LUMBERTON

INDEPENDENT SCHOOL DISTRICT

Parent Organization Handbook

Fiscal Year 2026 - 2027

Parent Organization Handbook

Lumberton Independent School District

The Board of Trustees and the administrators of Lumberton Independent School District are charged with the responsibility of supervising the financial affairs of the District. While parent organizations are separate organizations from the school district and are responsible for the compliance of their own organizations, the procedures provided within this "Parent Organization Handbook" have been developed to assist parent organizations in becoming and remaining successful.

Parent organizations play an important role in the enrichment of the educational experience provided to students. The district recognizes and appreciates the resources provided by volunteers who devote time and energy towards these organizations, which would not flourish to the extent they do without this support.

This handbook will assist parent organization in complying with district policies and guidelines, University Interscholastic League (UIL) guidelines, and state and federal regulatory guidelines governing such organizations. In addition guidance is given to ensure that the organization's financial activities are maintained with high standards.

Only approved organizations, operating under these guidelines and Lumberton Independent School District policies and procedures, shall be allowed to use the district or school name and/or facilities in support of their programs. Specific questions regarding organization activity should be addressed to the campus Principal/administration.

The Handbook includes some items that must be followed by all Parent Organizations, such as district policies and guidelines, UIL guidelines, and state and federal regulations. Other procedures provide suggestions for improving the organization's day-to-day activities. This handbook does not provide any legal, financial, or tax advice. Members of Parent Organizations should seek such advice independently of the district as determined necessary.

The District understands that some Parent Organizations are part of larger state and national bodies with interest in legislative matters, and may take part in various program initiatives related to the non-local arms of their organization; however, this handbook is concerned only with organizational activities that directly affect LISD students, schools, or programs. It does not seek to limit or direct a Parent Organization's other activities, except as they relate to the District.

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Overview

Overview

Parent Organizations are established to promote school programs or complement student groups or activities. A 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 Parent Organizations provide to our students.

Even though a Parent Organization works very closely with the District, it is a separate entity from the district. The formation of a Parent Organization must be approved by the appropriate District Administrator. In addition, a Parent Organization must adhere to various district policies and guidelines, University Interscholastic League (UIL) guidelines, and state and federal regulatory guidelines.

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 Parent Organization 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. The main responsibilities of a Parent Organization, a sponsor, and a principal or administrator are indicated below:

Parent Organization - A Parent Organization is responsible for supporting a student group, activity, or program. Support may be as simple as volunteering at games or events, or as complex as raising money for an out-of-state competition. The Parent Organization works through the Sponsor to provide assistance for the planned activities of the student group. The Parent Organization decides the type and amount of assistance it will provide; however, the Parent Organization does not have the authority to decide the activities or trips in which the student group will participate. The parents and the 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 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 Parent Organization provides.

Authoritative Guidelines

Parent Organizations are governed by various entities. The school district has Board Policies and guidelines that must be followed by Parent Organizations, as well as guidelines that the School Principal or District Administrator may implement. Also, the Parent Organizations 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 could be referenced if needed:

- District Board Policies: GE (Local), *Relations with Parents or Parents' Organizations;* and CDC (LOCAL), *Other Revenues, Grants from Private Sources*
- UIL Booster Club Guidelines

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. The District's Business Office provides this information; however, the district is not an authority on specific accounting situations or tax-related issues concerning individual Parent Organizations. Therefore, Parent Organizations 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 Parent Organization'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.

Parent Organization officers are solely responsible for ensuring that their Parent Organization 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 Parent Organization not complying with the various policies, guidelines, and regulations.

Questions to Answer Before You Commit

Parent Organizations provide an important support function to student groups; however, they also require a strong commitment from members to work properly. Therefore, deciding whether or not to form a Parent Organization is an important 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. **The Superintendent approve, in writing, the formation of a Parent Organization before the group takes any further action to create a unique identity.**

It is important to remember that parents do not have to form a Parent Organization to support a student group. Parents may still support a student group as parents through fundraisers 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 Parent Organization:

1. Why do I want a Parent Organization?
2. What can a Parent Organization accomplish that cannot be achieved through the use of a Student Activity Fund?
3. Do I have time to commit to a Parent Organization?
4. Are there enough parents with time to commit to a Parent 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 I read the rest of this handbook to discover my responsibilities once a Parent Organization is formed?
7. Have I spoken with other similar Parent Organizations to determine what benefits/problems they have experienced?
8. Have I spoken with the sponsor or principal to obtain support for the formation of a Parent Organization?

Once you have decided to form a Parent Organization:

1. You must then obtain written approval from the Superintendent before proceeding with any other steps to create your identity as a Parent Organization.
2. Establish the Parent Organization's mailing address. (You will need to list an official mailing address on several state and federal forms when creating your identity as a Parent Organization; therefore, it is better to get this step done first.) The IRS and the Texas State Comptroller's Office recommend that each Parent Organization obtain a post office box (PO Box) or private mailing box (PMB) to use as the official mailing address of the Parent Organization. The address and box keys can be given easily to the new officers at the beginning of each new year.

    a. Please understand the importance of maintaining a consistent mailing address for the Parent Organization. First, it saves time since the address will not need updating each year with the district, the Texas Secretary of State, the Texas State Comptroller's Office, the IRS, and the bank as would be needed if using someone's home address.

    b. Second, 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. The IRS mails forms and other correspondence to Parent Organizations periodically. If these forms are not completed and returned to the IRS within a specific time period, a Parent Organization could lose its tax-exempt status, thereby also losing its limited tax-exemption with the State of Texas and possibly facing fines and penalties.

    The District does not allow campus mailing addresses to be used by the Parent Organization.

3. Begin the process of creating your Parent Organization's identity with the State of Texas and the Internal Revenue Service.

PARTNERING WITH LISD – GUIDELINES

Partnering with LISD – Guidelines

Parent Organizations are a vital partner in the education of our students and strengthen our ability to provide quality programs and services. The district strives to maintain a healthy and professional relationship with each Parent Organization, and offers the guidelines below. Parent Organizations should:

1. Comply with all applicable LISD board policies and administrative guidelines, UIL guidelines, and all applicable federal and state rules, laws and regulations;
2. Respect protocol and campus guidelines when communicating with staff.
3. Communicate to vendors and others that the Parent Organization's activities, contracts, purchases, or financial commitments are made on behalf of the organization and not LISD or any of its campuses.
4. Maintain separation of duties between organization officers and sponsors of school club or athletic groups. District employees, including sponsors, are prohibited from direct financial authority or financial oversight within the organization. Exception: an employee, as a parent (member of the organization) may participate in fundraising activities, such as selling tickets at a carnival, selling discount books, or working in a concession stand.
5. Comply with all LISD facility use requirements.
6. Obtain competent, independent counsel on legal, accounting and tax matters related to specific organizational needs and UIL guidelines.

Donations

In accordance with District Policy DBD (Local), District staff "shall not accept or solicit any gift, favor, service, or other benefit that could reasonably be construed to influence the employee's discharge of assigned duties and responsibilities." Students engaged in UIL activities shall not accept gifts except as provided by *UIL Constitution and Contest Rules.*

In accordance with Board Policy CDC (Local), donations to the District shall become the sole property of the District. Donations should be earmarked for a specific purpose *(within UIL guidelines)* as indicated by the donating organization.

Guidelines regarding donations are as follows:

- To be acceptable, a donation must have a purpose consistent with district goals, plans and objectives as determined by the Superintendent and/or Board. A donation shall not be accepted if it:
    - Creates a program or condition that the Superintendent and/or Board believe to be inconsistent with district policies, philosophy, or current or future plans or purposes;
    - Creates costs to the district that are determined by the Superintendent and/or Board to be unreasonable or unsupportable;
    - Creates a restriction on any other school or district program that the Superintendent and/or Board deem inconsistent with district policies, philosophy, or current or future plans or purposes;
    - Creates a conflict with public law.
- Parent Organizations must seek prior approval of their proposed donation (if other than cash) through the approval process described in Board policy.
- Any donation that is given to a school or program of the district shall become the property of the district. All donations described in this policy shall be consistent with district goals, policies, and plans.
- Any donation given without a specific use or designation may be allocated for use by any school or program at the discretion of the Superintendent and/or designee.

To be deductible as a charitable contribution, a payment to charity must be a gift. A gift to charity is a payment of money or transfer of property without receipt of adequate consideration and with donative intent. Generally Accepted Accounting Principles require that the asset be recorded at its fair market value at the time of the donation. The District will make no determination of value for IRS purposes.

In order to account for all items donated by booster clubs and to ensure compliance with UIL guidelines, LISD policy requires that booster clubs donate only funds to the district. The district will then purchase the items for which the funds were donated.

Charter Buses

The District will provide yellow school buses for school sponsored activities. Parent Organizations have the option of upgrading this to a commercial bus service (charter buses) for extra-curricular activities. Reserving charter buses is often times a challenge if reservations are not made far enough in advance.

If a charter bus is desired, the sponsor is to confirm with the Parent Organization President that the Parent Organization is committed to financially supporting the incremental cost of the charter bus. Once the bus is ordered, the Parent Organization will be responsible for any advance deposit required by the charter company. Reservations are to be made out of the appropriate school office by district staff. Parent Organizations are not to make reservations directly.

The school staff will confirm bus reservations with the bus company once a purchase order has been issued. Parent Organizations may likewise follow up with the charter bus carrier. Should any issues arise, the Sponsor will be notified immediately, so other alternatives can be pursued. This timeline can be modified under special circumstances, such as post-season play or state contest performances, due to the uncertain nature of such events.

The district is prohibited under the State Constitution to either lend money or its credit for the benefit of others. As such, the district is not in a position to make payments on behalf of a Parent Organization. It is important that the district receive a timely payment from the Parent Organization for the incremental cost of the charter bus, so payments to the charter bus carrier can be made when invoices are received and bus service will not be interrupted.

15 Passenger Vans

Federal law prohibits dealers from selling or leasing 15 passenger vans for use in transporting students for school related activities. Because of the risks associated with 15 passenger vans, organizations may not purchase, lease, or otherwise utilize 15 passenger vans to transport district employees, students, or equipment.

Payments to LISD Custodians

On occasion, the Parent Organization may hold an event that results in additional custodial time for either preparation and/or clean-up. In these situations, the cost will be included in the Facility Rental for the event. The Parent Organization will write a check to the district for the calculated cost of the facility rental which includes any costs for custodial time. Checks shall not be made directly to the custodian. Pay due the custodian for working the event will be included in the custodian's next pay check. Transactions for facility rentals and custodial services are to be coordinated between the district and Parent Organization through the Business Office.

