

# Associated Student Body

*Accounting Manual, Fraud Prevention Guide  
and Desk Reference*

Internal Controls  
Fraud Prevention  
Procedures  
Policies  
Governance  
Organization  
Laws



2012

**Fiscal Crisis & Management Assistance Team**  
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# **Associated Student Body**

***Accounting Manual, Fraud Prevention Guide  
and Desk Reference  
2012***

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## Foreword

The Fiscal Crisis and Management Assistance Team (FCMAT) is proud to present the fourth revision of the *Associated Student Body Accounting Manual, Fraud Prevention Guide and Desk Reference*. Initially published in 2002, the manual continues to be a widely used resource in the educational field. In this revision, FCMAT has added information in response to suggestions from users in the field, ASB workshop attendees, and many questions received and answered via FCMAT's online help desk. A new chapter addresses cash controls and fraud in increased detail, and updated information includes new laws related to food service and allowable fees.

Established in 1992 by the Legislature as an independent state-funded entity, FCMAT helps California's local educational agencies fulfill their financial and managerial responsibilities by providing fiscal advice, management assistance, training, resources and other related school business services. FCMAT's work ranges from the state policy level to the operational level at schools. This manual is an example of FCMAT's direct support, assistance and leadership to educational agencies statewide, including K-12 schools, community colleges, county offices of education and charter schools.

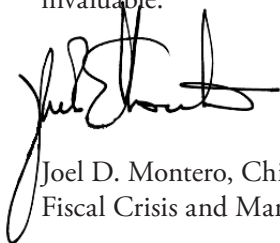
The *Associated Student Body Accounting Manual, Fraud Prevention Guide and Desk Reference* is designed for school administrators, associated student body (ASB) and activity directors, fiscal services administrators, office managers and accountants, ASB bookkeepers, secretaries, teachers, students and others who are responsible for student body activities. This manual responds to the increased demands on today's school leaders to augment funding for students and schools while maintaining fiscal accountability, transparency and accuracy.

The goal of the manual is to answer questions in many areas concerning ASBs, including laws, accounting, purchasing, student stores, vending machines, food sales, clubs, internal controls and overall roles and responsibilities. It will be especially helpful to new employees and those who recently have been assigned ASB responsibilities. Readers are guided systematically through the major steps to initiate and maintain an effective student body program for elementary, middle, junior and senior high school students, as well as community colleges.

This manual is a concise guide to successful student body business management in a complex environment. It focuses on the wide range of decision-making authority of student councils, suggests useful tools and procedures, provides practical advice, and indicates legal constraints in specific areas. Most importantly, the *Associated Student Body Accounting Manual, Fraud Prevention Guide and Desk Reference* suggests the right questions to ask and how to assess the answers.

FCMAT will continue to publish periodic revisions to this manual. Suggestions about how to improve this document and make it more useful are always welcome.

FCMAT acknowledges the many people who have taken part in producing this manual and keeping it updated so that it remains a useful tool in the field. Their time, dedication and shared expertise have been invaluable.



Joel D. Montero, Chief Executive Officer  
Fiscal Crisis and Management Assistance Team



# Chapter I

## Chapter I – Introduction

California law allows students in California’s public schools to raise money and make decisions about how they will spend this money. Student organizations that are established to raise and spend money on behalf of students are called Associated Student Body organizations, or ASBs. ASBs must be made up of current students. The funds that are raised and spent by student organizations are called associated student body funds or ASB funds. In the minds of public school officials and the general public, ASB funds may be thought of as small proceeds from a few bake sales, dances or car washes a year. However, in many cases ASB funds have become big business for student organizations. An ASB at a large high school or a community college may raise millions of dollars a year.

ASB organizations and the management of ASB funds present students with opportunities not only to raise and spend money, but also to learn the principles of operating a small business and acquire leadership skills while making a contribution to their school and fellow students.

Many people are involved with student organizations and their management. This manual provides information on the successful operation of an ASB organization in a user-friendly format to guide district business office support staff, principals/site administrators, ASB and activity directors, fiscal administrators, office managers and accountants, ASB bookkeepers, secretaries, students and others who are responsible for student body activities.

### Intent of the ASB Manual

Each of this manual’s 25 chapters covers one or more critical areas in the administration of ASB. The manual is intended to be a comprehensive guide to student organization operations and ASB funds and was written for those involved in ASB operations. It includes sample forms and procedures that may be copied directly from the manual or modified for a school entity’s own use. The manual can be used by K-12 school districts, charter schools and community colleges because all of these public entities can have ASBs within their schools. Although the manual refers mainly to K-12 districts, all guidance related to internal controls and best business practices can also be used by charter schools and community colleges.

Because current laws do not cover everything that occurs in ASB operations, the guidance in this manual goes beyond the law and official regulations to include information based on good business practices, sound internal controls, and successful ASB operations in many districts throughout California.

