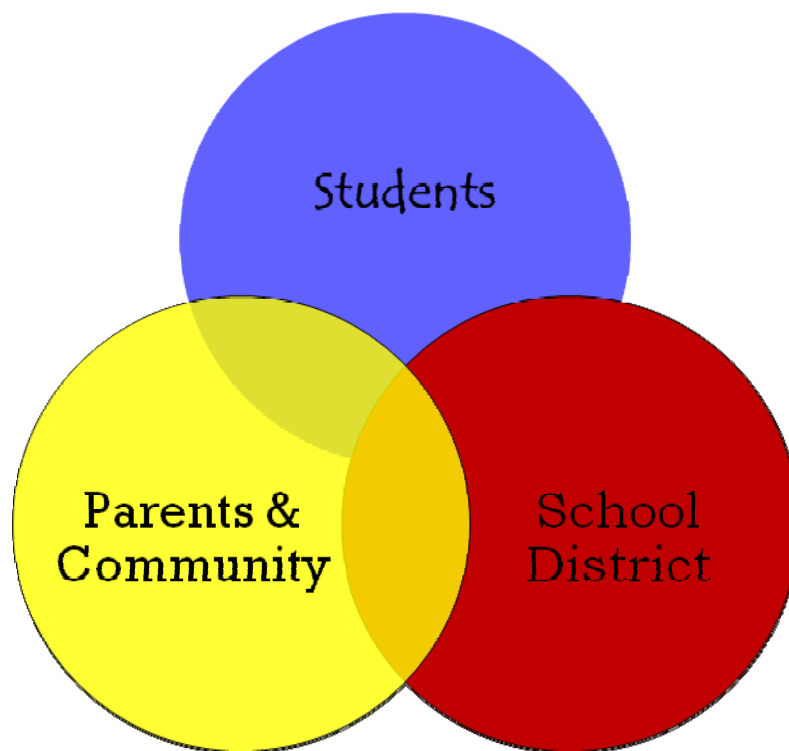


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# **Pearland ISD Booster Club & Parent Organization Handbook**



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## PEARLAND ISD

**Don Marshall, CPA**  
*Assistant Superintendent*

**Cary Partin**  
*Assistant Superintendent*

**Dr. Brenda Waters**  
*Assistant Superintendent*

**Nanette Welmer**  
*Assistant Superintendent*

**Sonia Serrano**  
*Assistant Superintendent*

**Bonny Cain, Ed.D.**  
*Superintendent*

January 2009

Dear Parents,

On behalf of the Pearland Independent School District, I want to thank you for your continued interest in supporting the PISD students who participate in the programs, teams, ensembles, choirs, and other performing groups. Booster Clubs and Parent Organizations are a vital part to the District's efforts in facilitating the success of our students, both in and out of the classroom.

I have a firm belief that schools work best when they work in cooperation with the parents and the community. Parents are a key to the education process and the ultimate success of our students. I want to personally thank you for your many hours of dedicated service. Support of your children may manifest itself in many ways, including being involved in extra-curricular activities. This is why our partnership with Parent Organizations and Booster Clubs is an important part of our student's success.

In order that everyone is equally informed, the following guidelines will assist you in complying with District policies and guidelines, University Interscholastic League (UIL) guidelines, and state and federal regulatory guidelines governing Parent Organizations, as well as Booster Clubs.

Through continued parent support, our student groups are afforded many opportunities to develop and showcase their talents in the context of quality activities. The Board of Trustees and I thank you for your ongoing support of the students and programs of the Pearland Independent School District.

Sincerely,

Bonny Cain  
Superintendent

## Preface

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The Coordinator of Internal Controls of Pearland Independent School District prepared the *Booster Club/ Parent Organization Guidelines* to assist Booster Clubs/ Parent Organization in meeting District, University Interscholastic League (UIL), state, and federal requirements. Therefore, it includes checklists, laws, regulations, policies, suggestions, and examples for Booster Clubs/ Parent Organizations to follow.

The *Guidelines* include some items that must be followed by all Booster Clubs/ Parent Organization, such as District policies and guidelines, UIL guidelines, and state and federal regulations. Other items include suggestions for improving your organization related to day-to-day activities.

***Important:*** *The Coordinator of Internal Controls is not an authority on specific accounting situations or tax-related issues concerning individual Booster Clubs/ Parent Organization; therefore, Booster Clubs/ Parent Organization should obtain competent independent counsel on accounting and tax matters related to their specific circumstances.*

## Introduction

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Booster Clubs/ Parent Organizations are parent organizations established to promote school programs or complement student groups or activities. A Booster Club's/ Parent Organization'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 Booster Clubs/ Parent Organizations provide to our students.

Even though a Booster Club/ Parent Organization they work very closely with the District, it is a separate entity from the District. However, the formation of a Booster Club/Parent Organizations must be approved by an appropriate District Principal or Administrator. In addition, a Booster Club/ Parent Organizations must adhere to various District policies and guidelines, University Interscholastic League (UIL) guidelines, and state and federal regulatory guidelines

Booster Clubs/ Parent Organizations support a particular student group or program through a Sponsor. The Sponsor is a District employee who serves as the liaison between the Booster Club/ Parent Organizations and the District. In addition, the pertinent Principal or other appropriate Administrator must approve various activities of both the student group and the related Parent Organization/Booster Club. The main responsibilities of a Parent Organization/Booster Club, a Sponsor, and a Principal or Administrator are indicated below:

**Booster Club/ Parent Organization** - A Booster Clubs/ Parent Organizations is responsible for supporting a student group, activity, or program. Support may be as simple as providing support at games or event or as complex as raising money for an out-of-state competition. The Booster Club/ Parent Organization works through the Sponsor to provide assistance for the planned activities of the student group. The Booster Club/ Parent Organization decide the type and amount of assistance they will provide; however, the Booster Club/ Parent Organization do not have the authority to decide the activities or trips in which the student group will participate. The parents and the Booster Club/ Parent Organization may provide suggestions about particular activities; however, the Sponsor is responsible for the final decision with the Principal's or Administrator's approval.

**Sponsor** - A designated Sponsor of a student group serves as the liaison between the Booster Club/ Parent Organization and the District, under the supervision of the Principal or Administrator. The Sponsor is responsible for determining the various activities and trips in which the student group will participate with the approval of the Principal or Administrator. The Sponsor does not have the authority to control the amount of support a Booster Club/ Parent Organization provides.

**Principal or Administrator** – The Principal or Administrator is responsible for approving the activities of the student group and some activities of the related Booster Club/ Parent Organization. In addition, the Principal or Administrator should approve the constitution and bylaws of the Booster Club/ Parent Organization.

The information in this handbook is provided to assist Booster Clubs/ Parent Organizations in following pertinent policies and regulations and to provide suggestions for their organization.



## Contact List Pearland ISD

### Pearland Internal Controls Department

Fax: 281-412-1235

Greg Bartay.....*Coordinator of Internal Controls*.....281-485-3203

### Other Important Numbers

#### District

Mike Watson.....*Director of Athletics*.....281-485-3203

Ron Morrison.....*Director of Fine Arts*.....281-485-3203

Dorothy Simpson.....*Director of Food Service*.....281-412-1244

#### State

**Office of the Texas Attorney General**.....512-463-2100

[www.oag.state.tx.us](http://www.oag.state.tx.us)

**Consumer Protection Division**.....713-223-5886  
800-621-0508

**Public Information & Assistance**.....512-463-2007  
800-252-8011

**Texas Secretary of State**.....512-463-5600

[www.sos.state.tx.us](http://www.sos.state.tx.us)

#### **Texas State Comptroller's Office**

[www.window.state.tx.us](http://www.window.state.tx.us)

Exempt Organizations Department.....800-531-5441 ext.34142

Sales and Use Taxes.....800-252-5555

**University Interscholastic League (UIL)**.....512-471-5883

[www.uil.utexas.edu](http://www.uil.utexas.edu)

Other Important Numbers	
Federal	
<b>Internal Revenue Service (IRS)</b>	
Main Information.....	800-829-1040
Tax Exempt Organizations.....	877-829-5500
<a href="http://www.irs.gov">www.irs.gov</a> (Select Charities & Non-Profits under Contents)	
Tax Forms & Publications.....	800-829-3676
<a href="http://www.irs.gov">www.irs.gov</a> (Select Forms and Publications under Resources)	

## **Booster Club/ Parent Organization Checklist**

The following checklist serves as a guide to help ensure that your Booster Club/ Parent Organization have complied with the District's Board Policies and guidelines and federal and state regulations governing Booster Clubs/ Parent Organizations. In addition, information you document here will help future officers continue your compliance efforts

### **General**

1. Provide the District's Coordinator of Internal Controls and the School Principal or Administrator (*if the Booster Club is not located at a school*) with a list of Booster Club officers at the beginning of each school year and as officers change. The List should include:
  - Name
  - Office Held
  - Mailing Address
  - Home Phone Number
  - Work Phone Number (*if applicable*)
2. Provide the School Principal or Administrator (*if the Booster Club is not located at a school*) with Booster Club's constitution, by-laws, and operating procedures when they are originated. In addition, provide updated copies as changes or amendments are made.
3. The Booster Club's official mailing address is:
  - Official Name:
  - P.O Box / Street Address
  - City, State, and Zip Code

### **Fund-raiser**

1. Provide the Sponsor and the School Principal or Administrator (*if the Booster Club is not located at a school*) with a list of fund-raisers planned for the current year by the deadline established by the School principal or Administrator at least 30 days prior to any fund-raisers being held.
2. The detailed fund-raising information should include at least:
  - Purpose of the fund-raiser.
  - Type of fund-raising activity (ie, candy sale, car wash, BBQ, etc.).
  - Date(s), time(s), and place(s), of the activity.
  - Name of the sponsoring organization.
  - Name and phone number of the organizations representative.
  - Name and phone number of person(s) in charge of the fund-raiser.
  - Name and phone number of the person(s) who will be handling the money for the fund- raiser.

4. If your Booster Club has received a limited tax-exemption from the Texas State Comptroller's Office, your organization is entitled to two (2) "one-day, tax-free" sales/auction days per calendar year.

If you are entitled to the two "one-day, tax-free" sales days, indicate the "one-day, tax free" sales/auction that have been used or that are planned:

Calendar Year: \_\_\_\_\_

Date / Fund-raiser: \_\_\_\_\_

Date / Fund-raiser: \_\_\_\_\_

Calendar Year: \_\_\_\_\_

Date / Fund-raiser: \_\_\_\_\_

Date / Fund-raiser: \_\_\_\_\_

5. The Booster Club cannot require members or students to fund-raise or raise a certain amount. For example, a student's ability to attend a trip cannot be based on raising a certain amount of money. **If your Club is currently requiring fund-raising, discontinue this requirement.**
6. The Booster Club cannot use individual accounts to credit an individual for funds raised. If your Club is using individual accounts currently, this practice should be discontinued.

Fund-raising is an opportunity to generate revenue for the Booster Club as a group, not individuals. Therefore, revenues should be recorded in a group account where all members or students have the same opportunity to **benefit equally** from the revenues.

One member or student should not receive a larger benefit from fund-raising than another. In addition, if a member or student chooses not to participate in the fund-raiser, that person still **receives an equal benefit** from the revenues generated.

## **Financial Matters**

### **General**

1. The Bank accounts used by the Booster Club include:

<u>Bank Name</u>	<u>Account Number</u>
_____	_____
_____	_____
_____	_____
_____	_____

2. Determine the identification number used for the bank accounts. The Booster Club's Employee Identification Number (EIN) should be used. Do not use an individual's Social Security Number, and **do not use the District's EIN.**

The identification number used for the bank accounts is as follows:

\_\_\_\_\_

3. Update the authorized signers on your bank accounts as officers change.

The current authorized signers include the following Booster Club officers:

<u>Name of Person</u>		<u>Officer Position Held</u>	
		<u>District Employee? (Yes/No)</u>	
<i>Example:</i>	<i>June Bugg</i>	<i>President</i>	<i>No</i>
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

### **IMPORTANT**

**The Sponsor cannot be an authorized signer on the Booster Club's bank accounts.**

**In addition, no other employee of the District may be an authorized signer on the Booster Club's bank account without written approval from the District Superintendent. Approval must be on file with Coordinator of Internal Controls office.**

***See Authorization for District Employee Being a Signer on Booster Club/Parent Organization Accounts in the Appendix.***

4. Provide a copy of the written Booster Club/Parent Organization Financial Report for the applicable school year to the School Principal or Administrator (*if the organization is not located at a school*) and to the Coordinator of Internal Controls office by September 1, of each year.

For example, a report for the 2007-08 school year should be submitted by September 1, 2008.

5. Provide a copy of the Booster Club Review Committee Report that indicates the results of the review of the organization's financial information, including the Financial Report, to the School Principal or Administrator (*if the organization is not located at a school*) and to the Coordinator of Internal Controls office by September 1, of each year along with the Financial Report.

State Regulatory Information

***The following items need to be done only once since the origination of the Booster Club.***

6. Determine whether your organization has obtained a Texas Sales Tax Permit.

The Organizations Sales Tax Permit Number is: \_\_\_\_\_

7. Determine whether your organization has obtained a limited tax-exemption from the Texas State Comptroller's Office.

The Organization has received a limited tax-exemption from Texas State Comptroller's Office:

**YES** ☐

**NO** ☐

**Reminder:** Only those organizations with a limited tax-exemption from the Texas State Comptroller's Office are entitled to the two (2) "one-day, tax-free" sales/auction days.

8. If the Organization is incorporated, determine whether your organization has obtained an exemption from Texas franchise tax from Texas State Comptroller's Office.

Organization is incorporated:

**YES** ☐

**NO** ☐

If the organization is incorporated, an exemption from Texas franchise tax was obtained from the Texas State Comptroller's Office:

**YES** ☐

**NO** ☐

***The following item is applicable each school year or calendar year.***

9. File the Organizations Texas State Tax Report as required.

*The Texas State Comptroller's Office determines whether the report needs to be filed quarterly or annually and is subject to change.*

The Organization files its Texas State Tax Report:

**QUARTERLY** ☐

**ANNUALLY** ☐

Federal Regulatory Information

***The following items need to be done only once since the origination of the Organization.***

10. Obtain an Employer Identification Number (EIN) from the Internal Revenue Service (IRS).

The EIN for the Organization is: \_\_\_\_\_

- 11 Determine whether the Booster Club has received tax-exempt status as a public 501(c)(3) organization from the IRS. If the IRS has approved the Organization's tax-exempt status, a Determination Letter would have been received from the IRS.

The Organization received its tax-exempt status as a public 501(c)(3) organization from the IRS:

**YES**   ☐

**NO**   ☐

If you have not applied for the tax-exempt status, complete the IRS Form 1023, Application for Recognition of Exemption, and Form 8718 User Fee for Tax-Exempt Organization Determination Letter Request. Submit these forms and the application fee to the IRS.

If you have applied for the tax-exempt status but you have not received your Determination Letter, you should receive an Acknowledgement of Your Request. Call the IRS to determine the status of your application.

12. If you have received a Determination Letter from the IRS approving your Organization as a public 501(c)(3) organization, determine whether your status as a public tax-exempt organization is temporary.

If the tax-exempt status is temporary, the "Advance Ruling Period" ends on:

\_\_\_\_/\_\_\_\_/\_\_\_\_

If the temporary status is about to expire or has expired, complete and submit the IRS Form 8734, Support Schedule for Advance Ruling Period, to IRS. The IRS should mail this form to the Organization's official mailing address.

***The following items may be applicable during each school year or calendar year.***

13. Determine whether your Organization is in good standing with IRS by calling the Exempt Organization Section of the IRS.
14. File the IRS Form 990-EZ or 990, Return of Organization Exempt from Income Tax, each year, if gross receipts are greater than \$25,000.

The return is due by the 15<sup>th</sup> day of the 5<sup>th</sup> month after the Organization's accounting period ends (due 4 ½ months after your official year-end).

*Official Year-end:* \_\_\_\_/\_\_\_\_/\_\_\_\_      *Due Date for Return:* \_\_\_\_/\_\_\_\_/\_\_\_\_

15. Issue 1099 forms to applicable individuals or business by January 31, of each year. If 1099 forms are issued, send information to the IRS by February 28, of each year.