Title IX (Boosters)

Title IX is a federal law enacted in 1972 which protects individuals in education programs or activities from discrimination based on sex. It states that "No person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving federal financial assistance."

Title IX applies to all aspects of education and related programs, not just athletics. It requires that equal opportunities be provided for members of both sexes. It does not require that each team receive exactly the same services and supplies, but rather the male and female programs, collectively, receive comparable levels of service, facilities, supplies, etc. The U.S. Department of Education oversees school districts' compliance with Title IX.

Since Booster Club funding and activities are included in the analysis of the district's compliance with Title IX, Booster Clubs should have an awareness of the law and the district's requirement for compliance.

https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination

Role of Booster Clubs

Booster Clubs

Booster Clubs shall organize and function in a way consistent with the district's philosophy and objectives, within adopted Board policies, and in accordance with UIL regulations as applicable.

Role of the Superintendent Responsible for UIL Activities

UIL rules are made by the member schools and include 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. It is imperative that booster clubs recognize this authority and work within a framework prescribed by the school administration.

Relationship with the School

- The superintendent or a designee has approval authority over booster clubs and should be invited to all meetings.
- Booster clubs do not have authority to direct the duties of a school district employee. The schedule of contests, rules for participation, method of earning letters, and all other criteria dealing with interschool programs are under the jurisdiction of the local school administration.
- All meetings should be open to the public.
- Minutes should be taken at each meeting and kept on file at the school.

District Booster Clubs shall:

1. Be voluntary and provide unified support for student activities of the school.
2. Encourage involvement by all parents of students participating in the supported activity.
3. Use school facilities only with prior approval of the appropriate school administrator.
4. Submit a copy of financial reports (audited if available) and the annual Form 990 to the Business Office no later than September 1 following the end of the fiscal year.
5. Submit the name, address, and telephone number of all current officers to the Campus Principal and the Superintendent's Office by September 1st.
6. Provide evidence of adequate insurance coverage for activities conducted on school premises. The district cannot provide insurance coverage for Booster Clubs.

7. Pay all taxes and other debts incurred by the organization. (State sales tax and Form 990 to the IRS)
8. Comply with administrative regulations and Board policies when donating money or gifts to the district.
9. Comply with UIL guidelines, district policies, and Federal and state tax laws.
10. Obtain tax exempt status 501(c)(3).
11. Obtain an Employer Identification Number (EIN).
12. Have bylaws that address all the topics listed in the UIL Guidelines (found in Resources).
13. Adhere to all district guidelines and Board policies on advertising.

District Booster Clubs shall NOT:

1. Be involved in decision or policy making activities for a student group.
2. Give a sponsor or coach a gift or cash in excess of the limits imposed by the UIL guidelines ($500) from any source in recognition of, or appreciation for coaching, directing, or sponsoring student activities.
3. Give anything (including awards) to students without prior approval from school administration.
4. Give a member any gift without the approval of the club membership.
5. Athletic Booster Clubs shall not directly employ or pay any member for services rendered with Booster Club funds.
6. Direct, employ, contract, supplement or in any way compensate a consultant, clinician, accompanist, or paraprofessional for work performed for the student activity without prior approval from director and campus principal.
7. Sign contracts or pay expenses directly from Booster Club accounts for any arrangements for student travel associated with the organization without prior approval.(Ex. Charter buses)
8. Use the district tax identification number as the Booster Club identification number.
9. Use the district sales permit numbers as the Booster Club sales permit number.
10. Give cash to any school employee to use at his or her discretion. Coaches and directors of UIL academics, athletics and fine arts may not accept a petty cash fund or a miscellaneous discretionary fund. All funds must be given to the school administrator and spent at the discretion of the school, with the approval of the school board.
11. Attempt to influence the sponsor, principal or other administrator's decisions or be a lobbying group concerning matters which are duties assigned to the district personnel, such as trips, staffing, and schedules.
12. Booster club websites shall not function as district (nor classroom) sponsored websites. Campus and classroom links to booster club websites must be clear and externally

linked. Forms and other website content (photos, camp sign up, etc.) owned by the booster club must be externally located. (i.e. not located within the LISD or campus website.)

UIL AND BOOSTER CLUBS

UIL and Booster Clubs

The following information has been taken from the Texas UIL Booster Club Guidelines and is provided here as a reference tool. Be they music, fine arts, academic or athletic, booster clubs should exist to enrich student's involvement in extracurricular activities without endangering their eligibility.

Athletic Boosters

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 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 varsity athletic eligibility in the sport for which the violation occurred 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, sellable or consumable. Local school districts superintendents have the discretion to allow student athletes to accept, from their fellow students, small 'goodie bags' that contain candy, cookies or other items that have no intrinsic value and are not considered valuable consideration.

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. Yard signs made of commercial

quality wood, plastic, etc. if not purchased or made by the individual player's parent, must be returned after the season.

The school may provide meals for contests held away from the home school. 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 for their child's teammates unless approved by the school. 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 of the UIL Constitution & Contest Rules.

Official Interpretation of the UIL Athletic Amateur Rule, section 441 of the UIL Constitution and Contest Rules:

(a) VALUABLE CONSIDERATION SCHOOL TEAMS AND ATHLETES MAY ACCEPT:

1. Pre-Season. School athletic teams may be given pre-season meals, if approved by the school.
2. Post-Season. School athletic teams may be given post-season meals if approved by the school. Banquet favors or gifts are considered valuable consideration and are subject to the Awards and Amateur Rules if they are given to a student athlete at any time.
3. Other. If approved by the school, 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. Athletes or athletic teams may be recognized at these functions, but may not accept anything, other than food items, that is not given to all other students.

(b) ADDITIONAL VALUABLE CONSIDERATION THAT SCHOOL TEAMS AND ATHLETIES MAY ACCEPT:

Examples of additional items deemed allowable under this interpretation if approved by the school, include but are not limited to:

1. Meals, snacks or snack foods during or after practices;
2. Parties provided by parents or other students strictly for an athletic team

Local school district superintendents continue to have the discretion to allow student athletes to accept small "goodie bags" that contain candy, cookies or other items that have no intrinsic value and are not considered valuable consideration.

To ensure compliance with UIL guidelines that govern athletic activities, all related disbursement through the Athletic Booster Club(s) shall require the approval of both the sponsor (coach) and the Athletic Director.

Academic Boosters

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 have no amateur rule. Journalism participants may work for a newspaper and be paid. Actors may work summer stock and be paid. Students may win calculators and software for participating in invitational math contests.

UIL academic students are restricted by the Awards Rule. So, as a general practice, booster clubs should not give gifts or awards to students for their participation in UIL contests that count toward district, region or state standing. School booster clubs may raise money to purchase letter jackets, provided the funds are given to the school without designation to buy jackets for particular students and the school determines criteria for awarding the jackets. Parents may purchase jackets for their own children provided the school designates the student as being qualified to receive the jacket. Booster Clubs may raise money to provide an annual banquet for academic participants and coaches.

With prior administrative approval, you may also:
Donate funds for the purchase of equipment or supplies for programs such as computers or software for yearbook or computer science;

Organize and chaperone trips and assist with expenses for travel to academic competitions or educational trips such as journalism conventions or speech tournaments. Booster club funds may be used to provide food and refreshments for students on these trips. A purely recreational trip to Six Flags over Texas would not meet the definition of an educational field trip and could be considered a violation of the Awards Rule;

Run tournaments, organize fundraising 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 administrated by the local school district in accordance with school district policies.

Be mindful of the fact that there is no Music Amateur Rule. Therefore, limitations established in athletics intended to ensure compliance with the Athletic Amateur Rule do not apply to music programs and related activities.

Other Requirements

The following guidelines apply to all parent/booster organizations. If a question should arise which cannot be resolved at the campus level, the Superintendent or the Athletic Director should be contacted for clarification.

- Principal must approve on-campus activities, including meeting times, place, dates, fundraisers and activities. Such activities cannot conflict with school schedules or activities, district policy or financial procedures, and must be in accordance with Texas Education Agency (TEA) and University Interscholastic League (UIL) guidelines. These will take precedence over Booster Club activities.
- On-campus activities, especially fundraisers, should not supplant, duplicate, nor interfere with those of the school or other booster clubs. The district/principal has the authority to limit the number of on-campus fundraisers.
- There will be no student activities, parties, meetings, travel or other gathering in the name of the school organization or booster organization unless prior permission has been received from the sponsor and the principal. The sponsor must be present. All activities will be under the guidance of the school and the district.
- Booster Club members, parents, etc. are expected to follow the same standards of conduct as district employees where chaperoning, sponsoring, or attending student activities.
- Each student or group of students' participation will be determined by the sponsor and the principal and not by the organization or any member (s). Participation is considered a privilege and not a right and will be based on a proven record of good conduct and dependability. Lack of such demonstrated behavior on the part of anyone will be grounds for disapproval for participation and travel.
- The purchase or consumption of alcoholic beverages and tobacco products while on school property or in the presence of students is specifically prohibited.
- Organizations shall not directly support political activities by providing campaign donations or placing advertisements in support of a particular candidate as doing so could jeopardize the tax exempt status of the organization. If a candidate running for office is invited to join a meeting, all candidates running for the office must be extended an invitation to the event.

FUNDRAISING

Fundraising

Funds raised by parent organizations are to be used to support school activities. To provide funding for non-school activities would violate UIL rules and the public trust through which funds are earned.

- Fundraising projects are subject to state law. Non-profit status may be obtained from the IRS.
- Community-wide sales campaigns should be coordinated through the school administration to minimize simultaneous sales campaigns.
- Sales campaigns should be planned carefully to ensure that the projects provide dollar value for items sold and that most of the money raised is retained by the organization. Often donations are more rewarding than sending the major portion of fund raised to outside promoters.
- The UIL reserves the right to sell game and tournament programs and merchandise at all UIL state championship events. Booster Clubs are not allowed to sell programs or merchandise at these events.

Faculty Sponsor Responsibilities for Organization Fundraising Activities

The sponsor of any organization that is fundraising will be responsible for the coordination of the activity between students, principal and the Parent Organization.

If the fundraiser includes the sale of prepared foods, the sponsor must work with his/her Parent Organization to determine whether or not a permit will be required from Hardin County.