School entities with successful ASB operations have the following:

- A comprehensive board policy and administrative regulations regarding ASB operations and funds that provide guidance beyond what is in the law, including district procedures, best practices and internal controls.
- A comprehensive and user-friendly ASB manual that provides guidance for all individuals involved in day-to-day ASB activities.
- A significant level of oversight and support from the district’s business office.
- Annual training for all staff members and students who work with ASB operations.
- Standard of processes and procedures at all sites.

This manual can be used by school entities to achieve successful ASB operations because:

- The manual covers the policy and procedural issues that occur when handling ASB funds, and includes sample forms and procedures.

- The manual can be used as the basis for a comprehensive board policy, or the governing board can adopt a policy that requires the school site staff to adhere to the guidance in this manual.
- The manual is sufficiently comprehensive to provide guidance for both district and school site staff.
- The manual includes information on effective oversight by the district's business office staff.
- The manual can be used as the basis for annual training either by a district's business office staff or by a trainer from outside of the district.
- The manual includes sample forms in most chapters to assist districts as they develop their own forms and procedures for communication and audit purposes.

## ASB Issues

Many issues are involved with the management of ASB funds and operations. First, in sharp contrast to other funds, most of which are received by the district in the form of checks or wire transfers, most ASB funds are received in cash. It is always easier for fraud, abuse or human error to occur when funds are in cash, so internal controls are extremely important. However, internal controls over ASB funds are often overlooked and are thus often found to be inadequate.

Other issues arise as a result of decentralized student fund-raising and operations by many individuals and groups throughout the district, without adequate communication, guidance and standardization. In addition, staff and students involved in ASB are sometimes asked to use proper accounting procedures and internal controls even though they are not accountants and have probably received little or no guidance or training regarding correct procedures and internal controls. Appropriate communication, standardization, training and oversight are critical to ensure that the correct processes and procedures are followed.

Local communities and members of the public are typically sensitive to ASB issues and often pay special attention to this area. The media are also often quick to report on these issues.

The district is ultimately responsible for ASB funds and expenditures.

# Chapter 2

## Chapter 2 – Roles and Responsibilities – Administration of an ASB

Many individuals and entities are involved in administering and supervising the activities of student organizations.

### The State of California

The State of California is responsible for establishing the laws and regulations that govern the activities of local educational agencies (LEAs), including student organizations. The Legislature writes the laws, and state agencies enact regulations based on those laws.

The California Department of Education (CDE) develops policies regarding any legislation or regulations enacted as a result of the law; these are codified in Title 5 of the California Code of Regulations for K-12 districts. For community colleges, the California Community Colleges Chancellor's Office (CCCCO) functions as the oversight agency.

No one state agency specifically monitors the operations of ASB organizations. Rather, the state relies on districts' governing boards to ensure that ASB activities are carried out within the law, based on a district's internal policies and procedures. This is reviewed during the district's annual independent audit performed by an external certified public accountant (CPA) firm.

### The Governing Board

The governing board of the school district, charter school or community college is ultimately responsible for everything that happens in the district, including the activities of student organizations. Under Education Code section 48930 for K-12, and section 76060 for community colleges, the governing board has the authority to approve the formation of a student body organization within the district. This means that governing boards *are not* required to allow student body organizations to exist. Many districts have chosen to stop student fund-raising and organizations as a last resort because of continual and severe noncompliance issues, including fraud.

In assuming the authority given by Education Code, the governing board establishes the parameters for the operation of the district through board policies and regulations. These policies and regulations must specify how the student body organization will be established, how the organization's activities will be supervised and how the organization's finances will be operated and managed. The district's administration is responsible for establishing and monitoring the procedures to carry out the policies and regulations adopted by the governing board.

A comprehensive board policy is the cornerstone of sound practices in student organizations. This is most effectively achieved by establishing a comprehensive ASB manual for all student organizations to follow. The governing board can then pass a resolution or a policy requiring all staff to follow the guidance in the manual that is being used in their district. Sample board policies are provided in the appendices of this manual (Chapter 23).

### The Superintendent (K-12) or President (Community Colleges)

The superintendent or president of the district is responsible for ensuring the implementation of board policies and that staff follow those policies. In addition, the superintendent or president is responsible for establishing the procedures by which staff remain in compliance with board policy. This is normally done by establishing administrative regulations.

The superintendent or president should communicate and make certain that:

- They act as the supervisor of the student body organization's activities.
- All district staff are familiar with and understand the importance of following all policies established by the governing board, including those regarding ASB.
- All district staff understand the importance of problems noted in the annual audit.
- Immediate action is taken to investigate any allegations about improprieties regarding ASB funds. Appropriate action is taken if the allegations are confirmed.

