

MASS FUND RAISING EVENTS:

2. (Requirement Reminder: For certain events or mass collections (e.g., concession, parking, car wash, candy sale, etc.), a record of the total collections each day must be created.)

   At least two individuals should count the collections and prepare and sign the count sheet. Collections should be turned over to the treasurer or bookkeeper immediately (when practicable). In all cases, the money shall be turned in to the treasurer or bookkeeper and deposited in the bank within three days of the date of collection as noted under the General Requirements above. Members who collected the money are responsible for safekeeping the money until the money is turned over to the treasurer or bookkeeper for deposit. When the collections are turned over, the treasurer or bookkeeper, and the individual(s) presenting the collections should recount the collections. The treasurer should then immediately issue a receipt to the individual(s). The count sheet(s) should be initialed and filed by the treasurer. A copy of the receipt should be attached with the documentation filed. When practicable, the cash should be deposited in the bank by a separate individual (i.e. not the treasurer or bookkeeper) who in turn, returns the bank deposit receipt to the treasurer or bookkeeper.

3. (Requirement Reminder: When mass fund raising events are conducted, the importance of additional internal controls must not be overlooked. Mass fund raising events are **very susceptible** to theft. **Mass fund raising events must not be utilized unless adequate accounting policies and internal controls can be designed and implemented.)**

   The following are not specifically required since each event may be handled differently by SSOs. Other internal control methods may be used. The following accounting policies and internal controls might be considered;

   a. **Car washes** - Only one or two persons should be assigned to collect money. Another person should count the number of cars washed. The number of cars washed should be reconciled with collections (i.e. when a set price is collected for each car washed). SSOs should be aware that "donations accepted" car washes are more susceptible to fraud.

   b. **Concessions** - Use of a cash register is considered a **"Best Practice"**. The number of people collecting money should be limited to only the necessary staff required to serve the public. Whether or not a cash register is used, resale inventory should be counted to determine how much was sold. Inventory sold should be reconciled with cash collected. SSOs should be aware that allowing "all" concession staff to accept money makes the fundraising event more susceptible to fraud.

   c. **Parking** - Only one or two persons should be assigned to collect money at each location. Pre-numbered tickets should be used, or another person should count the number of cars

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 at concession stands, car washes, fish 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 ensuring that credit/debit card payments are not diverted to someone's personal account.

   (Requirement Reminder: The acceptance of credit and 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. Credit/debit cards must not be accepted unless adequate internal controls can be implemented.)

   For example, SSOs should consider whether skimmers or other types of illegal devices might be used to obtain a customer's private information. Consideration should also be given to which members of the SSO are allowed to operate credit/debit card processing equipment. It is a pretty simple matter to obtain names, credit/debit card numbers, expiration dates, and the 3-digit security codes or PIN numbers from a credit/debit card or entered information. The SSO may be liable for damages should credit/debit card data theft occur. SSOs should consider performing criminal background checks for anyone who operates credit/debit card processing equipment. The treasurer or bookkeeper should not be authorized to use the card reading equipment. The treasurer or bookkeeper should reconcile any reports generated from the credit/debit card processing centers to deposits in the bank account. The treasurer or bookkeeper should be alert to unusual transactions. Each card reader should be assigned to a specific individual whose responsibility it is to guard access to the equipment and accept payments. Preferably, each individual who accepts credit/debit card payments would have a separate card reader. If many members of the SSO utilize the same card reader, it is preferable that the processing equipment allow for a method to identify each person who accepted a payment. In any case, the number of individuals who process payments should be kept to a minimum. Card processing equipment should be returned to the treasurer or bookkeeper for safekeeping as soon as the fund-raising event is finished.

The above policies and procedures are recommended policies and procedures. Additional information can be found in Section 4 of the *Tennessee Internal School Uniform Accounting Policy Manual* at https://comptroller.tn.gov/content/dam/cot/la/documents/InternalSchoolUniformAccountingPolicy.pdf

SCHOOL SUPPORT ORGANIZATIONS
PROPOSED FUNDRAISING ACTIVITIES

(Pursuant to Section 49-2-604, TCA,
To be submitted prior to <u>scheduling</u> 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 the fundraising activity of the school district or an individual school within the district, and**
2) **Whether the fundraising activity is consistent with the goals and mission of the school and/or the school district.**

The undersigned submits that this fundraising activity is consistent with the goals and mission of the school and/or the school district, as well as the organization's mission, goals, and objectives.