Individual Accounts

Parent Organizations should not credit "individual" student accounts based on the student or parent's participation in fundraising events, nor should student credit for fundraising be based on a proportionate share of the amount that is 'earned' by the student or parent during the fundraiser.

This practice may jeopardize an organization's tax-exempt status under the Internal Revenue Code and/or may create taxable income to the individual that raised the money. A tax-exempt organization is established to benefit a group as a whole instead of benefiting individual

members of a group. Organizations should not maintain individual accounts that are earmarked for a particular individual, and organizations should seek professional tax advice regarding questions about such practices.

Fundraising Participation and Quotas

Parent Organizations should not require a member to participate in fundraising activities. Coupled with this, members should not be required to sell or raise a certain amount. As indicated above, both of these practices may jeopardize an organization's tax-exempt status with the IRS. However, Parent Organizations may develop specific criteria that must be met in order for a benefit to be given to a member, such as attendance.

Raffles

School districts are prohibited by Texas law from sponsoring or conducting any raffle or bingo game conducted for the purpose of raising money. However, there is a state Charitable Raffle Enabling Act (and one for bingo) that allows organizations that support schools to conduct raffles under certain conditions. A raffle is any activity that involves awarding a prize of anything with value (from a cake to a car) to one or more people who have purchased a ticket.

Certain organizations are permitted to hold raffles within the following guidelines. It is the responsibility of the Parent Organization officers to ensure that they operate within the raffle guidelines of the Attorney General of Texas. Students may NOT assist in the sale of raffle tickets.

The language of the law is very technical. The information provided herein is strictly for guidance. If the organization is considering holding a raffle, the officers must review statutes to ensure the organization qualifies to do so and complies with the law. http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.2002.htm

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:

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)(3), 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.

Any raffles or bingo games held on district property must be clearly advertised as booster club/PTA event and not a Lumberton ISD program event.

General Raffle Guidelines:

Each ticket must indicate the name and address of the organization, name of an officer, price of the ticket and a description of each prize valued at $10 or more. No prize may be valued in excess of $50,000;

Each organization may hold no more than two raffles per year and only one at a time;

- Tickets may not be advertised through paid advertising;
- A raffle prize may not be cash or a negotiable instrument such as a check, money order, or certificate of deposit. However, savings bonds, prepaid or "stored-value" credit cards are acceptable as they are not considered negotiable instruments;
- The organization must have the prizes in its possession before beginning the raffle or post a bond for the full value with the county clerk;
- No one may be compensated directly or indirectly for organizing or conducting a raffle or for selling raffle tickets;
- Only members of the organization may sell the tickets (students may not sell raffle tickets);
- The winner must pay income tax on any prize. If the value exceeds $600, the organization must provide an IRS form 1099 to the recipient;
- Phone solicitation may not be used to promote the event.

Bingo

An organization should consider all applicable regulations for bingo. Detailed rules may be obtained from the Texas Lottery Commission by requesting a copy of the Bingo Enabling Act, the Charitable Bingo Administrative Rules and Bingo Operations Manual by calling 1-800-BINGO77. Additional information is available on Texas Lottery's website at www.txlottery.org/export/sites/bingo/index.html.

TAKING CARE OF BUSINESS

Parent Organizations 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 reports due to Central Office by September 1, of each year. This section is to provide organizational and financial guidance in establishing a general recordkeeping system and a general system of internal controls.

Officer and Committee Guidelines

Each organization must develop and maintain bylaws. A current copy of the organization's bylaws must be submitted to the campus principal and LISD Superintendent's office.

The bylaws should contain the details of the rules of membership. This document must address **the organization's fiscal year, organizational structure and the method used to elect officers.** Only active members in good standing should be permitted to hold office or vote upon any matter of business of the organization.

The bylaws shall address the restriction that only one member per household may serve as an officer at the same time, unless parents are serving as co-chairs in the same office, which limits the family's vote to one. In addition, the bylaws should specify that there is a two one-year consecutive term maximum that members may serve in roles as the President or Treasurer.

Employees of the District shall not serve in a financial capacity of an organization. Financial capacity includes holding positions of President, Treasurer, Fund-Raising Chairperson, or serving as a check signer. In addition, employees of a campus may not serve on the executive board of an organization that supports the campus/students of the same campus.

The organization should elect officers on an annual basis. The following are common officer positions and committees within an organization.

President

Typically, the president of an organization is an individual who has previously been active in the organization. The major duties include, but are not limited to, the following:

- Preside at all meetings of the organization;
- Regularly meet with the designated campus representative regarding organization activities (regularly is defined as monthly at a minimum);
- Resolve problems in the membership;
- Regularly meet with the treasurer of the organization to review the organization's financial position;
- Select an officer as the designee to receive bank statements through the mail at their home address or online. This individual should not be a signer on the account. Upon receipt, the designee should review the activity on the bank statement and canceled checks for reasonableness. This provides an independent review by an individual not associated with disbursement activity.
- Schedule an annual review (audit) of records or request an audit if the need should arise during the year;
- Perform any other specific duties as outlined in the bylaws of the organization.

District employees shall not serve in the capacity of President.

Vice President

The vice president acts as the president's representative in his/her absence. He/she should remain familiar with the organization's activities. The major duties include, but are not limited to, the following:

- Preside at meetings in the absence or inability of the president to serve;
- Perform administrative functions delegated by the president;
- Perform other specific duties as outlined in the bylaws of the organization.

Note: Larger organizations may find it necessary to elect several vice presidents with responsibility over different areas. Such positions should be clearly defined in the bylaws of the organization.

District employees shall not serve in the capacity of vice president if the vice president is authorized to sign checks, approve payments or has oversight of any other financial responsibilities within the organization.

Secretary

The secretary is responsible for keeping accurate records of the proceedings of the organization and reporting to the membership. The secretary should ensure the accuracy of the minutes of the meetings, and have a thorough knowledge of parliamentary rules and the organization's bylaws. The major duties include, but are not limited to, the following:

- Report on any recommendations made by the executive board of the organization if such a governing board is defined in the bylaws;
- Maintain the records of the minutes, approved bylaws and any standing committee rules, current membership and committee listing;
- Record all business transacted at each meeting of the association as well as meetings of any executive board meetings in a prescribed format;
- Maintain records of attendance of each member;
- Conduct and report on all correspondence on behalf of the organization;
- Other specific duties as outlined in the bylaws of the organization.

District employees shall not serve in the capacity of secretary if the secretary is authorized to sign checks, approve payments or has oversight of any other financial responsibilities within the organization.

Treasurer

The treasurer is the authorized custodian of the funds for the organization. The treasurer receives and disburses all monies indicated in the budget and prescribed in the local bylaws or as authorized by action of the organization. All persons authorized to handle funds of the organization should be covered by a fidelity bond in an amount based upon the organization's annual income and determined by the executive board. The major duties include, but are not limited to, the following:

- Serve as chairperson of the Budget and Finance Committee if prescribed within the bylaws of the organization;
- Issue a receipt for all monies received and deposit said amounts on a weekly basis (daily if receipts on hand exceed $250);
- Present/maintain a current financial report including bank statements, bank reconciliations, and financial statements to the executive committee within thirty days

of the previous month end; copies should be available for review by the general membership within a reasonable timeframe, if requested.

- File current financial reports at the end of the school year with the Principal/Administrator and Business Office;
- Maintain an accurate and detailed account of all monies received and disbursed;
- Reconcile all bank statements as received and resolve any discrepancies with the bank immediately;
- File sales tax reports as required by the Comptroller's office (monthly, quarterly, or annually);
- File annual IRS form 990, 990-N or 990-EZ in a timely manner;
- Submit records to the audit committee appointed by the organization upon request or at the end of the year;
- Other specific duties as outlined in the bylaws of the organization.

Note: Due to the increasing requirements placed on charitable organizations by regulatory authorities, it is strongly recommended that the treasurer have an accounting background.

District employees shall not serve in a capacity of treasurer.

Parliamentarian

The primary duty of the parliamentarian is to advise the presiding officer on parliamentary rules and matters of procedure when requested. The president or presiding officer of the organization alone has the power to make decisions or rule on a point of order. Thus, after the parliamentarian has given his advice, the presiding officer should make the ruling to the organization – he/she is not obligated to follow the recommendation of the parliamentarian. The parliamentarian should be thoroughly familiar with the bylaws and any standing rules of the group on which he/she serves. A copy of the most recent version of *Roberts Rules of Order* should be maintained by the organization and referenced as needed.

Ad Hoc Committees

Special committees are created for a specific purpose and voted upon by the membership. The committee is automatically dissolved as soon as that purpose is accomplished and the committee report is made. Ad Hoc committees should complete their assignments within the current school year. If the objectives are not met at the end of the school year, officers will be required to reappoint members of the committee for the following year until the purpose

of the committee has been achieved. Individuals who have a conflict of interest should not be allowed to serve as members of the committee. For example, senior parents would not be included on a scholarship committee since their child is a potential recipient of the monies. (See UIL Booster Club Guidelines.)

Nominating Committee

The nominating committee is formed from the organization's membership in the spring of each year. The purpose of the committee is to recommend various members of the organization for office in the coming school year. The nominating committee should be charged with soliciting recommendations for officer positions within the organization. The committee should then contact the potential candidates directly to ascertain their willingness and desire to serve. The nominating committee should report back to the membership on their results in the spring (typically by mid-April) so that elections may be held no later than May.

Financial Report and Review Committee

At the end of the fiscal year (May 31 or June 30), an audit of the organization's financial records should be conducted. The audit should be performed by individuals who are independent from day-to-day financial activities. Ideally, this audit should be performed by a group of three individuals; however, if the membership size does not allow, the audit may be performed by two individuals. The primary objectives of the audit are to:

- Verify the accuracy of the treasurer's financial reports;
- Ensure that the organization's cash balances are accurate;
- Determine that established procedures for handling organization funds have been followed;
- Ensure that expenditures occurred in a manner consistent with the organization's bylaws;
- Ensure that all revenues have been appropriately received and recorded;

The audit committee should make a report to the general membership upon completion of the audit. All members of the audit committee should sign a statement indicating their agreement with the findings detailed in the report. Any discrepancies noted should be brought to the attention of the president of the organization and a resolution reached prior to presentation. All officers of the organization should make records available as requested by the committee. Copies of final audit reports shall be submitted to the Business

Office on or before September 1 of each year for compliance with GASB 39 and accounting by the district to recognize the value of donations made on behalf of the Parent Organizations for the benefit of the students.