Booster Club Guidelines

16. **As your Organization President or Treasurer changes, give the applicable *Booster Club/Parent Organization Guidelines* handbook to the new officer(s).**

*If you have any questions concerning the above items, please refer to the applicable sections of this handbook.*



# Do I Really Want a Booster Club?



## Included in this section:

- ☐ **Questions to Answer Before You Commit**
- ☐ **Booster Club/Parent Organization Registration & Approval Form**

## Questions to Answer Before You Commit

---

Booster Clubs and Parent Organizations provide an important support function to student groups; however, they also require a strong commitment from the members to work properly. Therefore, deciding whether or not to form a Booster Club or Parent Organization is a difficult decision that requires careful consideration of the pros and cons of formation. Interested parents should discuss these issues with each other as well as the Sponsor of the student group and the School Principal or Administrator (*if the organization is not located at a school*). **The appropriate School Principal must approve, in writing, the formation of the Booster Club or Parent Organization before the club or organization take any further action to create a unique identity.**

It is important to remember that parents do not have to form a Booster Club or Parent Organization to support a student group. Parents may still support a student group as parents through fund-raisers and other activities in which the students are involved if the student group has a Student (agency) Activity Fund set up through the District. All money generated would be considered the student group's money and would benefit only that group of students. In addition, the District would be responsible for all of the accounting and legal responsibilities of the Student Activity Fund.

The following are some questions to consider when deciding whether or not to form a Booster Club or Parent Organization:

1. Why do I want a Booster Club or Parent Organization?
2. What can a Booster Club or Parent Organization accomplish that cannot be achieved through the use of a Student Activity Fund?
3. Do I have the time to commit to the Organization?
4. Are enough parents with time to commit to the Organization?
5. Am I willing to perform the necessary research, training, and paperwork to be in compliance with all District, UIL, State, and Federal regulations?
6. Have I read or will read the rest of this handbook to discover my responsibilities once an Organization is formed?
7. Have I spoken with other similar Organizations to determine what benefits/challenges they have experienced?
8. Have I spoken with the Sponsor to obtain support for the formation of the Organization?

Once you have decided to form a Booster Club/Parent Organization.

1. You must then obtain the written approval of the School Principal or Administrator (*if the organization is not located at a school*) before proceeding with any other steps to create your identity as a Booster Club or Parent Organization. (***See Booster Club/Parent Organization Registration & Approval Form in this section***)
2. Send a copy of the written approval to the office of the Coordinator of Internal Controls to notify the Education Service Center of the new Booster Club/Parent Organization.
3. Establish the Organization's mailing address. (You will have to list an official mailing address on several state and federal forms when creating your identity as a Booster Club or Parent Organization; therefore, it is better to get this step done first.) The IRS and the Texas State Comptroller's Office recommend that each Organization obtain a post office box (PO Box) or private mailing box (PMB) to use as the official mailing address of the Organization. The address and box keys can be given easily to the new officers at the beginning of each year.

Please understand the importance of maintaining a consistent mailing address for the Organization. First, you will save time since you will not have to update your address each year to the District, State Comptroller's Office, Texas Secretary of State, the IRS, and your bank as you would if you used someone's home address.

Second, Booster Clubs and Parent Organizations receive several important documents from these agencies throughout the year, and if the address changes frequently, some of these documents could be lost or misplaced. If the related school's address is used as the Organization's official address, the Organization should be aware that they may not receive mail in a timely manner when the school is closed (i.e., summer vacation, and some holidays). The IRS mails forms and other correspondence to Organizations periodically. If these forms are not completed and returned to the IRS within a specific time period, an Organization could lose their tax-exempt status, thereby also losing their limited tax-exemption with the State of Texas and possibly face fines and penalties.

The District does not recommend using a home address since officers change frequently.

4. Begin the process of creating your identity with State of Texas and the Internal Revenue Service (IRS).

# Pearland Independent School District

## Booster Club/Parent Organization Registration & Approval Form

To: \_\_\_\_\_

(Principal or Administrator's Name)

Location: \_\_\_\_\_

(School's or Department's Name)

Name of Organization: \_\_\_\_\_

Purpose of Organization: \_\_\_\_\_

Student Group to be Supported: \_\_\_\_\_

Faculty Sponsor for Organization: \_\_\_\_\_

Current Number of Parent Supports: \_\_\_\_\_

I agree with the following statements:

- I have spoken with the faculty member who will serve as the Sponsor of the Organization and have received permission to submit this registration form.
- I have contacted the Coordinator of Internal Controls to obtain a copy of the Booster Club/Parent Organization Guidelines.
- I have read the Booster Club/Parent Organization Guidelines thoroughly and agree to abide by the rules and guidelines it contains.
- I understand that noncompliance with any District policy or criteria may result in the disbanding of the Organization by the Principal or the Administrator.
- I have included a current list of officers or representatives with names, titles, mailing addresses, and phone numbers with this registration form.

Submitted by:

_____ / /	_____ / /
(President/Representative #1)      Date	(Vice-President/Representative #2)      Date
_____ / /	_____ / /
(Treasurer/Representative #3)      Date	(Sponsor)      Date

**For District Use Only**

Received by: \_\_\_\_\_

Date Received      /      /

# Pearland Independent School District

## Booster Club/Parent Organization Registration & Approval Form

### **APPROVAL OF BOOSTER CLUB/PARENT ORGANIZATION:**

I, \_\_\_\_\_ at

(Principal's or Administrator's Name)

(Position)

\_\_\_\_\_ authorize \_\_\_\_\_

(School's or Department's Name)

(Booster Club Name)

to conduct student and organizational related activities for the benefit of \_\_\_\_\_

(Student Group)

This registration approval is effective for the school year beginning \_\_\_\_\_ and will continue until such time as the Organization no longer exists or the approval is revoked by the District.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

(Principal's or Administrator's Signature)

Date

### **DISAPPROVAL OF BOOSTER CLUB/PARENT ORGANIZATION:**

I, \_\_\_\_\_ at

(Principal's or Administrator's Name)

(Position)

\_\_\_\_\_ **do not authorize** \_\_\_\_\_

(School's or Department's Name)

(Booster Club Name)

to become a Booster Club/Parent Organization.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

(Principal's or Administrator's Signature)

Date

The **original** form should be sent to a representative of the Organization shown on the first page of the application.

Please make copies of both forms for:

- ◆ The Principal or Administrator
- ◆ The Coordinator of Internal Controls
- ◆ The Sponsor

# Following the Rules...



## **Included in this section:**

- ✓ **Authoritative Guidelines Overview**
- ✓ **District Board Policy GE (Local), CDC (Local), GE (Legal) & District Guidelines.**
- ✓ **University Interscholastic League (UIL) Booster Club Guidelines**
- ✓ **State & Federal Regulatory Summary**

## Authoritative Guidelines Overview

---

Booster Clubs are governed by various entities. The School District has Board Policies and guidelines that **must be followed** by Booster Clubs, as well as guidelines that the School Principal or Administrator (*if the Booster Club is not located at a school*) may implement. Also,

Booster Clubs must follow the guidelines of the University Interscholastic League (UIL); the State of Texas; and the federal government, through the Internal Revenue Service (IRS). Some state regulations relate to state sales tax while other regulations involve becoming incorporated or involve the holding of a raffle.

The following information is included in this section:

- District Board Policy, GE (Legal) GE (Local), *Relations with Parents or Parents' Organizations* (PTO/PTA's)
- UIL Booster Club Guidelines
- State and Federal Regulations Summary

The UIL Booster Club Guidelines do not necessarily include all rules that may apply to your Organization. For specific questions, you should contact the UIL directly.

The state and federal regulatory information included in this section does not include all laws or Rules that may apply to your particular situation. This information is provided by the District's Coordinator of Internal Controls; however, the Coordinator of Internal Controls is not an authority on specific accounting situations or tax-related issues concerning individual Booster Clubs. Therefore, Booster Clubs should obtain competent independent counsel, such as a Certified Public Accountant (CPA) or an attorney, to address accounting and tax matters related to their specific circumstances. The cost of these services would be the Booster Club's responsibility. In addition, the IRS and the Texas State Comptroller's Office may be contacted for questions related to your organization's specific situation.

### **IMPORTANT**

**Booster Club officers are solely responsible for ensuring that their Booster Club is in compliance with District policies and guidelines, UIL guidelines, and state and federal regulations.**

**Therefore, the District, including any District employee, is not responsible for a Booster Club not complying with the various policies, guidelines, and regulations.**

## RELATIONS WITH PARENT ORGANIZATIONS

GE  
(LOCAL)

District-affiliated school-support or booster organizations shall organize and function in a way that is consistent with the District's philosophy and objectives, within adopted Board policies, in accordance with applicable UIL guidelines and financial and audit regulations. [See also CFD]

### 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.

### PURCHASES FOR THE SCHOOL

Before parent groups or other groups working with the school purchase equipment for the schools, including computer hardware and software, they shall notify the principal of their plans. In consultation with the Superintendent or designee, the principal shall determine the type or brand of equipment to buy to ensure compatibility with current District equipment.



OTHER REVENUES  
GRANTS FROM PRIVATE SOURCES

CDC  
(LOCAL)

GIFTS FROM THE  
PUBLIC

The Superintendent may accept any bequest or gift of money or property on behalf of the District, except as limited by this policy. The gift shall become the sole property of the District for its use and disposition. All gifts shall be given to the District and not to a particular school. At the discretion of the Superintendent or designee, the gift may be used in a particular school.

The Superintendent shall evaluate any gift or bequest involving capital improvements with a value of more than \$25,000 and shall make a recommendation to the Board regarding its acceptance. The Board shall retain the authority for accepting or rejecting such gifts or bequests.

Pearland ISD  
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RELATIONS WITH PARENT ORGANIZATIONS

GE  
(LEGAL)

PARENT-TEACHER  
ORGANIZATIONS

The Board shall cooperate in the establishment of ongoing operations of at least one parent-teacher organization at each school in the District to promote parental involvement in school activities.  
*Education Code 26.001(e)*

## **District Guidelines**

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### **RELATIONS WITH PARENTS OR PARENTS' ORGANIZATIONS (PTO/PTA's) AND BOOSTER CLUBS**

#### **SUPERINTENDENT'S DESIGNEE**

The Superintendent's designee for overseeing the activities of parent and community organizations is the principal of the campus where the organization functions. As the responsible District employee, the principal shall:

1. Approve the formation of any such organization;
2. Approve the constitution and bylaws of such organizations;
3. Ensure that an organization's sole function is to support the educational activities of the designated program area;
4. Have the authority to disallow the continued association of any school program with a parent or community organization that has been judged by the principal to be disruptive to the educational activities or goals of the program or group.

#### **FORMATION**

All parent or community organizations must obtain a unique tax identification number-Employer Identification Number (EIN). Such organizations may not use the District's tax identification number. All PTO/PTA's and booster clubs should:

1. Obtain federal tax-exempt status as a public 501(c)(3) charitable organizations by applying for and obtaining a Letter of Determination from the Internal Revenue Service (IRS) that states the organization is tax-exempt from federal taxes.

If an 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.

If an organization loses its public 501(c)(3) tax-exempt status or if this tax-exempt status expires, the organization should take the necessary steps to regain the tax-exempt status as a public 501(c)(3) organization within one year from the date of notification from the IRS of the loss of exemption or within one year from the tax-exempt expiration date.

2. Submit the organization's EIN and a copy of the IRS's Letter of Determination to the District's Coordinator of Internal Controls.

## LIAISON

The designated faculty sponsor of a student activity area shall serve as the liaison, under the supervision of the principal, between any parent group formed in connection with a student group and the District.

The designated faculty sponsor acting as the liaison shall:

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

Appropriate written approval must be received before a District employee, substitute, or temporary worker may be an authorized signer on the bank accounts of a PTO/PTA or booster club. No principal, secretary, or designated faculty sponsor who serves as a liaison between the parent group and the District shall be approved as a signer on the bank accounts of a PTO/PTA or booster club.

Written approval must be received from the Superintendent of the District. This written approval must be kept on file with the District's Coordinator of Internal Controls.

## FUND-RAISING

All community/school support organization fund-raising efforts shall be within federal, state, and District guidelines and shall be for the purpose of supporting the school program or group activity for which the organization was formed.

According to the IRS, revenues generated from fund-raising activities by tax-exempt organizations should benefit the organization, the sponsored student group, or student activity area as a whole, not individuals. Therefore, individual accounts that credit individuals for their fundraising efforts may not be used. All members of the organization, the sponsored student group, or the student activity area must receive an equal opportunity to benefit from the fund-raising activities, regardless of whether or not a person participated in the fund-raising activities.

In addition, according to the IRS, tax-exempt organizations may not require people to participate in fund-raisers. Benefits given by a parent organization cannot be distributed based on participation in a fund-raiser or based on revenues individually generated in a fund-raiser. Therefore, a person cannot be denied the opportunity to receive a benefit because of lack of participation in a fund-raiser or because a specified amount of revenue was not raised.

An organization may establish written criteria for giving certain benefits to an individual with a financial hardship. If a student meets the written criteria, the student may then receive a benefit that others do not receive. Such a benefit is an approved exception by the IRS to having all members receive an equal opportunity to benefit from fund-raising activities. However, the criteria for financial hardship should not change to allow a particular individual to meet the criteria. Therefore, the financial hardship criteria should be applied consistently to all recipients, and the criteria must be established prior to a financial hardship situation arising.

In the event that students pay a designated amount to attend a trip, a student who meets the financial hardship criteria may have the full amount of his/her trip paid by the organization.

Careful consideration should be given to limiting the number of major fund-raising activities involving students. All such activities require the approval of the designated sponsor(s) and the principal.

## NOTICE OF FUNDRAISING ACTIVITIES

A parent or community organization desiring to conduct a fund-raising activity for a school program shall submit the following information to the designated faculty sponsor on the appropriate District/campus form at least 30 days prior to the event:

1. Purpose of the fund-raiser.
2. Type of fund-raising activity (i.e., candy sale, carnival, and the like).
3. Date(s), time(s), and place(s) of the activity.
4. Name of sponsoring organization and representative.
5. Name and phone number of the organization's representative.
6. Name and phone number of the person(s) in charge of the fundraiser.
7. Name and phone number of the person(s) who shall be handling the money for the fund-raiser.

## BONFIRES

Bonfires shall be prohibited as school-related activities

## BOOSTER ORGANIZATIONS

School-related booster organizations shall organize and function in a way that is consistent with the District's philosophy and objectives, within adopted Board policies, District Guidelines and in accordance with UIL guidelines as applicable.

District booster clubs shall:

1. Be voluntary and provide unified support for student activities of the school.
2. Be limited to a single club/organization for each area of student activity, i.e., athletics, band, choir, dance team, and the like.
3. Encourage involvement by all parents of students participating in the supported activity.
4. Use school facilities only with the prior approval of the principal or designee.
5. Not be involved in decision- or policy-making activities for a student group.

6. Have no authority in directing or influencing District employees in the administration of duties
7. Comply with all UIL guidelines.
8. Comply with administrative regulations and Board policy when offering money/gifts to the District [see CDC (Local)].
9. Submit a copy of current adopted bylaws and operating procedures to the principal and the District Coordinator of Internal Controls.
10. Prepare a written report of actual revenues and expenditures (financial report) for the school year. The treasurer of the booster club should prepare the financial report.
11. 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.
12. Submit the annual financial report and the review committee's report to the school principal and to the District's internal auditor by September 1 of each year.
13. Pay all taxes and other debts incurred by the organization.
14. Issue receipts for all money received.

## University Interscholastic League (UIL) Booster Club Guidelines

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*The following excerpts were downloaded from the UIL's website on January 1, 2001. The information documented below is subject to change by the UIL. Therefore, for the most up-to-date version of this information, please go to the UIL's website at*

**[www.utexas.edu/admin/uil/admin/booster.html](http://www.utexas.edu/admin/uil/admin/booster.html)**



University Interscholastic League

### **Booster Club Guidelines**



Be they music, fine arts, academic or athletic, booster clubs should exist to enrich students' involvement in extracurricular activities without endangering their eligibility.

### **GENERAL GUIDELINES**

#### **The role of competition**

Participation teaches that it is a privilege and an honor to represent one's school. Students learn to win without boasting and to lose without bitterness.

