


SCHOOL FINANCE, w/ RELATED SCHOOL LAW
For Principals, Assistant Principals, and Administrative Assistants



TENNESSEE ASSOCIATION OF
SCHOOL BUSINESS OFFICIALS

MURFREESBORO, TN
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PART I: INTRODUCTION

- Proper accountability for school funds generated through student activities is most likely not even in the top ten most important responsibilities of school administrators.
 - This is why school principals rely so heavily on school finance personnel.
- Most school administrators have not even been exposed to school finance through their educational leadership programs.
 - And if exposed to some finance, unfortunately it is not relevant to individual schools.

PART I: INTRODUCTION

- Unless your principal has a financial background or a financial mind, finance and budgeting is neither exciting nor fascinating.
- However, sound financial reporting and budgeting is essential to the success of every governmental entity
 - and is essential to keeping your principal and perhaps you out of "orange or stripes".
 - And I am not referring to
 - N.Y. Yankee Pinstripes or
 - Tennessee Orange

PART I: INTRODUCTION

It is essential that your principal has a working knowledge and a sound understanding of what is expected of him/her when *any* employee of your school (or *anyone representing your school*) collects funds in the name of the school or representing the school *from any source*.

SECTION II: GENERAL PRINCIPLES OF THE TENNESSEE INTERNAL SCHOOL UNIFORM ACCOUNTING POLICY MANUAL



Games of Chance

GAMES OF CHANCE

- All games of chance, except those conducted by the State of Tennessee, are prohibited by the State Constitution.
- Therefore, cake walks, ticket sales with drawings to split the pot, and the like are not legal within this State.
- State Representative

GAMES OF CHANCE

Article XI, Section 5 provides, in part, “The Legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery tickets in this state,

- except that the legislature may authorize a state lottery if the net proceeds of the lottery’s revenues are allocated to provide financial assistance to citizens of this state to enable such citizens to attend post-secondary educational institutions located within this state...

GAMES OF CHANCE

All other forms of lottery not authorized herein are expressly prohibited unless

- authorized by a two-thirds vote of all members elected to each house of the General Assembly for an annual event operated for the benefit of a 501(c)(3) organization located in this state, as defined by the 2000 United States Tax Code or as may be amended from time to time.”

GAMES OF CHANCE

- Schools are not §501 organizations.
 - School districts were not created by the IRS.
 - School districts were created or authorized by the General Assembly either
 - when counties were recognized or
 - by approval of charters as in city schools or
 - by approval of special legislation as in special school districts.

GAMES OF CHANCE

- To conduct a lottery, permission must be obtained.
- Remember: The school principal is ultimately responsible for *all activities* within a school, even those conducted by outside organizations.
 - What about a poker tournament conducted by properly approved school support organization taking place in the school gym?

SECTION VIII: SCHOOL FEES

- AP World History: \$130 textbook
- AP Geography: \$91 textbook
- Honors French: \$32 workbook
- AP Latin: \$26 workbook
- Food Trends: \$25 for groceries
- 6th Grade World Studies: \$10 atlas
- Science classes: \$12 average lab fee

- Constitution
- State Law
- State Board Rules and Regulations
- Tennessee Attorney General Opinion

SCHOOL FEES

- Schools charging students school fees is not just an issue in Tennessee or the United States. These are just some of the most recent headlines
 - California students get new protections against public school fees
 - ACLU lawsuit: Public school fees are unconstitutional
 - School fees frustrate families
 - School Fees Are Illegal
 - Abolishing School Fees in Africa

CONSTITUTIONAL LAW

Tennessee Constitution, Art. XI, §12 provides, in part, "The state of Tennessee recognizes the inherent value of education and encourages its support. The General Assembly shall provide for the maintenance, support and eligibility standards of a system of *free public schools*."

STATE STATUTE

TCA §49-2-110(c) provides, "The school shall not require any student to pay a fee to the school for any purpose, *except as authorized by the board of education*, and no fees or tuitions shall be required of any student as a condition to attending the public school or using its equipment while receiving educational training (emphasis added)."

- Is this consistent with the Constitution?

STATE BOARD OF EDUCATION RULE

To this end, State Board of Education Rule 0520-01-03-.03 has been revised and provides, in part, "No fees may be required of any student, regardless of financial status (including eligibility for free or reduced price lunch), as a condition of attending public schools or using its equipment while receiving educational training."

- What about the statute providing "*except as authorized by the board of education...*"

STATE BOARD OF EDUCATION RULE

School fees are defined as

1. fees for activities that occur during regular school hours, including field trips, *any portion of which fall within the school day* (emphasis added);
2. fees for activities and supplies required to participate in all courses offered for credit or grade, including interscholastic athletics and marching band if taken for credit in accordance with local board policies;

STATE BOARD OF EDUCATION RULE

3. fees or tuition applicable to courses taken for credit or grade during the summer by a student; except that non-resident students regularly enrolled in another school system may be required to pay fees or tuition for such summer courses;
4. fees required for graduation ceremonies;
5. fees for a copy of the student's record; and

STATE BOARD OF EDUCATION RULE

6. refundable security deposits collected by a school for use of school property for courses offered for credit or grade, including interscholastic athletics and marching band if taken for credit in accordance with local board policies.