Election of Officers

The election of officers of the organization should occur annually within the timelines and manner prescribed by the organization bylaws. Typically the election of officers should occur by May of each year so that the newly elected officers may be in place for the start of the next school year. The transfer of records and audit of the accounts should be completed no later than 30 days following the end of the fiscal year.

Officers may be elected by different methods (i.e., simple majority, secret ballot) in accordance with the organization's bylaws. The election of officers should be from a slate of officers presented by the nominating committee in the spring of each school year. Recommendations may also be taken from the floor at the time of the vote in accordance with *Roberts Rules of Order*. Refer to the beginning of the "Officer and Committee Guidelines" section of the handbook for specifics on maximum terms and limited family members in officer roles within the organization.

Standards for Meeting

As a best practice, notice of all meetings of the organization should be posted at least seventy-two hours prior to the meeting date on the organization's website. The notice should clearly indicate the date and time of the meeting and the items to be discussed. In order to provide an optimum level of communication and teamwork, meetings of the general membership and organization board (executive committee) should be held in the presence of the campus Principal/Administrator and other school sponsor (if applicable) whenever possible.

Rules for Dissolution

To dissolve an organization, a resolution should be adopted by the organization (or the executive board if the organization is inactive) stating that the question of such a dissolution will be submitted to a vote at a special meeting of the members having voting rights. At least 30 days prior to the meeting, written or printed notice should be given to each member entitled to vote stating that the purpose of such meeting is to consider the advisability of dissolving the organization. The organization should determine the distribution and usage of treasury monies and other assets before dissolution. In order to comply with Internal Revenue Service guidelines, care should be taken to ensure that excess funds are distributed within the

framework of the organization's original purpose – i.e. band booster funds would remain with the musical program at that particular campus. Any other distribution of funds could void the organization's tax exempt status and force it into a fully taxable situation. Dissolution of the organization should be addressed in the organization's bylaws

Record Keeping

The secretary and treasurer of the organization should turn records over to the incoming officers within 30 days of election. A retention schedule of records should be created and maintained. Certain records, such as Articles of Incorporation/Association, Bylaws and amendments, IRS Determination Letter, annual budget, end of year financials and tax filings should be maintained as permanent records. Day to day financial records should be maintained for at least 7 years. Other records should be identified and maintained in accordance with the records retention schedule.

FINANCIAL INFORMATION

General

The organization's bylaws should stipulate the creation and approval, by its membership, of an annual budget. This is typically done in late spring or early fall for the upcoming school year. Changes to the budget during the year shall be approved in accordance with the organization's bylaws.

All organization business addressed during meetings should be approved and reflected in the meeting minutes to provide documentation of the membership's directives.

There is a wide variety of computerized accounting packages available to assist organizations in accurately accounting for financial transactions. Each organization should adopt an accounting package or computerized accounting method which will meet the needs of the organization for several years. Software packages should be evaluated based upon their ease of use, cost, required training, and transferability to forthcoming treasury officers.

District Orientation

Prior to September 1 of each year, the district may provide information to the organization presidents, treasurers, and sponsors with regard to district requirements, financial controls and reporting, and other general topics.

Liability Insurance

Organizations should consider the purchase of liability insurance to protect the organization and its members. Coverages to be considered should include general liability, officer's liability, business personal property (if organization owned property exists), and fidelity (otherwise known as bond) coverage. The cost of the insurance varies depending on the amount of coverage, but is generally reasonable. Insurance underwriters for organizations, in many cases, require an annual audit to be performed by a Review (Audit) Committee, and organizations should have a procedure in place to have bank statements and reconciliations reviewed by members without check signature authority.

Financial Reporting to District

GASB Statement No. 39 of the Governmental Accounting Standards Board requires the district to obtain and review financial performance information of supporting organizations to determine whether these organizations should be considered a component unit.

Organizations are required to submit to the Business Office the end-of-year financial statements (including balance sheet and income statement). Financial Statements and 990 returns shall be submitted to the Business Office by September 1 of each year or as soon as available.

Internal controls

In order to protect the organization, its members, and the organization's financial well-being, standard internal controls should be in place. The following is a summary of basic internal controls necessary to prevent the loss of funds through carelessness, mistakes, or misappropriation.

Controls over Bank Accounts

- To open a bank account, the Parent Organization must first obtain an Employer Identification Number (EIN) from the IRS. (See Tax information section)
- The Parent Organization club shall not use just the school's name on its checks or on its literature. The use of the school name might imply that the school or the district is responsible for any obligations entered into by the organization. It must include the Parent Organization's name on the bank account.
- Organizations should establish a checking account at a bank or credit union. Accounts should be established with at least three individuals on the signature card. Checks should require the signature and authorization of two organization officers. Original signatures, not stamped signatures, should be affixed to each check or approval form for payment.
- School district employees may not be the signer on booster club bank accounts for any campus or programs.
- An individual who is not a signer on the account should review the bank statement and its contents for reasonableness and compliance with treasurer reports, the budget, and the ongoing business of the organization. A copy of the bank statement should back up the treasurer report.
- Bank statements should be reconciled within 30 days of the date of the statement to ensure that possible inaccurate transactions are identified and communicated to the financial institution for correction.
- A second officer, not involved in the financial aspects, should review and sign off on the completed bank reconciliation. This review should include specific attention to outstanding or reconciling items.

Controls over Cash and Receipts

- If possible, all cash collections received by the organization for fees, dues, fundraising, etc. should be deposited daily. All money should be deposited prior to holidays and weekends.
- Deposits should be supported by some type of record documenting the source and amount of funds (tabulation of monies collected form, cash receipt form, ticket sales record, etc.). Documentation should be readily available for audit/review purposes.
- Checks should be endorsed immediately.
- Do not secure deposits in the same location as other financial records.
- Cash should be adequately safeguarded at all times. For example, do not keep cash in an unlocked drawer.
- Do not use un-deposited cash (cash on hand) for the purpose of making payments.

Budgetary & Oversight Controls

- Members should establish and approve a budget no later than the beginning of the school year. Actual receipts and disbursements should periodically be compared to the budget.
- At each meeting, the treasurer should provide a written financial report which should include the bank account balance and the Receipt & Disbursement activity since the last meeting. The financial report should also include a comparison of budgeted versus actual receipts and expenditures.
- At the completion of fundraisers, a financial recap should be prepared to determine the profitability of the fundraiser.
- At the end of the fiscal year, a review (audit) of the organization's financial records should be conducted. The review (audit) committee should make a report to the general membership upon completion of the review. A copy of the signature page detailing the results of the review shall be forwarded to the Business Office.

Cash Receipt Procedures

Bank deposits should be prepared as follows to ensure the integrity of financial reporting:

1. Separate all currency and coins by denomination and carefully count and record it in the appropriate section of the bank deposit form. Endorse all checks immediately.

2. A calculator tape may be run for any checks included in the deposit rather than indicating the checks individually on the deposit slip form. A copy of the tape should be retained with your copy of the deposit records.
3. Total the deposit slip.
4. Tally the pre-numbered cash receipts and make certain that this total matches the deposit total.
5. Attach the cash receipt verification with a copy of the deposit slip and file in date order.
6. For large deposits, have another individual independently count the currency only (not the coins or checks) and verify that the currency has been correctly recorded on the deposit slip.
7. Both individuals should initial next to the currency amount on the deposit slip.
8. Seal the deposit in a deposit bag in the presence of the second individual. This is called dual control and places the organization in a better position to challenge any claim that the bank may make that the currency received was incorrect.

Bank Reconciliation

Upon receipt of the monthly bank statement, the balance indicated on the statement should be reconciled to the bank account balance in the general ledger as of the last day of the month. The reconciliation should be completed within 30 days of the date of the bank statement.

Items needed for reconciliation:

- Bank reconciliation form
- Prior month's bank reconciliation
- Bank statement
- Check Register and/or Cash Disbursements Journal
- Cash Receipts Journal
- General Ledger

To complete the bank side of the reconciliation form, perform the following steps:

- Indicate the ending balance per the bank statement.
- Check off outstanding checks from prior month's bank reconciliation using the bank statement.
- Determine the outstanding checks by comparing the check register to the bank statement, including any remaining checks from the previous month.

- Determine the deposits in transit by comparing the cash receipts journal to the bank statement.
- Identify any items that need to be corrected by the bank, such as check printing, returned check charges and encoding errors.
- Total all items and enter the amount on the Adjusted Bank Balance line.

To complete the General Ledger side of the reconciliation form, perform the following:

- Indicate cash account ending balance from the general ledger.
- Compare the bank statement to the check register and list any cleared checks that were not posted.
- Indicate any outstanding returned checks.
- Indicate the interest earned per the bank statement. This amount should be immediately posted.
- Identify any items that need to be corrected on the general ledger (such as encoding errors) under "Other Adjustments".
- Total all items and enter the amount on the "Adjusted Cash Balance" line.

Compare the adjusted bank balance to the adjusted cash balance to make sure that these are in agreement. If they are not, the reconciliation is NOT complete. Examine the prior month's reconciliation to ascertain that all items have been posted and/or corrected.

In addition to the reconciliation, the canceled checks or imaged copies of checks should be reviewed to ensure that the payee is consistent with that identified in the check register, and endorsements on the check are reasonable.

A computerized reconciliation program may be used in conjunction with the organization's financial package.

Petty Cash

Petty cash for general purchases is not recommended. Organizations should maintain a small petty cash account at the time of an active fundraiser for the purpose of providing change to customers during fundraising activities. Petty cash should be returned to the bank at the end of the fundraising activity. Strict controls should be maintained by keeping petty cash in a locked box accessible by only the treasurer and one other officer. Control of the petty cash account by a district employee is prohibited.

Disbursement of Funds

At the outset of the school year, a budget of anticipated expenditures should be developed. Prior to a disbursement, the request to expend funds should be compared with the budgeted expenditures. Disbursements outside the scope of the budget, or line items that exceed the approved budget should require a vote by the general membership. The purchase of alcoholic beverages is not a permitted use of organization funds.

Controls over Disbursements

- Checks should not be generated without proper documentation (i.e. invoice, original receipts, etc.). Supporting documentation should also include the approval signature of the president, or vice president in the absence of the president.
- Checks should require the original signature of two officers.
- Blank checks should not be issued. Officers should not sign incomplete checks.
- Original receipts should be required by a person making a purchase and submitted by that person to the treasurer when a reimbursement is being requested.