Self-motivation and intellectual curiosity are essential to the best academic participants. Artistic commitment and a desire to excel are traits found in music participants. Physical training and good health habits are essential to the best athletes. Interscholastic competition is a fine way to encourage youngsters to enrich their education and expand their horizons.

Leadership and citizenship experiences through school activities help prepare students for a useful and wholesome life. *Plus, competition is fun!*



## **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 activities, 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.

## **ROLE OF BOOSTER CLUBS**

School patrons form booster clubs to help enrich the school's participation in extracurricular activities. The fund-raising role of booster clubs is particularly crucial in today's economic climate.

## **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 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.

## CLUB FINANCES

### RELATIONSHIP WITH THE SCHOOL

- The superintendent or a designee who does not coach or direct a UIL contest has approval authority over booster clubs and should be invited to all meetings. All meetings should be open to the public.
- Booster clubs do not have authority to direct the duties of a school district employee. The schedule 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. *[Booster Club and school should have copies.]*
- School administration should apprise booster clubs of all school activities.
- Booster clubs should apprise school administrators of all club activities.
- Periodic financial statements itemizing all receipts and expenditures should be made to the general club membership and kept on file at the school. *[Booster Club and school should have copies.]*

### FUND-RAISING/SPENDING/STIPENDS/GIFTS TO COACHES

- **Money given to a school cannot be earmarked for any particular expense.** Booster clubs may make recommendations, but cash or other valuable consideration must be given to the school to use at its discretion.
- Fund-raising projects are subject to state law. Nonprofit [tax-exempt] status may be obtained from the Internal Revenue Service.
- Community-wide sales campaigns should be coordinated through the school administration to minimize simultaneous sales campaigns.
- Sales campaigns should be planned carefully to insure [ensure] that the projects provide dollar value for items sold, and that most of the money raised stays at home *[used for the supported group]*. 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 petty cash or miscellaneous discretionary funds. Coaches' wish lists should have received prior approval from school administration before submission to boosters [Booster Club].**
- **Coaches and directors of UIL academics, athletics and fine arts may not accept more than \$300 in money, product or service from any source in recognition of or appreciation for coaching, directing or sponsoring UIL activities. The \$300 limit is cumulative for a calendar year and is not specific to any one particular gift.**
- The district may pay a stipend, fixed at the beginning of the year, as part of the annual employment contract. The amount of the stipend can't depend on the success of a team or individual. In other words, a coach can't receive more money if a team or individual qualifies to region or state [*competition*].
- Funds are to be used to support school activities. To provide such funding for non-school activities would violate UIL rules and the public's trust through which funds are earned.

## ATHLETIC BOOSTERS

### ATHLETIC BOOSTER CLUB RESTRICTIONS



- Booster clubs cannot give anything to students, including awards. Check with school administrators before giving anything to a student, school sponsor or coach. Schools must give prior approval for any banquet or get-together given for students. All fans -- not just members of the booster club -- should be aware of this rule. It affects the entire community.
- Unlike music and academic booster clubs, athletic booster club funds shall not be used to support athletic camps, clinics, private instruction or any activity outside of the school.
- 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 cost of commercial transportation and to cover costs for out-of-town meals. It would be a violation for booster groups or individuals to pay for such costs directly.

- Individuals should be informed of the seriousness of violating the athletic amateur rule.

The penalty to a student-athlete is forfeiture of all varsity athletic eligibility for one calendar year from the date of the violation. 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 it is given or offered to an athlete. Valuable consideration is defined as tangible or intangible property or service including anything that is usable, wearable, salable or consumable. Salable food items or trinkets given to athletes by student, cheerleaders, drill team members, little/big sister, school boosters, parents of other students, teachers or others violate this rule.

- Homemade "spirit signs" made from paper and normal supplies a student purchases for school use may be placed on the students' lockers or in their yards. Trinkets and food items cannot be attached. Yard signs should be made of commercial quality wood, plastic, etc. If not purchased or made by the individual player's parent, they must be returned after the season.
- The school may provide meals for out-of-town trips only. If the school does not pay for meals, the individual parents need to purchase their own child's food. Parents may purchase anything they wish for their own child but may not provide food or other items of valuable consideration for their child's teammates.
- The school may also provide supplies for games and practices and transportation for school field trips. Students should pay admission fees during school field trips.
- Parties for athletes are governed by the following State Executive Committee interpretation of Section 441:

**VALUABLE CONSIDERATION SCHOOL TEAMS AND ATHLETES MAY ACCEPT:**

1. **Pre-season.** School athletic teams may be given no more than one pre-season meal, per sport, per school year such as a fish fry, ice cream supper, etc. provided it is approved by the school and given by a nonprofit organization, usually the booster club, before the team plays in its first contest. It may be given after a scrimmage.
2. **Post-season.** School athletic teams are limited to no more than one post-season meal or banquet per sport, per school year, and it



must be given by a nonprofit organization and approved by the school. Banquet favors or gifts are considered valuable consideration and are a violation if they are given to a student athlete at any time.

3. **Other.** School athletic teams and athletes may be invited to and may attend functions where free admission is offered or where refreshments and/or meals are served, provided all students from that high school are invited to attend for the same fee and on the same basis as the athletes or the athletic team. Athletes or athletic teams may be recognized at these functions but may not accept anything that is not given to all other students.

#### VALUABLE CONSIDERATION THAT SCHOOL TEAMS AND ATHLETES MAY NOT ACCEPT

Examples of items deemed to be valuable consideration and thus a violation of this rule include but are not limited to:

1. cookies, candy, and other gifts from other students, often referred to as goodie bags;
2. meals, snacks or snack foods during or after practices;
3. parties provided by parents or other students strictly for an athletic team;
4. anything that is not given or offered to the entire student body on the same basis that it is given to or offered to an athlete.

Gatherings of school athletic teams at parents' or patrons' homes require each athlete to contribute equally to any food or refreshment. The burden of proof will be on the athlete, his or her head coach and the school if these occasions are questioned. No overnight lodging or sports instruction or practice is permitted.

## ACADEMIC BOOSTERS

### ACADEMIC BOOSTER CLUBS



The rules for 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 such rule. Journalism participants may work for a newspaper and be paid. Actors may work summer stock and be paid. Students may win calculators and pocket protectors for participating in invitational math contests.

UIL academic students are restricted by the Awards Rule so as a general practice, do not give gifts or awards to students for their participation in UIL contests that count toward district, region or state standing. A booster club may not raise money to purchase academic letter jackets, even if the school does not offer them. Individual parents may purchase jackets or t-shirts for their children.

Even though exceptions to the awards rule exist, it remains a sound policy not to give awards to students because they have participated in or are participating in a UIL academic contest. Don't give a kid a T-shirt because he won first place in headline writing at district, region or state. With prior administrative approval, you may also:

- 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. They may 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 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.

- 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, an adjudicated contest or a concert 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 recreational 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 administered by the local school district in accordance with school district policies.
- Be mindful of the fact that there is no Music Amateur Rule. Consequently limitations established in athletics intended to ensure compliance with the Athletic Amateur Rule do not apply to music programs and related activities.

## **What you can do**

### **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, 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.

### **Work with the administration**

- Positive and direct communication can prevent most problems. Keep the superintendent informed of all activities.
- Make sure your local administration has a copy of all club publications.
- Invite administrators to all booster club meetings.
- Have an officer meet with the school administration regularly.



- Have a chain of command for communication with the administration.
- Clear all activities through your administration.

### **Coaches and fine arts 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.

***If you have questions concerning UIL guidelines, please contact:***

Athletics:    Mike Watson    Director of Athletics    832-736-6129

Fine Arts:    Ron Morrison    Director of Fine Arts    832-736-6167

University Interscholastic League (UIL)    512-471-5883

## State & Federal Regulatory Summary

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State and federal regulatory agencies such as the Texas State Comptroller's Office, the Texas Secretary of State, and the Internal Revenue Service (IRS) also govern Booster Clubs. New and existing Booster Clubs must abide by the regulations and guidelines set by these agencies. Booster Clubs should also maintain a current level of knowledge regarding law changes that affect them.

The next section contains information related to state and federal regulations that is current as of the date this handbook was published. Internal Audit strives to keep the Booster Clubs aware of new changes; however, it is the Booster Club's responsibility to remain updated on any recent law changes.

In addition, the Appendix of the *Guidelines* contains important and helpful information downloaded from the Texas Secretary of State, the Texas State Comptroller's Office, and the IRS. Please review this information in detail in addition to the next section for a more complete coverage of the various issues related to 501(c)(3) organizations and booster clubs in general.

# Creating Your Own Identity

## and more rules to follow...



### Included in this section:

- ❏ Creating Your Own Identity Overview
- ❏ Incorporation of a Non-profit Organization
- ❏ State Regulatory Information
- ❏ Federal Regulatory Information

For new and  
existing  
Booster Clubs!

## Creating Your Own Identity Overview

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The next three sections of the *Guidelines* provide detailed information related to applying for permits and exemptions you will need. As a supplement to these pages, the following short summary lists the necessary steps in the order in which they should be completed. Some blank forms and examples of completed forms and other information are included in the Appendix to assist you in completing the steps.

1. Decide if your Booster Club will be an association or a corporation and prepare the necessary organizing document.

An association will prepare and sign an “Articles of Association” as an organizing document; however, this document **will not be filed** with the Texas Secretary of State. The date the final document is signed by at least two officers or board members is considered the beginning date of the organization.

A corporation will prepare and sign an “Articles of Incorporation” as an organizing document **to be filed** with the Texas Secretary of State. The date the Articles of Incorporation is filed by the state is considered the beginning date of the organization. You should receive a copy of your Articles of Incorporation from the Texas Secretary of State showing the state’s “filed” stamp and/or you will receive a Certificate of Filing.

Both the IRS and State of Texas require that each Booster Club have an organizing document to establish the official formation of the organization. You will submit this document along with the appropriate forms when applying for federal tax exemption as a public 501(c)(3) organization and when applying for state sales, use, and franchise tax exemptions.

### Benefits of Incorporation:

- Formalize organization and provide standardized operating procedures through Articles of Incorporation and Bylaws.
- Helps shield the individuals governing and operating the nonprofit organization from liabilities incurred by the organization, unless the individuals are negligent in their duties.

2. If Association, skip to Step 4. If Corporation, go to Step 3.
3. For a corporation, file for incorporation with the Texas Secretary of State before proceeding with Step 4. (*See the **Incorporation of a Non-Profit Organization section.***)
4. Apply for an Employer Identification Number (EIN) with the IRS.
5. Apply for a Sales Tax Permit with the Texas State Comptroller’s Office.

6. Apply for federal tax-exemption as a **public 501(c)(3)** organization with the IRS.

**Read “Top Ten Reasons for Delays in Processing Exempt Organization Applications” in the Appendix before you submit your application!!**

7. Receive a Letter of Acknowledgement from the IRS indicating receipt of your application and payment.
8. May correspond with the IRS if your bylaws need to be modified or if the IRS needs additional information to complete your approval process.
9. Receive a Determination Letter (approximately 2 – 4 months later) stating you are a public 501(c)(3) tax-exempt organization.
10. Send a copy of the Determination Letter to the Internal Auditor’s Office.
11. Apply for a limited exemption from Texas sales, excise, and use tax with the Texas State Comptroller’s Office.
12. If you are incorporated, file for franchise tax-exemption with the Texas State Comptroller’s Office.
13. Put all of the documents related to these steps in a “Permanent File” in a safe place to be forwarded to the new officers each year.
14. **Pat yourself on the back for a job well done!!**

## **Incorporation of a Non-profit Organization**

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*The following excerpts were downloaded from the Texas Secretary of State's website. The information documented below is subject to change by the Texas Secretary of State. Therefore, for the most up-to-date version of this information, please go to:*

[www.sos.state.tx.us/corp/forms/filingguide/word/np.shtml](http://www.sos.state.tx.us/corp/forms/filingguide/word/np.shtml)

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A non-profit corporation is created by filing articles of incorporation with the secretary of state in accordance with the Texas Non-Profit Corporation Act (TNPCA), articles 1396-3.02 and 1396-3.03. "Non-profit corporation" means a corporation no part of the income of which is distributable to members, directors, or officers (TNPCA, article 1396-1.02A(3)).

Two copies of the signed articles of incorporation should be submitted to the secretary of state for filing. The filing fee for a non-profit corporation is \$25.00.

If the articles conform to law, the secretary of state will stamp the documents "filed", issue a certificate of incorporation and return the certificate and a stamped copy of the articles to the remitter, if a duplicate copy of the document was provided for such purpose. The certificate of incorporation is conclusive evidence of corporate existence.

### **TAX EXEMPTION**

Not all non-profit corporations are entitled to exemption from state or federal taxes. The secretary of state, however, does not make such determinations.

You should consult the Internal Revenue Service (IRS) prior to filing the articles to determine what provisions must be included in the articles for the corporation to be exempt from federal taxes. IRS Publication 557, titled "How to Apply for Recognition of Exemption for an Organization," describes the rules and procedures for non-profit organizations requesting exemption. The publication can be obtained from either the IRS or the Government Printing Office.

A non-profit corporation may be exempt from the payment of state franchise taxes if its purposes fall within one of the exemptions listed in the Texas Tax Code, Chapter 171, Subchapter B. Questions on exemption procedures should be addressed to:

Comptroller of Public Accounts  
Tax Assistance  
Exempt Organizations Section  
Austin, Texas 78774-0100  
(512) 463-4600 or (800) 252-1381  
TDD: (800) 248-4099 or (512) 463-4621

## ARTICLES OF INCORPORATION FOR A NON-PROFIT CORPORATION

The secretary of state has promulgated a [form](#) designed to meet the minimal filing requirements of the relevant statutory provisions; use of this form is permissive. This form may not meet the particular requirements of a specific transaction. **The form and the information provided is not intended to provide legal or business advice and is not a substitute for the services of an attorney or tax specialist. If you have concerns or legal questions regarding a specific transaction, you should consult a private attorney.**

Forms promulgated by the secretary of state are available for viewing or printing in Word and Adobe Acrobat format. Documents should be typed, in order to ensure legibility.

### GUIDELINES FOR THE PREPARATION AND FILING OF ARTICLES OF INCORPORATION FOR A NON-PROFIT CORPORATION

#### 1. Corporate Name

- a. The TNPCA, article 1396-2.04, provides that the name of a non-profit corporation cannot be the same as, deceptively similar to, or similar to that of an existing domestic corporation (profit or non-profit), foreign corporation authorized to transact business in Texas (profit or non-profit), a name reservation, or name registration. The Texas Business Corporation Act, Texas Limited Liability Company Act, and the Texas Revised Limited Partnership Act each provide that the names of limited liability companies, corporations and limited partnerships cannot be the same, deceptively similar or similar.
- b. A corporate name may be similar if a letter consenting to use of a similar name is obtained from the entity deemed to have the similar name. The letter of consent must be an unrestricted authorization for use of the name. The letter should be signed by a corporate officer, a limited liability company manager or member, or a general partner of a limited partnership and sent to the secretary of state with the articles of incorporation.
- c. Please note that a letter of consent is an option with similar names only. If a name is the same as, or deceptively similar to, that of an existing entity, the name will not be filed under any circumstances.
- d. Unlike a business corporation, it is not necessary for a non-profit corporation to use one of the corporate endings (Corporation, Company, or Incorporated).
- e. The secretary of state determines whether a proposed corporate name is available in accordance with the [rules on entity names](#) adopted and filed under the Administrative Procedure Act.

- f. A corporate name may not include any word or phrase that implies a purpose not included in the articles of incorporation.

## **2. Non-Profit Status**

The articles must state that the corporation is a non-profit corporation. It is not sufficient to indicate that the corporation is organized for non-profit purposes or for the preamble to simply make reference to incorporation under TNPCA.

## **3. Duration**

The duration of the non-profit corporation may be perpetual, a term of years, or a date certain.

## **4. Purpose**

- a. The TNPCA, article 1396-2.01, allows a non-profit corporation to be organized for any lawful purposes, which purposes must be fully stated in the articles of incorporation. It is not sufficient to use the general language commonly included in the articles for a business corporation, that is, “any or all lawful purposes.” The secretary of state will accept the statement of purposes suggested by the Internal Revenue Service.
- b. Permissible purposes for a non-profit corporation include: charitable, benevolent, religious, eleemosynary, patriotic, civic, missionary, educational, scientific, social, fraternal, athletic, aesthetic, agricultural and horticultural; and the conduct of professional, commercial, industrial or trade associations; and animal husbandry.
- c. A non-profit corporation may not be organized for the following purposes: group hospital service, rural credit unions, agricultural and livestock pools, mutual loan corporations, co-operative credit associations, farmers' co-operative societies, co-operative marketing corporations, rural electric co-operatives, telephone co-operatives, lodges, banks, insurance companies, or water supply corporations formed under Chapter 67 of the Texas Water Code.