## The Business Office Staff

District business office staff are responsible for general oversight of student body activities. In this capacity, the business office staff should:

- Serve as a resource and answer questions from the site staff.
- Develop and update the district's ASB manual based on input from the site staff, student organizations and district auditors. The questions that are asked throughout the year and the findings noted by the auditors should also be taken into consideration when updating the manual.
- Provide training at least annually on the district's ASB manual or procedures. This includes providing new staff members and student council members with copies of the manual and training during the year.
- Make periodic visits to sites to review the procedures in operation and answer questions. It is a good practice to visit each site at least once a year and more often if the site appears to have problems or continues to have audit findings year after year.
- Obtain and review financial reports from the sites at least quarterly.
- Review the reconciled bank statements for all ASB accounts at school sites regularly, preferably monthly.
- Work with the sites' staff to respond to problems noted by the auditors in the annual audit and develop corrective actions to resolve the problems.
- Follow up on all issues regarding the administration of student organizations.
- Develop accounting procedures for recording and controlling the student body organization's financial transactions.
- Periodically review procedures to make sure they conform to prescribed accounting procedures.

## The Principal/Site Administrator

The role of the principal/site administrator will vary by school level and by size of school. Regardless of the school level or size of the school site, the principal/site administrator is directly responsible for student body organization financial activities and must make sure that they conform to established policies and procedures. While the principal/site administrator has ultimate responsibility for all activities at the school site, many responsibilities for ASB management functions may be delegated to other staff members. At the elementary level, this designee is often a teacher or secretary. At the secondary level, the designee is usually an assistant principal or ASB advisor.

## Unorganized ASBs

Under the supervision of the superintendent, the principal/site administrator is responsible for the activities at the school site (see Chapter 4 for full definitions of unorganized and organized ASBs). In elementary, adult education, continuation, special education, regional occupational programs (ROPs) and K-8 schools



(unorganized ASB) the students do not govern themselves, so the principal/site administrator is primarily responsible for all ASB activities, including the following:

- Communicating the student organization policies and procedures to the staff and students, and enforcing the policies and procedures.
- Assigning and supervising a site staff member (often the school secretary or the attendance clerk) to perform site financial tasks related to ASB and maintain adequate records of ASB activities, including the deposit of funds.
- Reviewing the monthly bank reconciliation prepared for the ASB bank account and any other financial information and statements for the ASB funds.
- Deciding how many fund-raising events will be held each year and ensuring that they are appropriate for the students and the community.
- Scheduling and receiving proper approval for fund-raising events.
- Making decisions about how the funds raised will be spent.
- Delegating responsibility for operating the fund-raising event to a responsible adult.
- Monitoring the results of the fund-raising activities.
- Ensuring that all ASB funds are raised and spent in accordance with applicable laws and the district's policies and procedures.
- Working with the district's business office regarding training, implementation of good business practices, internal controls, and resolution of audit findings.
- Reporting any suspected fraud or abuse to the district's business office.

The principal/site administrator may delegate some or all of these activities to a site employee such as a vice-principal, teacher, or classified site support staff member. Because cash is involved, the principal/site administrator should ensure that a second site employee is involved in the following:

- Decisions about the use of ASB funds
- Handling all cash
- Signing checks to spend the student funds

### Organized ASBs

For middle, junior and high schools (organized ASB), the responsibilities of the principal/site administrator are different because the students are much more active in governing the ASB activities, with oversight from the principal/site administrator and other site employees. The principal/site administrator is responsible for the following major duties, many of which are delegated to an ASB advisor:

- Communicating the student organization policies and procedures to the staff and students, and enforcing the policies and procedures.
- Ensuring that a student council is established and that each club has a certificated advisor.
- Providing supervision to the ASB advisors.
- Reviewing and approving constitutions for each club on campus.
- Making certain that minutes are kept of all ASB and club meetings.
- Providing supervision to the ASB bookkeeper or similar position. This position will perform site financial tasks related to ASB, maintain adequate records of ASB activities, deposit funds into the bank, pay invoices, reconcile monthly bank statements, and prepare monthly financial statements.

- Ensuring that all ASB funds are raised and spent in accordance with applicable laws and the district's policies and procedures.
- Deciding how many fund-raising events will be held each year and ensuring that they are appropriate for the students and the community.
- Scheduling and receiving proper approval for fund-raising events.
- Working with the district's business office regarding training, implementation of good business practices, internal controls and resolution of audit findings.
- Reporting any suspected fraud or abuse to the district's business office.

The principal/site administrator may delegate some or all of these activities to a site employee such as a vice principal or teacher.

## The ASB Advisor

In secondary schools and community colleges, each student club will have an advisor who must be a certificated employee of the district, in addition to an advisor who is responsible for the general student council (also called the leadership class in many high schools).

As the principal/site administrator's designee, the ASB advisor frequently is directly responsible for all of the functions listed above and ensures that all required procedures are followed. The ASB advisor(s) works directly with students in clubs and the student council on a day-to-day basis, supervising the activities of the student council and the clubs and serving as a link from the student council and the clubs to the ASB bookkeeper and the principal/site administrator.

When any ASB organization or club holds fund-raising events, the ASB advisor is responsible for ensuring that adequate planning and internal controls are established and that all of the funds are properly accounted for and given to the ASB bookkeeper with all the necessary paperwork at the end of the event. The ASB advisor(s) will also work with the students when preparing the annual budget and revenue projection estimates and will ensure that only valid expenditures are made and authorized from the different clubs' funds.

