



BROWNSVILLE INDEPENDENT SCHOOL DISTRICT

BOOSTER CLUB/PARENT ORGANIZATION GUIDELINES

2022



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GENERAL INFORMATION

Parent Organizations/Booster Clubs are parent organizations established to promote school programs or complement student groups/activities. A Parent Organizations/Booster Club's purpose may be to support a student group or program at a particular school, or various student groups or programs at various schools. Students enrich their education and expand their horizons when they participate in school activities and programs. Therefore, the district greatly appreciates the time, effort, and financial support that the Parent Organizations/Booster Clubs provide to our students.

Even though a Parent Organization/Booster Club works very closely with the District, it is a separate entity from the District. However, the formation of a Parent Organization/Booster Club must be approved by the campus principal. In addition, a Parent Organization/Booster Club must adhere to various District policies and guidelines (GE Local), University Interscholastic League (UIL) guidelines, and federal and state regulatory guidelines.

Parent Organization/Booster Clubs are required to provide following documents the BISD Internal Auditor Department at the beginning of each school year:

- IRS Notice of EIN
- IRS Letter of Determination as a Section 501(c)(3) organization
- Annual financial report and review committee's report
- List of organization's officers
- Check signers

Parent Organization/Booster Clubs are required to provide following documents the campus principal at the beginning of each school year. Documents are to be reviewed on a regular basis and will be updated as needed:

- Copy of current adopted bylaws and operating procedures
- Annual financial report and review committee's report
- List of organization's officers
- List of organization's activities for the coming school year. Additional activities will need to be submitted for approval at least 30 days prior to the event

FORMATION OF ORGANIZATIONS

Booster club organizations must prepare and adopt bylaws and operating procedures at the beginning of the school year, on an annual basis. A copy of the current adopted bylaws and operating procedures must be submitted to the campus principal at the beginning of the school year.

All booster and parent organizations must obtain a unique tax identification number on Form SS-4, Application for Employer Identification Number (EIN). Such organizations **may not** use the District's tax identification number (See attached GE(LOCAL) and IRS website: <https://www.irs.gov/charities-and-nonprofits>). For additional information on how to obtain federal tax-exempt status as a public 501(c)(3) charitable organization, visit: https://www.sos.state.tx.us/corp/nonprofit_org.shtml.

Once, the booster or parent organization obtains federal tax-exempt status as a public 501(c)(3) charitable organization with the Internal Revenue Service by electronically applying Form 1023 on the IRS website and the Application for Recognition of Exemption Under Section 501(c)(3), the booster or parent organization will receive a Letter of Determination from the IRS. The Letter of Determination states that the organization is tax-exempt from federal taxes (www.irs.gov). A copy of the Notice of EIN and the Letter of Determination will need to be submitted to the Internal Audit Department. Please do not use the campus address as the point of contact and mailing address. Since booster or parent organizational officers change over time, it is preferable to utilize an address with a PO Box number.

If the booster or parent organization is new, the organization should apply for and receive its tax-exempt status from the IRS within one year from the date the organization's constitution and bylaws are adopted.

Small tax-exempt organizations, with annual gross receipts normally \$50,000 or less, may submit Form 990-N, *Electronic Notice (e-postcard) for Tax-Exempt Organizations Not Required to File Form 990*, or 990-EZ, with the IRS each year. The organization MUST file a Form 990-N, 990-EZ, or Form 990 annually. Whichever form chosen is due by the 15th day of the fifth month after the close of the organization's tax year. Failure to file an annual report (Form 990-N, 990-EZ, or 990) for three consecutive years will automatically cause an organization to lose its tax-exempt status. To regain its exempt status, an organization will have to reapply for recognition as a tax-exempt organization (IRS Publication 557, www.irs.gov).

A nonprofit organization with an Internal Revenue Service (IRS) exemption under Section 501(c)(3), (4), (8), (10), or (19) is exempt from sales and franchise taxes. A booster club that has 501(c) federal exemptions should complete AP-204 (www.window.state.tx.us/taxinfo/taxforms/ap-204.pdf) and submit it, along with a copy of its IRS exemption letter, to the Comptroller's Office. After the Comptroller's Office notifies the club of its exempt status, the club can hold two one-day tax-free sales or auctions each calendar year.

