

School Support Organization Financial Accountability Act

(Tennessee Code Annotated, Title 49, Chapter 2, Part 6)

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49-2-601. Short title.

This part shall be known and may be cited as the School Support Organization Financial Accountability Act.

Acts 2007, ch. 326, 2.

Attorney General Opinions. 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, OAG 08-174 (11/18/08).

49-2-602. Legislative intent.

The general assembly recognizes the importance of school support organizations in providing financial support to help carry out academic, arts, athletic, and social programs to further educational opportunities for the children of this state. The general assembly also recognizes concerns that parents and other persons who support these organizations have in ensuring that money raised by these organizations is safeguarded by them and used to further the activities for which the money is raised. It is, therefore, the intent of the general assembly to ensure the continued support of academic, arts,

athletic and social programs, which help to educate the children of this state, while also ensuring fiscal accountability of school support organizations.

Acts 2007, ch. 326, 3.

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49-2-603. Part definitions.

As used in this part, unless the context otherwise requires:

(1) Donation means any gift or contribution of money, materials, property or securities from any nongovernmental source received by a school official or employee for the benefit of a school district, school, school club, or academic, arts, athletic or social activity related to a school;

(2) Internal school funds mean any and all money received and accounted for at individual schools, and specifically include, but are not limited to:

(A) Any donation or grant made to the school, a school club, or any academic, arts, athletic or social activity related to a school;

(B) Funds for cafeteria services operated at the school;

(C) Fees collected by the school;

(D) Funds transferred to the local school from the school board that are to be accounted for at the local school level;

(E) Funds raised through cooperative agreements with outside organizations;

(F) Rental fees charged outside entities for use of school facilities; and

(G) Student activity funds;

(3) (A) School representative means:

(i) When a school support organization's primary purpose is to support a school system or an individual school:

(a) A school board member;

(b) The director of schools;

(c) A principal; and

(d) Any individual who is primarily responsible for accounting for school system funds or the funds of an individual school; and

(ii) When a school support organization's primary purpose is to support a local school club or academic, arts, athletic, or social activity related to a school:

(a) A school board member;

(b) The director of schools;

(c) A principal;

(d) Any individual who is primarily responsible for accounting for school system funds or the funds of an individual school; and

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(e) Any individual who works for the school system and who as part of the individual's employment by the school system is charged with directing or assisting in directing the related school club or activity;

(B) School representative shall specifically include, but shall not be limited to, coaches, assistant coaches, band directors, or any other school sponsor of a related club or activity;

(4) (A) School support organization means a booster club, foundation, parent teacher association, parent teacher organization, parent teacher support association, or any other nongovernmental organization or group of persons whose primary purpose is to support a school district, school, school club, or academic, arts, athletic or social activities related to a school, that collects or receives money, materials, property or securities from students, parents or members of the general public;

(B) For the purposes of this part, a group of persons who merely request that students, parents, or members of the general public make donations to a school district, school, school club, or academic, arts, athletic or social activity related to a school or assist in the raising of funds for a specified purpose under the sponsorship of a school employee where the funds are turned over to the school to be used for the specific purpose for which the funds were raised, shall not be considered a school support organization;

(5) School support organization funds include all money, materials, property or securities raised by a school support organization or any organization that represents itself to students, parents or members of the general public to be a school support organization; and

(6) Student activity funds include all money received from any source for school- sponsored student activities or school-sponsored events held at or in connection with a school, and specifically include, but are not limited to, any money:

(A) Derived from a school-sponsored academic, art, athletic or social event involving students;

(B) Raised by school-sponsored clubs involving students;

(C) Raised by school-sponsored fundraisers involving students who are under the supervision of a school employee;

(D) Received from a commission for the direct sale of items to students pursuant to a cooperative agreement between the school and an outside organization;

(E) Received for the direct sale of items to students from a school-run bookstore located on school grounds;

(F) Raised from fees charged students;

(G) Obtained from interest from any account that contains student activity funds; or

(H) (i) Obtained from any related school-sponsored activity that involves the use of school personnel, students, and property during the school day;

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(ii) For the purpose of subdivision (6)(H)(i), school day means the regular hours of operation of the school during which classes are conducted.

Acts 2007, ch. 326, 4; 2008, ch. 1156, 1-3.

49-2-604. Adoption of policy concerning fundraising.

(a) 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 concerning cooperative agreements, school support organizations and the use of school facilities for fundraising purposes.