Because of the age of the students, the ASB advisor in an unorganized student organization will be doing many more of the tasks, while the advisor in an organized ASB or at the community college level will mainly oversee students doing the tasks. Regardless of the age of the students in the organization, it is important that they be involved as much as possible in the various responsibilities.

## The ASB Bookkeeper

At each school site, a staff member is responsible for maintaining the accounting records for the ASB funds. In elementary schools, the school secretary or an attendance clerk may serve as an ASB bookkeeper. Middle, junior and high schools, and community colleges, will usually have a staff person whose only responsibility is to maintain the accounting records for student organizations.

Regardless of which employee is assigned the task of ASB bookkeeper, the ASB bookkeeper is responsible for ensuring that:

- At the time that receipted funds are properly counted, confirmed, documented and then turned over to the ASB bookkeeper, all ASB funds are safeguarded while at the school site until deposited in the ASB bank account in a timely manner (within a few days of receipt).

### Fraud Alert

When the ASB advisor relinquishes their responsibilities and has the ASB bookkeeper perform the ASB advisor functions, separation of duties diminishes and the opportunity for fraud increases.

- Adequate financial records are maintained of all ASB financial transactions in accordance with established policies and procedures.
- Expenditures are approved in advance and paid only with appropriate documentation. Documentation should include but not be limited to preapproved purchase orders, invoices, packing slips, and student council minutes.
- The bank reconciliation is completed each month.
- Laws and the district's policies and procedures related to ASB funds are followed.
- Business policies, procedures and internal controls related to ASB, such as those for accounting, purchasing, budget, and payroll, are known and followed.
- Any suspected fraud or abuse is reported to the principal/site administrator or the district's business office.

The ASB bookkeeper position is often perceived as simply a bookkeeping position but it is much more than that. The ASB bookkeeper also acts as a controller and is the gatekeeper for student funds. The ASB bookkeeper must be strong-willed enough to say no and not accept deposits, reimbursements or perform other transactions when policies and procedures are not followed.

Both the ASB advisor and bookkeeper must work together and support each other in keeping their duties separate and when policies and procedures are not followed.

## The Student Council

In middle, junior high and high schools, as well as community colleges, a student council must oversee all of the student clubs in the school. The student council represents the students and has the primary authority regarding how funds raised by the students will be spent. Their primary responsibilities include the following:

- Developing and adopting the annual budget for the student council/leadership class.
- Authorizing the budgets for all student clubs.
- Authorizing fund-raising events for all student clubs.
- Approving expenditures from all student funds.
- Reviewing financial reports and reconciliations from all student clubs.
- Approving new clubs.
- Approving who student council auxiliary members for other functions will be, such as head of lighting and head of sound.
- Approving the student council's policies and procedures and determining how student council members will perform their duties and be disciplined for nonperformance of duties.

The student council in an unorganized ASB, if it exists, is not usually as active and does not normally adopt the annual budget, authorize fund-raising events, approve expenditures, review financial reports or approve new clubs. The principal/site administrator or designee normally has full responsibility for these functions, even though the students may give input.

## The Independent Auditors

The district's independent auditors, who perform the annual financial review of the school entity, also have responsibility to audit ASB funds and student activities. The auditors scrutinize the ASB funds as a part of the annual audit. If they identify a problem or significant weakness in how ASB funds were managed during the school year, the auditors will report the weakness to the district's chief business official. Any findings

considered material will be included in the final annual independent financial report as an audit finding. Each finding will have with it the auditor's recommendation on how to correct the weakness. The district must provide a written response to the audit finding and the auditor's recommendation, and develop an action plan to ensure that the finding does not occur again.

Audit findings should be taken seriously and the action plan followed so that the finding is not repeated. If a finding occurs at one site but not another, it is important that all individuals involved with ASB at all sites know what the findings were so that their own operations can be reviewed and adjusted if necessary. Audit findings should be used as a tool to strengthen operations and to ensure that such errors do not happen again.

The district's business office staff and site staff should use the auditors as a resource throughout the year when questions, internal control concerns or unique issues arise. Because the auditors are familiar with the operations of the district and with student body operations in other districts, they can provide valuable advice and insight.

If there is a suspicion that fraud may be occurring at a site, the district can contract with the auditors or other agencies to investigate the possible fraud and provide a written report.

## The Food Service/Cafeteria Program

The relationship of the ASB to a district's food service/cafeteria program is often thought of as competitive, but in reality the two programs should work together because both benefit the same students. There are numerous food regulations that are often confusing to student groups. Because the food service program must follow most of the same regulations, its staff should be considered experts and partners who can help ensure that any food or beverage sold by students meets nutritional requirements and complies with local, state and federal laws.

Because student groups must follow specific rules, including those regarding noncompetitive sales and whether items can be prepared on site at the K-12 level, the food service/cafeteria program staff can help ensure that all sales are in compliance and that students are being served safely and correctly. It is important to remember that these regulations were not developed by the food service/cafeteria program but are the result of legislation. If the laws are not followed, the district can be penalized with reduced funding to the food service/cafeteria program, which affects all of the district's students.