## **5. Registered Office/Agent**

A non-profit corporation is required to continuously maintain a registered agent and office for the purpose of service of process. The articles of incorporation must include a street or building address of the registered office and the name of the registered agent at that address.

The business office of the registered agent must be identical with the registered office. The address of a commercial business which provides “private mail box” services is not sufficient as a registered office address, unless the commercial enterprise is the business of



the designated registered agent. A post office box alone is not a sufficient address for the registered office. If the registered office is in a city with a population of less than 5,000, the secretary of state will accept an address other than a street address for the registered office.

## **6. Directors**

- a. The articles of incorporation must state the number of initial directors and their names and addresses. Directors need not be residents of the state or members of the corporation unless the articles of incorporation or the bylaws so require.
- b. "Board of directors" means the group of persons managing the corporate affairs, irrespective of the name by which the group is designated (TNPCA, article 1396-1.02 A(7)), which may be any name appropriate to the customs, usages, or tenets of the corporation (TNPCA, article 1396-2.14D). If a non-profit corporation uses a designation other than directors, the articles should clearly identify that group as the group vested with management authority.
- c. At least three directors are required for a non-profit corporation.
- d. City and state are a sufficient address for the directors.
- e. A corporation shall be deemed to have vested the management of the affairs of the corporation in its board of directors in the absence of an express provision to the contrary in its articles of incorporation or by-laws (TNPCA, article 1396-2.14C). If the management of the affairs of the corporation will be vested in its members, a statement to that effect must be included in its articles of incorporation (TNPCA, article 1396-3.02A(6) and (9)).

## **7. Incorporators**

- a. The articles should state the name and street or post office address of each incorporator. Only one incorporator is necessary for a non-profit corporation, but each incorporator listed must sign the articles.
- b. Any existing religious society, charitable, benevolent, literary, or social association, or church may incorporate with the consent of a majority of its members, who shall authorize the incorporators to sign the articles of incorporation
- c. Incorporators must be natural persons 18 years or older.
- d. There are no residency requirements for incorporators.
- e. The function of an incorporator is to sign the articles of incorporation and deliver the documents to the secretary of state.

### **OPTIONAL PROVISIONS**

1. If the corporation will not have members, the articles of incorporation must include a statement to that effect.
2. If the management of the affairs of the corporation is to be vested in its members, the articles must include a statement to that effect.
3. If the corporation is to be authorized on its dissolution to distribute its assets other than to one or more organizations which are exempt under Section 501(c)(3) of the Internal Revenue Code, a statement describing the manner of distribution of the corporation's assets must be included.

### **EXECUTION REQUIREMENTS AND FEE**

1. The articles should be signed by ALL the incorporators.
2. The TNPCA, article 1396-9.03A, provides that if a person signs a document which the person knows is false in any material respect with the intent that the document be delivered to the secretary of state to be filed on behalf of a corporation, the person has committed an offense. The offense is a Class A misdemeanor.
3. Two copies of the articles should be submitted to the secretary of state.
4. There is a \$25.00 filing fee for all non-profit corporations.

### **COMMON ERRORS CAUSING REJECTION OF A PROPOSED FILING**

Most errors made in submitting articles of incorporation are procedural rather than substantive. Common errors include: failure to properly execute the documents; failure to state that the corporation is a non-profit corporation; or the designation of less than three directors.

### **ARTICLES OF AMENDMENT FOR A NON-PROFIT CORPORATION**

Pursuant to article 1396-4.03 of the TNPCA, articles of amendment may be filed to add, delete, or alter provisions of the articles of incorporation. A corporation may amend its articles of incorporation in as many respects as may be desired and as often as may be desired as long as the articles of incorporation as amended contain provisions that are lawful under the TNPCA. For example, it is not possible to file articles of amendment to change a non-profit corporation to a profit corporation. The secretary of state also will not accept an amendment which changes the incorporators, since the incorporators are the persons who signed the original articles of incorporation. If extensive amendments are proposed, the corporation may wish to consider filing restated articles of incorporation pursuant to article 1396-4.06.



Amendments are adopted in the following manner:

If the corporation has members with voting rights, the board of directors adopts a resolution setting forth the proposed amendments. The resolution is submitted to a vote at a meeting of the members. The proposed amendment is adopted upon receiving the vote of two-thirds of the votes which members present, in person or by proxy, were entitled to cast.

If the corporation has no members or no members with voting rights, the amendment is adopted by a majority vote of the board of directors.

Unless the articles of incorporation provide otherwise, article 1396-4.02A(4) of the TNPCA permits the board of directors of a corporation with members having voting rights to adopt the following amendments to the articles of incorporation without membership approval:

1. an amendment to extend the duration of the corporation if it was incorporated when a limited duration was required by law;
2. an amendment to delete the names and addresses of the initial directors;
3. an amendment to delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state; or
4. an amendment to change the name of the corporation by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," "ltd.," for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution to the name.

Although the secretary of state has not promulgated forms for articles of amendment, the following form is offered as a guide to preparation of articles of amendment. The form is drafted to meet the minimum statutory filing requirements; no such sample form can meet the particular requirements of a specific transaction.

### **ARTICLES OF AMENDMENT**

Pursuant to the provisions of article 1396-4.03 of the Texas Non-Profit Corporation Act, the undersigned corporation adopts the following articles of amendment:

1. The name of the corporation is \_\_\_\_\_
2. The following amendment to the articles of incorporation was adopted on \_\_\_\_\_

Article \_\_\_\_\_ is amended (or added) to read as follows:

(Insert text of amended provision as you would like it to read.)

3. The amendment was adopted in the following manner:

[IF THERE ARE MEMBERS HAVING VOTING RIGHTS USE ONE OF THE FOLLOWING STATEMENTS.]

The amendment was adopted at a meeting of members held on \_\_\_\_\_, at which a quorum was present, and the amendment received at least two-thirds of the votes which members present or represented by proxy were entitled to cast.

OR

The amendment was adopted by consent in writing by all members entitled to vote with respect thereto.

[IF THE CORPORATION HAS NO MEMBERS OR NO MEMBERS WITH VOTING RIGHTS, INSERT THE FOLLOWING STATEMENT.]

The amendment was adopted at a meeting of the board of directors held on \_\_\_\_\_, and received the vote of a majority of the directors in office, there being no members having voting rights in respect thereof.

\_\_\_\_\_  
(Name of Corporation)

By \_\_\_\_\_  
(An Authorized Officer)

### **EXECUTION AND FILING**

The articles of amendment should be signed by an authorized officer of the corporation. Two copies of the articles should be submitted to the secretary of state. If the document conforms to law, the secretary of state will file the document, note the date of filing, and return a file stamped copy along with a certificate of amendment, if a duplicate copy of the document was provided for such purposes.

### **FEE**

The filing fee for articles of amendment for a non-profit corporation is \$25.00.

## State Regulatory Information

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This section has been prepared to provide general, not specific or all-inclusive, information to Booster Clubs regarding state tax regulations. Steps have been documented to aid a Booster Club in abiding by the regulations; however, these steps are only general guidelines and do **not** ensure that a Booster Club will remain in compliance with all state tax regulations.

Each Booster Club should strive to remain in good standing with all state agencies. **Therefore, each Booster Club is responsible for obtaining its own competent independent counsel on accounting and tax matters related to its specific circumstances.** This counsel may include a Certified Public Accountant (CPA) or an attorney. The cost of these services would be the Booster Club's responsibility.

### General State Regulatory Information

Booster Club officers are solely responsible for ensuring that their Booster Club is in compliance with all state regulations. Therefore, the District, including any District employee, is not responsible for a Booster Club not being in good standing with all state agencies. However, the District has provided the following information that includes detailed steps Booster Clubs should take to comply with state tax regulations.

This information is organized as follows:

	<u>Page</u>
Obtaining an Employer Identification Number .....	6.11
Obtaining a Texas Sales Tax Permit .....	6.11
Qualifying for Exemption from Texas Limited Sales, Excise, and Use Tax.	6.11
Booster Clubs with the Limited Exemption.....	6.13
Booster Clubs with No Exemption .....	6.14
“Tax-exempt” Organizations .....	6.14
Reporting Requirements .....	6.14
Franchise Tax.....	6.15
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### Obtaining an Employer Identification Number

To sell any taxable items within the State of Texas, a company, organization, or person must apply for a Sales Tax Permit. Before obtaining a Sales Tax Permit, a Booster Club must **first** obtain an Employer Identification Number (EIN) from the Internal Revenue Service (IRS) to establish its identity as an organization. (*See the Federal Regulatory Information for these instructions.*)

### Obtaining a Texas Sales Tax Permit

Booster Clubs should obtain a Texas Sales Tax Permit if you intend to sell goods or taxable services in Texas. The sale of goods **does include** fund-raisers, such as catalog sales, candy sales, and sales of other items. In addition, some Booster Clubs sell services that may be taxable.

Booster Clubs may obtain a Texas Sales Tax Permit by submitting the completed applications to the Texas State Comptroller's Office.

**Note:** *A blank Texas Application for Sales Tax Permit is included in the Appendix for your convenience.*

A Texas Sales Tax Permit will be issued to the Booster Club along with a Sales Tax Permit Number. The Texas Sales Tax Permit Number has 11 digits and begins with a 1, 2, or 3. The permit numbers beginning with a "1" are based on an entity's EIN. Those permit numbers beginning with a "2" are based on a person's social security number. The permit numbers beginning with a "3" are assigned by the Texas State Comptroller's Office.

**Booster Clubs should not use the District's Sales Tax Permit Number.**

### Qualifying for Exemption from Texas Limited Sales, Excise, and Use Tax

The Texas limited sales, excise, and use tax exemption allows approved organizations an exemption from sales tax when purchasing items to further the organization's exempt purpose. Therefore, this limited exemption allows the approved Booster Club to make sales tax-exempt purchases of items intended for resale for a fund-raiser. **This exemption process is separate and in addition to applying for federal tax-exemption from the IRS.**



Only those Booster Clubs that have obtained tax-exempt status from the IRS may apply for the state exemption from Texas limited sales, excise, and use tax.

**IMPORTANT**

If the IRS considers a Booster Club a **taxable organization**, the Booster Club **CANNOT** receive an exemption from the Texas limited sales, excise, and use tax.

Booster Clubs may request exemption from the Texas limited sales, excise, and use tax by submitting the following to the Texas State Comptroller's Office:

1. Cover letter with the organization's name, mailing address, and Sales Tax Permit Number. Specifically request an exemption from "sales and use tax." Include the name and daytime phone number of the organization's contact person in case the Texas State Comptroller's Office has any questions.
2. Written statement detailing the nature of the activities conducted or to be conducted.
3. Copy of the bylaws.
4. Copy of the Articles of Incorporation, if the Booster Club is incorporated.
5. Copy of the Determination Letter from the IRS granting the Booster Club tax-exempt status.
6. Copy of the Booster Club's constitution or any applicable trust agreement.

The Texas State Comptroller's Office may require a Booster Club to furnish additional information including, but not limited to, documentation showing

1. all services performed by the organization and
2. all income, assets, and liabilities of the organization.

**Note:** No fee is required to apply for this exemption. In addition, exemption from franchise tax may be requested within this letter.

**See Appendix for additional information from Texas State Comptroller's Office.**

The information should be mailed to:

Exempt Organizations  
PO Box 13528  
Austin, TX 78711

**IMPORTANT**

**Do not use “Texas State Comptroller’s Office” in this address, per their instructions, due to the mail routing system. Please use the address as listed above.**

After a review of the information, the Texas State Comptroller’s Office will notify the Booster Club in writing if the organization qualifies for the exemption. This review process may take about 2 to 3 weeks.

**IMPORTANT**

If a Booster Club loses its federal tax-exempt status, the IRS notifies the Texas State Comptroller’s Office. Upon notification, the Texas State Comptroller’s Office will immediately revoke the exemption from the Texas limited sales, excise, and use tax. **Therefore, all subsequent purchases by the Booster Club would be taxable.** In addition, the Booster Club must notify its vendors of the loss of exempt status concerning the Texas limited sales, excise, and use tax.

**Booster Clubs with the Limited Exemption**

The exemption from the Texas limited sales, excise, and use tax (limited exemption) allows the approved Booster Clubs to make tax-exempt purchases of items intended for resale for a fund-raiser. The Booster Club must present the vendor with a Texas Resale Certificate in order to purchase the items for resale tax-free. In addition, the certificate must state the Booster Club's Sales Tax Permit Number to be valid. Booster Clubs may request the Texas Resale Certificate from the Texas State Comptroller’s Office.

The Booster Clubs with the limited exemption are entitled to two (2) “one-day, tax-free” sales or auctions per calendar year. A fund-raiser qualifies for the “one-day, tax-free” sale/auction if all items are to be delivered on one day. Each "one-day" sale/auction may not exceed 24 consecutive hours.

**Remember: You must be granted the limited exemption first to be entitled to the two (2) “one-day, tax-free” sales or auctions per calendar year.**



Sales of items such as T-shirts, candles, cups, etc. are subject to sales tax when sold on days other than the two (2) “one-day, tax-free” sale/auction days.

### **Booster Clubs with No Exemption**

Booster Clubs that are taxable organizations or Booster Clubs that have not received approval for the limited exemption from the Texas State Comptroller’s Office must pay sales tax on all applicable purchases and must collect sales taxes on all taxable items sold.

*Booster Clubs that do not have an exemption are not entitled to any "one-day, tax-free" sales/auctions.*

### **“Tax-exempt” Organizations**

Some organizations may be extended a "tax-exempt" status by the Texas State Comptroller’s Office. The organizations receiving this status may buy, lease, or rent taxable items without paying sales and use tax if those items are necessary to their function as a tax-exempt organization.

**Historically, the Texas State Comptroller’s Office has not extended "tax-exempt" status to Booster Clubs.**

## **Reporting Requirements**

The Texas State Comptroller’s Office requires that Booster Clubs file at least one sales tax report per calendar year. The frequency of filing the sales tax report is determined by the Texas State Comptroller’s Office. The amount of anticipated sales tax payments affects the frequency of reporting as follows:

- ◆ If projected yearly sales tax payments are \$1,000 or less, sales tax reports are filed annually.
- ◆ If projected yearly sales tax payments are more than \$1,000, sales tax reports are usually filed quarterly.

Since sales tax payments may vary from year to year, the frequency of reporting can also change. The Texas State Comptroller’s Office will generally communicate changes in filing requirements to the Booster Clubs in writing. In addition, the Texas State Comptroller’s Office will generally mail the required reporting form and information to organizations that have obtained a Sales Tax Permit.

<b>Franchise Tax</b>
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The franchise tax serves as Texas' primary business tax. The tax is levied on corporations, including bank corporations, and limited liability companies that are chartered in Texas for the privilege of doing business in Texas. Non-corporate organizations, such as partnerships, associations, and proprietorships are excluded from the tax. Therefore, if a Booster Club is incorporated, they are subject to franchise tax.

However, Booster Clubs that have received their Determination Letter from the IRS granting 501(c)(3) tax exemption may also request exemption from the Texas franchise tax through the Texas State Comptroller's Office.

Although a nonprofit corporation that is exempt from federal income tax under Internal Revenue Code 501(c)(3) is exempt from franchise tax, the exemption is **not automatically granted**. Booster Clubs must write to the Texas State Comptroller's Office requesting franchise tax exemption by submitting the following:

1. Cover letter with the organization's name, mailing address, and Sales Tax Permit Number. Specifically request an exemption from "franchise tax." Include the name and daytime phone number of the organization's contact person in case the Texas State Comptroller's Office has any questions.
2. Written statement detailing the nature of the activities conducted or to be conducted.
3. Copy of the bylaws.
4. Copy of the Articles of Incorporation, if the Booster Club is incorporated.
5. Copy of the Determination Letter from the IRS granting the Booster Club tax-exempt status.
6. Copy of the Booster Club's constitution or any applicable trust agreement.