University Interscholastic League (UIL) rules limit the ability of students to accept gifts. Awards that students may receive are specifically outlined in Subchapter O, Section 480(a)(2) of the UIL Constitution and Contest Rules. Although all types of student activities are not regulated by UIL, for student consistency and fairness, UIL guidelines must be followed by all booster organizations. No gifts or purchases that individually benefit students shall be made outside of UIL guidelines.

To ensure compliance with UIL guidelines that govern athletic activities, all related disbursements through the Athletic Booster Club shall require the approval of both the sponsor (coach) and the Athletics Director.

Organizations should be aware of the possible financial hardship that the costs may have on certain families of participating students when establishing fees and setting fundraisers. Reasonable efforts should be made to ensure that all individuals are able to participate in activities without a financial hardship.

Organizations may not contribute funds to the district in an effort to increase the personnel allocations and/or stipends of a particular program or campus.

A disbursement voucher should be completed for all expenditures regardless of the amount. The appropriate supporting documentation (invoices, receipts) should then be attached to the disbursement form and filed in check number order. At no time should a check be issued without the appropriate supporting documentation.

The organization should establish a time-frame in which volunteers may be reimbursed for purchases made by the volunteer. For example, a volunteer should submit a completed reimbursement request form no later than 30 calendar days after the purchase, and no later than the last day of the organization's fiscal year.

1099 Requirements

Internal Revenue Service guidelines require that all payments for services of $600 or more made to an individual or unincorporated vendor by an organization be reported on a Form 1099 on an annual basis. The organization should secure an IRS form W-9 from the provider at the time of service to ensure that the organization has an accurate record of the taxpayer identification number. The organization should then issue a Form 1099 to all qualifying vendors used in the preceding calendar year by January 31st. If payment is made to an individual, the following guidelines can be used as a guide to determine if an individual should be considered an employee or contract labor:

- **Risk of profit or loss** - Independent contractors realize a profit or sustain a loss based on their success in performing the work or service.
- **Continuing relationship** - The relationship between an independent contractor and employer ends when the job is done.
- **Compliance with instructions** - Independent contractors cannot be told when, where, or how to do the job.
- **Training** - Independent contractors do not go through any type of instructional training period with a more experienced employee to learn how to do the job. Independent contractors specialize in the field in which they have been employed and do not require training.
- **Personal Service required** - The right of an independent contractor to substitute another's services without the employer's knowledge shows that one particular individual's personal services are not being required by the employer.
- **Integration into the business** - The success or continuation of the business is not dependent on the independent contractor's performance of the service.

- **Control over the hiring, supervising, and paying of assistants** - Independent contractors maintain control of their assistants. The employer contacts the independent contractor if there is a problem, and the employer pays the independent contractor for the work done. The independent contractor then pays the assistants directly.
- **Set hours of work** - An independent contractor sets working hours.
- **A full-time work requirement** - An independent contractor has the availability to work for more than one client.
- **Working for more than one firm** - An independent contractor has an established business in which they work for more than one firm.
- **Worker's availability to the general public** - An independent contractor makes services available to the public on a regular and consistent basis.
- **Working on the employer's premises** - An independent contractor works off-premises unless the nature of the service to be performed requires attendance at the employer's work site.
- **Required work order or sequence** - An independent contractor does not need to be told in what order or how to do a job as he/she is considered an expert in the field.
- **Required reports** - An independent contractor is not required to submit oral or written reports.
- **Payment by the hour, week, or month** - An independent contractor is paid in a lump sum fee basis when the job is done. An invoice must be generated to substantiate the payment.
- **Payment of business or travel expense** - An independent contractor is responsible for his/her own business or travel expense. If paid by an employer, the employer must include the expense amount in the independent contractor's 1099 (unless you can verify an accountable plan).
- **Furnishing of tools and materials** - An independent contractor has the necessary tools and materials to do the job.
- **Investment in facilities** - If the independent contractor maintains an office on the employer's premises, he/she must pay a rent or lease payment for the office space as well as the overhead.

- **Employer's discharge rights** - An independent contractor cannot be terminated as long as he/she is fulfilling the contract.
- **Worker's termination rights** - An independent contractor may be held financially responsible for any loss the employer may suffer due to an incomplete, inaccurate or unsatisfactorily completed contract.

The Internal Revenue Service website (www.irs.gov) may be accessed for appropriate 1099 reporting requirements and forms.

Financial Reconciliation Committee

As an additional measure to certify the accuracy of the books and records of the Parent Organization, a review committee or Financial Reconciliation Committee should be a part of the Organization. This Committee works to assure the membership that the Organization's resources/funds are being managed in a business-like manner within the procedures established.

What is a Financial Reconciliation?

The work of the Committee involves following financial transactions through the records to ensure that receipts have been properly accounted for and expenditures made as authorized in the budget, as approved by the board/general membership, and in conformity with the organization's bylaws and standing rules. The Committee must review all accounts of the organization.

To ensure independence, no one who is an authorized check signer on any bank account may serve on the committee. It is recommended that the incoming treasurer should not be eligible to serve on the committee.

- ✓ It is recommended that a financial reconciliation be performed:
- ✓ At the end of the fiscal year.
- ✓ When any authorized check signer is added or removed on any bank account.
- ✓ At any time deemed necessary by the president or three or more members.

Preparing for the Financial Reconciliation

The outgoing treasurer is responsible for putting the financial records in order for the Committee. The outgoing treasurer should deliver the following to the Reconciliation Committee:

1. A copy of the last financial reconciliation report.

2. The checkbook, cancelled checks and all unused checks for all accounts.
3. Bank statements and deposit receipts.
4. Treasurer's books and ledgers.
5. The annual financial report.
6. All receipts of bills paid.
7. Copies of minutes from general and executive meetings (from Secretary).
8. Adopted budget as amended.
9. Sales tax reports filed (if applicable).
10. All correspondence with any taxing authority.
11. Copies of all financial reports for the period to be reconciled.
12. A report of all fundraising events held since the last sales tax return was filed. List dates held and if any were designated tax free days. It should include total sales, taxable sales and sales tax collected. This information will be necessary for the incoming treasurer to accurately complete the next sales tax return.
13. A list of all paying members and the executive board.
14. Current bylaws and standing rules.
15. Any other information requested by the Reconciliation Committee.

Once the records are turned over to the Committee, the books are considered closed and the outgoing treasurer can no longer write checks. Prior to the start of the new fiscal year, the incoming treasurer should get with the bank to establish all new authorized signatories on the account. The minutes reflecting the election results for President and Treasurer as well as the minutes that contain the appointment of the third signer if applicable will be needed for the bank. The bank will then prepare updated documents for all authorized signatories to sign. During the reconciliation, checks should only be written in the case of an emergency and would be signed by the incoming treasurer and initialed by a member of the Financial Reconciliation Committee.

Conducting the Reconciliation

- Begin the reconciliation with the first transaction posted after the last reconciliation. Make sure the beginning balance agrees to the Balance on Hand per the last reconciliation report.
- Make sure that each check written has proper substantiation, i.e. vendor invoice or check request.
- Ascertain the dates of fund raisers and verify deposits are made timely. Check to see that cash was counted by two people or reconciled to inventory.

- Check all ledger entries back to the cancelled checks and validated deposit tickets. Verify that all income and expenses are allocated to the proper budget category and are within the approved budget.
- Verify that bank reconciliations are done monthly and check their accuracy. Verify all checks have two signatures per bylaw requirements and spot check endorsements.
- Verify that financial reports presented to the membership and board are accurate representations of the transactions recorded in the books.
- Check the accuracy of the annual report and ascertain it will be retained as a part of the permanent file.
- Check to see that checks are not being signed by the individual to whom they are made payable.
- Look for checks with multiple handwriting (other than one of the signatures) or different inks. This would be an indication of blank checks being released.
- Make sure that money collected for a designated purpose was spent only for that purpose.
- Check the minutes of the general membership and board meetings to verify the following:
    1. The budget and all amendments were adopted by the board/general membership.
    2. The general membership approves all fundraisers either through approval of the budget that includes them or through a special vote if added after the adoption of the budget.
    3. Financial reports were presented at all general and board meetings for all accounts.
    4. Any tax-free fundraisers were so designated as such prior to the event. The general membership or executive board can do this, as the unit prefers.
    5. Verify a quorum was present at all board and general meetings.

Irregularities in the Records

If the audit committee finds irregularities in the records of the treasurer, the following steps should be followed:

- Contact the treasurer to secure additional records or information.

- If the matter cannot be settled to the committee's satisfaction, contact the president to work out what additional steps need to be taken.

Financial Reconciliation Report

A member of the reconciliation committee should make a report to the board membership at the first meeting held after the conclusion of the reconciliation. The association should adopt the report at that time. A copy of the annual report should be attached to the reconciliation report and maintained permanently by the treasurer and placed in the minutes. In the event a complete reconciliation cannot be done due to the inadequacy or unavailability of the records this must be reported to the membership as well. Steps should be recommended for adoption to correct the situation. In the event the validity of the reconciliation report is questioned, an independent CPA could be engaged. The membership must approve any funds to be expended prior to engaging the services of a CPA.

In reporting an audit that finds inaccuracies in the records of the treasurer, the following statement should be given at the appropriate time:

"*The Financial Reconciliation Committee has examined the records of the treasurer of_____for the period (_____). The current balance on hand is $_____."*

The following irregularities have been found;

(List all irregularities)

The following steps were taken to correct the problems:

(List all steps)

To prevent these types of problems from occurring in the future, we recommend the following:

(List the recommendations)

Remember, the treasurer is legally responsible for all the funds of the organization. However, the officers of the organization are elected by the membership and should be committed to keeping the affairs of the association on a sound financial basis.

IMPORTANT:

Any investigation by the Financial Reconciliation Committee must be kept confidential.

STATE AND FEDERAL REGULATORY SUMMARY

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 Parent Organizations. New and existing Parent Organizations must abide by the regulations and guidelines set by these agencies. Parent Organizations should also maintain a current level of knowledge regarding law changes that affect them.

The purpose of this section is to provide general regulatory information to Parent Organizations that is current as of the date this handbook was published. Business Services strives to keep the Parent Organizations aware of new changes; however, it is the Parent Organization's responsibility to seek competent professional tax advice for its own tax reporting and filing requirements. The information provided in this document is not intended to be all-inclusive.

Creating Your Own Identity Overview

The next three sections of the *Handbook* 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.