The following groups *should not* be involved in administering and supervising the activities of student organizations:

### **Booster Clubs, Foundations, Auxiliary Organizations and other Parent-Teacher Associations**

The relationship between booster clubs, foundations, parent-teacher associations, auxiliary organizations and student organizations is often confusing. Student organizations are legally considered part of the school district and/or community college, but booster clubs, foundations auxiliary organizations and other parent organizations are not. These organizations are established to provide support to the school district or community college and its students, and they may raise funds and donate these funds to the district or purchase items with their funds for donation or assistance to the district; however, *they are separate legal entities*. Funds raised by booster clubs, foundations, auxiliary organizations or parent-teacher groups should not be deposited into or commingled with the funds or bank accounts of the student organization or the district; rather, they should be deposited into the organization's own bank account.

More information on this subject is contained in Chapter 20.

# Chapter 3

## Chapter 3 – Laws and Regulations

This chapter provides a brief overview of the sections of the California Education Code, Title 5 of the California Administrative Code, California Constitution, Internal Revenue Code and the Penal Code that affect ASB operations at all levels (K through community college). An overview of the provisions of the law relating to food sales by student groups at the K-12 level is also provided. Full citations of the relevant code sections cited are included in the appendices of this manual.

In addition to state laws and regulations which must be followed, there should be local school district board policies, administrative regulations and procedures that have the effect of law relative to how ASBs are managed and operated in specific districts. To run a successful ASB enterprise, it is important that all of the many people involved with the ASB be familiar with the formal body of laws and the local district rules that govern ASBs.

State and federal laws and local district policies, procedures and administrative regulations are subject to continual review and change. This manual includes the full text of all major California state laws and regulations that directly affect ASB operations as of July 1, 2009. This listing is included in the appendices. The reader may also wish to check the Internet for changes to state law. Many Web sites, including [www.leginfo.ca.gov](http://www.leginfo.ca.gov), [www.calregs.com](http://www.calregs.com) and [www.oal.ca.gov](http://www.oal.ca.gov), contain references or listings of California laws and regulations.

### Laws and Regulations Overview

#### Education Code

The California Education Code is one of 29 sets of code in the state and is the primary body of law for kindergarten through community college governance. ASB management is referenced in many of the code's sections. Laws in the Education Code must go through a formal process before being chaptered or signed into law by the governor. These laws are also known as statutes. California Codes are usually introduced in the Legislature as a bill, reviewed by a legislative committee, approved by the respective houses in the Legislature (the Senate and the Assembly) with an affirmative vote, and then sent to the governor for signature or veto. If the governor vetoes a bill that has been approved by the Legislature, the Legislature can override the veto with a two-thirds affirmative vote. Under certain circumstances, a bill that has been approved by the Legislature may become law without the governor's signature.

#### California Code of Regulations – Title 5

A regulation is a rule adopted by a state regulatory agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure. The California Code of Regulations (CCR), also known as the California Administrative Code, has the force of law.

Regulations in the California Code of Regulations are adopted by a state regulatory agency, approved by the California Office of Administrative Law, filed with the secretary of state and then signed by the governor. The California Code of Regulations is separated into 28 sections called Titles. The education section is known as Title 5.

#### Penal Code

The Penal Code is another of the 29 sets of code in the state. It is the primary body of law for issues related to crimes and criminal activity. The portions of the Penal Code relating to games of chance, such as lottery and bingo, are important to ASB operations.

#### Revenue and Taxation Code

The state Revenue and Taxation Code (RTC) identifies what constitutes a sale and what is subject to state sales tax. Based on this code, ASBs must pay sales tax on what they buy and sell, with few exceptions.

Publication 18 of the California State Board of Equalization (BOE) provides guidance on the taxability of sales by nonprofit organizations, including ASBs. Publication 18 can be found on the BOE web site at [www.boe.ca.gov](http://www.boe.ca.gov).

### Internal Revenue Code

Although ASB operations are not guided by the Internal Revenue Code (IRC), if teachers or other adults are conducting fund-raising to make donations to the ASB or to increase class budgets, that income is considered taxable. The United States Tax Law can be found online at <http://www.fourmilab.ch/ustax/>.

### California Constitution

In the absence of a statute granting public local educational agencies (LEAs) the legal authority to make a special expenditure (i.e., for food, clothing, awards, etc.), the legality of any expenditure is determined by the “gift of public funds” provision in the California Constitution, Article 16, section 6. This constitutional provision prohibits making any gift of public money to any individual (including public employees), corporation, or other government agency. It states, “. . . the Legislature shall have no . . . power to make any gift, or authorize the making of any gift, of any public money or thing of value to any individual . . . whatever . . .”

Expenditures of school funds must be for a direct and primary public purpose to avoid being a gift. An approved public purpose must be within the scope of a school district’s jurisdiction and purpose, which does not extend to purposes such as aid to the indigent and the like, or the promotion of social welfare, though these may be lawful public purposes for other agencies.

