

School Support Organization Financial Accountability

This Act prohibits school boards, school employees, or officials from authorizing any group or organization to use a school district's or school's name, mascot, logos, property, or facilities for the purpose of raising money until the local board of education adopts a policy concerning local school support groups. A local school support group is any PTA, PTO, or parent teacher support association, or any other foundation, booster club, or other nongovernmental organization whose primary purpose is to collect or receive money to support a school district, school, school club, or any athletic, performing arts, or academic activity related to a public school.

This Act specifies several requirements for any local school support group policy, including:

- the group must provide a copy of its bylaws and proof of recognition as a nonprofit organization before initiating support, assistance or raising money;
- the group must operate within the applicable guidelines and standards set by any related state association;
- the group must obtain pre-approval from the director of schools for any fundraisers;
- the group must keep financial records for at least three years;
- school employees are not permitted to act as treasurer for a group; and
- a majority of the voting members of any group's board must not be school employees.

This bill prohibits a local school support group from:

- using the school's or school district's sales tax exemption to purchase items;
- representing that its activities or financial commitments are made on behalf of or binding upon any school or school district;
- using school support group funds for a purpose other than ones related to supporting a school district, school, school club or school athletic, performing arts or academic activity; or
- maintaining a bank account that bears the employer identification number of a board of education, school board, school, or any other governmental entity.

This bill requires any local school support group or any group or organization that raises money and represents itself as a school support group to be subject to audit by the office of the comptroller of the treasury.

Submitted as:

Tennessee

Public Chapter No. 326

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Short Title*.] This Act shall be cited as “The School Support Organization
- 2 Financial Accountability Act.”
- 3

4 Section 2. [*Legislative Findings.*] The [general assembly] recognizes the importance of
5 school support organizations in providing financial support to help carry out academic, arts,
6 athletic, and social programs to further educational opportunities for the children of this state.
7 The [general assembly] also recognizes concerns that parents and other people who support these
8 organizations have in ensuring that money raised by these organizations is safeguarded by them
9 and used to further the activities for which such money is raised. It is, therefore, the intent of the
10 [general assembly] to ensure the continued support of academic, arts, athletic and social
11 programs, which help to educate the children of this state, while also ensuring fiscal
12 accountability of school support organizations.

13
14 Section 3. [*Definitions.*] As used in this Act:

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

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

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

23 (b) Funds for cafeteria services operated at the school;

24 (c) Fees collected by the school;

25 (d) Funds transferred to the local school from the school board which are to be
26 accounted for at the local school level;

27 (e) Funds raised through cooperative agreements with outside organizations;

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

29 (g) Student activity funds;

30 (3) “School support organization” means a booster club, foundation, parent teacher
31 association, parent teacher organization, parent teacher support association, or any other
32 nongovernmental organization or group of persons whose primary purpose is to support a school
33 district, school, school club, or academic, arts, athletic, or social activities related to a school
34 which collects or receives money, materials, property or securities from students, parents, or
35 members of the general public. For the purposes of this part, a group of people who merely
36 request that students, parents, or members of the general public make donations to a school
37 district, school, school club, or academic, arts, athletic, or social activity related to a school shall
38 not be considered a school support organization;

39 (4) “School representative” means:

40 (a) When a school support organization’s primary purpose is to support a school
41 system or an individual school:

42 (I) A school board member;

43 (II) The director of schools;

44 (III) A principal; and

45 (IV) Any individual who is primarily responsible for accounting for school
46 system funds or the funds of an individual school.

47 (b) When a school support organization’s primary purpose is to support a local
48 school club or academic, arts, athletic, or social activity related to a school:

49 (I) A school board member;

50 (II) The director of schools;

51 (III) A principal;

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

54 (V) Any individual who works for the school system and who as a school
55 system employee is charged with directing or assisting in directing the related school club or
56 activity. "School representative" shall specifically include, but shall not be limited to, coaches,
57 assistant coaches, band directors, or any other school sponsor of a related club or activity.

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

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

64 (a) Derived from an academic, art, athletic, or social event involving students;

65 (b) Raised by clubs involving students;

66 (c) Raised by fundraisers involving students which are under the supervision of a
67 school employee;

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

70 (e) Received for the direct sale of items to students from a bookstore located on
71 school grounds;

72 (f) Raised from fees charged students;

73 (g) Obtained from interest from any account which contains student activity
74 funds; or

75 (h) Obtained from any related school activity which involves the use of school
76 personnel, students, and property during the school day. For the purpose of this section the
77 school day shall be defined as the regular hours of operation of the school during which classes
78 are conducted.

79

80 Section 4. [*Requiring a Policy About Using a School Name, Property or Facilities for*
81 *Fundraising.*]

82 (A) A school board, director of schools, school principal, or other school official or
83 employee may not authorize a group or organization to use a school district's or school's name,
84 mascot or logos, property or facilities for the raising of money, materials, property or securities
85 until a policy has been adopted concerning cooperative agreements, school support
86 organizations, and the use of school facilities for fundraising purposes.