1. Decide if your Parent Organization will be an association or a corporation and prepare the necessary organizing document.
    a. Both the IRS and State of Texas require that each Parent Organization 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.
    b. An association will prepare and sign a "Certificate of Formation" 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.
    c. 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.

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 Incorporation of a Non-Profit Organization below.)*
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.
7. Receive a Letter of Acknowledgement from the IRS indicating receipt of your application and payment.
8. Correspond with the IRS if the 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 LISD Business 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. Place all of the documents related to these steps in a "Permanent File" in a safe location to be forwarded to the new officers each year.

Incorporation of a Non-profit Organization

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. For the most up-to-date version of this information, please go to http://www.sos.state.tx.us/corp/nonprofit_org.shtml

Nonprofit Corporations: Not all non-profit organizations are filed with the Secretary of State. Many, but not all, non-profit organizations choose to incorporate. A nonprofit corporation is created by filing a certificate of formation with the secretary of state in accordance with the Texas Business Organizations Code ("BOC"). "Nonprofit Corporation"

means a corporation no part of the income of which is distributable to members, directors, or officers [BOC, Section 22.001(5)]. A nonprofit corporation may be created for any lawful purpose, or purposes permitted by the BOC. Not all nonprofit corporations are entitled to exemption from state or federal taxes.

Unincorporated Nonprofit Associations: Section 252.001 of the BOC defines an unincorporated nonprofit association as an unincorporated organization consisting of three or more members joined by mutual consent for a common, nonprofit purpose. All unincorporated nonprofit associations, whether or not the entities are tax exempt, are subject to the provisions of the Uniform Unincorporated Nonprofit Association Act, Chapter 252 of the BOC. The Act addresses a limited number of major issues relating to nonprofit associations; namely, the authority of the nonprofit association to acquire, hold and transfer property in its own name; the authority to sue and be sued as a separate legal entity; and the contract and tort liability of an association's officers and its members. If you need further information regarding these provisions or how they might affect your association, you should contact your own legal counsel. An unincorporated nonprofit association may, but is not required to, file with the secretary of state a statement appointing an agent authorized to receive service of process on behalf of the nonprofit association. The filing of the statement does not represent the creation of the nonprofit association; it simply provides a method for a nonprofit association to receive notice of any lawsuit brought against it.

- SOS Forms for Nonprofit Corporations and Unincorporated Nonprofit Associations
- FAQs for Nonprofits
- Doing Business with the SOS on and after January 1, 2010: A Guide for Texas Nonprofit Corporations

Exempt Organizations

If you intend to apply for IRS federal tax exemption as a charitable organization, your certificate of formation must contain a required purposed clause and a dissolution of assets provision. Valuable information on 501(c)(3) qualification is on the IRS website. It includes sample articles of incorporation (certificate of formation). Click the "Charities and Nonprofits" link and then the Life Cycle of a Public Charity link.

- IRS Publication 557 tax exempt status for your organization.
- IRS Form 1023 application for recognition of exemption.
- Form 990, Return of Organization Exempt from Income Tax
- The IRS provides workshops online.
- Comptroller of Public Accounts: Information on exemption from state taxation.

Texas Nonprofit Resources

- Texas Association of Nonprofit Organizations: A gathering place for all nonprofits within the state of Texas.
- Texas Business Advisor: The Texas Business Advisor provides links to various sites that may be of assistance to non-profit associations.
- Charitable Trust Section of the Office of the Attorney General
- Texas C-BAR: Community Building with Attorney Resources provides free legal assistance to Texas non-profit organizations.
- OneStar Foundation - OneStar promotes service and volunteerism, forges effective public and private partnerships, and works to increase the performance of non-profit organizations.

State Regulatory Information

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

Each Parent Organization should strive to remain in good standing with all state agencies. **Each Parent Organization 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 will be the Parent Organization's responsibility.

General State Regulatory Information

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

This information is organized as follows:

- Obtaining a Texas Sales Tax Permit
- Qualifying for Exemption from Texas Limited Sales, Excise, and Use Tax
  - Parent Organizations with the Limited Exemption
  - Parent Organizations with No Exemption
  - "Tax-exempt" Organizations
- Reporting Requirements
- Franchise Tax
- Change in Address
- Further Questions?

Obtaining a Texas Sales Tax Permit

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 Parent Organization must **first** obtain an Employer Identification Number (EIN) from the Internal Revenue Service (IRS) to establish its identity as an organization. *(See information under Federal Regulatory Information below.)* Parent Organizations should obtain a Texas Sales Tax Permit they 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 Parent Organizations sell services that may be taxable.

Parent Organizations may obtain a Texas Sales Tax Permit by visiting the Comptroller's website at http://comptroller.texas.gov/taxpermit/. A Texas Sales Tax Permit will be issued to the Parent Organization 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.

Parent Organizations shall 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 Parent Organization 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 Parent Organizations 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 Parent Organization a taxable organization, the Parent Organization ***cannot*** receive an exemption from the Texas limited sales, excise, and use tax.

Parent Organizations 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 Certificate of Formation, if the Parent Organization is incorporated.
5. Copy of the Determination Letter from the IRS granting the Parent Organization tax-exempt status.
6. Copy of the Parent Organization's constitution or any applicable trust agreement.

The Texas State Comptroller's Office may require a Parent Organization 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.

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 Parent Organization in writing if the organization qualifies for the exemption. This review process may take about 2 to 3 weeks.

IMPORTANT

If a Parent Organization 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 Parent Organization/Booster Club would be taxable.** In addition, the Parent Organization must notify its vendors of the loss of exempt status concerning the Texas limited sales, excise, and use tax.

Parent Organizations with the Limited Exemption

The exemption from the Texas limited sales, excise, and use tax (limited exemption) allows the approved Parent Organizations to make tax-exempt purchases of items intended for resale for a fund-raiser. The Parent Organization 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 Parent Organization's Sales Tax Permit Number to be valid. Parent Organizations may request the Texas Resale Certificate from the Texas State Comptroller's Office.

VERY IMPORTANT – Please Note: Parent Organizations 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.

Parent Organizations with No Exemption

Parent Organizations that are taxable organizations or Parent Organizations 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.

Parent Organizations 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 Parent Organizations.

Reporting Requirements

The Texas State Comptroller's Office requires that Parent Organizations 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 Parent Organizations 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.

Franchise Tax

The franchise tax serves as Texas's 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 Parent Organization is incorporated, they are subject to franchise tax.

However, Parent Organizations 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**. Parent Organizations 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. Copy of the Articles of Incorporation, if the Parent Organization is incorporated.
4. Copy of the Determination Letter from the IRS granting the Parent Organization tax-exempt status.
5. Copy of the Parent Organization's constitution or any applicable trust agreement.
6. The Texas State Comptroller's Office may require a Parent Organization to furnish additional information including, but not limited to, documentation showing
7. All services performed by the organization and
8. All income, assets, and liabilities of the organization.
9. **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.**

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 Parent Organization 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 Parent Organization obtain its own post office box (PO Box) or private mailing box (PMB) to be used for official Parent Organization 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. The District's campus mailing address cannot be used by the Parent Organizations.

Further Questions?

If you have additional questions regarding the information discussed, you may contact the Texas State Comptroller's Office.

Federal Regulatory Information

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

Each Parent Organization should strive to remain in good standing with all federal agencies, including the Internal Revenue Service (IRS). **Therefore, each Parent Organization 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 Parent Organization's responsibility.

General Federal Regulatory Information

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

This information is organized as follows:

- Obtaining an Employer Identification Number
- Why Do I Want To Be Tax-exempt?

- Why Do I Want To Be a Public 501(c)(3)?
- Becoming a Public 501(c)(3) Tax-exempt Organization
- Applying for Public 501(c)(3) Tax-exempt Status
- Obtaining Tax-exemption through National Affiliation
- Advance Ruling Period (Temporary Tax-exempt Status)
- Filing Requirements for Tax-exempt Organizations
- Taxable Organizations Change in Address
- Further Questions?

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 Parent Organizations from using their central organization's EIN; therefore, **Parent Organizations 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. "Nonprofit" is a state law concept and is **not** recognized by the IRS.

Parent Organizations may obtain an EIN by Completing IRS Form SS-4 (Application for Employer Identification Number). **Parent Organizations should not use an individual's social security number to conduct the business of the organization.** The online application can be located at: **Apply for an EIN Online**

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. Copies of the completed SS-4 form and the IRS response documenting the assigned EIN number should be kept in the Parent Organization 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) organizations 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

However, the following are restrictions placed on tax-exempt organizations that Parent Organizations **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 Parent Organizations 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 Parent Organization'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 Parent Organization to credit *an individual* with revenues raised. The Parent Organizations 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, Parent Organizations raise funds for a student group through the efforts of the Parent Organization's members; however, sometimes the students of the group being assisted participate in the fundraising activities. A Parent Organization 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 should 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 Parent Organization cannot require that each Parent Organization 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 team is attending a summer camp that costs $2,000 for its 10 members ($200 each). The Team Booster Club decides to have a catalog fund-raiser to help defray some of the cost of the summer camp. The catalog sale generates a total of $200 of revenue. Of the 10 total members of the team, only 2 participate in the catalog sale that generates the $200, which is deposited into the Team Booster Club's bank account.

Since revenues from the catalog sale were to be used to defray some of the camp expense, the tax-exempt Team Booster Club must give all 10 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, Parent Organizations 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 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 Parent Organizations applying for tax-exempt status should apply for 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.

All Parent Organizations should seek tax-exempt status with the IRS as a public 501(c)(3) organization. The Parent Organization 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. IRS Form 1023
2. Complete IRS Form 8718 (User Fee for Tax-exempt Organization Determination Letter Request) IRS Form 8718 and pay the required fee (based on anticipated annual gross receipts).
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 $400 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 $850 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 Parent Organization'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 Parent Organization's bank account(s).

When completing the IRS Package 1023, Parent Organizations 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 Parent Organization has to file its informational return (Form 990) to the IRS. The return is due 4 ½ months after the end of a fiscal year *(the 15th day of the 5th 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 August 31. 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.

The IRS approval process for tax-exempt status usually takes several months. 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 Parent Organization granting 501(c)(3) tax-exempt status and within set guidelines that apply to 501(c)(3) organizations.

Therefore, if the Parent Organization 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, Parent Organizations 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 Business Office when each is received.

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 must obtain an Employer Identification Number (EIN).