On the other hand, it is also well established that expenditures of public funds which involve a benefit to private persons (including public employees) are not gifts within the meaning of the California Constitution if those funds are expended for a public purpose. This means that public funds may be expended only if a direct and substantial public purpose is served by the expenditure and private individuals are benefited only incidentally to the promotion of the public purpose. To justify the expenditure of public funds, a LEA’s governing board must determine that the expenditure will benefit the education of students within its schools. Expenditures that most directly and tangibly benefit students’ education are more likely justified. Expenditures driven by personal motives are not justified even if they have been a longstanding local custom or are based on benevolent feelings.

If the LEA’s governing board has determined that a particular type of expenditure serves a public purpose, courts will almost always defer to that finding. Thus if the district has a board policy stating that specific items are allowable (e.g. scholarships or donations), there is more certainty that the expenditure might be considered allowable. Unless such a policy exists, examples of items that would be usually considered a gift of public funds include flowers, candy, advertisements for private award ceremonies, and donations to charity.

### Importance of Good Business Practices

The laws and regulations that govern ASB activities and funds are not sufficiently comprehensive to provide guidance for all areas in which questions arise. Thus, while this manual conforms to the laws and regulations, it also provides guidance in those areas where the formal legal guidance is inadequate or nonexistent. This supplementary guidance is based on sound business practices, internal controls and effective procedures used by LEAs throughout California. Because the additional guidance is not based on laws or regulations, local school administrations may change these recommended practices to better suit the operating environment of each individual LEA.

### Governing Board Policy and Administration Regulations

Because only a few laws and regulations in the Education Code, Penal Code, California Constitution and California Code of Regulations identify parameters for operation, a significant amount of local flexibility is needed. Because the governing board has final authority over ASB operations, including deciding if ASB



organizations will exist and supervising all ASB operations and activities, clear guidelines and processes should be developed to enable ASB organizations to operate efficiently and effectively for the benefit of the students. The recommended procedure for providing these guidelines and processes is for the governing board to develop and adopt clear and understandable board policies and administrative regulations, as well as an ASB manual.

Because most ASB operations relate directly to business management functions, the district's chief business official can reasonably take a lead role in ensuring that the district has appropriate board policies and administrative regulations regarding the operation and management of the organization's finances. In addition, all individuals involved with the ASB should receive training at least every two years on ASB laws, policies, regulations, internal controls and good business practices. The district's business office should take the lead in ensuring that this training is provided.

Local school leaders should be encouraged to suggest innovative ASB practices, ASB fund-raisers, and ASB management operations that will promote the general welfare, morale, and educational experiences of the students. Successful ASB management is a collaborative effort between and among students, student leaders, teachers, activity directors, advisors, school site leaders, and the district's central office.

## Recommended Legal Background Knowledge

LEAs must ensure that ASBs are in compliance with those areas of ASB operations that are specifically addressed in the law. For this reason, it is important that site administrators, ASB advisors, and district administrators understand the provisions of the law, which are listed in their entirety in the appendices of this manual.

These laws and regulations cover three major areas related to ASB operations:

- General Guidance
- Fund-raising Activities
- Food Sales in Schools (included in Chapter 4)

The following summary gives a brief overview of the sections of the California Education Code applicable to grades K-12:

### General Guidance Provisions of Law – K-12

Education Code § 48930	Grants the governing board the authority to allow groups of students to organize a student body organization. Also discusses the purpose and privileges of student body activities.
Education Code § 48933	Gives guidance on where the ASB organization may deposit or invest its funds.  Requires that ASB funds be spent with the preapproval of three people: an employee or official of the school district designated by the governing board, the ASB advisor (must be a certificated employee), and a student representative of the ASB organization.
Education Code § 48934	Allows ASB funds to be used to finance activities for noninstructional periods or to augment or enrich the district's programs for K-6 students.

Education Code § 48936 Provides guidance on uses of student funds, such as loans to other ASB organizations in the district or loans for permanent improvements to school district property.

Education Code § 48937 Requires the governing board to provide for the supervision and auditing of the ASB funds.  
Allows the governing board to use the school district staff for ongoing audits of ASB funds.

Education Code § 48938 Authorizes the governing board to appoint an employee to act as trustee for unorganized ASB funds in elementary and continuation schools, special education or regional occupational programs, or in adult classes.

Education Code § 35564 Applies only when a school district is reorganized, i.e., when two school districts are legally combined or boundaries are changed. The section provides guidance on how the ASB funds are split.

## Fund-Raising Activities Provisions of Law – K-12

Education Code § 48931 Grants the governing board the authority to authorize the sale of food by student organizations.

Education Code § 48932 Grants the governing board the authority to authorize student organizations to conduct activities, including fund-raising during and after school hours.

Education Code § 51520 Prohibits teachers or others from soliciting students during the school day or one hour before or after school unless the solicitation has been approved by the governing board and is for a charitable organization or an organization under the control of the district.