RELATIONS WITH PARENT ORGANIZATIONS

GE
(LOCAL)

BISD BOARD POLICY

District-affiliated school-support organizations and booster organizations, and other parent groups, shall organize, fundraise, or solicit donations, and function in a way that is consistent with the District's philosophy and objectives, Board policies, District administrative regulations, and financial and audit regulations. [See also CDC and CFC]

Before engaging in fundraising or soliciting gifts, an organization or group shall notify the appropriate liaison or other appropriate administrator identified in administrative regulations. [See CDC(LOCAL) for District acceptance of gifts and solicitations]

Use of District Facilities

District affiliated school-support or booster organizations may use District facilities with prior approval of the appropriate administrator. Other parent groups may use District facilities in accordance with policy GKD.

Parent-Teacher Organization

The Board recognizes the valuable services performed by the parent-teacher organization and its state and local divisions as a representative agency whose objectives are to:

1. Promote the welfare of children and youth in home, school, and community;
2. Raise the standards of home life;
3. Secure adequate laws for the care and protection of children and youth;
4. Bring into closer relations the home and the school so that parents and teachers may cooperate intelligently in the training of the child; and
5. Develop between educators and the general public united efforts to secure the highest advantages in physical, mental, and social education for every student.

Booster Organizations

District booster clubs shall:

1. Be voluntary and provide unified support for student activities of the school.
2. Be limited to a single club or organization for each area of student activity, i.e., athletics, band, choir, or dance team.
3. Encourage involvement by all parents of students participating in the supported activity.

RELATIONS WITH PARENT ORGANIZATIONS

GE
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4. Not be involved in decision or policy-making activities for a student group.
5. Have no authority in directing or influencing District employees in the administrative duties.
6. Comply with all UIL guidelines.
7. Comply with administrative regulations and board policy when offering money or gifts to the District [see CDC].
8. Submit a copy of current adopted bylaws and operating procedures to the principal.
9. Prepare a written financial report of actual revenues and expenditures for the school year. The treasurer of the booster club should prepare the financial report.
10. Have an organizational review committee conduct an annual review of the organization's financial report and the related financial activity for the school year and prepare a written report communicating the results of the committee's review to the organization.
11. Submit the annual financial report and the review committee's report to the school principal and to the District's internal auditor by the beginning of each year.
12. Pay all taxes and other debts incurred by the organization.
13. Issue receipts for all money received.

Formation of Organizations

All booster and parent organizations must:

1. Obtain federal tax-exempt as a public 501(c)(3) charitable organization in accordance with IRS procedures within one year of formation.
2. Maintain 501(c)(3) tax-exempt status in accordance with IRS procedures.
3. Submit a copy of the IRS's Letter of Determination to the District's internal auditor (if available).

Liaison

The faculty sponsor of a student group associated with a booster or parent organization shall serve as the liaison between the parent group and the District.

The liaison shall:

1. Approve all student- or school-related activities of such organizations;
2. Work with the organizations to establish approved goals and student-support activities for the respective organizations;

RELATIONS WITH PARENT ORGANIZATIONS

GE
(LOCAL)

3. Assist in setting the budgets of such organizations and ensuring that expenditures of such organizations are in direct support of the goals of the designated programs;
4. File lists of officers of the respective organizations with the school principal at the beginning of each school year and revise such lists as officers change during the school year; and
5. File lists of organization activities for the coming year with the principal at a date established by the principal. Additional activities should be submitted, at least 30 days prior to the event, to aid in the development of the master calendar for the school.

Authorized Signer No District employee shall be an authorized signer for the bank account of a PTA, PTO, or booster club.

The liaison between the parent group and the District shall be prohibited from serving as an officer.

Financial Need An organization may donate funds to the school or District to assist a student with fees when that student's financial need has been established in accordance with FP(LOCAL).

Bonfires Bonfires shall be prohibited.

Raffles For more information on raffles, see GKB(LEGAL).

Bingo Bingo games may only be conducted in accordance with state charitable Bingo administrative rules.

UIL BOOSTER CLUB GUIDELINES

<https://www.uilTEXAS.org/policy/guidelines-for-booster-clubs>

Role of Booster Clubs

Neighborhood patrons form booster clubs to help enrich the school's participation in extracurricular activities. The fundraising role of booster clubs is particularly crucial in today's economic climate. Positive and direct communication can prevent most problems. Keep the superintendent informed of all activities.