The Texas State Comptroller's Office may require a Booster Club to furnish additional information including, but not limited to, documentation showing

1. All services performed by the organization and
2. All income, assets, and liabilities of the organization.

**Note:** No fee is required to apply for this exemption. In addition, exemption from sales and use tax can be requested within the same letter.

**See Appendix for additional information from Texas State Comptroller's Office.**

The information should be mailed to:

Exempt Organizations  
PO Box 13528  
Austin, TX 78711

**IMPORTANT**

**Do not use "Texas State Comptroller's Office" in this address, per their instructions, due to the mail routing system. Please use the address as listed above.**

**Change in Address**

If the mailing address for the Booster Club changes, immediately notify the Texas State Comptroller's Office. Failure to do so may result in important correspondence being lost. To avoid frequent mailing address changes, the Texas State Comptroller's Office recommends that each Booster Club obtain its own post office box (PO Box) or private mailing box (PMB) to be used for official Booster Club mail. In addition, the post office box address and keys can be given easily to the new officers at the beginning of each new year.

**Further Questions?**

If you have additional questions regarding the information discussed above, you may contact:

**Texas State Comptroller's Office**

Houston Office	713-266-4063
Austin Office	1-800-252-5555 (toll-free)
Exempt Organizations Department	1-800-531-5441 ext. 34142

**Website addresses**

Texas State Comptroller's Office	<a href="http://www.window.state.tx.us">www.window.state.tx.us</a>
Sales Tax Information	<a href="http://www.window.state.tx.us/taxinfo/salestax.html">www.window.state.tx.us/taxinfo/salestax.html</a>

## Federal Regulatory Information

This section has been prepared to provide general, not specific or all-inclusive, information to Booster Clubs regarding federal tax regulations. Steps have been documented to aid a Booster Club in abiding by the regulations; however, these steps are only general guidelines and do **not** ensure that a Booster Club will remain in compliance with all federal tax regulations.

Each Booster Club should strive to remain in good standing with all federal agencies, including the Internal Revenue Service (IRS). **Therefore, each Booster Club is responsible for obtaining its own competent independent counsel on accounting and tax matters related to its specific circumstances.** This counsel may include a Certified Public Accountant (CPA) or an attorney. The cost of these services would be the Booster Club's responsibility.

### General Federal Regulatory Information

Booster Club officers are solely responsible for ensuring that their Booster Club is in compliance with all federal regulations. Therefore, the District, including any District employee, is not responsible for a Booster Club not being in good standing with all federal agencies. However, the District has provided the following information that includes detailed steps Booster Clubs should take to comply with federal tax regulations.

This information is organized as follows:

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Obtaining an Employer Identification Number.....	6.18
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Why Do I Want To Be a Public 501(c)(3)? .....	6.20
Becoming a Public 501(c)(3) Tax-exempt Organization .....	6.21
Applying for Public 501(c)(3) Tax-exempt Status .....	6.21
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**Obtaining an Employer Identification Number**

The IRS requires that **all organizations** obtain a unique Employer Identification Number (EIN) for identifying itself as a unique entity. The IRS prohibits Booster Clubs from using their central organization's EIN; therefore, **Booster Clubs should not use the District's EIN.**

**IMPORTANT**

An organization is **not** automatically considered tax-exempt by acquiring an EIN. All organizations must first apply for an EIN to be recognized as a unique entity and then apply for tax-exempt status. Likewise, the mere fact that an entity is organized as a non-profit organization does **not** indicate that it is exempt from federal tax. "Non-profit" is a state law concept and is **not** recognized by the IRS.

Booster Clubs may obtain an EIN by:

1. Completing IRS Form SS-4 (Application for Employer Identification Number) and
2. Either: mailing it to the IRS (4 to 5 week wait),  
faxing it to 512-460-8000 (5 day response), or  
calling the IRS at 512-460-7843 (immediate assignment).

**Note: No fee is required for obtaining an EIN.**

After receiving your EIN, you may use it to then open a bank account and obtain a State Sales Tax Permit. **Booster Clubs should not use an individual's social security number to conduct the business of the organization.**

Copies of the completed SS-4 form and the IRS response documenting the assigned EIN number should be kept in the Booster Club's permanent records from year to year.

**Why Do I Want To Be Tax-exempt?**

The IRS Tax Code provides for special treatment of certain organizations identified as "tax-exempt." Some benefits to becoming tax-exempt as a public 501(c)(3) organization include:

1. Taxes are not paid to the IRS for revenues raised,

2. Contributions to certain tax-exempt organizations [501(c)(3)] are tax-deductible by the contributor, and
3. Tax-exempt organizations are not required to file an information return (Form 990) unless the organization's annual gross receipts exceed \$25,000.

However, the following are restrictions placed on tax-exempt organizations that Booster Clubs **must follow** to receive tax-exempt status and to retain that status:

- ◆ **Tax-exempt organizations must benefit a group as a whole instead of benefiting individual members of a group.** Since Booster Clubs usually assist student groups, all members of the student group sponsored are to be treated equally and receive the same opportunity to benefit from the Booster Club's assistance. Therefore, one student cannot receive a greater benefit than another unless the criteria for financial need discussed below is met.

In some instances, individuals may not be able to afford to pay the amount owed to participate in a particular event. The IRS has indicated that a group or club may establish criteria that could be used to determine if a person is in financial need. If the criteria are met, the group or club could provide the necessary funds to allow the individual to participate. The criteria should be established in writing prior to a particular situation arising. In addition, the criteria should be used consistently for all people, and the criteria should not change every year.

- ◆ **Tax-exempt organizations cannot use individual accounts.** "Individual accounts" are those accounts used by a Booster Club to credit an individual with revenues raised. The Booster Clubs would use these accounts to benefit the individual by offsetting that individual's expenses with the amount credited to that individual from the revenues raised.

Please note that individual accounts do not refer to bank accounts.

The purpose of a tax-exempt organization is to benefit an entity as a whole instead of benefiting individuals. Therefore, the use of individual accounts could result in denial of the application for tax-exempt status by the IRS or the loss of existing tax-exempt status. In addition, the individual benefits received by people would result in taxable income to them.

- ◆ **Tax-exempt organizations cannot require a person to participate in fund-raising activities.** Normally, Booster Clubs raise funds for a student group through the efforts of the Booster Club members; however, sometimes the students of the group being assisted participate in the fund-raising activities. A Booster Club cannot require its members or the students in the related student group to participate in a fund-raiser. Furthermore, members of the student group who do not participate in

fund-raising activities would receive the same opportunity to benefit as those members of the student group who participated.

- ◆ **Tax-exempt organizations cannot require that a certain amount be raised or sold per person.** For example, a Booster Club cannot require that each Booster Club member or student of the assisted group sell \$20 worth of candy or sell 10 candy bars in a fund-raiser.

The following is an illustration of the above concepts:

*A dance team is attending a summer dance camp that costs \$2,000 for its 10 members (\$200 each). The Dance Team Booster Club decides to have a catalog fund-raiser to help defray some of the cost of the summer dance camp. The catalog sale generates a total of \$200 of revenue. Of the 10 total members of the dance team, only 2 participate in the catalog sale that generates the \$200, which is deposited into the Dance Team Booster Club's bank account.*

*Since revenues from the catalog sale were to be used to defray some of the dance camp expense, the tax-exempt Dance Team Booster Club must give all 10 dance team members an equal opportunity to benefit from the catalog sale, even though only 2 members participated. This means that **each member's cost** would be reduced by \$20 (\$200 / 10 members). Therefore, each member's cost for attending the summer camp would be \$180 (\$200 cost - \$20 fund-raiser benefit).*

### Why Do I Want To Be a Public 501(c)(3)?

When applying for tax-exempt status with the IRS, Booster Clubs should apply for the **public 501(c)(3) tax-exemption**. This type of exemption means that the organization is tax-exempt; the majority of its income is from the public; and all donations, subject to certain individual restrictions, are deductible on the contributor's tax return. In addition, 501(c)(3) organizations are eligible for state tax benefits (*See the State Regulatory Information.*) and reduced postal rates.

The IRS has several other tax-exempt categories; however, the 501(c)(3) status is the **ONLY** category that allows any donations to be deductible on the contributor's tax return. All other categories allow for tax-exemption, but do not allow for deductible donations under any circumstances.

With a 501(c)(3) tax-exempt status, an organization may be public or private. A private 501(c)(3) organization has additional requirements and constraints that a public 501(c)(3) organization does not have.

**Therefore, all Booster Clubs should apply for tax-exempt status as a public 501(c)(3) organization.**

### **Becoming a Public 501(c)(3) Tax-exempt Organization**

Tax-exempt status is not automatic once an EIN has been issued; **organizations must apply for tax-exempt status**. According to the IRS, an organization is either a taxable organization or a tax-exempt organization. Furthermore, organizations may **not** represent themselves as tax-exempt until they have obtained notification from the IRS stating they are a tax-exempt entity.

According to Board Policy GE (Local), **all Booster Clubs should seek tax-exempt status with the IRS as a public 501(c)(3) organization**. The Booster Club officers should take the necessary steps to ensure they follow the regulations regarding that type of entity.

### **Applying for Public 501(c)(3) Tax-exempt Status**

1. Complete IRS Package 1023 (Application for Recognition of Exemption) seeking tax-exempt status as a **public 501(c)(3)** organization.
2. Complete IRS Form 8718 (User Fee for Tax-exempt Organization Determination Letter Request) and pay the required fee of \$150 or \$500.
3. Mail Package 1023, Form 8718, and a check for the filing fee to:

Internal Revenue Service  
PO Box 192  
Covington, KY 41012-0192

**The filing fee is \$150** if your annual gross receipts averaged **no more than \$10,000** during the last 4 years or if you are a new organization that does not anticipate annual gross receipts exceeding \$10,000 during your first 4 years.

**The filing fee is \$500** if your annual gross receipts averaged **more than \$10,000** during the last 4 years or if you are a new organization that anticipates annual gross receipts exceeding \$10,000 during your first 4 years.



**Annual gross receipts:** The total amount of revenue collected by an organization during its reporting year from any source. Sources may include, but are not limited to, membership fees, donations, fund-raising revenues, amounts collected for the payment of expenses (e.g., uniforms, trips), and any other amounts received.

**To determine annual gross receipts:**

- **Add** all deposits made to the Booster Club's bank account(s),
- **Add** cash on hand that was not deposited by the end of its reporting year,
- **Less** transfers from one bank account to another, and
- **Add** expenses paid with money collected that was not deposited in the Booster Club's bank account(s).

When completing the IRS Package 1023, Booster Clubs will establish their fiscal year-end (*also known as the accounting period year-end or official year-end*). Once this date is established, the IRS does not easily allow an organization to change it. Changes are usually only allowed for extreme circumstances. The date established will determine when the Booster Club has to file their informational return (Form 990) to the IRS. The return is due 4 ½ months after the end of a fiscal year (*the 15<sup>th</sup> day of the 5<sup>th</sup> month after the organization's accounting period ends*).

When considering a fiscal year-end date, you may wish to align your year-end with the school's year-end date of June 30. This way, the financial activity of the Club can relate easily to a given school year. Second, the current officers can prepare the annual Financial Report and have it audited before the new school year begins. Third, the Club's Form 990 would not be due to the IRS until November 15; therefore, the new officers would have time to prepare it after beginning the new school year.

The IRS approval process for tax-exempt status usually takes several months.

**Read “The Top Ten Reasons for Delays in Processing Exempt Organization Applications” in the Appendix before you submit your application!!**

The IRS will send the organization an Acknowledgement of Your Request letter that indicates your application and fee were received and are being processed.

Upon approval by the IRS of the tax-exempt status, the organization will receive a Determination Letter stating that the organization is considered to be tax-exempt as of a certain date. Only then can the organization represent itself as a federally tax-exempt organization.

Likewise, donations to the organization are only deductible on the contributor's tax return as of the effective date on the Determination Letter received by the Booster Club granting **501(c)(3)** tax-exempt status and within set guidelines that apply to 501(c)(3) organizations.

Therefore, if the Booster Club receives tax exemption under any other code [i.e., 501(c)(4), 501(c)(7)], donations received are **not deductible on the contributor's tax return**.

Furthermore, Booster Clubs should clearly state in all advertisements that donations to the organization are **"not tax-deductible"** so that a contributor is not misled and does not incur penalties levied by the IRS for taking the deduction erroneously.

If the IRS does not grant tax-exempt status, the organization will receive a Letter of Denial stating the organization is not considered tax-exempt.

**Send a copy of the Acknowledgement of Your Request and a copy of the Determination Letter to the District's Internal Auditor when each is received.**

**Examples of an Acknowledgment of Your Request and a Determination Letter have been included in the Appendix.**

### **Obtaining Tax-Exemption through National Affiliation**

Some organizations may become affiliated with a national organization that has already received tax-exempt status as a public 501(c)(3) organization from the IRS (e.g., PTAs). The national organization may have a Group Exemption Number (GEN) assigned to it by the IRS. The GEN may be used by local affiliates to avoid having to file their own Form 1023.

**Each local affiliate, however, must obtain an Employer Identification Number (EIN).**

### **Advance Ruling Period** **(Temporary Tax-exempt Status)**

Some Booster Clubs may receive a temporary approval of tax-exempt status as a public 501(c)(3) organization for sixty (60) months known as an "advance ruling period." The

temporary status is usually granted for newly-formed Booster Clubs and is stated in the Determination Letter as “Advance Ruling Period Begins/Advance Ruling Period Ends.”

The 60-month grace period is considered a trial period by the IRS to determine if granting the **public 501(c)(3)** status is appropriate for a particular organization. Ninety days prior to the end of the 60 months, IRS Form 8734 (Support Schedule for Advanced Ruling Period) is required to be submitted by the Booster Club to maintain the **501(c)(3) tax-exempt status as a public organization**.

**Failure to submit this form results in the organization automatically being reclassified as a private foundation**, which has additional requirements and constraints that a public organization does not have. Some of these requirements and constraints include the reduced deduction of donations by a donor, the payment of excise taxes, and the annual filing of IRS Form 990-PF (Return of Private Foundation).

The IRS usually sends a notice to these organizations prior to their expiration date to remind them to submit the Form 8734; however, Booster Clubs should not rely on the IRS. Instead, the Booster Clubs should monitor their own temporary status expiration date.

After the IRS reviews the Form 8734 information, the IRS may grant a permanent public tax-exempt status to the organization. The tax-exempt status would remain in effect as long as all regulations concerning public tax-exempt organizations are followed.

### **Filing Requirements for Tax-exempt Organizations**

The IRS requires that either Form 990 (Return of Organization Exempt from Income Tax) or Form 990-EZ (Short Form of Return of Organization Exempt from Income Tax) **be filed annually** for public organizations recognized as tax-exempt with gross receipts of more than \$25,000. (*See definition of “annual gross receipts” in this section.*)

**Contact the IRS at 1-800-829-3676 to order forms.**

**The return is due by the 15<sup>th</sup> day of the 5<sup>th</sup> month after the accounting period ends** (due 4½ months after the Booster Club’s official or fiscal year-end). Please refer to your Determination Letter for confirmation of your accounting period year-end.

★ *No annual filing is required for public tax-exempt organizations with gross receipts of \$25,000 or less.* ★

Booster Clubs must use Form 990-EZ if:

1. Gross receipts are more than \$25,000 but less than \$100,000 **AND**
2. Total assets are less than \$250,000 at year-end.

Booster Clubs must use Form 990 if:

1. Gross receipts are \$100,000 or more **OR**
2. Total assets are \$250,000 or more at year-end.

### **Taxable Organizations**

If a Booster Club has not obtained tax-exempt status from the IRS, that Booster Club is a taxable entity. Taxable organizations operate under different guidelines than tax-exempt organizations and are required to submit Form 1120 (U.S. Corporation Tax Return) annually. Form 1120 must be filed each year no matter the amount of the gross receipts.

**Since the District Booster Clubs should be public 501(c)(3) organizations,** the IRS guidelines concerning taxable organizations are not included in this handbook. Taxable organizations should obtain their own competent independent counsel, such as a CPA, on accounting and tax matters related to their specific circumstances. The cost of the counsel would be the Booster Club's responsibility.

