

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 “SSOFAA”) to various scenarios that may arise in the day-to-day operations of schools and their valuable support organizations. 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 school support organizations 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, this office investigates numerous instances of theft and fraud every year which costs school support organizations and schools tens of thousands of dollars. This legislation was designed to prevent such a loss of funds and to enact safeguards to protect students, schools, and school support organizations. Any controls mandated by the Act pale in comparison to the overall statewide need to protect schools and school support organizations 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 intendt

and programs at those schools, while alleviating their responsibility of accounting and safeguarding the money thereby shifting the financial responsibility to the school.

Filing as a 501(c)(3) with the IRS:

Under the SSOFAA of 2007 and as amended in 2008, a school support organization **does not** have to file with the IRS as a 501(c)(3) federally tax exempt corporation.

Turning in fundraising money for an SSO fundraiser at school:

With approval from the principal and pursuant to board policy, students can turn in money collected outside of school for a booster club/SSO 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. There can be no accounting for the funds at the school by school personnel or employees.

Boosters and bookstores:

A principal can grant permission to a booster club/SSO to operate a bookstore located on school grounds as long as the booster club/SSO runs, collects and accounts for the money and spends 100% of the profits in support of the school. The booster club/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.

In a Nutshell

A school support organization must:

-  **File a copy of their charter with the Secretary of State.**
-  **Maintain some organizational structure to the booster club (bylaws, officers, rules for meetings and membership, etc.)**
-  **Maintain minimum procedures for accounting for and protecting the money raised.**
-  **Get permission from the director of schools or his/her designee to conduct fundraisers.**
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QUESTIONS AND ANSWERS
Updated June 2008

FREQUENTLY ASKED QUESTIONS

School Support Organization Financial Accountability Act of 2007 (SSOFAA)

1. **Does the SSOFAA require school support organizations to have 501(c)(3) status? What are the consequences of not having that status?**

No. The SSOFAA does not require school support organizations to be recognized as 501(c)(3) organizations. Provisions set forth in the SSOFAA do not affect IRS

formed school support organization to operate in conjunction with a school without filing a charter (incorporating) with the Secretary of State.¹

A school support organization does not automatically become a tax-exempt organization merely by incorporating in Tennessee as a nonprofit entity. A school support organization must separately file with the Internal Revenue Service as a 501(c)(3) corporation and follow all necessary procedures established by the Tennessee Department of Revenue in order to be exempted from state sales tax. (<http://www.tennessee.gov/revenue/>) But filing as a 501(c)(3) with the IRS is not required by the SSOFAA.

3. Does the SSOFAA require school support organizations to obtain a federal employer identification number (EIN) or state sales tax exemption?

No. The SSOFAA does not require school support organizations to obtain an EIN or sales tax exemption. However, the Act prohibits school support organizations 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 a school support organization account creates potential tax and credit issues for the holder. Therefore, this office strongly encourages each school support organization to obtain a federal EIN for use in opening bank accounts. The application form for obtaining an EIN can be accessed at the (www.irs.gov) homepage under "Most Requested Forms and Publications" by clicking on Form SS-4. (NOTE: Organizations are not required to have federal 501(c)(3) exemption status to obtain an EIN.)

In order to be exempted from state sales tax, a school support organization must separately apply with the Tennessee Department of Revenue and be accepted by the IRS as a 501(c)(3) corporation.

4. Does the SSOFAA require, in any form, school support organizations 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 school support organizations to turn their money over to a school for accounting or any other purposes. However, the Act does state that school support organization funds deposited into a bank account bearing the EIN of a school are deemed to be donations from the organization to the school.

¹The exemptions in Title 48, *Tennessee Code Annotated*, addressing charitable solicitations and the filing requirements with the Secretary of State, do not apply to the School Support Organization Financial Accountability Act.

5. **Can a school be responsible for accounting for the funds of a school support organization by mutual agreement as provided for in the *Internal School Uniform Accounting Policy Manual*, Section 1, pages 4 – 5?**

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 a school support organization.

6. **Does the SSOFAA require school support organizations to have an audit?**

No. The SSOFAA does not require school support organizations to have an audit. However, federal, state, grant, local bo

Few questions are raised related to money received from academic, art, or athletic events. However, many questions 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 school support organizations. As noted above, the SSOFAA (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

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

8. **Can a school support 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 SSOFAA states that a group or organization may not use school facilities for raising money, materials, property, or securities **until**

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

12. **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 SSOFAA, 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 a school support organization as long as the director is not responsible for supervising the event, including the financial activities.

13. **Can a school support organization sell t-shirts to students at school and keep the money?**

Yes. If school support organization 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 school support organization 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 SSOFAA (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 *Internal School Uniform Accounting Policy Manual* when operating the bookstore.

If the bookstore is not operated and run by the school support organization, then a t-shirt sale by the booster club cannot be done from the school bookstore and

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

Yes. Assuming authorizing local school board policy exists, if school support organization 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 school support organization funds.

15. **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 a school support organization?**

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.

Contact Information

Comptroller of the Treasury

Division of Municipal Audit
Bank of America Plaza, Suite 1100
414 Union Street
Nashville, TN 37219
Phone: 615-532-4460

<http://comptroller.state.tn.us/cpdivma.htm>

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

Tennessee Secretary of State

Information related to obtaining nonprofit status from the State of Tennessee

Business Services
312 8th Avenue North
6th Floor, Snodgrass Tower
Nashville, TN 37243
Phone: (615) 741-2286

http://www.tennessee.gov/sos/bus_svc/forms.htm#nonprofit

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

<http://www.state.tn.us/revenue/>

Internal Revenue Service

Application for Employer Identification Number
Information related to obtaining 501 (federal) tax exempt status
<http://www.irs.gov/charities/charitable/article/0,,id=96099,00.html>
<http://www.irs.gov/pub/irs-pdf/p557.pdf>