- Have a chain of command for communication with the administration
- Clear all activities through your administration
- The superintendent or designee who does not coach or direct a UIL contest but has approval authority over booster clubs should be invited to all meetings. All meetings should be open to the public.
- Booster clubs should apprise school administrators of all club activities. Make sure your local administration has a copy of all booster club publications. Invite administrators to all booster club meetings. Have an officer meet with the school administration regularly.
- School administration should apprise booster clubs of all school activities
- Booster clubs do not have the authority to direct the duties of a school district employee. The scheduling of contests, rules for participation, methods of earning letters and all other criteria dealing with inter-school programs are under the jurisdiction of the local school administration
- Minutes should be taken at each meeting and kept on file at the school
- Periodic financial statements itemizing all receipts and expenditures should be made to the general club membership and kept on file at the school

Written Policies

Booster clubs should develop and annually review policies to cover:

- how to obtain administrative approval before beginning projects;
- how to plan and publicize meetings;
- bookkeeping and fund administration including process to obtain superintendent's approval prior to raising or spending funds;
- election of officers (suggestion: one president; one secretary; one treasurer; and three vice-presidents: one vice president to oversee fall, winter, and spring sports);
- taking, distributing, and filing minutes;
- public communication;
- proper interaction with fine arts directors and academic and athletic coaches through the lines of authority as established by the school board;
- a sportsmanship code governing behavior of booster club members and fans at contests, treatment of officials, guests, judges, etc.; and

- plans to support the school regardless of success in competition, keeping the educational goals of competition at the forefront of all policies.

Role of the Superintendent

Member schools make UIL rules and determine policies regarding penalties to schools, school district personnel, and student participants. The superintendent is solely responsible for the entire UIL program. All school activities, organizations (including the booster club), events, and personnel are under the jurisdiction of the superintendent. Booster clubs must recognize this authority and work within a framework prescribed by the school administration.

Parents

- Remember: the classroom comes first
- Help conduct fair and equitable competition: adhere to rules, uphold the law and respect authority
- Remember that officials are human. Respect their decisions
- Delegate authority to the school, and then support its decisions
- Set standards by which you expect children to conduct themselves, and live by those standards yourself
- Be aware of capabilities and limitations of young people. Don't have unrealistic expectations
- Allow your children to live their own lives
- Be involved in areas in which your own child is not involved, thus contributing to school unity and spirit
- Show respect to the opponents of your children
- Praise. Don't criticize. Urge others to do the same
- Help your children and their friends develop integrity through the intensity of competitive activity

Coaches and Directors

- Be sure your booster club wish list has been approved by your supervisor before it goes to the booster club
- Work with your administration to determine what your club can provide
- Make your request to the club benefit as many students as possible
- Attend the booster club meetings and/or know what the club is doing
- Understand that your advisory role to the boosters is without vote
- Support other programs within your district
- Meet with parents regularly and make them aware of relevant rules
- Involve your staff with your booster club. Let the booster club know who your staff is and what duties they perform

Club Finances

Fundraising | Spending | Stipends | Gifts to Coaches

Fund-raising projects may be subject to state law. Be sure that your club is in compliance with applicable law. For example, Texas has a law governing raffles. Also, consider seeking nonprofit or tax-exempt status. Consult the Texas Secretary of State's website as well as the IRS to determine if seeking designation as a non-profit that is tax exempt is appropriate for your booster club.

Generally speaking, earnings by a properly organized booster club may not benefit any private shareholder or individual.

- Community-wide sales campaigns should be coordinated through the school administration to minimize simultaneous sales campaigns.
- Sales campaigns should be planned carefully to ensure that the projects provide dollar value for items sold, and that most of the money raised stays at home. Otherwise donations are often more rewarding than letting the major part of the money go to outside promoters.
- Fund-raising activities should support the educational goals of the school and should not exploit students. Activities and projects should be investigated carefully before committing the school's support.
- Individuals who actively coach or direct a UIL activity should serve in an advisory capacity to the booster club and should not have control or signature authority over booster club funds, including Coaches and directors of UIL academics, athletics, and fine arts may not accept more than \$500 in money, product, or service from any source in recognition of or appreciation for coaching, directing, or sponsoring UIL activities. The \$500 limit is cumulative for a calendar year and is not specific to any one particular gift.
- Schools shall not pay to coaches, and coaches shall not accept funds gathered by a high school booster club or other sources within the school district.
- Funds are to be used to support school activities. To provide such funding for non-school activities would violate UIL rules and the public trust through which funds are earned

Athletic Boosters

Individuals should be informed of the seriousness of violating the athletic amateur rule found in Section 441 and the awards rule found in Section 480 of the *UIL Constitution and Contest Rules*. Check with school administrators before giving anything to a student, school sponsor, or coach. The penalty to a student-athlete is a forfeiture of varsity athletic eligibility in the sport for which the violation occurred for one calendar year from the date of the violation. If a team violates the amateur rule, the penalty shall be assessed against the team and not against each individual. See section 441(d), *UIL Constitution and Contest Rules*. All fans, not just members of the booster club, should be aware of these rules. It affects the entire community.