### **Change in Address**

Immediately notify the IRS if the Booster Club's mailing address changes. Failure to do so may result in important correspondence being lost. To avoid frequent mailing address changes, the IRS recommends that each Booster Club obtain its own post office box (PO Box) or private mailing box (PMB) to be used for official Booster Club mail. In addition, this address and box keys can be given easily to the new officers at the beginning of each new year.

**Further Questions?**

If you have additional questions regarding the information discussed above, you may contact:

**Internal Revenue Service**

Main Number	1-800-829-1040	(toll-free)
Tax-exempt Organizations	1-877-829-5500	(toll-free)
Tax Forms & Publications	1-800-829-3676	(toll-free)

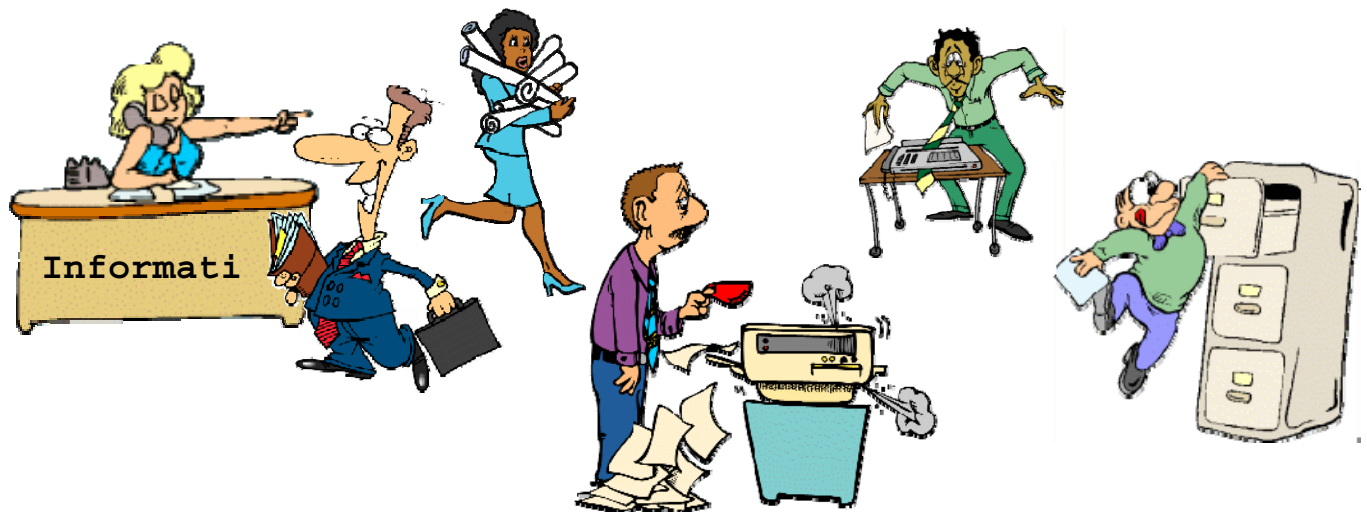
**Website addresses**

IRS Home Page	<a href="http://www.irs.gov">www.irs.gov</a>
Tax-exempt Information	<a href="http://www.irs.gov/prod/bus_info/eo/index.html">www.irs.gov/prod/bus_info/eo/index.html</a>
Tax Forms & Publications	<a href="http://www.irs.gov/prod/forms_pubs/index.html">www.irs.gov/prod/forms_pubs/index.html</a>

**Additional information downloaded from the IRS' website is included in the Appendix.**



# Taking Care of Business



## Included in this section:

- ▢ Taking Care of Business Overview
- ▢ Booster Club Information Sheet
- ▢ List of Officers
- ▢ Financial Report Information & Formats
- ▢ Review Committee Report Information & Formats
- ▢ Day-to-Day Responsibilities

## Taking Care of Business Overview

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Booster Clubs have many responsibilities to the federal government, the state, the District, and to the students they support. Part of this responsibility is to keep accurate and updated records so that the organization may complete the necessary filing requirements with the state and the IRS. In addition, these records will help you prepare your annual Financial Report and Review Committee Report due to the Principal and the Internal Auditor by September 1, of each year.

With this in mind, this section has been prepared to assist you in establishing a general record-keeping system and a general system of internal controls, and to guide you in preparing the Financial Report and related Review Committee Report. Establishing a good record-keeping system is an essential step in creating a successful organization.

Most of the reporting requirements of a Booster Club are dependent on the financial records kept; therefore, the office of Booster Club Treasurer is an extremely important and vital position that should not be taken lightly. Even though the Treasurer may assign certain duties to another person (i.e., Fund-raiser Chairperson – Catalog Sales), the Treasurer is ultimately responsible for assuring that all financial records are maintained accurately for the Booster Club.

Booster Club officers also have day-to-day responsibilities to the club, as well as the students they support. Some of these responsibilities include:

- Setting up a bank account properly,
- Accounting properly for fund-raiser income and expenses,
- Analyzing the outcome of each fund-raiser to determine its financial success/failure,
- Establishing and maintaining money handling procedures, and
- Becoming knowledgeable of District policies concerning using District buildings and distributing flyers.

In addition, Booster Clubs should submit certain information to the Coordinator of Internal Controls and to the Principal as soon as the information changes. This information is included on the following **Booster Club Information Sheet**.

## Booster Club Information Sheet

**Send an updated copy of this form to your School Principal or Administrator as new officers are elected or as information changes.**

1. **Official Booster Club Name:** \_\_\_\_\_
2. **School Name:** \_\_\_\_\_
3. **Sponsor's Name** \_\_\_\_\_
4. **Employer Identification Number (EIN):** \_\_\_\_\_
5. **Official Mailing Address:**  
     PO Box / Street Address: \_\_\_\_\_  
     City, State, Zip: \_\_\_\_\_
6. **Date of Change:** \_\_\_\_/\_\_\_\_/\_\_\_\_
7. **Current Booster Club Officers for the \_\_\_\_\_ School Year:**

Office Held:			
Printed Name:			
Mailing Address:			
Phone Numbers:	Hm:	Wk:	Cell:
E-mail Address:			

Office Held:			
Printed Name:			
Mailing Address:			
Phone Numbers:	Hm:	Wk:	Cell:
E-mail Address:			



Parent Organization/Booster Club Tax-Exempt Status

Send an updated copy of this form to the Coordinator of Internal Controls by  
September 1 of each year or as information changes

For the \_\_\_\_\_ School Year

**Federal Tax-exempt Status:**

- ☐ *Determination Letter* from IRS granting 501(c)(3) status is already on file with the Internal Audit Department.
- ☐ Received *Determination Letter* from IRS granting 501(c)(3) status.
  - *(Send a copy of the Determination Letter to the Coordinator of Internal Controls with this form.)*
- ☐ Received *Acknowledgement of Your Request* from IRS stating approval in progress.  
*(Send a copy of the Acknowledgement of Your Request to the Coordinator of Internal Controls with this form.)*
- ☐ Mailed completed Form 1023 & payment to IRS on \_\_\_\_/\_\_\_\_/\_\_\_\_, but have not received any documentation from them yet.
- ☐ Currently completing Form 1023 and will mail to IRS by \_\_\_\_/\_\_\_\_/\_\_\_\_.

Contact person for further information on status is:

Printed Name: \_\_\_\_\_

Phone Number \_\_\_\_\_

- ☐ Have not started the federal tax-exempt process.

**Submitted by:**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Officer Title

\_\_\_\_\_  
Signature

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

***Thank you for your responses!!***

## Financial Report Information & Formats

---

Each year Booster Clubs are required to submit a written report of actual revenues and expenditures (Financial Report) for that school year to the School Principal and to the District's Coordinator of Internal Controls by September 1, of the following year.

The Treasurer of the Booster Club should prepare the Financial Report and should ensure that the Financial Report includes:

- Name of school, name of Booster Club, and the time period covered in the report.
- Actual revenues and expenditures for the applicable school year. The current year report should start at the point in time where the prior year report ended. For example, if the 1999-00 report ended on June 30, 2000, then the 2000-01 report will begin as of July 1, 2000. Since clubs may start their new year at various times, the time period used for reporting actual revenues and expenditures may vary from club to club; however, the individual Booster Clubs should try to be consistent in the time period they use from year to year.
- Name, title, and signature of person who prepared the report.
- Date the report was prepared.

The Booster Club may want the time period used for reporting purposes to coincide with the election of new officers. If new officers normally come into office May 1, of each year, the time period for the Financial Report may be from May 1, to April 30, of the following year.

The following examples of Financial Reports are included in this handbook:

**Type 1** - This example is a cash basis financial report that includes the beginning and ending cash balances for the year. Money received is usually shown as income and money paid is usually shown as an expense.

*The beginning cash balance for the current year should agree to the ending cash balance from the prior year.*



*Type 1 report format is the simplest to prepare.*



**Type 2** - This example is an accrual basis financial report that includes assets, liabilities, equity, income, and expenses. This report would include the cash transactions, but would also show amounts to be received or amounts to be paid in which money has not yet been exchanged, prepayments of expenses that have not yet been incurred, or receipt of amounts in which income is not yet recognized.

*The retained earnings amount should agree to the total equity amount from the prior year.*

*Type 1*  
*Page 1 of 1*

**XYZ High School Spirit Booster Club  
 CASH BASIS FINANCIAL REPORT  
 From July 1, 2000 through June 30, 2001**

Beginning Cash Balance as of July 1, 2000 \$5,235.46

**INCOME**

Concession Stand Sales	\$3,569.50	
Fall Dance	\$2,875.00	
Membership Dues (225 members)	\$5,625.00	
Program Ad Sales	\$9,502.25	
Uniform Income (212 new uniforms ordered)	<u>\$9,540.00</u>	
Total Income		\$31,111.75

**EXPENSES**

Competition Trip Expense	\$8,320.03	
Concession Stand Supplies	\$1,355.77	
Fall Dance Expense	\$2,589.10	
Miscellaneous Supplies	\$ 650.77	
Postage	\$ 236.29	
Program Ad Expenses	\$1,242.88	
School Donation (Sound System)	\$4,328.00	
Uniform Expense	<u>\$9,540.00</u>	
Total Expenses		<u>\$28,262.84</u>

Net Income (Loss) for Current Year \$2,848.91

**Ending Cash Balance as of June 30, 2001** **\$8,084.37**

**Cash Basis Financial Report prepared by:**

Printed Name	Title
	/ /
Signature	Date

*Type 2*  
*Page 1 of 2*

**XYZ High School Spirit Booster Club**  
**BALANCE SHEET**  
**As of June 30, 2001**

**ASSETS**

BankOne Checking Account	\$2,154.25
BankOne Savings Account	\$5,112.77
Accounts Receivable	\$3,458.00
Prepaid Storage Rent	\$ <u>300.00</u>

**TOTAL ASSETS** **\$11,025.02**

**LIABILITIES & EQUITY**

Liabilities

Accounts Payable	\$3,524.75
Deferred Membership Income	\$ 500.00
Scholarship Payable	\$ <u>1,000.00</u>

Total Liabilities \$ 5,024.75

Equity

Retained Earnings	\$1,135.12
Net Income (Loss) From Current Year	\$ <u>4,865.15</u>

Total Equity \$ 6,000.27

**TOTAL LIABILITIES & EQUITY** **\$11,025.02**

**Balance Sheet and Income Statement prepared by:**

Printed Name	Title
	/ /
Signature	Date

*Type 2*  
*Page 2 of 2*

**XYZ High School Spirit Booster Club**  
**INCOME STATEMENT**  
**For the Period of July 1, 2000 through June 30, 2001**

**INCOME**

Catalog Sales	\$9,129.18	
Donations	\$2,300.00	
Interest Income	\$ 38.00	
Membership Dues (100 members)	\$2,000.00	
Uniform Income (22 new uniforms ordered)	\$ <u>770.00</u>	
Total Income		\$14,237.18

**EXPENSES**

Banquet	\$1,388.13	
Catalog Sale Expense	\$3,752.68	
Postage	\$ 32.66	
Scholarships	\$2,500.00	
Storage Rental	\$ 600.00	
Supplies	\$ 328.56	
Uniform Expense	\$ <u>770.00</u>	
Total Expenses		\$ <u>9,372.03</u>

**Net Income (Loss) For Current Year** **\$ 4,865.15**

## Review Committee Report Information & Formats

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Each Booster Club is required to have an organizational committee conduct an annual review of the organization's Financial Report and the related financial activity for the school year. The review committee may be two types: internal or external. An internal review committee includes officers and club members; however, the committee should have at least one non-officer member review the information. A CPA or other legal counsel may perform an external review at the Club's expense. The organizational review committee, whether internal or external, must prepare a written Review Committee Report that communicates the results of the review to the organization.

### IMPORTANT

- The Treasurer(s) [and Assistant Treasurer(s), if applicable] **should not** be on the Review Committee. **Since they are reviewees, they can not also be the reviewers.** However, they may meet with the committee or external reviewer to explain their records or answer questions.
- The Sponsor, Sponsor's spouse, or Officer's spouse can not be the designated "non-officer" member of the Review Committee. They may be part of the Review Committee; however, they would not be considered non-officers for the purpose of the review.

An internal Review Committee should use the examples of Review Committee Reports included on the next few pages. However, an external party should show the results of the review in their own report format with their signature and date included. Although the examples included show space for four (4) members, the Club may have more or fewer committee members. However, the same information must be documented for **each committee member** (*as opposed to the group as a whole*), regardless of the size of the committee.

The Booster Club Review Committee Report examples include:

- **Option A - Review was performed with no exceptions noted;** therefore, the Financial Report appears proper and correct.
- **Option B - Review was performed with immaterial exception(s) being noted.** The Financial Report was either corrected or exceptions did not have a material effect. Except for these minor exceptions, the Financial Report appears proper and correct.
- **Option C - Review was performed with material exception(s) being noted.** Because of the material exception(s), the Financial Report is not proper and correct.

In some instances, due to material exception(s), the committee may not be able to determine whether the Financial Report is proper and correct. When this situation occurs, the committee may state that the status of the Financial Report could not be determined because of material exception(s).

**The Review Committee Report along with the Financial Report should be submitted to the School Principal and to the District's Coordinator of Internal Controls by September 1 of each year.**

### **Suggested Review Committee Guidelines**

The following suggested guidelines are designed to assist the Booster Club Review Committee in conducting a thorough review of the Booster Club's Financial Report and the financial activity for the applicable school year.

- Have the Treasurer prepare the written report of revenues and expenditures (Financial Report) for your Booster Club. The report should include information for the **full applicable year**.
- The review must cover the period beginning with the reconciled cash balance from the previous written Financial Report and ending with the reconciled cash balance from the last day of the time period reported by the Booster Club. If the Club is using a retained earnings account, then the beginning retained earnings should equal the prior year's ending retained earnings balance plus/(minus) net income/(loss).
- Review the reconciled bank statements and canceled checks to determine that:
  1. Disbursements have been properly documented with an invoice or receipt,
  2. Disbursements have been properly approved,
  3. Checks have been properly signed,
  4. Checks have been deposited or cashed by the payee indicated and that no information on the face of the check has been altered, and
  5. Checks have been accounted for in the proper sequence (no missing checks).
- Check addition and subtraction on cash receipts and deposits.
- Compare cash receipts and deposits to the bank statement.
- Verify that receipts and disbursements were recorded to the correct account category.
- Review the Treasurer's monthly reports and check them for accuracy. Review the beginning and ending balances on reports to verify that correct ending balances were carried forward as beginning balances on subsequent reports.
- Determine that only applicable Booster Club officers are authorized signers on the bank account(s). Former officers should not remain on the account(s) as authorized signers. **In addition, the faculty Sponsor, the Principal, the Principal's Secretary, or the Financial Secretary cannot be an authorized signer on the Booster Club's bank account(s).**

**In addition, other District employees cannot be authorized signers on the Booster Club's bank account(s) without proper written authorization. (See *Authorization for District Employee Being Signer on Booster Club Bank Accounts in the Appendix.*)**

- Determine that the coaches and directors of UIL academics, athletics, and fine arts were not given more than \$300 in money, product(s), or service(s) in recognition for coaching, directing, or sponsoring UIL activities during a calendar year.
- Obtain proof that all applicable sales tax reports were submitted to the Texas State Comptroller's Office and that the related taxes were paid.
- Determine which two fund-raisers were chosen to be the "one-day, tax-free" sales/auctions, if applicable. **Only Booster Clubs that have received a limited exemption from the Texas State Comptroller's Office are allowed two (2) "one-day, tax-free" sales/auctions per calendar year.**
- Review the tax-exempt status of the Booster Club to determine that the Club has received and maintained its federal tax-exempt status as a public 501(c)(3) charitable organization or other tax-exempt status deemed by the IRS.
- Determine that either
  - (1) Form 990 or 990-EZ has been filed properly with the IRS for the prior school year if the Club is a tax-exempt charitable organization with at least \$25,000 in gross revenues, or
  - (2) Form 1120 has been filed properly with the IRS for the prior school year if the Club is not tax-exempt.
- Determine that a tax-exempt Booster Club has not used individual accounts, which credit funds raised to individual students or parents.
- Verify that 1099s were issued, if applicable. In general, you may have to issue a 1099-MISC (Miscellaneous Income) for each person to whom you have paid at least \$600 in rents, services, prizes & awards, attorney fees, and other similar situations **within a calendar year**.