87 (B) The policy that a school board shall adopt pursuant to the provisions of subsection
88 (A) shall at a minimum include, in substance, the following provisions:

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

94 (a) The organization's status as a nonprofit organization, foundation, or a
95 chartered member of a nonprofit organization or foundation;

96 (b) The goals and objectives of the organization; and

97 (c) The telephone number, address, and position of each officer of the
98 organization;

99 (2) A school support organization shall [annually], at a time designated before the
100 beginning of the school year, submit a form to the director of schools or the director's designee
101 which verifies its continual recognition as a nonprofit entity or foundation and the current
102 telephone number, address, and position of each officer of the organization;

103 (3) A school support organization shall [annually], at a time designated after the
104 end of the school year, provide at a minimum a detailed statement of receipts and disbursements
105 to the applicable school principal;

106 (4) The school support organization shall maintain a copy of its charter, bylaws,
107 minutes, and documentation of its recognition as a nonprofit organization. Also, a school support
108 organization shall maintain financial records for a period of at least [four (4)] years;

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

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

118 (7) The approval of the [director of schools or the director's designee] shall be
119 required before a school support organization undertakes any fundraising activity. This provision
120 shall also specify the extent to which such approval is required. This provision is to assure that
121 scheduling of fundraisers does not conflict with the school district's or school's fundraising
122 efforts and that the fundraising process is consistent with the goals and mission of the school or
123 school district. All fundraising activities shall comply with state and federal law;

124 (8) A school support organization shall provide upon request to officials of the
125 local school board, local school principal, or auditors of the [office of the comptroller of the
126 treasury] access to all books, records, and bank account information for the organization; and

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

131 (C) A local board of education may adopt a policy which is more restrictive than the
132 requirements of subsection (B).

133 (D) As a result of this policy, the local board of education, [director of schools], local
134 school principal or any other school official shall not incur any liability for the failure of a school
135 support organization to safeguard school support organizations funds.

136

137 Section 5. [*Publicizing Recognized School Support Organizations.*]

138 (A) The [director of schools or the director's designee] shall [annually] post or publish a
139 list of organizations that are recognized as school support organizations. This posting or
140 publication may be made by written or electronic means. The school board shall determine the
141 appropriate method of posting or publishing this information.

142 (B) Any local board of education is authorized to develop a process to certify that an
143 organization has been recognized as a school support organization.

144 (C) Any forms, annual reports, or financial statements required to be submitted according
145 to the policy adopted by the board pursuant to the provisions of Section 4(B) of this Act to the
146 [director of schools] or the local school principal shall be open to public inspection.

147

148 Section 6. [*Proper Handling of Student Activity and Other Internal School Funds and*
149 *Donations.*]

150 (A) Any individual who collects or receives any student activity or other internal school
151 funds, shall turn over to the properly designated school official or employee all student activity
152 or other internal school funds. Such funds shall be considered student activity or other internal
153 school funds for the purpose of [insert citation]. That a member of a school support organization
154 or a person claiming to be a member of a school support organization collected the money is
155 immaterial to the determination as to its status as student activity or other internal school funds.

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

161 (1) The board has adopted a policy concerning school support organizations
162 pursuant to the provisions of Section 4(B) of this Act; and

163 (2) The school support organization provides the school with the relevant
164 collection documentation which would have been required pursuant to the provisions of the
165 manual produced under [insert citation] for student activity funds.

166 (C) Nothing in this subsection shall diminish the authority of a local board of education
167 to enter into an agreement with a civic organization for the operation of concessions or parking at
168 school sponsored events. Such civic organization shall not be subject to the provisions of this
169 Act.

170 (D) Donations to a board of education shall be received and disbursed in accordance with
171 the provisions of [insert citation].

172 (E) In addition to any requirements established by the provisions of [insert citation], the
173 following specific conditions shall apply:

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

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

181 (3) Any disbursements of donated funds by a school official or employee shall be
182 made in accordance with any relevant federal, state, or local government laws, including any
183 relevant purchasing laws or requirements of the accounting policy manual produced according to
184 [insert citation].

185

186 Section 7. [*Restricting Using School or School District Tax Exemptions.*] A
187 nongovernmental group or organization including all school support organizations may not:

188 (1) Use the school's or school district's sales tax exemption to purchase items;

189 (2) Represent or imply that its activities, contracts, purchases, or financial commitments
190 are made on behalf of or binding upon any school or school district;

191 (3) Use school support organization funds for a purpose other than ones related to the
192 goals and objectives of the school support organization which shall relate to supporting a school
193 district, school, school club or school academic, arts, athletic, or social activity; or

194 (4) Maintain or operate a bank account that bears the employer identification number of a
195 school board, school, or any other school related governmental entity. From [July 1, 2007], any
196 funds deposited into such an account shall be presumed to be a donation to the entity whose
197 employer identification number is used and shall be treated as student activity funds.
198

199 Section 8. [*School Support Organizations Subject to Audit.*] A school support
200 organization or any group or organization which collects and raises money, materials, property
201 or securities while representing itself to be a school support organization shall be subject to audit
202 by the [office of the comptroller of the treasury].
203

204 Section 9. [*Model School Support Organization Financial Policy.*] The [office of the
205 comptroller of the treasury] is authorized to adopt a model financial policy for school support
206 organizations.
207

208 Section 10. [*Severability.*] [Insert severability clause.]
209

210 Section 11. [*Repealer.*] [Insert repealer clause.]
211

212 Section 12. [*Effective Date.*] [Insert effective date.]