ORGANIZATION: _____

DATE OF PROPOSED FUNDRAISING _____

PROPOSED FUNDRAISING ACTIVITY:_____
_____
_____
_____

PROPOSED USES OF FUNDS RAISED:_____
_____
_____
_____

OTHER COMMENTS/CONSIDERATIONS RELATED TO THE FUNDRAISER:
_____
_____

REQUESTED BY _____ DATE _____
Signature/Title

REVIEWED BY _____ DATE _____
School Principal/Designee

APPROVED BY _____ DATE _____
Director of Schools/Designee

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** of each school year)*

School Year (or Month) Ending _____
Organization Name _____
President _____ Phone Number_____
Treasurer_____ Phone Number_____

1. Objectives and activities completed by the organization:
   _____
   _____
   _____
   _____

2. Money in account at the beginning of the school year (or month): $_____

Revenue/Collections:

3. Money collected during the school year (or month) (by activity or fundraiser):

   A. _____ $_____
   B. _____ $_____
   C. _____ $_____
   C. _____ $_____
   E. _____ $_____

Total revenue/collections. for the school year (or month) $_____

Disbursements/Expenditures:

4. Activities, fundraiser vendors, equipment, materials, services, etc., purchased:

   A. _____ $_____
   B. _____ $_____
   C. _____ $_____
   D. _____ $_____
   E. _____ $_____

Total disbursements/expenditures for the school year (or month) $_____

5. Money in account(s) at end of school year (or month) $_____

_____ _____
Preparer's Signature Date

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 three days; calculations not accurate; inventory not performed; bank not reconciled; GoFundMe or other reports not attached; etc.)

Exceptions Noted:

1) _____
2) _____
3) _____
4) _____
5) _____
6) _____

To prevent the above exceptions from occurring in the future, the following steps should be taken: (list actions)

1) _____
2) _____
3) _____
4) _____
5) _____
6) _____

Reviewer(s) Comments:

_____
_____
_____
_____

Continued on Page 2

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)	$_____

I have read and understand this report and the exceptions, if any, noted above.
(*This report must be signed by the treasurer and one other officer.)*

Printed Name	Officer Title	Signature	Date
	Treasurer		

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. Alarmingly, 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 Secretary of State, the Department of Revenue, the General Assembly, or the Governor. What follows are merely suggestions on how to read the Act in order to encourage continued cooperation and support between SSOs and schools amidst the changes required under the legislation. The answers provided hereinafter are not statements of the law nor are they the opinions of the State Attorney General as to how a court would interpret the Act, but rather reasonable parameters within which the SSOs and schools can operate. However, adherence to the law remains solely the responsibility of the individual SSO or school and the following answers cannot be used as a defense to any civil or criminal violations that may occur from noncompliance with the Act. Should individuals have additional questions, they should be submitted to the Comptroller of the Treasury, Division of Local Government Audit at the following e-mail address: LGA.WEB@cot.tn.gov.

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.

   - Maintain adequate separation of duties between SSO officers and school employees who oversee a related school club or athletic group the SSO supports (e.g. Do not let the football coach be the football booster club bookkeeper, etc.)

   - A related school representative (official/employee) from the school cannot be the SSO's bookkeeper or sign checks for the SSO.

   - Follow the *Model Financial Policy* prepared by the Comptroller of the Treasury.

2. **If money is collected by a school employee acting in his or her official capacity, can this money be considered SSO money?**

   No. Such money is considered school money and must be deposited into the school's accounts (i.e. either the school's general fund or the appropriate school activity fund).

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 for a specific purpose, it must be spent on that specific purpose, according to the *Tennessee Internal School Uniform Accounting Policy Manual.* This allows smaller groups, who do not wish to incorporate or maintain records of their fundraising efforts and keep bylaws, etc., to continue to raise money to support schools and programs at those schools, while alleviating their responsibility of accounting and safeguarding the money thereby shifting the financial responsibility to the school.

5. Does an SSO have to become a 501(c)(3) tax exempt organization with the Internal Revenue Service?

No. An SSO **does not** have to be recognized as an IRS 50l(c)(3) federally tax-exempt corporation. The SSO **does** have to incorporate as a Tennessee nonprofit entity and file its charter with the Tennessee Secretary of State.

Although not required, filing for and receiving 50l(c)(3) exemption from the Internal Revenue Service and following all applicable guidelines provides the SSO federal tax-exempt status, and allows the organization to benefit from the advantages of such status. Each individual organization is urged to consult with the IRS and/or a tax professional for questions concerning federal tax requirements and/or exemptions.

The Contacts Section of this document provides links to the IRS website information related to the 501(c)(3) exemption.

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 polices 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 polices 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 50l(c)(3) corporation but filing as a 50l(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.

11. Does the Act require an SSO to obtain a federal employer identification number (EIN) or state sales tax exemption?

No. The Act does not require an SSO to obtain an Employer Identification Number (EIN) or sales tax exemption. However, the Act prohibits an SSO and other nongovernmental groups from maintaining a bank account bearing the EIN of a school or of other school-related governmental entities, and from using a school's sales tax exemption.

Banking institutions generally require a tax identification number, either an EIN or social security number, in order to open a bank account. Using an individual's social security number for identification of an SSO account creates potential tax and credit issues for the holder. Therefore, this office strongly encourages each SSO to obtain a federal EIN for use in opening bank accounts. The application form for obtaining an EIN can be accessed at the website listed on the contact page above. The required form is Form SS-4. Organizations are not required to have federal 501(c)(3) exemption status to obtain an EIN.