**Example:** *High-Kick Drill Team Booster Club hires a consultant during the Spring of the 2000-01 school year for a \$300 fee. The consultant is hired again in the Fall of 2001-02 for a \$300 fee. The Booster Club should issue a 1099-MISC form to this person since the total paid within the 2001 calendar year is \$600.*

After the review is complete, prepare the applicable Review Committee Report (**only one** report type may be used per review):

<b>Option A</b>	No Exceptions (i.e., errors, irregularities)	Financial Report appears proper and correct
<b>Option B</b>	Immaterial Exceptions	Financial Report appears proper and correct, except for some immaterial exceptions
<b>Option C</b>	Material Exceptions	Financial Report does not appear proper and correct because of material exception(s) or Financial Report status can not be determined because of material exception(s)

- If exceptions are noted during the review, consult with the organization's Treasurer and President (if necessary) to resolve the exception(s). The Treasurer is responsible for making any corrections to the records, checkbook, and Financial Report.
- If material exceptions have been noted, prepare recommendations to prevent the future occurrence of these exceptions.
- The organization's Treasurer and President are responsible for acting upon the recommendations made by the Booster Club Review Committee.
- Retain the **original** written Booster Club Financial Report and the **original** Booster Club Review Committee Report on file with the Treasurer of the Booster Club.
- Submit one **copy** of your Booster Club Financial Report along with the Review Committee Report to the School Principal and another **copy** of these items to the District's Internal Audit Department.

**Option A**  
**Page 1 of 1**

(proper & correct with no exceptions)

**XYZ High School Spirit Booster Club**  
**REVIEW COMMITTEE REPORT**  
**FOR THE TIME PERIOD**  
**July 1, 2000 through June 30, 2001**

The Review Committee members named below have reviewed the attached Financial Report and related financial activity for the time period of July 1, 2000 through June 30, 2001, in detail. These members agree that the Financial Report and the related financial activity are proper and correct to the best of their knowledge. **No exceptions were noted during the review.**

_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date
_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date
_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date
_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date

**Note: If a reviewer is a non-officer, their title (second column) should be "Member".**

**Option B**  
**Page 1 of 1**

(proper &amp; correct with immaterial exceptions)

**XYZ High School Spirit Booster Club**  
**REVIEW COMMITTEE REPORT**  
**FOR THE TIME PERIOD**  
**July 1, 2000 through June 30, 2001**

The Review Committee members named below have reviewed the attached Financial Report and the related financial activity for the time period of July 1, 2000 through June 30, 2001, in detail. These members agree that the Financial Report and the related financial activity are proper and correct, except for the following exceptions:

- Check #12586 cleared the bank for \$25.20 instead of \$2.52.
- Check #12688 did not have 2 authorized signatures as required by the Booster Club bylaws. The check only contained 1 authorized signature.
- The Program Ad Expense account contains six expenses that did not have the related invoices as documentation for the expense. The undocumented expenses totaled \$42.87.

_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date
_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date
_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date
_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date

**Note: If a reviewer is a non-officer, their title (second column) should be "Member".**

*Option C*  
*Page 1 of 2*

(not proper or correct due to material exceptions)

**XYZ High School Spirit Booster Club  
REVIEW COMMITTEE REPORT  
FOR THE TIME PERIOD  
July 1, 2000 through June 30, 2001**

The Review Committee members named below have reviewed the attached Financial Report and related financial activity for the time period of July 1, 2000 through June 30, 2001, in detail. These members agree that the Financial Report and the related financial activity are not proper and correct, due to the following material exceptions:

- No documentation of cost existed for the 100 new uniforms purchased.
- Checking and savings accounts were not reconciled during the year.
- Only one (1) authorized signature appeared on all checks written instead of the two (2) required authorized signatures as indicated in the Booster Club bylaws.
- No documentation exists showing sales for the Christmas Cards sold to determine whether the amount recorded in the Financial Report is correct.

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

- Documentation of all expenses, such as an invoice, should be received prior to payment of expense. Documentation should be kept with the other Booster Club records.
- All bank accounts should be reconciled on a monthly basis.
- All checks issued should be signed by at least two authorized officers.
- For all fund-raisers, a record should be kept of the sales and the money deposited.

**Option C**  
**Page 2 of 2**

(not proper or correct due to material exceptions)

**XYZ High School Spirit Booster Club  
REVIEW COMMITTEE REPORT  
FOR THE TIME PERIOD  
July 1, 2000 through June 30, 2001**

_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date
_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date
_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date
_____ Printed Name	_____ Officer Title/Member	_____ Signature	_____ / / Date

***Note: If a reviewer is a non-officer, their title (second column) should be "Member".***

## **Day-to-Day Responsibilities**

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So far, we've covered various aspects of the major decisions that Booster Clubs have to make regarding incorporation, tax-exemption, financial reporting, and other District requirements. Therefore, this section is dedicated to the many day-to-day issues that face a Booster Club such as fund-raising, money-handling, and internal controls. These topics are covered alphabetically as follows:

- 1) Accounting Procedures
- 2) Bank Accounts
- 3) Building Use
- 4) Contributions
  - a) Received
  - b) Quid Pro Quo Contributions Received
  - c) Given
- 5) Financial Aid Guidelines
- 6) Flyers
- 7) Fund-raising
  - a) Board Policy
  - b) IRS Regulations
  - c) Analysis of Fund-Raiser
- 8) Mailing Address
- 9) Membership Dues
- 10) Money-Handling Procedures
  - a) Receiving Money
  - b) Recording and Depositing Money
  - c) Disbursing Money
  - d) Safeguarding Money
- 11) Raffles
- 12) Record Retention
- 13) Student Fines and Fees List
- 14) Volunteer Hours

### **Accounting Procedures**

- Booster Clubs should include written instructions on the recording of accounting transactions in their bylaws, such as accounting method (cash vs. accrual), number of authorized signers on the bank account(s) and number of authorized signatures required for each check.
- All transactions should be recorded in the Booster Club's financial records.
- The Booster Club books and bank accounts should be reconciled monthly.
- Booster Clubs may provide support to their student group in two manners:
  - a.) Booster Club members raise funds for a student group. Funds are deposited into the Club's bank account. The Club writes a check to the school where the student group is located. The school deposits the funds into the student group's activity fund. The funds then belong to the members of the student group, to be spent at their discretion (under the supervision of the Sponsor). All accounting and safeguarding of the funds is the responsibility of the school, once the school has received the funds.

*The IRS prefers that 501(c)(3) organizations use this method*, since it provides the "cleanest" procedure to track how the Booster Club spends its revenues. Using this method, the Booster Club's Financial Report would show a clear path of revenues generated and expended exclusively for its purpose, to support a student group. In addition, this method reduces the amount of paperwork and responsibility for the Booster Club related to the accounting for the revenues and expenses of the student group.

- b.) Booster Club members raise funds for a student group. Funds are deposited into the Club's bank account. The Club writes checks to the individual vendors for the expenses related to the student group through their bank account. In addition, they collect amounts due from the students for each event/competition/trip in which the student group participates. In addition, the Club tracks who has paid and who still owes money for each event and ensures that all balances are paid in full before the event occurs. All accounting and safeguarding of the funds is the responsibility of the Booster Club.

### **Bank Accounts**

- Booster Clubs should set up a bank account with the Booster Club's EIN number only. A person's social security number or the District's EIN number should not be used to set up a bank account.

**See the Federal Regulatory Information section for further information.**

- According to Board Policy GE (Local),

“No district employee can be an authorized signer for the bank account(s) of PTOs or booster clubs without appropriate written approval.”

Written approval must be received from the Superintendent of the District. However, no exceptions should be made for the designated faculty sponsor who serves as a liaison between the parent group and the District, as well as, principals, principals’ secretaries, and financial secretaries. This written approval **must be kept on file with the district’s Coordinator of Internal Controls.**

**See Authorization for District Employee Being a Signer on Booster Club Bank Accounts in the Appendix.**

- The District recommends that at least two authorized signatures be required for each check written to assist in establishing good internal controls over check disbursements. If a Booster Club requires two signatures for check disbursements, the bank account(s) should have at least three authorized signers to allow at least one back-up signer if one of the regular signers is not available.
- Bank account(s) should be reconciled monthly.

### **Building Use**

According to Board Policy GKD (Local), Booster Clubs should contact the Coordinator for Facilities Use to make arrangements to use the school facilities. Booster Clubs must provide a copy of their Determination Letter to prove their tax-exempt status before approval for use of any school facilities is granted.

**See Board Policy GKD (Local) and the Application for Building Use in the Appendix.**



## **Contributions/Donations**

### **a) Received**

Booster Clubs may receive monetary or non-monetary contributions from individuals or businesses. In addition, those Booster Clubs that have received a Determination Letter from the IRS granting **501(c)(3)** tax exemption are allowed to receive **tax-deductible contributions** in accordance with IRS Regulation 170. To allow the individuals or businesses to deduct these contributions on their tax returns, the Booster Club must send them a copy of the Club's Determination Letter indicating that the Booster Club is a 501(c)(3) organization.

**If your Booster Club is not a 501(c)(3) organization, contributions or donations are not tax-deductible. In addition, you must inform the individual or business that the contributions or donations are not tax-deductible.**

### **REMEMBER**

**501(c)(3) is the only IRS tax-exempt category that allows contributions to be tax-deductible on the contributor's tax return.**

For contributions received, the Booster Club may want to send a thank you note along with a copy of the Determination Letter. The thank you note may indicate what was contributed or donated. If the gift is monetary, you may indicate the dollar amount. If the gift is **not** monetary, the estimated value should not be included in the thank you note. It is the responsibility of the individual or business that provided the gift to determine the value that they would report on their tax return.

Even though contributions or donations received will ultimately support the student group at a school, the gift is still considered to be a gift to the Booster Club and not to the school or to the District.

### **b) Quid Pro Quo Contributions Received**

According to the IRS, a charitable organization, such as a Booster Club that is a 501(c)(3) organization, must provide a written disclosure statement to donors who make a payment, described as a "quid pro quo contribution," in excess of \$75.

A quid pro quo contribution is a payment made partly as a contribution and partly for goods or services provided to the donor by the charitable organization. An example of a quid pro quo contribution is where the donor gives a Booster Club

\$100 in consideration for a concert ticket valued at \$40. In this example, \$60 would be deductible. Because the donor's payment (quid pro quo contribution) exceeds \$75, the disclosure statement must be furnished, even though the deductible amount does not exceed \$75.

Separate payments of \$75 or less made at different times of the year for separate fund-raising events should not be aggregated for the purposes of the \$75 threshold.

The required written disclosure statement must:

- 1) inform the donor that the amount of the contribution that is deductible for federal income tax purposes is limited to the excess of any money (and the value of any property other than money) contributed by the donor over the value of goods or services provided by the charitable organization, and
- 2) provide the donor with a good-faith estimate of the value of the goods or services that the donor received.

The charitable organization (Booster Club) must furnish the statement in connection with either the solicitation or the receipt of the quid pro quo contribution. If the disclosure statement is furnished in connection with a particular solicitation, it is not necessary for the organization to provide another statement when the associated contribution is actually received.

A penalty is imposed on charitable organizations that do not meet the disclosure requirements. For failure to make the required disclosure in connection with a quid pro quo contribution of more than \$75, there is a penalty of \$10 per contribution, not to exceed \$5,000 per fund-raising event or mailing.

#### c) Given

When the Booster Club contributes directly to the student group, the Club should receive a Tax-exempt Status/Donation Acknowledgment Form from either the school or the District. A District employee should complete the form and give the original copy to the Booster Club for their records.

**Example:** *Yippee Booster Club is funding a portion of a student group's trip for a competition. The trip costs \$50,000, and the Booster Club has agreed to pay \$35,000 of the expense. Therefore, the students must pay the remaining \$15,000. The \$35,000 that the Booster Club donated is considered a contribution to that particular District student group and should be documented on the Tax-exempt Status/Donation Acknowledgment Form.*

The school may request that a Booster Club provide a list of contributions made to the student group or school. The Tax-exempt Status/Donation Acknowledgment Form may reference this list; thus, eliminating the need to have a form completed for each contribution. The schools are required to report contributions received at least at the end of each semester; therefore, your school may request the list of contributions from Booster Clubs twice a year.

The Tax-exempt Status/Donation Acknowledgment Form should be kept with the Booster Club's financial records. The form can be used as substantiation to the IRS that the Booster Club is using the funds raised in the manner approved by the IRS as a 501(c)(3) organization.

The District tracks contributions received from individuals and entities such as Booster Clubs. This information may assist the District in receiving a more favorable bond rating and in receiving grants. Public support of the District is very important in these areas.

**For more information on contributions, see the IRS information in the Appendix.**

### **Financial Aid Guidelines**

Tax-exempt organizations must benefit a group as a whole instead of benefiting individual members of a group. Since Booster Clubs usually assist student groups, all members of the student group sponsored are to be treated equally and receive the same opportunity to benefit from the Booster Club's assistance. Therefore, one student cannot receive a greater benefit than another unless the criteria for financial need discussed below is met.

In some instances, individuals may not be able to afford to pay the amount owed to participate in a particular event. The IRS has indicated that a group or club may establish criteria that could be used to determine if a person is in financial need. If the criteria are met, the group or club could provide the necessary funds to allow the individual to participate. The criteria should be established in writing prior to a particular situation arising. In addition, the criteria should be used consistently for all people, and the criteria should not change every year.

**An example of Financial Aid Guidelines is included in the Appendix.**

## **Flyers**

District criteria states that 501(c) tax-exempt organizations may submit flyers to the Assistant to the Superintendent for approval. The Flyer Distribution Form to use for submission is included in the Appendix under “Forms Available to Use.”

***Note: “501(c)(3) Number” is the same number as the Employer Identification Number (EIN).***

## **Fund-raising**

Before any fund-raising activity occurs, Booster Clubs should decide whether a fund-raiser is a Booster Club fund-raiser (money is deposited directly into the *Booster Club’s* bank account) **or** whether it is a school fund-raiser (money is deposited directly into the *District’s student activity fund account* for that student group). If the activity is a Booster Club fund-raiser, the Booster Club is responsible for handling any and all money from the fund-raiser. Likewise, if the activity is a school fund-raiser, the school is responsible for all money collected and deposited from the fund-raiser.

### **a.) Board Policy**

- Board Policy GE (Local) discusses fund-raising regulations.
- Booster Clubs should carefully consider limiting the number of major fund-raising activities involving students. **All such activities require both the approval of the Sponsor and School Principal.**
- Booster Club should submit the following information to the designated faculty sponsor **at least 30 days prior to the event**:
  1. Purpose of the fund-raiser,
  2. Type of fund-raising activity (i.e., candy sale, carnival),
  3. Date(s), time(s) and place(s) of the activity,
  4. Name of the sponsoring organization,
  5. Name and phone number of the organization’s representative,
  6. Name and phone number of the person(s) in charge of the fund-raiser, and
  7. Name and phone number of the person(s) who will be handling the money for the fund-raiser.

**b) IRS Regulations**

- The IRS prohibits tax-exempt organizations from **requiring** people to participate in fund-raisers. Likewise, Booster Clubs **may not** require an amount be “donated” in lieu of participating in the fund-raiser. People **may choose** whether or not to participate in a fund-raiser and may choose whether or not to donate to the Booster Club. Furthermore, if a person decides not to participate, that person cannot be excluded from having the opportunity to benefit from the fund-raiser and cannot be penalized for choosing not to participate in the fund-raiser.