TENNESSEE ATTORNEY GENERAL

In opinion 03-116, the Tennessee Attorney General set forth a three-part test to determine what constitutes a school fee

1. was the fee approved by the board of education;
2. does the fee affect the student's access to education; and
3. does the fee concern use of school equipment used while receiving educational training.

WHAT DOES ALL OF THIS MEAN?

- A school should never collect anything resembling a fee unless the local board has approved such collection (this takes the school "off the hook").
- Ask those important questions:
 1. Does the fee affect the student's access to education? Does the activity occur during the school day? Does the student receive credit?
 2. Does the fee concern use of school equipment used while receiving educational training?

WHAT DOES ALL OF THIS MEAN?

- In the past, school systems charged students fees for admission to parks or events visited during field trips or a share of the transportation costs for those trips.
- It is permissible to *request* that students or their parents contribute toward the cost of a field trip, but it is *not permissible to require* that fee or to deny a student participation for nonpayment if any portion of the field trip occurs during an instructional school day or if participation is required for a grade or credit.

WHAT DOES ALL OF THIS MEAN?

- The rule applies equally for those students who do not have free or reduced meal status.
- The rule does not, however, appear to extend to extracurricular activities, even if an extracurricular activity may occur on an irregular basis during the school day (*i.e.*, optional clubs).

WHAT DOES ALL OF THIS MEAN?

- The key is whether the student simply has to pay a fee to be involved in the activity.
 - If yes, the school cannot require payment of the fee.
- Simply put, the State Constitution and statutory laws of the State of Tennessee, as interpreted by the State Attorney General, prohibit schools from requiring any student, regardless of income, from being charged a fee as a condition of attending the public schools of Tennessee.

WHAT DOES ALL OF THIS MEAN?

It is additionally important to note that, to the best of my knowledge, no court has issued an opinion on this matter.

- In all situations involving constitutional and statutory law matters, consult your local board attorney.
- Did our forefathers envision all of this controversy?
- Frequently asked questions – <http://www.tn.gov/sbe/>.

SECTION X: EXPENDITURES/DISBURSEMENT OF FUNDS



- Guiding Principles
- Gift Cards/Awards

GUIDING PRINCIPLES

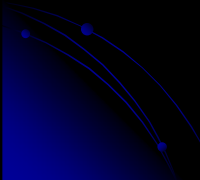
- Most common question: What can be purchased with general student activity funds?
 - This is the easiest and hardest question to answer.
- General Funds – *Manual* Section 4, Title 1

GUIDING PRINCIPLES

- All expenditures from the general fund must
 - benefit the school or
 - must contribute to the welfare of the student body
 - (all expenditures must satisfy this either/or test...if not, you will have problems) and
 - *supplement, not replace*, funds necessary to fulfill the local board's obligation to provide an instructional program, property, equipment, and salaries.

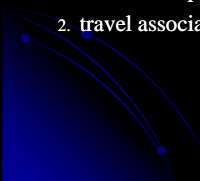
GUIDING PRINCIPLES

- What is the local board's responsibility?
 - ...different for every school system.
- Copying machine v. donations example...



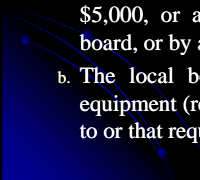
GUIDING PRINCIPLES

- Expenditures meeting these criteria are restricted in purpose only as directed by the board of education, general laws and regulations, and school policies.
- Prohibited expenditures
 1. staff development and
 2. travel associated with staff development



EXPENDITURES REQUIRING BOARD APPROVAL

- The following expenditures must be approved by the local board (or the board's designee) or the local legislative body, as noted:
 - a. The local board must approve the purchase of a single piece of equipment costing more than \$5,000, or a lesser amount, if mandated by the board, or by a public or private act.
 - b. The local board must approve the purchase of equipment (regardless of cost) that is to be attached to or that requires the alteration of the building.



EXPENDITURES REQUIRING BOARD APPROVAL

- c. The local board must approve the construction or installation of permanent fixtures.
- d. The local board must approve accounts payable that will not be liquidated during the current fiscal year.
- e. The Local Legislative Body must approve lease purchase agreements or other contracts that will have the effect of creating long-term liabilities, since schools are prohibited from recording long-term liabilities in the school accounts.

GIFT CARDS/AWARDS

- In appreciation for serving in schools, oftentimes administrators, coaches, and teachers recognize volunteers for their service.
- Such efforts do strengthen the partnership between the schools and community and
 - do utilize local human resources to enhance educational and extra-curricular activities.
- Section 4, Title 2 of the new *Manual* provides internal control procedures and guidance when gift cards are given as awards.