- Athletic booster club funds shall not be used to support athletic camps, clinics, private instruction or any activity outside of the school.

- The local school district determines when, how, and from whom student athletes can receive meals and snacks. See Section 441(b)(9), *UIL Constitution and Contest Rules*.
- Schools must give prior approval for any banquet or get-together given for students.
- Students may not accept money or other valuable consideration from school booster club funds for any non-school purpose. See Section 441(A)(3), *UIL Constitution and Contest Rules*.
- Student athletes are prohibited from accepting valuable consideration for participation in school athletics – anything that is not given or offered to the entire student body on the same basis that is given or offered to an athlete. See Section 441(a), *UIL Constitution and Contest Rules*. Valuable consideration is defined as tangible or intangible property or service including anything that is usable, wearable, salable, or consumable.
- Booster groups or individuals may donate money or merchandise to the school with prior approval of the administration. These kinds of donations are often made to cover the costs for meals. It would be a violation for booster groups or individuals to pay for such costs directly, without prior approval from the local administration. See Section 441(b)(9) and Section 840 (a)(2)(A)(iv).
- Student athletes may accept small “goodie bags” consisting of cookies, candy, and symbolic gifts from their classmates, if allowed by local school district policy. See Section 441(B)(7), *UIL Constitution and Contest Rules*.

Academic Boosters

We encourage academic booster clubs, whether they cover UIL academic competition in general or specific programs such as theatre, speech/debate, journalism, or math/science. A great need exists for parental involvement and support.

The rules of athletics are different than the rules for academics and music. Athletes are restricted by the Athletic Amateur Rule, which states that athletes cannot accept money or valuable consideration for participating in a UIL sport or for allowing their names to be used in promoting a product, plan, or service related to a UIL contest. Academics has no amateur rule. Journalism participants may work for a newspaper and be paid. Actors may work summer stock and be paid. Students may win calculators and software for participating in invitational math contests.

UIL academics are restricted by the Awards Rule See Section 480, *UIL Constitution and Contest Rules*. So, as a general practice, booster clubs should not give gifts or awards to students for their participation in UIL contests that count toward district, region, or state standing. School booster clubs may raise money to purchase letter jackets, provided the funds are given to the school without designation to buy jackets for particular students and the school determines criteria for awarding the jackets. Parents may purchase jackets for their own children provided the school designates the student as being qualified to receive the jacket.

Booster clubs may raise money to provide an annual banquet for academic participants and coaches.

Examples of Academic Booster Contributions That Are Not Prohibited by UIL Rule, with Local Administrative Approval are:

- Purchase equipment for programs such as computers or software for yearbook or computer science;
- Organize and chaperone trips and assist with expenses for travel to academic competitions or educational trips such as journalism conventions or speech tournaments. Booster club funds may be used to provide food and refreshments for students on these trips. A purely recreational trip to Six Flags Over Texas would not meet the definition of an educational field trip and could be considered a violation of the Awards Rule;
- Run tournaments, organize fund-raising efforts, recruit corporate donors, raise money for scholarships, and arrange for tutors and professional trainers to work with students;
- Fund academic workshop scholarships provided selection of the recipients is not based solely on their success in the interscholastic competition. Selection could be based on grade point average or the student's selection of high school courses. All students meeting the conditions for scholarship assistance should be notified and eligible for financial assistance. Funds should be monitored to ensure that they are expended for camp or workshop purposes.

Music Boosters

In addition to the general procedures outlined, the following guidelines apply to Music Booster club activities:

