


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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SECTION XI: SCHOOL SUPPORT ORGANIZATIONS



- Creation of SSOs
- Approval Process to Become a Recognized SSO by the Board
- Fundraising Requests and Approval
- Concerns
- Audit Findings

CREATION OF SSOs

- In response to substandard handling of cash raised for schools and school organizations, the General Assembly passed legislation to create and regulate SSOs (TCA §49-2-601, *et seq.*)
- SSOs are legally independent corporations and should be nonprofit since the sole mission should be to support the specific activity or school.
 - ...an artificial legal entity that, among other things, can sue and be sued in its own name.
 - ...are chartered by the Secretary of State...

CREATION OF SSOs

- SSOs are governed by a board of directors. The board of directors is responsible for the SSO's compliance with state law.
- The board of directors, not the school or school system, is responsible for any *ultra vires* activities.
- *Ultra vires* is a Latin phrase meaning "beyond the powers."
 - In corporate law, *ultra vires* describes acts attempted by a corporation that are beyond the scope of powers granted by the corporation's articles of incorporation or in a clause in its Bylaws.

CREATION OF SSOs

- The Tennessee Attorney General in Opinion 08-174 opined that "The School Support Organization Financial Accountability Act does not 'create liability' on the part of school boards or their members, where school support organizations experience misappropriation of funds."
- As long as school boards and its members have complied with statute, *i.e.*, have adopted the appropriate board policies.

APPROVAL PROCESS TO BECOME A RECOGNIZED SSO BY THE BOARD

- TCA §49-2-604 provides for the local board of education to adopt policies addressing SSOs. All school administrative personnel should be familiar with such policies.
 - "A group or organization may not use a school district's or school's name, mascot or logos, property or facilities for the raising of money, materials, property or securities until a *policy has been adopted by the local board of education....*"

APPROVAL PROCESS TO BECOME A
RECOGNIZED SSO BY THE BOARD

- SSOs must enter into a written cooperative agreement with the local board of education prior to conducting any fundraising activities.
- The agreement must contain two (2) distinct statements:
 1. That the SSO agrees to abide by any policies and procedures regarding school support organizations; and,

APPROVAL PROCESS TO BECOME A
RECOGNIZED SSO BY THE BOARD

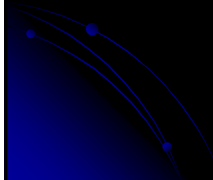
2. That the SSO agrees to indemnify the Board, the director and all other agents of the local education agency for the actions of the SSO.
- In addition to the agreement, the SSO must file with the director:

APPROVAL PROCESS TO BECOME A
RECOGNIZED SSO BY THE BOARD

1. confirmation of nonprofit status,
2. written goals and objectives,
3. telephone numbers and addresses of each officer, and
4. written policy addressing the safeguarding of assets.

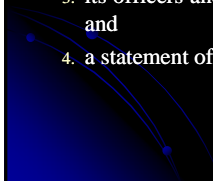
APPROVAL PROCESS TO BECOME A RECOGNIZED SSO BY THE BOARD

Once the required information is filed on behalf of the SSO and approved by the local board, the law states that the director (or designee) should make public recognized SSOs, such as on the district's website.



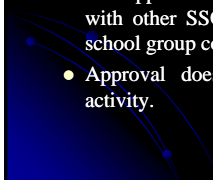
APPROVAL PROCESS TO BECOME A RECOGNIZED SSO BY THE BOARD

- In addition, each SSO must annually report to the director
 1. its continued status as a nonprofit organization,
 2. its goals and objectives,
 3. its officers and their phone numbers and addresses, and
 4. a statement of revenues and expenditures.



FUNDRAISING REQUESTS AND APPROVAL

- Once recognized, the SSO is free to begin fundraising activities.
- Prior to beginning a fundraising activity, the SSO must have the approval of the director or designee.
 - The approval is mainly to avoid a scheduling conflict with other SSOs or activities that compete against a school group conducting a fundraiser.
 - Approval does not constitute endorsement of the activity.



FUNDRAISING REQUESTS AND APPROVAL

- The director should ensure that the activity is consistent with the goals and objectives of the organization.
- No school administrator should allow an activity to take place using the school's name or on school property that is illegal, *i.e.*, gambling activities, raffles, etc.

FUNDRAISING REQUESTS AND APPROVAL

- As a matter of practice, the director may want the SSO to first notify the school's principal by sending the fundraiser authorization to the school for the principal to sign.
- Such a procedure keeps everyone informed as to when fundraisers take place and also prevents SSOs from competing with other SSOs, the school, and student groups.

CONCERNS

- Do not let SSOs monopolize fundraising, distract from the school, or operate activities that the school should be responsible.
- No organization should be using or allowed to use the school's name in fundraising activities that has not become compliant with state law.
 - Project graduation?
 - Different students and parents each year...is this group compliant?

CONCERNS

- TCA §49-2-604(g) “strives to maintain an ‘arms length’ separation between school officials and SSOs;” thus, no school representative can
 - act as the treasurer or bookkeeper for an SSO,
 - sign checks on behalf of the SSO,
 - nor can a majority of the voting members of the board of directors be composed of school representatives.

CONCERNS

“School representatives” is defined by TCA §49-2-603(3)(A)(i) as

- “a school board member,
- the director of schools,
- a principal,”
- the club/group/activity sponsor/coach that the SSO is supporting,
- and a school bookkeeper.
- Depending on the specific school duties, even a school secretary may fall under the definition of a “school representative.”

CONCERNS

- An SSO cannot
 1. use the school’s tax exempt certificate,
 2. bind the school or school district in any contract in which it enters,
 3. use funds generated from fundraisers that do not support its goals and objectives (including contributions to outside organizations/persons), nor
 4. use the school district’s employer identification number.

CONCERNS

If any funds are deposited into the school's official bank account, such deposits are considered to be a donation by the SSO to the school, and the school may use these funds for any purposes for which other donations are accepted.

AUDIT FINDINGS ALREADY?

- Yes, SSOs are subject to audit and the Comptroller's Office has already conducted audits of SSOs.
- All SSOs must follow the *Model Financial Policy for School Support Organizations (Procedures Manual)* as prescribed by the Comptroller's Office.

AUDIT FINDINGS ALREADY?

- Audit findings have already been noted concerning
 1. inadequate separation of duties (internal controls),
 2. checks with only one signature,
 3. unsupported disbursements,
 4. checks issued for non-SSO purposes,
 5. failure to maintain required collection documents,
 6. collections not promptly deposited,
 7. collections used for cash disbursements, and
 8. no analyses of fundraising activities.

MISAPPROPRIATION OF FUNDS

- SSO treasurer issues check for \$4,200 for personal mortgage...
- Band director improperly and without authority charged more than \$10,000 in personal expenses to booster credit card...
- PTO officer wrote eight checks to herself totaling \$6,693...
- PTO president wrote 13 checks to herself totaling \$4,413...
- SSO paid at least \$7,000 directly to coaches...
- ...lack of cooperation by the SSO officers...
- SSO debit card was used to purchase alcoholic beverages...

QUESTIONS/COMMENTS: CONTACT INFORMATION

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