GIFT CARDS/AWARDS

- However, IRS regulations are not addressed and failure to follow IRS guidance could result in penalties, and
 - the wrong type of gift or award can have tax consequences.

GIFT CARDS/AWARDS

- Definitions
 1. Cash
 2. Unrestricted or negotiable gift certificates are cash equivalents, *i.e.*, redeemable for cash; hereinafter referred to as “unrestricted gift certificates”
 3. Restricted or non-negotiable gift certificates are not cash equivalents, *i.e.*, not redeemable for cash; hereinafter referred to as “restricted gift certificates”

GIFT CARDS/AWARDS

- A restricted gift certificate is distinguishable from an unrestricted gift certificate when
 - it can only be redeemed with the issuer and
 - cannot be cashed out,
 - sold to another person, or
 - Doesn't this mean “non-transferable?”
 - used to reduce an outstanding account balance with the issuer of the certificate (*i.e.*, payments on charge accounts, layaway plans, etc.).

GIFT CARDS/AWARDS – VOLUNTEERS

- Non-employees (*i.e.*, volunteers)
 - awards/gifts should be *reasonable and necessary* to carry out the mission of the school (when a *valid and documented business purpose exists*)
 - should not be *lavish or extravagant*

GIFT CARDS/AWARDS – VOLUNTEERS

- Awards (such as plaques) may be given in recognition of past accomplishments or activities as well as for other valid business reasons.
- Noncash awards to non-employees that have little intrinsic value (such as medals, trophies, and plaques) are not reportable to the IRS.
- For example, inviting a volunteer to an athletic banquet for a meal and recognition via a plaque has no tax consequence.

GIFT CARDS/AWARDS – VOLUNTEERS

- Unrestricted gift certificates (*i.e.*, redeemable for cash) are not allowed as gifts
 - *unless* the school follows IRS guidelines for reportable gifts.
- Restricted gift certificates (if there is such an item) are permissible without IRS reporting
 - *as long as* the school stays within the dollar limitations established by the IRS.
 - *See www.irs.gov* – as with all tax laws, dollar limitations are subject to change annually.

Are They Volunteers?

- Considerations when gift cards are involved in the process:
 - How is the relationship characterized?
 - How much supervision is given?
 - Skills required?
 - Time period involved?
 - Does the employer control the “ways and means” of the volunteer while doing volunteer work?

Are They Volunteers?

- At what point will the IRS determine that the individual exceeded the scope of being a volunteer and thus should be treated as an employee?
- From a legal standpoint, where the employer creates the appearance that there is an employer-employee relationship and a third party relies on it, the employer may be estopped from denying that there is an employer-employee relationship.
 - Do we use name tags clearly stating "volunteer?"
 - Background checks just like employees?

GIFT CARDS/AWARDS – EMPLOYEES

- Employees
 - Administrators and other school personnel use gifts to award exemplary performance and
 - to increase and/or maintain motivation, morale, and productivity.

GIFT CARDS/AWARDS – EMPLOYEES

- Such recognition is allowed as long as the expense is *reasonable and necessary* to carry out the *mission* of the school and
- is not *lavish or extravagant* and
- does not exceed limits as established by the IRS
- See www.irs.gov – as with all tax laws, dollar limitations are subject to change annually.

GIFT CARDS/AWARDS – EMPLOYEES

- IRS Rules and Regulations stipulate for employees
 1. any gift of cash, a gift certificate, or cash equivalent (an item which is easily converted to cash)
 2. must be included in the recipient's gross income since it is essentially extra salary or wages,
 3. *regardless of the amount involved.*
- Cash, *no matter how little*, is always included in the recipient's gross income and must be processed through the payroll department.

GIFT CARDS/AWARDS – EMPLOYEES

- Noncash gifts may be presented as a token of appreciation to an employee when a *valid and documented business purpose* exists
 - provided the amount does not exceed the limits established by the IRS.

GIFT CARDS/AWARDS – EMPLOYEES

- Awards (such as plaques, certificates of achievement, etc.) may be given in recognition of past accomplishments or activities as well as for other valid business reasons.
- As with volunteers, noncash awards to employees that have little intrinsic value (such as medals, trophies, and plaques) are not reportable to the IRS.

GIFT CARDS/AWARDS – EMPLOYEES

- Two (2) points to remember
 1. Cash or unrestricted gift certificates (*i.e.*, redeemable for cash) are not allowed as gifts, unless properly processed through payroll.
 2. Restricted gift certificates are permissible (if there is such an item).

Case Study

- Facts: "...our audit revealed that..., student activity money totaling at least \$12,000 was used to purchase gift cards...for school personnel, including \$200 gift certificates given to office workers for Secretary's Day."
 - What are the issues here?
 - How did this benefit the students?
 - Not accounted for through payroll? Essentially wages?
 - IRS penalties?

QUESTIONS/COMMENTS: CONTACT INFORMATION

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