(b) The policy that a school board adopts pursuant to subsection (a) shall, at a minimum, include, in substance, the following provisions:

(1) (A) Prior to soliciting, raising or collecting money, materials, property or securities to support a school district, school, school club or any academic, arts, athletic or social activity or event related to a school, a school support organization shall submit to the director of schools or the director's designee a form that, at a minimum, documents the following:

(i) The organization's status as a nonprofit organization, foundation or a chartered member of a nonprofit organization or foundation; provided, however, that nothing in this section shall require that the organization be a 501(c)(3) organization under the Internal Revenue Code, codified in 26 U.S.C. 501(c)(3);

(ii) The goals and objectives of the organization; and

(iii) The telephone number, address and position of each officer of the organization;

(B) Thereafter, a school support organization shall annually, at a time designated before the beginning of the school year, submit a form to the director of schools or the director's designee verifying its continued existence as a nonprofit organization and documenting, at a minimum, the goals and

objectives of the organization, and the current telephone number, address and position of each officer of the organization. The organization shall file a statement of total revenues and disbursements before the end of the school year; and

(2) The approval of the director of schools or the director's designee shall be required before a school support organization undertakes any fundraising activity to assure that scheduling of fundraisers does not conflict with the school district's or school's fundraising efforts and that the fundraising process is consistent with the goals and mission of the school or school district. The approval shall not make the fundraising activity a school-sponsored activity.

(c) A school support organization shall maintain, at a minimum, detailed statements of receipts and disbursements, minutes of any meetings, a copy of its charter, bylaws and documentation of its recognition as a nonprofit organization. The statements and records shall be maintained for a period of at least four (4) years and be available upon request by any member of the organization, principal, director of schools or the director's designee or the office of the comptroller of the treasury.

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(d) A school support organization shall operate within the applicable standards and guidelines set by a related state association, if applicable, and shall not promote, encourage or acquiesce in any violation of student or team eligibility requirements, conduct codes or sportsmanship standards.

(e) A school support organization's officers shall ensure that school support organization funds are safeguarded and are spent only for purposes related to the goals and objectives of the organization. The organization shall adopt and maintain a written policy that specifies reasonable procedures for accounting, controlling and safeguarding any money, materials, property or securities collected or disbursed by it.

(f) A school support organization shall provide, upon request, to officials of the local school board, local school principal or auditors of the office of the comptroller of the treasury access to all books, records and bank account information for the organization.

(g) A school representative may not act as a treasurer or bookkeeper for a school support organization. A school representative may not be a signatory on the checks of a school support organization. A majority of the voting members of any school support organization board should not be composed of school representatives.

(h) A local board of education may adopt a policy that is more restrictive than the requirements of subsection (b).

(i) The local board of education, director of schools, local school principal or any other school official shall not incur any liability for the failure of a school support organization to safeguard school support organization funds.

Acts 2007, ch. 326, 5; 2008, ch. 1156, 4.

Section to Section References. This section is referred to in 49-2-605, 49-2-606.

49-2-605. Posting or publication of recognized school support organizations Public inspection of forms, reports or financial statements.

(a) The director of schools or the director's designee shall annually post or publish a list of organizations that have complied with 49-2-604(b). This posting or publication may be made by written or electronic means. The school board shall determine the appropriate method of posting or publishing this information.

(b) Any local board of education is authorized to develop a process to certify that an organization has been recognized as a school support organization; however, a local board of education shall not incur any liability for the recognition.

(c) Any forms, annual reports, or financial statements required to be submitted according to the policy adopted by the board pursuant to 49-2-604(b) to the director of schools or the local school principal shall be open to public inspection.

Acts 2007, ch. 326, 6; 2008, ch. 1156, 5.

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49-2-606. Collection of money.

(a) Any individual who collects or receives any student activity or other internal school funds shall turn over to the properly designated school official or employee all student activity or other internal school funds. The funds shall be considered student activity or other internal school funds for the purpose of 49-2-110. That a member of a school support organization or a person claiming to be a member of a school support organization collected the money is immaterial to the determination as to its status as student activity or other internal school funds.

(b) A local board of education may grant the principal of a school the authority to enter into an agreement with a school support organization to operate and collect money for a concession stand or parking at a related school academic, arts, athletic, or social event on school property where any money it collects or any portion designated by the agreement shall be considered as school support group funds and not as student activity funds; provided, that:

(1) The board has adopted a policy concerning school support organizations pursuant to 49-2-604(b); and

(2) The school support organization provides the school with the relevant collection documentation that would have been required pursuant to the provisions of the manual produced under 49-2-110 for student activity funds.

(c) Nothing in this section diminishes the authority of a local board of education to enter into an agreement with a civic organization for the operation of concessions or parking at school sponsored events. The civic organization shall not be subject to this part.