- Be mindful of the fact that there is no Music Amateur Rule. Therefore, limitations established in athletics intended to ensure compliance with the Athletic Amateur Rule do not apply to music programs and related activities.
- Some music booster clubs assist with expenses for travel to various music-related activities such as UIL contests and performances at away athletic events. Such financial support violates no UIL rules provided that it is approved and coordinated by the local school district.
- Many music groups schedule educational field trips with the approval of the local school administration and under local school district policies. For such trips, specific educational components must be included such as performing for a music festival, and adjudicated contest or contest tour. Marching performances such as the Macy's Thanksgiving Day Parade, the Rose Bowl Parade, or other similar ceremonial appearances also qualify. However, educational components need not be limited to performances. Concert attendance, visiting university/conservatory music facilities, and other music related, non-performing opportunities would also be appropriate if approved by the local school district.
- A recreational trip, on the other hand, would not meet the definition of an educational field trip as provided in Section 480 of the UIL Constitution and Contest Rules. Students receiving the benefits of a purely recreational trip would likely be in violation of the Awards Rule.
- Booster clubs may also fund scholarships for private lessons and summer music camps provided the selection of the recipients is not based on success in interscholastic competition. Funds for such activities should be carefully monitored to ensure that they are expended for educational rather than recreation activities
- The awarding of patches, T-shirts, or other items for achievement in interscholastic competition would be subject to the UIL Awards Rule. In order to protect all music students' eligibility, such awards should be approved and administrated by the local school district in accordance with school district policies.

APPLYING FOR A FEDERAL TAX ID NUMBER

Applying for an EIN is a free service offered by the Internal Revenue Service. Beware of Web sites on the Internet that charge for this free service.

Apply Online

The [internet](#) application is the preferred method for customers to apply for and obtain an EIN. Once the application is completed, the information is validated during the online session, and an EIN is issued immediately. The online application process is available for all entities whose principal business, office or agency, or legal residence (in the case of an individual), is located in the United States or U.S. Territories. The principal officer, general partner, grantor, owner, trustor, etc. must have a valid Taxpayer Identification Number (Social Security Number, Employer Identification Number, or Individual Taxpayer Identification Number) in order to use the online application.

Other Important Information

Daily Limitation of an Employer Identification Number

Effective May 21, 2012, to ensure fair and equitable treatment for all taxpayers, the Internal Revenue Service will limit Employer Identification Number (EIN) issuance to one per responsible party per day. This limitation is applicable to all requests for EINs whether online or by phone, fax, or mail. We apologize for any inconvenience this may cause.

Responsible Party

The "responsible party" is the person who ultimately owns or exercises ultimate effective control over the entity. The person identified as the responsible party should have a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the person, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds and assets. Unless the applicant is a government entity, the responsible party must be an individual (that is, a natural person), not an entity. Only individuals with taxpayer identification numbers can apply for an EIN as the responsible party.

Third Party Authorization

Complete this section only if you want to authorize the named individual to answer questions about the completion of Form SS-4 and receive the entity's newly assigned EIN. You must complete the signature area for the authorization to be valid. The designee's authority terminates at the time the EIN is assigned and released to the designee. EINs are released to authorized third-party designees by the method they used to obtain the EIN; however, the EIN notice will be mailed to the taxpayer.

Nonprofit Organizations

If the nonprofit organization is other than a church or church-controlled organization and specify the type of nonprofit organization (for example, an educational organization).

If the organization also seeks tax-exempt status, you must file either Form 1023 (or Form 1023-EZ) or Form 1024.

If the organization is covered by a group exemption letter, enter the four-digit group exemption (GEN) in the last entry. (Don't confuse the GEN with the 9-digit EIN). If you don't know the GEN, contact the parent organization.

Tax-exempt Status

After receiving an EIN, organizations must apply for tax-exempt status. According to BISD Board Policy GE (Local), all Parent Organizations/Booster Clubs should seek tax-exempt status with the IRS as a public 501(c)(3) organization. Complete IRS Package 1023 (Application for Recognition of Exemption) in accordance with IRS guidelines.

SALES AND USE TAX

Glenn Hegar
Texas Comptroller of Public Accounts
Tax Help: tax.help@cpa.state.tx.us
Window on State Government: www.window.state.tx.us

SALES AND USE TAX BULLETIN

School Fundraisers and Texas Sales Tax, 94-183 (02/2022)

School Fundraisers and Texas Sales Tax

Texas school districts and public schools are exempt from paying Texas sales and use tax on taxable items they purchase.

Unless an exemption applies, these entities must get a sales tax permit and collect and remit sales tax on taxable items sold. They do not need a sales tax permit if they sell only exempt items or if the sales are through tax-free fundraisers.

Sales by School Organizations

Texas school districts, public schools, qualified exempt private schools, and bona fide chapters within a qualifying school may have two one-day, tax-free sales or auctions each calendar year (January through December). During a tax-free sales day, the organization is not required to collect tax on the sales price of taxable items.

What is a One-Day, Tax-Free Sale?