However, in order to be exempted from state sales tax, an SSO must separately apply with the Tennessee Department of Revenue and be accepted by the IRS as a 501(c)(3) corporation.

12. Does the Act require SSOs to turn over the funds in their accounts, for any reason, to a school for which they raise the money?

No. There are no provisions in the Act requiring the SSOs to turn their money over to a school for accounting or any other purposes. However, the Act does state that SSO funds deposited into a bank account bearing the EIN of a school are deemed to be donations from the organization to the school.

13. May an SSO refuse to turn money over to a school after the school has made a request for funding?

Yes. There are no provisions in the Act requiring SSOs to turn their money over to a school for accounting or any other purposes. It should be noted, however, that SSO funds must be used for the purposes for which they are raised.

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 from a school dance held for students at the school (for instance, the Homecoming Dance), if the organization was responsible for set-up, collections, clean-up, etc.?

Yes. As long as the SSO "sponsors" the event and is solely responsible for the event, collecting and accounting for the money, safeguarding the funds and depositing the funds into the SSO account in a timely manner (for example, within 3 business days).

18. Can a kick-off assembly be held at the school during the school day to promote the start of an SSO resale fundraiser, such as a candy sale in which students will be participating?

Yes. As long as the SSO "sponsors" the event and is solely responsible for every aspect of the event.

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. Can an SSO sell t-shirts to students at school and keep the money?

Yes. If SSO personnel are responsible for all aspects of the fundraiser, then money received from sales of the t-shirts, including shirts sold to students, would generally be considered SSO money.

If the t-shirts are sold in a bookstore located at the school that is run/operated by the SSO/booster club, money received from the sales would be considered SSO/booster club funds as long as the principal grants the SSO/booster club permission to operate the bookstore. The Act (as amended in 2008) allows the local board and principal to enter into an agreement with an SSO to run a bookstore located on school property as long as 100% of the profits are used for support of the school and the SSO complies with the *Tennessee Internal School Uniform Accounting Policy Manual* when operating the bookstore.

If the bookstore is not operated and run by the SSO, then a t-shirt sale by the booster club cannot be done from the school bookstore and appropriate measures must be taken to maintain adequate separation between the school and its involvement with the t-shirt sales and the SSO's involvement as the "sponsor" of the fundraiser.

22. Can an SSO organization hold a steak dinner or auction on school grounds at night with students selling tickets, and with SSO personnel and students working at the event, and the proceeds be considered SSO funds?

Yes. Assuming authorizing local school board policy exists, if SSO personnel are responsible for supervising the planning and operation of the event, including related financial activities, then proceeds from such an event would generally be considered SSO funds.

23. Can a walk-a-thon, fun run, or other like event be held during the school day on school property and proceeds from pledges obtained by students/school employees participating in the event be retained by an SSO?

Yes. As long as the local board allows such a fundraising activity, an SSO can "sponsor" such an event and the proceeds of that fundraiser will belong to the SSO/booster club.

The following questions address <u>individual accounts</u> (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 <u>not</u> 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.)?

<u>No</u>.

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 school athletic director.)

TSSAA
Handbook*
Award Rule:

Section 19. A student may accept a medal, trophy, state championship ring, high school letter, sweater, jacket, shirt, blazer or blanket but nothing else of commercial value from his/her school. (A sweater, jacket, shirt, blazer or blanket must carry the high school letter or other appropriate award emblem.) Acceptance of forbidden awards will cause a student to become ineligible for 12 months in the sport in which the violation occurs. Bowling, golf and tennis students will abide by USBC, USGA, and USTA regulations in accepting awards.

Section 20. A member school that has any connection with the presentation of a forbidden award — such as assisting in the selection of the person to receive the award, permitting the award to be given at a school function, or holding the award for a student until he/she has graduated — shall be subject to suspension from tournament play in the involved sport(s) for one season.

******The TSSAA Handbook is updated annually. The above excerpt was copied from the 2019-2020 edition. The reader is advised to consult the latest edition of the Handbook before taking any action.*

26. Can an SSO pay salary supplements to coaches directly?

It depends:

No. Payments for salary supplements must not be made directly to the coaches, assistant coaches, or other employees (e.g. teachers, principals) of the Board of Education. Salary supplements for Board employees must be paid through the Board of Education. The SSO must make donations to the Board for this purpose rather than paying Board employees directly.

Maybe. However, we are not aware of law or regulation that would prohibit non-school employees from receiving a salary payment directly from an SSO. The SSO must keep in mind IRS regulations and the requirements of TSSAA when applicable. Any such payment must not be discriminatory in nature.

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 above, SSOs must not charge fees to students to participate in school sponsored activities or events. Likewise, state law makes no provision for SSOs to charge fees to students or their parents for participation in a school-sponsored activities or events.