(d) A local board of education may grant the principal of a school the authority to enter into an agreement with a school support organization to operate a bookstore located on school grounds that makes direct sales of items to students where any money the school support organization collects or any portion designated by the agreement shall be considered as school support group funds and not as student activity funds; provided, that:

(1) The board has adopted a policy concerning school support organizations pursuant to 49-2-604(b);

(2) One hundred percent (100%) of the profits of the operation of the bookstore are used for support of the school; and

(3) The school support organization provides the school with the relevant collection documentation that would have been required pursuant to the provisions of the manual produced under 49-2-110 for student activity funds.

(e) A principal may allow funds raised by fundraisers conducted by a school support organization outside the school day and involving students to be collected during the school day by the school support organization. The funds shall be school support organization funds; provided, that school employees are not involved in the accounting of the funds and the funds are turned in using sealed envelopes.

Acts 2007, ch. 326, 7; 2008, ch. 1156, 6.

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49-2-607. Disbursement of donations.

(a) Donations to a board of education shall be received and disbursed in accordance with 49- 6-2006.

(b) In addition to any requirements established by 49-6-2006(a), the following specific conditions shall apply:

(1) Any donation made by a school support organization to a board of education or school shall be disbursed only in accordance with any written conditions that the school support organization may place upon the disbursement of the funds and shall be in accordance with the goals and objectives of the school support organization;

(2) School support organization funds that are donated to an individual school shall not be considered as student activity funds. These funds shall be considered instead as internal school funds from the point of their donation to the respective school; and

(3) Any disbursements of donated funds by a school official or employee shall be made in accordance with any relevant federal, state, or local government laws, including any relevant purchasing laws or requirements of the accounting policy manual produced according to 49-2- 110(e).

Acts 2007, ch. 326, 8.

49-2-608. Prohibited actions.

A nongovernmental group or organization, including all school support organizations, may not:

- (1) Use the school's or school district's sales tax exemption to purchase items;
- (2) Represent or imply that its activities, contracts, purchases, or financial commitments are made on behalf of or binding upon any school or school district;
- (3) Use school support organization funds for a purpose other than purposes related to the goals and objectives of the school support organization that relate to supporting a school district, school, school club or school academic, arts, athletic or social activity; or
- (4) Maintain or operate a bank account that bears the employer identification number of a school board, school, or any other school related governmental entity. From July 1, 2007, any funds deposited into the bank account shall be presumed to be a donation to the entity whose employer identification number is used and shall be treated as student activity funds.

Acts 2007, ch. 326, 9.

49-2-609. Audit.

A school support organization or any group or organization that collects and raises money, materials, property or securities while representing itself to be a school support organization shall be subject to audit by the office of the comptroller of the treasury.

Acts 2007, ch. 326, 10.

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49-2-610. Development of model financial policy.

The office of the comptroller of the treasury is authorized to adopt a model financial policy for school support organizations.

Acts 2007, ch. 326, 11.

49-2-611. Initial registration and renewal fees.

Notwithstanding 48-51-303(a)(1) to the contrary, a school support organization that is required to register as a nonprofit organization, foundation or chartered member of a nonprofit organization or foundation by a policy adopted in accordance with this part shall be exempt from any initial registration

fee by the secretary of state for the registration if the school support organization is an educational institution as defined in 48-101-502(b). The school support organization shall pay any renewal fee required by the secretary of state to maintain valid annual registration as a nonprofit organization, foundation or chartered member of a nonprofit organization or foundation.

Acts 2008, ch. 1156, 7.

49-2-612. Charitable school foundation.

(a) A public school or its administrators or supporters are authorized to form, or caused to be formed, a charitable school foundation for the sole purpose of supporting the school by raising and administering funds for the school and its programs. A school foundation shall be broad based in its support of the school and shall not limit its support to a single program or activity. A school foundation shall be a school support organization under this part.

(b) To be a school foundation under this section, the foundation shall apply for and receive exemption from federal income taxation under 501(a) of the Internal Revenue Code, codified in 26 U.S.C. 501(a), as an organization described in 501(c)(3) of the Internal Revenue Code, codified in 26 U.S.C. 501(c)(3).

(c) The school foundation shall be open to parents, students, faculty, staff, alumni and members of the community who are interested in supporting the school and its programs.

(d) The bylaws of the school foundation shall require the director of schools and the principal of the school to serve as ex officio members on the foundation's board of directors.

(e) An organization in existence on April 16, 2012, that meets the requirements of this section, on or after April 16, 2012, shall be recognized as a school foundation.

Acts 2012, ch. 747, 1.