A one-day, tax-free sale day (24 consecutive hours) is either:

- The day the vendor delivers the items to the exempt organization; or
- The day the exempt organization delivers the items to its customers

For example, a school group selling yearbooks can accept pre-orders without collecting tax if the day the group delivers the yearbooks to its customers is on one of the group's designated tax-free sales days.

Customers buying surplus inventory on the designated day do not owe tax. For example, a school can sell old yearbooks on the same designated day they are distributing the new yearbooks and not collect sales tax. Extra yearbooks sold outside of those days are taxable.

If two or more organizations hold a tax-free sale together, the event counts as one tax-free sale for each participating group. Each organization that participates in the joint tax-free sale can hold one additional tax-free sale during that calendar year.

An organization can hold its two tax-free sales back-to-back for a maximum of 48 consecutive hours. For example, a sale could last from noon Friday until noon Sunday.

This exemption does not apply to any items sold for more than \$5,000, unless the exempt organization made the item or it was donated to the organization and not sold back to the donor.

If an exempt organization sells only nontaxable items or sells only during its tax-free fundraisers, it does not need a sales tax permit. To buy taxable items tax free for resale, the organization can either give the seller a resale certificate, if it has a sales tax permit, or an exemption certificate.

Schools and Bona Fide Chapters

To qualify as a bona fide chapter of a school, a group of students must be organized for an activity other than instruction or to have a tax-free sale. Bona fide chapters include whole grade levels, such as the senior, junior, sophomore, or freshman class, but cannot be limited to a specific class, such as English Composition or Freshman Biology. Other school groups composed of students and staff can qualify, such as student councils, science clubs, or drama clubs. There is no limit on the number of bona fide chapters.

School departments such as purchasing, accounting, or maintenance departments, and specific classes like biology or math classes, are not bona fide chapters, even though they are part of the school or school district.

Unless otherwise qualified to hold tax-free sales, groups that are not bona fide chapters must get a sales tax permit and collect and remit sales tax on taxable items unless another exemption applies.

Booster Clubs, PTAs, PTOs, PTSAs, and PTSOs

Nonstudent organizations do not qualify as bona fide chapters of a school, but may qualify for the tax-free sale days under other provisions. Examples are booster clubs, parent-teacher associations (PTAs), parent-teacher organizations (PTOs), parent-teacher-student associations (PTSAs) and parent-teacher-student organizations (PTSOs). Nonstudent nonprofit organizations that are not bona fide chapters of schools, however, may still qualify for two one-day, tax-free sales or auctions on their own.

For example, a booster club for a band, athletic team, or similar group can hold two one-day, tax-free sales or auctions once it has received a sales tax exemption from the Comptroller's office.

A nonprofit organization that has received an Internal Revenue Service (IRS) exemption under Section 501(c)(3), (4), (8), (10), or (19) can qualify for Texas sales and franchise taxes exemptions. A booster that has one of these 501(c) federal exemptions must apply to receive these tax exemptions by completing and submitting Form AP-204 along with a copy of its IRS exemption letter to the Comptroller's office. After our office notifies the club of its exempt status, the club can hold two-one day, tax-free sales or auctions each calendar year.

PTAs, PTOs, PTSAs, and PTSOs and similar parent-teacher organizations can qualify for a sales tax exemption as educational organizations and can hold two one-day, tax-free sales or auctions each calendar year. All parent-teacher organizations must complete and file Form AP-207, *Application for Exemption – Educational Organizations* to the Comptroller's office. Once the exemption is granted, these organizations can hold the two one-day, tax-free sales or auctions each calendar year.

Sales of taxable items made at other times of the year are taxable, unless another exemption applies.

School Organizations Raising Money Using a Fundraising Company

Sometimes a school, school group, parent-teacher group, booster club, or other exempt organization raises funds by entering into an agreement with a fundraising company to sell taxable items, such as wrapping paper, gifts, candles, or candy, and receives money for their exempt school organization use.

The exempt school organization markets the items, collects the money, and forwards the fundraising company an agreed-upon portion of the money collected and all the sales tax collected. The fundraising company is the seller, in this case, and not the exempt school organization. These types of sales do not qualify as a tax-free sale, and the fundraising company must collect, report, and remit the sales tax. Since the exempt school organization is not considered the seller, they cannot use their tax-free sales days to make exempt sales on behalf of the fundraising company.