Furthermore, benefits given by a tax-exempt organization **cannot** be based on participation in a fund-raiser or based on revenues raised individually. Therefore, regardless if a person participates in a fund-raiser and regardless of the amount of revenue raised, that person cannot be denied the opportunity to receive an equal benefit.

**Example:** *High Spirit Booster Club is having a car wash fund-raiser to help reduce the cost of a trip to Florida for a competition. The cost of the trip is \$20,000 for 20 people. Therefore, each person’s cost for the trip before the fund-raiser is \$1,000.*

*Of the 20 people participating in the trip, only 10 people participate in the fund-raiser and raise a total of \$600.*

*The \$600 must be split equally among the 20 people going on the trip, even though only 10 people participated in the fund-raiser. Therefore, each person receives a benefit of \$30 (\$600 / 20). Now, each person’s cost for the trip is \$970 (\$1,000 - \$30).*

- The IRS prohibits the use of individual accounts by Booster Clubs. Booster Clubs must benefit the group as a whole, not its individual members. *(See example above.)*

**"Individual accounts" are those accounts used by a Booster Club to credit an individual with revenues raised. The Booster Clubs would use these accounts to benefit the individual by offsetting that individual's expenses with the amount credited to that individual from the revenues raised.**

**c) Analysis of Fund-raiser**

Booster Clubs should use the Fund-raising Activity Report (*See the Appendix.*) to determine the anticipated amount to be raised by a fund-raiser and then to determine if the fund-raiser was a success or failure. This type of analysis will help a Booster Club decide whether or not to repeat a particular fund-raiser.

**Mailing Address**

If the mailing address for the Booster Club changes, immediately notify the District, the Texas Secretary of State, the Texas State Comptroller's Office, and the IRS. To avoid frequent mailing address changes, the IRS and the Texas State Comptroller's Office recommend that each Booster Club obtain its own post office box (PO Box) or private mailing box (PMB) to be used for official Booster Club mail. This address and box keys can be given easily to the new officers at the beginning of the year.

Please understand the importance of maintaining a consistent mailing address for the Booster Club. First, you will save time since you will not have to update your address each year to the District, the Texas Secretary of State, the Texas State Comptroller's Office, the IRS, and your bank as you would if you used someone's home address.

Second, Booster Clubs receive several important documents from these agencies throughout the year, and if the address changes frequently, some of these documents could be lost or misplaced. If the related school's address is used as the Booster Club's official address, the Booster Club should be aware that it may not receive mail in a timely manner when the school is closed (i.e., summer vacation and some holidays). The IRS mails forms and other correspondence to Booster Clubs periodically. If these forms are not completed and returned to the IRS within a specific time period, a Booster Club could lose their tax-exempt status, thereby also losing their limited tax-exemption with the State of Texas and possibly face fines and penalties.

The District does not recommend using a home address since officers change frequently.

**For your convenience, IRS Form 8822: Change of Address has been included in the Appendix.**

### **Membership Dues**

Booster Clubs may charge dues to their members (the parents); however, parents **do not** have to be members of the Booster Club for their child(ren) to participate in the student group that receives benefits from Booster Club activities. **Membership dues are separate from the expenses incurred by sponsoring a student group (i.e., trip expense, costume expense).** Membership dues are associated with the parents being part of the Booster Club and are in **no way** associated with the expenses related to that parent's child.

### **Money-Handling Procedures**

Money refers to cash, checks, money orders, or cashier's checks. The following are suggestions related to handling money to assist in ensuring proper accountability.

#### **a) Receiving Money**

- The person receiving the money **while in the presence of the person turning in the money** should count all money received.
- The person receiving the money should give a receipt to the person delivering the money (both parties should retain their copy of the receipt).
- Any checks received should be restrictively endorsed immediately.
- Post-dated checks **should not be accepted** from any source.
- Receipts should indicate whether cash, check, money order, or cashier's check was received; date of the receipt; and signature of person receiving the money,

#### **IMPORTANT**

**If a money order or cashier's check is received, the receipt should indicate the total check amount; brand name of the money order or the issuing bank's name of the cashier's check; and the complete check or money order number.**

**If a copy of the money order or cashier's check is made, the inclusion of this additional information on the receipt is not necessary.**

- Copies or a list of checks, money orders, and cashier's checks received should be made to assist in recovery of money if these items are lost, stolen, or returned due to insufficient funds.

**b) Recording and Depositing Money**

- Prior to depositing money, at least two people should count the money.
- All money should be delivered to the Booster Club Treasurer to deposit funds daily.
- Receipts should be reconciled with all money turned in and deposited.
- Money received should only be deposited in the Booster Club's account(s).
- Deposit slips should be retained and reconciled monthly to the account.

**c) Disbursing Money**

- Require **two** signatures on each check.
- Do **NOT** sign blank checks.

**d) Safeguarding Money**

- Have people that handle money bonded. This protects against embezzlement, but not theft.
- Do not keep any money in an unlocked drawer, unlocked filing cabinet, vehicle, or other unsecured place.
- Do not store the records of the money received (i.e., receipts, copies of checks) in the same place as the money. If records and money are stored together and a theft occurs, the record of the money may be taken along with the money. Subsequently, determination and recovery of losses would be more difficult.
- Money received and not yet deposited should not be used for purchases, check cashing, loans, advances, reimbursements, or for any other purpose.
- All unused checks should be kept safe and secure at all times.
- "Blank" checks should never be issued and checks should never be pre-signed.
- The sequence of check numbers should be accounted for when reconciling the bank statement to the Booster Club's books.



- **Issuing checks payable to "Cash" or to the "Sponsor" should be avoided.** The IRS may examine these transactions in more detail than other transactions. If a check must be payable to "Cash" or to the "Sponsor," keep detailed documentation of the expense or use of the funds.

**Raffles** *(The following information was downloaded on December 8, 2008 from the Texas Error! Hyperlink reference not valid.)*

"We have become aware of a proliferation of illegal raffle activity in Texas. It is important for Texans to be familiar with the law before conducting or participating in a raffle.

Examples of unlawful raffles include any raffle that is:

- conducted by an individual
- conducted by a for-profit business
- conducted by a charity that has no members or otherwise does not qualify

Texas law allows only certain charitable and non-profit membership organizations to conduct raffles to support their charitable causes. Only the following entities which meet certain qualifications are permitted to hold raffles:

- religious societies
- volunteer emergency medical service providers
- volunteer fire departments
- qualified non-profit organizations

In order to conduct a raffle legally, a non-profit organization must have, among other criteria, members who elect a governing body and an exemption from federal taxes under Section 501(c) of the Internal Revenue Code. A qualified non-profit must also have been in existence for three years. The law permits only two raffles per year, requires several disclosures printed on tickets, and limits the value of prizes purchased by the organization to \$50,000.

It is also against the law to hold a raffle in which cash, or anything readily convertible to cash, is offered as a prize, or which is promoted statewide or through paid advertising, including television, radio or newspapers.

An unlawful raffle could be considered illegal gambling, which may carry criminal penalties. A county attorney, district attorney or the attorney general may also shut down an illegal raffle.

The Office of the Attorney General is prohibited by law from providing legal advice to individuals. If you contemplate conducting a raffle for fundraising purposes, you should read the Charitable Raffle Enabling Act (which went into effect January 1, 1990) carefully and consult a private attorney with any questions. You should also avoid participating in an illegal raffle. For more information, you can visit our Web site and read our online consumer protection brochure on charitable raffles."

Greg Abbott  
Texas Attorney General

### **What does the law permit?**

The Charitable Raffle Enabling Act, effective January 1, 1990, permits "qualified organizations" to hold up to two raffles per calendar year, with certain specified restrictions.

### **What is a "qualified organization"?**

In general, a qualified organization is:

- a) An association organized primarily for religious purposes that has been in existence in Texas for at least 10 years;
- b) A volunteer emergency medical service that does not pay its members other than nominal compensation;
- c) A volunteer fire department that operates fire fighting equipment and does not pay its members other than nominal compensation; or
- d) A nonprofit organization that has existed for at least three preceding years, during which it has had a governing body duly elected by its members and is exempt from federal income tax under Section 501(c), Internal Revenue Code; does not distribute any of its income to its members, officers or governing body; does not devote a substantial part of its activities to attempting to influence legislation; and does not participate in any political campaign.

The language of the law is very technical. If you are considering holding a raffle to benefit an organization, you should check the statute to be sure you qualify.

**What prizes may be offered?**

An organization may offer any prize except money. If the raffle organizers offer a prize which they have purchased or have given other consideration for, the value of the prize may not exceed \$50,000. There is no value limit on prizes donated to the organization.

Texas lottery tickets may be purchased and offered as prizes, even though the tickets' payoff may exceed \$50,000. The organization must have each raffle prize in its possession or must post a bond for the full amount of the value of the prize with the county clerk of the county where the raffle will be held.

**Is an organization required to register with the State before conducting a raffle?**

No.

**What are the restrictions on how the raffle may be conducted?**

- A qualified organization may hold only two raffles per [calendar] year and only one raffle at a time.
- Raffle tickets may not be advertised state wide or through paid advertisements. Each raffle ticket must state the name or address of the organization holding the raffle, the name of an officer of the organization, the price of the ticket, and a general description of each prize to be awarded that has a value of over \$10.
- A prize may not be money.
- Only members of the organization, or student organizations recognized by institutions of higher education selling on behalf of the institution, may sell tickets.
- No one may be compensated directly or indirectly for organizing or conducting a raffle, or for selling raffle tickets. The organization may not permit a non-member or other unauthorized person to sell or offer to sell raffle tickets

**How may the proceeds from ticket sales be used?**

Proceeds from ticket sales must be used only for the charitable purposes of the Organization.

**Are there any penalties for conducting or participating in an unauthorized raffle?**

Yes. Only raffles held according to the terms of the Raffle Enabling Act are authorized raffles. An unauthorized raffle is considered gambling under the Texas Penal Code. Conducting such a raffle is a Class A misdemeanor. Participating in an unauthorized raffle is a Class C misdemeanor.

**What law enforcement authorities may stop an unauthorized raffle?**

A county attorney, district attorney or the attorney general may bring an action in state court to stop a violation or potential violation of the Charitable Raffle Enabling Act.

**Where can I get more information on the requirements for holding a raffle?**

The law is Article 179f; Texas Revised Civil Statutes Annotated. If you have specific questions about the law, you should consult your attorney.

**Consumer Information:**

For more information, call the Attorney General's Consumer Protection Hotline at 1-800-621-0508, or contact your nearest Attorney General regional office.

<b>Location</b>	<b>Phone Number</b>
Austin	512-463-2070
Dallas	214-969-5310
El Paso	915-542-4800
Houston	713-223-5886
Lubbock	806-747-5238
McAllen	956-682-4547
San Antonio	210-225-4191

All consumer complaints must be made in writing. Please call or write for a complaint form. Write to:

Office of the Attorney General  
Consumer Protection Division/010  
P.O. Box 12548  
Austin, Texas 78711-2548

Complaint forms and additional information can also be found in the consumer affairs section of our website, at [www.oag.state.tx.us](http://www.oag.state.tx.us).

## **Record Retention**

Booster Clubs should establish a record file that is passed to the new officers each year. Some items need to be kept indefinitely while other items only need to be kept for a certain length of time.

The record file should contain at least the following items on a permanent basis:

### **Permanent Records**

#### **Internal Records:**

- Booster Club Registration & Approval Form
- Articles of Incorporation/Articles of Association
- Bylaws/Charter/Constitution
- Minutes from meetings

#### **State Records:**

- Sales Tax Permit Application
- Sales Tax Permit
- Certificate of Incorporation from State of Texas (if applicable)
- State Sales Tax Exemption Notification
- State Franchise Tax Exemption Notification (if incorporated)

**Federal Records:**

- Copy of IRS Form SS-4, Application for Employer Identification Number
- Copy of IRS Form 1023, Application for Recognition of Exemption, with all attachments
- Copy of IRS Form 8718, User Fee for Exempt Organization
- Determination Letter Request, and copy of check sent to IRS with this form
- Acknowledgement of Your Request
- Determination Letter
- Copy of IRS Form 8734, Support Schedule for Advance Ruling
- Period, and the IRS's notice granting a permanent exempt status to the organization, if applicable

For non-permanent records, the Texas State Comptroller's Office and the IRS have different retention periods as discussed below. In addition, certain circumstances, such as fraud, would allow the retention period to be extended beyond the normal requirement. According to the Texas State Comptroller's Office, this office has four (4) years from the date the tax becomes due and payable in which to assess the liability. This statute of limitations may be extended beyond the four (4) years, if an agreement is made in writing between the Texas State Comptroller's Office and the Booster Club. In cases of fraud, or **if the sales tax returns have not been filed**, the statute of limitations does not apply and the Texas State Comptroller's office may assess and collect taxes, penalties, and interest at anytime. The statute of limitations does not apply when information contained in the sales tax report contains a gross error and the amount of tax due and payable after the error is corrected is 25% or more than the amount initially reported. In addition, other exceptions to the statute of limitations may apply.

According to the IRS, Booster Clubs must keep each annual information return (i.e. Form 990 or Form 990-EZ) for 3 years from the date the form is required to be filed or from the date the form is actually filed, whichever is later. However, if fraud is suspected or if returns have not been filed as applicable, the IRS could request information prior to the 3 year period discussed above.

**IMPORTANT**

**If your Booster Club has not received a tax-exempt status as a public 501(c)(3) organization if your Booster Club has received only a temporary approval of tax-exempt status as a public 501(c)(3) organization for sixty (60) months (Advanced Ruling Period), or all records should be kept until the Advanced Ruling Period has ended, the IRS form 8734 (Support Schedule for Advance Ruling Period) has been prepared, and the IRS has granted a permanent public tax-exempt status to the organization.**

In considering the requirements of the Texas State Comptroller's Office and the IRS, the record file should contain at least the following items for a minimum of the current year and the four (4) previous years:

**Non-permanent Records****Internal Records**

- Financial Reports and Review Committee Reports
- All financial backup including checkbook and banks records
- Information related to donations received by a Booster Club from individuals or businesses
- Financial Aid Guidelines

**State Records**

- Sales Tax Forms Filed (Quarterly or Annually)
- Copy of correspondence with the Texas Secretary of State and the Texas State Comptroller

**Federal Records**

- Copy of IRS Forms 990 or 990-EZ filed
- Copy of correspondence with the IRS

**Before discarding any records, confirm with the Texas State Comptroller's Office and the IRS that your organization is in good-standing and that no open items or issues exist related to the time period involving the records that you would like to discard.**

**IMPORTANT**

**According to IRS disclosure requirements, if someone requests to view any of your tax applications, forms filed, or returns, you must provide complete copies of the material.**

**You may charge a nominal fee for copying, not to exceed the current governmental rate of \$1.00 for the first page and \$.15 for each additional page plus postage.**

**Student Fines and Fees List**

Booster Clubs may have students or parents who do not submit money for fund-raisers or expenses, resulting in amounts owed to the Booster Club. Since these amounts relate to Booster Club activities, they cannot be placed on the school's Student Fines and Fees List. If a Booster Club wishes to pursue recovery of these amounts, they must do so independently from the District and school.

**Example:** *High Spirit Booster Club held a catalog fund-raiser and \$400 is still owed to the Booster Club by Trusty Smith, the father of Jane Smith, one of students in the group they support. Trusty received the merchandise, but never paid for it.*

*The Booster Club may pursue trying to recover the money or merchandise from Trusty. However, they **may not** contact the school to include the \$400 on the school's Student Fines and Fees List as an amount owed by Jane Smith to the school.*

**Volunteer Hours**

The District values the diversity of volunteer activity in the community, whether it is at home, in the community, or in the classroom. Accounting for such volunteer hours is essential since it impacts issues such as funding, program continuation, and communication. For example, many grants and federally funded programs require an accurate reflection of volunteer hours, and the State of Texas requires public school districts to facilitate parental involvement in their children's education.



Therefore, please take a few moments to complete a Volunteer Hours form reflective of the many hours your Booster Club has dedicated to our students.

**For your convenience, a blank Volunteer Hours form has been included in the Appendix.**