Advance Ruling Period (Temporary Tax-exempt Status)

Some Parent Organizations 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 Parent Organizations 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 Parent Organization 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, Parent Organizations should not rely on the IRS. Instead, the Parent Organizations 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.)*

The return is due by the 15th day of the 5th month after the accounting period ends (due 4½ months after the Parent Organization's official or fiscal year-end). Please refer to your *Determination Letter* for confirmation of your accounting period year-end.

Update to Federal Filing: Parent Organizations must use Form 990-N if their gross receipts are less than $50,000.

<u>Organizations must use Form 990-N if:</u>

1. Gross receipts are less than $50,000.

<u>Organizations must use Form 990-EZ if:</u>

2. Gross receipts are less than $200,000 **and**
3. Total assets are less than $500,000 at year-end.

<u>Organizations must use Form 990 if:</u>

1. Gross receipts are $200,000 or more **or**
2. Total assets are $500,000 or more at year-end.

The IRS may impose various penalties against the organization and against the responsible person for failure to file required returns. Failure to file for three consecutive years will result

in the organization's loss of 501(c)(3) status.

Taxable Organizations

If a Parent Organization has not obtained tax-exempt status from the IRS, that Parent Organization 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 Parent Organizations 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 Parent Organization's responsibility.

Change in Address

Immediately notify the IRS if the Parent Organization'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 Parent Organization obtain its own post office box (PO Box) or private mailing box (PMB) to be used for official Parent Organization mail. In addition, this address and box keys can be given easily to the new officers at the beginning of each new year. The District does not allow campus addresses to be used by a Parent Organization.

Further Questions?

If you have additional questions regarding the information discussed above, you may contact the **Internal Revenue Service.**

Additional Resources

Booster Club Guidelines

ROLE OF BOOSTER CLUBS

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

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

WRITTEN POLICIES

Booster clubs should develop and annually review policies to cover:

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

ROLE OF THE SUPERINTENDENT

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

PARENTS

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

COACHES AND DIRECTORS

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

CLUB FINANCES

Fundraising | Spending | Stipends | Gifts to Coaches

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

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

- Community-wide sales campaigns should be coordinated through the school administration to minimize simultaneous sales campaigns.
- Sales campaigns should be planned carefully to insure that the projects provide dollar value for items sold, and that most of the money raised stays at home. Otherwise donations are often more rewarding than letting the major part of the money go to outside promoters.
- Fund-raising activities should support the educational goals of the school and should not exploit students. Activities and projects should be investigated carefully before committing the school's support.
- Individuals who actively coach or direct a UIL activity should serve in an advisory capacity only to the booster club and should not have control or signature authority over booster club funds, including petty cash or miscellaneous discretionary funds.
- Coach's wish lists should have received prior approval from school administration before submission to boosters.
- Coaches and directors of UIL academics, athletics and fine arts may not accept more than $500 in money, product or service from any source in recognition of or appreciation for coaching, directing or sponsoring UIL activities. The $500 limit is cumulative for a calendar year and is not specific to any one particular gift. See Section 481, UIL *Constitution and Contest Rules*.
- Schools shall not pay to coaches, and coaches shall not accept, funds gathered by a high school booster club or other sources within the school district. See Section 1202(b), UIL *Constitution and Contest Rules*.
- Funds are to be used to support school activities. To provide such funding for non-school activities could violate UIL rules and the public trust through which funds are earned.

ATHLETIC BOOSTERS

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

- Athletic booster club funds shall not be used to support athletic camps, clinics, private instruction or any activity outside of the school.
- The local school district determines when, how and from whom student athletes can receive meals and snacks. See Section 441(b)(9), UIL *Constitution and Contest Rules.*
- Schools must give prior approval for any banquet or get-together given for students.
- Students may not accept money or other valuable consideration from school booster club funds for any non-school purpose. See Section 441(A)(3), UIL *Constitution and Contest Rules.*
- Student athletes are prohibited from accepting valuable consideration for participation in school athletics - anything that is not given or offered to the entire student body on the same basis that it is given or offered to an athlete. See Section 441(a), UIL *Constitution and Contest Rules. Valuable consideration is defined as tangible or intangible property or service including anything that is usable, wearable, salable or consumable.*
- Booster groups or individuals may donate money or merchandise to the school with prior approval of the administration. These kinds of donations are often made to cover the cost of commercial transportation and to cover costs for meals. It would be a violation for booster groups or individuals to pay for such costs directly, without prior approval from the local school administration. See Section 441(b)(9) and Section 840 (a)(2)(A)(iv).
- Student athletes may accept small "goodie bags" consisting of cookies, candy and symbolic gifts from their classmates, if allow ed by local school policy. See Section 441(B)(7), UIL *Constitution and Contest Rules.*
- May award scholarships for college or university enrollment if awarded at or after graduation from high school, if approved by the local ISD.

ACADEMIC BOOSTERS

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

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

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

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

EXAMPLES OF ACADEMIC BOOSTER CLUB CONTRIBUTIONS THAT ARE NOT PROHIBITED BY UIL RULE, WITH LOCAL ADMINISTRATIVE APPROVAL, ARE:

- Purchase equipment for programs such as computers or software for yearbook or computer science.
- Organize and chaperone trips and assist with expenses for travel to academic competitions or educational trips such as journalism conventions or speech tournaments. Booster club funds may be used to provide food and refreshments for students on these trips. A purely recreational trip would not meet the definition of an educational field trip and could be considered a violation of the Awards Rule. See Section 480(2)(d), UIL *Constitution and Contest Rules*.
- 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.

- Be mindful of the fact that there is no Music Amateur Rule. Therefore, limitations established in athletics intended to ensure compliance with the Athletic Amateur Rule do not apply to music programs and related activities.
- Some music booster clubs assist with expenses for travel to various music-related activities such as UIL contests and performances at away athletic events. Such financial support violates no UIL rules provided that it is approved and coordinated by the local school district.
- Many music groups schedule educational field trips with the approval of the local school administration and under local school district policies. For such trips, specific educational components must be included such as performing for a music festival, 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(f) 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. See Section 480(2)(A), UIL *Constitution and Contest Rules*. In order to protect all music students' eligibility, such awards should be approved and administrated by the local school district in accordance with school district policies.

SALES AND USE TAX BULLETIN
July 2009
Susan Combs, Texas Comptroller of Public Accounts

School Fundraisers and Texas Sales Tax

Texas school districts, public schools, qualified exempt private schools and each bona fide chapter within a qualifying school are exempt from the payment of Texas sales and use tax on purchases of taxable items for their use, if the purchases are related to the organization's exempt function.

The organization must obtain a sales tax permit and collect and remit sales tax on taxable items it sells unless one of the exemptions listed below applies. An organization does not have to register for a sales tax permit if all its sales are of exempt items or if its sales take place through tax-free fundraisers.

Two One-Day Tax-Free Sales

School districts, public schools, qualified exempt private schools and bona fide chapters within a qualifying school may conduct two one-day tax-free sales or auctions each calendar year. For the purposes of this exemption, one day is counted as 24 consecutive hours and a calendar year is the 12-month period from January through December. See subsection (h) of Rule 3.322, "Exempt Organizations."

For example, a school may sell taxable items such as t-shirts, hats, uniforms, school supplies or crafts tax-free on a designated tax-free sale day. These days should be designated in advance so that purchasers are aware that the sales are not subject to tax. The organization may not collect tax on the transactions and keep the tax under the "tax-free" sale provision. The exemption does not apply to any item sold for more than $5,000 unless it is manufactured by the organization or donated to the organization and not sold back to the donor.

Either the date on which the items are delivered by the vendor to the school organization or the day on which the school organization delivers the items to its customers may be designated as the one-day tax-free sale day. Persons buying from surplus inventory on the designated date do not owe tax. Those buying on subsequent dates owe tax unless the purchase occurs on the organization's other tax-free sale day.

For example, a school group selling yearbooks may accept pre-orders without collecting tax if the day the yearbooks will be delivered to customers is designated as one of the group's tax-free fundraisers. Surplus yearbooks sold during the same day also qualify for the exemption. Surplus yearbooks sold on other days are taxable unless sold at the group's other tax-free fundraiser.

Tax Help: **tax.help@cpa.state.tx.us** • Window on State Government: **www.window.state.tx.us**
Call Tax Assistance Toll Free: **(800) 252-5555** • Local Number in Austin: **(512) 463-4600**

If two or more groups hold a one-day tax-free sale together, the event counts as one tax-free sale for each participating organization. Each of those organizations then is limited to one additional tax-free sale during the remainder of the calendar year.

If an exempt organization is purchasing taxable items for resale during its designated tax-free sale days and it holds a sales tax permit, the organization may either give the retailer a resale certificate, Form 01-339 (front), or an exemption certificate, Form 01-339 (back) to purchase the items tax-free. A non-permitted exempt organization, however, may purchase items for resale tax-free by issuing an exemption certificate to the vendor for items sold during its two one-day, tax-free sales.

Schools and Bona Fide Chapters

To qualify as a bona fide chapter of a school, a group of students must be organized for an activity other than instruction or to have a tax-free sale. Bona fide chapters include student groups recognized by the school and organized by electing officers, holding meetings and conducting business. There is no limit on the number of bona fide chapters a school can have. Bona fide chapters can include whole grade levels (e.g. senior class, junior class or freshmen), but cannot be limited to specific classes (e.g. Senior English or Biology II). Various other school groups such as a student council, science club or drama club can qualify if they are composed of students and school staff.

A department of a school, such as a purchasing, accounting, maintenance or IT department, is not a bona fide chapter even though it is part of the school or school district.

Groups that are not considered bona fide chapters, unless otherwise qualified to hold the two one-day tax-free sales, must obtain a sales tax permit and collect and remit sales tax on all taxable items sold at fundraisers. Non-student organizations such as booster clubs and PTAs/PTOs cannot qualify as bona fide chapters of a school, but may qualify for the tax-free sale days under other provisions of the Tax Code. See the "Nonstudent Nonprofit Organizations" section in this publication for more information.

Non-Qualifying Fundraisers – Acting as an Agent or Sales Representatives

When a school, school group, PTA/PTO, booster club or other exempt organization raises funds by acting as a sales representative or commissioned sales agent for a for-profit retailer, the group is not responsible for reporting and remitting sales and use tax. As a result, however, the exempt organization is not considered to be the seller and cannot use a tax-free sale day for this type of event. In these cases, the group receives a commission for holding a book fair or for selling candy, gift wrap, holiday ornaments, candles or similar items.