The fundraising company should provide instructions to the exempt school organization about collecting sales tax correctly. The fundraising company can require that tax be calculated and collected on each taxable item's sales price, or it can advertise in the sales catalog or state on each invoice that tax is included in the item's sale price.

The school, school group, PTA/PTO, booster club, or other exempt organization raises funds by acting as a sales representative for a for-profit fundraising company. The school organization is not responsible for reporting or remitting sales and use tax.

Online Sales

Online sales of taxable items are treated the same as sales made at the school or at any other sales location.

Unless an exemption applies, schools, school groups, and other nonstudent nonprofit organizations that accept online orders must collect sales tax on taxable items they sell online. An online sale during a one-day, tax-free sale qualifies for the exemption.

Food and Beverage Sales

A public or private elementary or secondary school, school group, or PTA/PTO does not have to collect tax on sales of meals and food products, including candy and soft drinks, if the sales are made during the regular school day and by agreement with the proper school authorities. This exemption includes food, soft drinks, and candy sold through vending machines.

PTAs/PTOs and other qualifying groups associated with a specific public or private elementary or secondary school or school group may also sell meals, food, candy, or soft drinks tax-free outside of the school day if the sales are part of the organization's fundraising drive and all net proceeds go to the group for its exclusive use.

Sales During the School Day

The following entities do not have to collect tax on sales of food products, candy, snack items, and soft drinks sold during the regular school day and by agreement with the school or school district:

- School districts

- Public or private elementary or secondary schools
- Bona fide student organizations
- Parent-teacher associations and organizations
- Booster clubs
- Other school support organizations

This exemption also includes these items sold through vending machines.

Sales Outside the School Day

Sales outside of the school day of food products, candy, snack items, and soft drinks by a PTA/PTO, booster club, or other school support organization are tax free if:

- The organization is associated with a specific public or private elementary or secondary school;
- The sales are part of the organization's fundraising drive; and
- All net proceeds go to the organization for its exclusive use

The exempt school organizations can issue an exemption certificate instead of paying tax on taxable food and beverage items they buy to sell at an exempt food sale. The exemption certificate should state that the group will sell the items as part of its fundraiser. The food and beverage sales tax exemption does not include sales of alcoholic beverages and other non-food items such as spirit wear, accessories, or school supplies.

Concession-Stand Food Sales

Fundraising sales of food, prepared food, soft drinks, snack items, or candy by booster clubs or other school support organizations, which will benefit the school or school district, are exempt from sales tax if the fundraiser takes place at a concession stand during a school's or school district's sponsored or sanctioned event.

For example, a middle school sports booster club sells food items from a concession stand at a school-sanctioned track meet to raise funds for new uniforms for the school. These sales are exempt for tax.

Bake Sales

Baked goods are non-taxable, unless heated or sold with eating utensils. Exempt school organizations selling baked goods at a bake sale do not have to collect sales tax. Examples of baked goods include pies, cakes, cookies, doughnuts, kolaches, biscuits, and bagels. Eating utensils include plates, spoons, knives, and forks. Napkins or wax tissues are not eating utensils. A piece of pie served on a plate is taxable, but a doughnut handed to the customer with wax tissue is not taxable.

Annual Banquets and Annual Food Fundraisers

All volunteer nonprofit organizations, such as a booster club or a parent-teacher group, can hold a tax-free annual banquet or other food sale; however, a school district or school cannot. The exemption applies if:

- The event is not professionally catered;

- It is not held in a restaurant, hotel, or similar place of business;
- It does not compete with a seller required to collect sales tax; and
- Only if the organization's members prepare, serve, and sell the food.

If the organization sells nonfood items, such as spirit items, t-shirts, or alcoholic beverages, it must collect tax unless another exemption applies.

Alcohol Sales

Alcoholic beverages are not food products and are taxable. The type of tax due depends upon the type of permit issued to the selling organization by the Texas Alcoholic Beverage Commission.

If you sell only beer and wine using a beer and wine permit (no mixed beverages), then your sales are subject to sales tax.

If you sell mixed beverages, and hold a mixed beverage permit, your sales of the mixed beverages, beer, wine, and mixers are subject to two taxes:

- 6.7 percent mixed beverage gross receipts tax assessed on the seller; and
- 8.25 percent mixed beverage sales tax assessed on the purchaser

Other Nontaxable Sales

Magazine Subscriptions

Magazine subscriptions for at least six months and entered as periodicals class (formerly called second class) mail are exempt from sales tax. Single issues and subscriptions for fewer than six months are taxable.