Education Code § 51521 Prohibits individuals from making solicitations on behalf of the school district or an ASB organization without the approval of the governing board.



The following summary gives a brief overview of the sections of the California Education Code that apply to community colleges:

### General Guidance Provisions of Law – Community College Level

Education Code § 76060

Grants the governing board the authority to allow groups of students of a community college to organize a student body organization. Also discusses the purpose and privileges of student body activities.

More than one student body organization may be authorized by the governing board if it is found that the day students and the evening students each need their own student body association, or if geographic circumstances make having one association impractical or inconvenient.

The community college may assume the responsibilities for the ASB activities if the student body association is dissolved. If this occurs, an employee who was employed to perform such ASB activities shall become a member of the classified service of the district in accordance with Section 88020.

Education Code § 76060.5

If a student body association is established, an election can be held to establish a student representation fee of \$1 per semester. The election shall be open to all regularly enrolled students of the college. An affirmative vote by two-thirds of the voting students is sufficient to establish the fee, except in special circumstances. The fee may be terminated by a majority vote of the students voting in an election held for this purpose, open to all regularly enrolled students of the college.

The student representative fee shall be collected by the college, deposited into a separate fund, and kept in custody by the chief fiscal officer of the college. The fee shall be expended to provide for the support of governmental affairs representatives who may be stating their positions and views before city, county and district governments. An administrative fee up to 7% may be retained by the college.

A student may refuse to pay the student representation fee for religious, political, financial or moral reasons if the refusal is submitted in writing at the time the student pays their other fees.

Education Code § 76061

For a student to be elected an officer in student government, they must be enrolled at the college at the time of the election and throughout their term with a minimum of five semester units and must meet and maintain the minimum standards of scholarship prescribed for community college students.

Education Code § 76062

Grants the governing board the authority to authorize student organizations to conduct activities, including fund-raising activities.

Education Code § 76063	<p>Gives guidance on where the ASB organization may deposit or invest its funds.</p> <p>Requires that ASB funds be spent subject to procedures established by the student body organization and with the prior approval of three people: an employee or official of the community college district designated by the governing board, the ASB advisor (must be a certificated employee); and a student representative of the ASB organization.</p>
Education Code § 76064	<p>Provides guidance on uses of student funds, such as loans to other ASB organizations in the community college or investing money for permanent improvements to community college district property.</p>
Education Code § 76065	<p>Requires the governing board to provide for the supervision and auditing of the ASB funds.</p>
Education Code § 76067	<p>Allows student political organizations affiliated with a political party on the State of California ballot to hold meetings on a community college campus and to distribute bulletins and circulars about the meetings provided that there is no endorsement of the organization by school authorities and no interference with the college district's regular education program.</p>
Education Code § 72673	<p>Applies when a student body organization is formed differently than described in the above Education Code provisions related to community college ASBs; the organization is instead called an auxiliary organization, with different rules and guidelines.</p>

The following Penal Code sections apply to K-12 LEAs and to community colleges:

Penal Code § 319	<p>Defines lotteries. A subsequent opinion from the California attorney general states, "The elements of an illegal lottery are consideration, prize and chance."</p>
Penal Code § 320	<p>States that any person who contrives, prepares, sets up, proposes or draws any lottery is guilty of a misdemeanor.</p>
Penal Code § 320.5	<p>Establishes that California public schools are not eligible to participate in lotteries or games of chance.</p>
Penal Code § 326.5	<p>Authorizes bingo games that are run by charitable organizations but states, "No minors shall be allowed to participate in any bingo game."</p>

## Applicable Taxes

In general, student organizations (and educational agencies) must pay sales and use tax for all items purchased and consumed by the organization. There are, however, some exceptions, such as when sales are irregular or intermittent. Further details are included throughout this manual.

### **ASB Organizations are Tax-Exempt**

Because student organizations are legally part of the school district, they are exempt from income tax just as the district is due to its status as a governmental organization. The district is not a private 501(c)(3) nonprofit organization, but enjoys tax-exempt status by virtue of being a government entity.

Many external organizations that donate to a student organization will request a tax identification number because they assume that this number is needed to claim a tax deduction on their annual income tax return. The district's tax identification number is not needed for any donor to claim a deduction and should not be given out. Government organizations are not required to share their tax identification numbers. All requests for the tax identification number should be forwarded to the district's business office, unless the sites have been provided with a letter to send out when asked for this information.

## Laws Governing K-12 School Food Sales

Food sales are one of the most popular methods of fund-raising, and the most regulated in K-12 LEAs. Various education codes, California code of regulations, and federal regulations make food sales a complex way to make money. The state and federal governments regulate food sales to protect the categorically funded school nutrition programs and to help ensure good nutrition, which helps students learn. Beverages are considered food and are also subject to restrictions. Foods that are sold on campus but that are not part of the school nutrition program are called ‘competitive foods.’ Laws governing these sales are based on the Code of Federal Regulations (CFR) Title 7, sections 210.11 and 220.12.