When an exempt organization acts as a commissioned sales agent or representative for a for-profit seller, the seller should provide instructions and information regarding the proper collection of tax. The for-profit retailer may advertise in the sales catalog or state on each invoice that tax is included or require that tax be calculated and collected based on the selling price of each taxable item. The for-profit retailer is then responsible for remitting the tax collected or backed out to the Comptroller. Similarly, sales of taxable items made through the Web site of a for-profit retailer are also taxable and may not be sold tax-free in connection with a fundraiser.

Nonstudent Nonprofit Organizations

Nonstudent nonprofit organizations that are not bona fide chapters of schools may qualify for two one-day tax-free sales or auctions on their own.

A **booster club** for a band, football team or similar group may hold two one-day tax-free sales or auctions

once it has obtained a sales tax exemption from the Comptroller's office on its purchases.

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

Parent-teacher associations (PTAs) affiliated with the Texas state PTA or the national PTA are exempt as educational organizations and can hold two one-day tax-free sales or auctions each calendar year. **Parent-teacher organizations** (PTOs), as well as **parent-teacher-student associations** (PTSAs) and **organizations** (PTSOs), are also exempt from sales tax as educational organizations.

PTAs *not* affiliated with the Texas state PTA or the national PTA, parent-teacher organizations (PTOs) and parent-teacher-student associations (PTSAs) and organizations (PTSOs) are also eligible for exemption from sales tax as educational organizations. These organizations should complete form AP-207 and submit it to the Comptroller's office. Once the exemption has been granted, these organizations can also hold two one-day tax-free sales or auctions each calendar year.

Sales of taxable items by PTAs, PTOs, PTSAs, and PTSOs made at other times of the year are subject to tax.

Internet Sales

Sales of taxable items over the Internet are treated the same as sales of taxable items made at the school or at any other sales location. Schools, school groups and other non-student, nonprofit organizations that accept online orders through a Web site must collect sales tax on taxable items they sell online. An online sale occurring during a one-day tax-free sale, however, would qualify for the exemption.

Food and Beverage Sales

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

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

Concession Stands

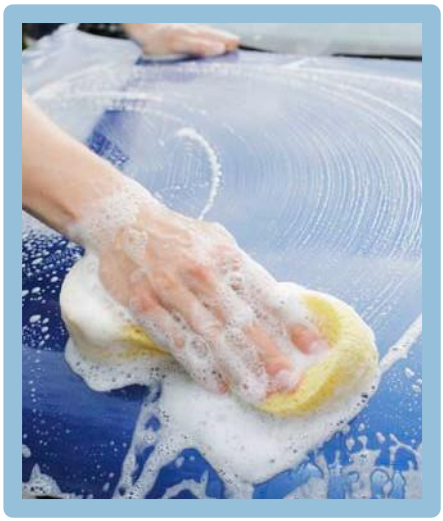
Concession-stand food sales are exempt from tax when made by a school group, PTA/PTO or other group (such as a booster club) associated with a public or private elementary or secondary school, if the sales are part of the organization's fundraising drive and all net proceeds go to the organization for its exclusive use. The exemption applies to sales of soft drinks and candy, but does not include sales of alcoholic beverages. The group can issue an exemption certificate in lieu of paying tax on purchases of candy, sodas, gum and other taxable food items sold at its concession stand. The exemption certificate should state that the group will sell the items as a fundraiser.

Annual Banquets and Annual Food Fundraisers

All volunteer nonprofit organizations can hold a tax-free annual banquet or other food sale provided the

event is not professionally catered; is not held in a restaurant, hotel or similar place of business; is not in competition with a retailer required to collect tax; and the food is prepared, served and sold by members of the organization. The exemption does not apply to the sale or purchase of alcoholic beverages. To qualify for exemption, the food sale must:

- be an annual event;
- last no more than one week;
- be a fundraising project exclusively provided by the volunteers of the participating nonprofit organizations;
- be non-commercial in every respect (that is, the food and beverages cannot be prepared or served by a caterer or a restaurant, and must be prepared and served by the participating organizations' volunteers, without pay); and
- not be held in competition with a retailer at the same event who must collect tax on food and beverage sales.



The annual food sale or banquet exemption does not apply to sales of alcoholic beverages or non-food items (e.g., arts, crafts or t-shirts). Alcoholic beverages are not food products and are taxable. The type of tax due (sales tax or mixed beverage gross receipts tax) depends upon the type of permit held by the selling organization. Sales of alcoholic beverages, including beer, wine and mixers, are subject to the Texas 14 percent mixed beverage gross receipts tax when sold by a mixed-beverage permit holder, while sales of beer and wine made by a beer and wine-only permit holder are subject to sales tax.

Nontaxable Sales

Some items are not subject to sales tax no matter who sells them.

Nontaxable Food Items

Sales tax is not due on nontaxable food items. Examples of such items include cookie dough, pizza kits, cheese spreads, meat sticks, jelly, salsa, fresh fruit and mixes packaged for preparation at home.

Magazine Subscriptions

Subscriptions to magazines entered as periodicals-class (formerly called second-class) mail and sold for six months or more are exempt from sales tax. Single issues and subscriptions for fewer than six months are taxable, however.

Bakery Items

Bakery products (including but not limited to pies, cakes, cookies, bagels and muffins) are exempt unless sold with plates or eating utensils.

Gift Certificates and Passbooks

Sales of intangibles such as gift certificates and coupon passbooks are not subject to sales tax. Instead, retailers should collect tax when the certificate or coupon is redeemed for the purchase of taxable merchandise or services. The tax is based on the item's actual retail selling price less any cash discount given at the time of the sale (e.g., a deduction for a coupon). Of course, if the gift certificate is for a nontaxable service such as a haircut, manicure or facial, no sales tax is due when the certificate is redeemed. Taxable services are listed in "Taxable Services" (Tax Publication 96-259.)

Car Washes

Washing a car is not a taxable service under the Texas Tax Code. Groups holding car washes are not required to collect tax on their charges for this service.

Amusement Services

The sale of an amusement service provided exclusively by a nonprofit organization, other than an IRS Section

501(c)(7) organization, is exempt from sales tax. For example, the sale of an admission ticket to a school carnival, dance, athletic event or musical concert is exempt.

Periodicals and Writings

Periodicals and writings (reading materials including those presented on audio tape, videotape and computer disk) are exempt from tax if published and distributed by a religious, philanthropic, charitable, historical, scientific or other similar organization not operated for profit. A "similar" organization must be organized for a benevolent purpose and must not be operated for profit. Similar organizations include PTAs, PTOs, PTSAs and PTSOs, but exclude all public and private educational organizations.

This means that PTAs, PTOs, PTSAs and PTSOs may publish and sell printed reading materials such as yearbooks, books, calendars, directories, magazines, brochures and newsletters without collecting sales tax. The qualifying organization may issue a properly completed resale certificate to the printer in lieu of paying tax on charges for printing, binding and item placement.

Items that contain printed materials that can be read but primarily serve other purposes or functions, such as school logo t-shirts, bookmarks, photographs and novelties, are subject to sales tax *unless* sold during a qualifying and designated tax-free sale or auction.

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

Donations

A purchaser using personal funds may give an exemption certificate to vendors when buying taxable items that will be donated to a qualifying organization, such as a school, before the individual makes any use of the items. The exemption certificate must state that the taxable item is being purchased by the individual for donation to an exempt organization and must clearly identify the organization accepting the a donation (see Tax Code Section 151.155[b]). If the purchaser makes use of the item before it is donated, the purchaser is responsible for paying or accruing tax on the item's purchase price.

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

Sales to Students

Generally, other than the exemptions previously identified, schools and associated groups must collect, report and remit sales tax on taxable items that they sell or taxable services they provide to others, including sales made to students.

Schools may issue a resale certificate in lieu of paying tax to suppliers when purchasing taxable items to sell. Schools may issue an exemption certificate in lieu of paying tax when purchasing taxable items for their use or for giving away to students or others as part of a course of instruction. A district must collect tax on the sales price of taxable items when selling them to students or to others.

For example, if a school sells uniforms, gloves and shoes to drill team members, it must collect tax on the sales unless it designates their sale as one of its two one-day tax-free sales. The school may purchase the uniforms tax-free for resale to the drill team members.

The table on the following page is a short list of examples of taxable and nontaxable sales.

TAXABLE	NONTAXABLE
Rental of tangible personal property such as locks, musical instruments, calculators and computers	Rental of real property such as a gymnasium, auditorium, library or cafeteria
Horticultural products such as flower arrangements, roses, carnations, holiday greenery and poinsettias	Agricultural products (plants and seeds), the products of which ordinarily constitute food for human consumption
Cosmetology products such as shampoo, conditioner and nail polish sold to customers	Cosmetology services such as haircuts, shampoo, manicures and pedicures
Parking permits for the general public	Parking permits for public school students, faculty and staff
Animals that do not ordinarily constitute food or food products, such as hamsters, mice, cats and dogs	Farm animals such as pigs, cows, chickens and other livestock
Publications such as football, basketball or volleyball programs	Sales of advertising space in athletic programs, yearbooks, newspapers
Automobile repair parts (a separately stated charge for parts is taxable; a separately stated charge for repair labor is not taxable)	Automobile repair (a lump-sum charge for parts and labor)
Car carpet shampooing	Car washes
Magazines (single issue or subscription less than six months)	Magazine subscriptions for six months or longer

Need More Information?

For more information, see:

Rule 3.286, "Seller's and Purchaser's Responsibilities"

Rule 3.322, "Exempt Organizations"

Rule 3.293, "Food; Food Products; Meals; Food Service"

Rule 3.298, "Amusement Services"

Rule 3.299, "Newspapers, Magazines, Publishers, Exempt Writings"

Tax Publication 96-122, "Exempt Organizations - Sales and Purchases" — Frequently Asked Questions section provides information about school organizations applying for exemption from state taxes.

Tax Publication 96-259, "Taxable Services"

Please use our Texas Online Sales Tax Registration System to apply for a sales tax permit. An application also can be downloaded from our Tax Forms Online page. You can also obtain an application by calling (800) 252-5555 or by visiting one of our enforcement field offices.

For questions about an organization's Texas tax-exempt status, please use our Texas Tax-Exempt Entity Search, write to exempt.orgs@cpa.state.tx.us, or call Tax Assistance at (800) 531-5441 and ask for the Exempt Organizations Section.

For information on how to apply for federal exemptions, contact the U.S. Internal Revenue Service at (877) 829-5500 or online at http://www.irs.gov/.

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