Gift Certificates and Promotional Discounts

The sale of gift certificates, discount cards, and coupon books is not taxable. Any tax due is collected by the retailer when the purchaser redeems the gift certificate, promotional discount or coupon.

Amusement Services

An amusement service exclusively provided and sold by a nonprofit organization, not including a 501(c)(7), is exempt from sales tax if the proceeds do not benefit an individual. For example, the sale of an admission ticket to a school carnival, dance, athletic event, or musical concert is exempt.

All tickets and advertising must show the organization as the sole event provider and that the event is exempt from tax.

A nonprofit organization can hire a for-profit entity to provide expertise to produce an event if the for-profit entity is not providing the amusement service.

Membership Dues and Fees

Membership dues and fees charged by a nonprofit organization, other than a 501(c)(7), are tax exempt.

Periodicals and Reading Materials

Periodicals and reading materials published and distributed by religious, philanthropic, charitable, historical, scientific, or other similar nonprofit organizations are exempt from tax. Similar organizations include PTAs, PTOs, PTSAs, and PTSOs, but not schools. These similar organizations can publish and sell printed reading materials, such as yearbooks, directories, newsletters, and calendars, without collecting sales tax. The qualifying organization can give a completed resale certificate or exemption certificate to the printer instead of paying tax on charges for printing, binding, and item placement.

School districts, schools, and school groups must collect tax on the printed reading materials sold unless the sale is during one of the organization's tax-free fundraisers.

Printed items that are not reading materials are taxable, unless sold during a qualifying and designated tax-free sale. Examples include school logo t-shirts, bookmarks, photographs, and novelties.

Donations

Donations (gifts) of cash, taxable items, or taxable services to an organization are not taxable sales, unless the exempt organization gives the donor a taxable item in exchange for the donation, and the item is of equal value to the donation.

Using Personal Funds

A person using their personal funds to buy a taxable item to donate to a qualifying organization can give an exemption certificate to sellers instead of paying tax on the item. The person cannot use the item before donating it. The exemption does not apply if the item is donated to an individual, such as a teacher or a student.

The purchaser must show on the exemption certificate that the taxable item will be donated to a qualifying organization and clearly identify the organization accepting the donation. The purchaser owes tax on the item's purchase price if it is used before donating the item.

Sales to Students

School district's, schools, and associated groups must collect sales tax on taxable items or services sold to its students.

For example, if a school sells uniforms, gloves, and shoes to drill team members, it must collect tax on the sales, unless it designates the sale as part of its tax-free sales.

This table lists examples of taxable and nontaxable sales.

TAXABLE	NONTAXABLE
Renting of items such as locks, musical instruments, calculators, and computers	Renting space such as a gymnasium, auditorium, library, or cafeteria
Horticultural products such as flower arrangements, roses, carnations, holiday greenery, and poinsettias	Agricultural products (plants and seeds), or products that normally constitute human food
Cosmetology products such as shampoo, conditioner, and nail polish sold to customers	Cosmetology services such as haircuts, shampoo, manicures, and pedicures
Parking permits for the general public	Campus parking permits for public school students, faculty, and staff
Pets, such as hamsters, mice, cats, and dogs	Livestock, such as pigs, cows, chickens, sheep, and goats
Publications such as football, basketball, or volleyball programs	Advertising space in athletic programs, yearbooks, or newspapers
Automobile repair parts	Automobile repair (depends on contract/invoice) <ul style="list-style-type: none"> • A lump-sum charge for parts and labor is not taxable • A separately stated charge for parts is taxable; a separately stated charge for parts is taxable, a separately stated charge for repair labor is not taxable
Bumper stickers and decals	Car wash

CONTACT LIST



STATE

OFFICE OF THE ATTORNEY GENERAL

<https://www.texasattorneygeneral.gov/>

Brownsville Office

Consumer Protection Hotline

Open Government Hotline

956-544-1751

1-800-621-0508

877-673-6839

TEXAS SECRETARY OF STATE

www.sos.state.tx.us

512-463-5555

TEXAS STATE COMPTROLLER'S OFFICE

<https://comptroller.texas.gov/>

Sales and Use Tax

Austin Office

Brownsville Office

800-252-5555

512-463-3731

956-542-8426

UNIVERSITY INTERSCHOLASTIC LEAGUE (UIL)

www.uil texas.org

512-471-5883

FEDERAL

INTERNAL REVENUE SERVICE (IRS)

www.irs.gov

Tax Exempt Organizations

1-800-829-1040

1-877-829-5500