Several California laws took effect in July 2004, and more became effective in July 2007 and 2009, creating stricter standards for competitive foods. These stricter state regulations override many federal regulations. A chart summarizing the regulations in detail is included at the end of this chapter.

The regulations discussed here apply to food and beverages sold to students by students during the school day. Schools participating in the National School Lunch Program, the School Breakfast Program, the Special Milk Program, the Food Distribution Program, or any USDA meal program *must* follow these regulations. The only other food sales to students that may occur during the school day on school premises are sales by the district’s cafeteria program. The laws and regulations allow only limited food sales on campus during the school day, as summarized below. These limitations do not apply to vending machines accessible only to adults, such as in the teachers’ lounge.

The federal competitive food laws include restrictions on what it calls “foods of minimal nutritional value” (FMNV). These include sodas and items such as candy that are primarily sugar and or corn syrup. The USDA frequently produces lists of food items that are exempted from these rules and that are thus allowed. Vendors often try to promote products based on these exemptions. However, because of California’s strict regulation of food sales, most items on these exemption lists are not allowed to be sold on California school campuses, and the few items that may be allowed must have ingredients and nutrient labels that comply with California regulations. Because of this, caution should be exercised before deciding to sell these products and state agencies should be contacted to verify compliance.

Additional information on this subject may be found on the California Department of Education website in an August 2011 Nutrition Services Management Bulletin #RSDA-SNP-18-2011 titled *Competitive Foods and FMNV – Clarification*. The latest list of exemptions (and disclaimers for California) may be found at the CDE link titled “Exemptions Under the Competitive Foods Regulation” at <http://www.cde.ca.gov/ls/nu/hel/fmnvexempts.asp>.

In addition to numerous regulatory guidelines, school districts’ governing boards must adopt a wellness policy that gives even clearer guidelines on the use and sale of food and beverages to students during the school day. Clubs within the ASB organization that carry out food sales should have a copy of their district’s wellness policy so that they can be aware of any requirements the district may have adopted that extend beyond what the law requires.

### Vending Machines (all grade levels)

Exclusive carbonated beverage vending contracts are not allowed unless the governing board has adopted a policy after a public hearing to ensure that adequate internal controls over the funds are in place, and that any funds raised benefit public education. Such contracts must comply with the competitive bidding process. Vending machine food sales are also restricted by other laws as outlined below (and included in the appendices). Student-accessible vending machines must often be kept locked until after the last lunch period to comply with laws (EC section 35182.5) and Senate Bill (SB) 677, the California Childhood Obesity Prevention Act of 2003.

Additional information related to vending machines is included in Chapter 10.

## Elementary Schools

Elementary schools may hold up to four sales annually, at which one food item may be sold. The sale can only occur after the end of the regular lunch period. This food item must meet specific nutrition requirements as set forth in EC 49431 and 49431.5, which include low fat and low sugar requirements. Sodas and other sugared drinks are not allowed at any time. The food items sold cannot be the same as those sold by the cafeteria program that day and cannot be prepared on campus or in private homes.

These restrictions do not apply to student fund-raiser food sales conducted at least one half hour before the start or after the end of the school day, or to sales that occur off school premises.

## Middle Schools and High Schools

Middle schools and high schools may hold up to four food sales annually for any and all student groups; these four food sales are for all groups to participate in, but must occur on only four days during the school year. This means that all groups may sell food on the same four days; each group does not get their own specific four days. One student group (usually the student council or other schoolwide representative group) may also sell up to three food items daily. The food sold at these fund-raiser events must meet the following criteria:

- The items sold must meet nutritional guidelines specified in the food and beverage summary chart at the end of this chapter.
- The items sold cannot be prepared on the premises. The intent of this rule is that only commercially prepared and packaged foods are to be sold outside of the food service department. Allowable foods would include packaged foods such as allowable chips, nuts, cookies, popcorn and similar items. Foods prepared in private homes and sold on campus are also not allowed. This is intended to exclude barbecues, spaghetti feeds, enchiladas or tamales, ice cream sundaes and similar items, mainly for health reasons. There is a reference in EC 48931 regarding adherence to the California Health and Safety Code. The regulation forbidding the sale of food prepared in private homes is cited in this code. Organizations and individuals selling food on campus are not exempt from health department regulations.
- The items sold cannot be the same as those sold by the cafeteria program that day.

No carbonated beverages or other sugared drinks may be sold to middle school or high school students from one half hour before the start of the school day until one half hour after the end of the school day. Previously, sales of sodas were allowed outside of the area where reimbursable meals are served. The new ruling forbids carbonated beverages anywhere on campus during the school day and is discussed in California Department of Education Nutrition Services Management Bulletin 05-110, dated June 2005.

As of July 1, 2009, drinks offered for all secondary school students during the school day must be one of the following:

1. Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners (this includes artificial sweeteners, so the law is effectively requiring 100 percent juice or juice and water).
2. Drinking water (no additives).
3. Milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.
4. An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

NOTE: There is a bill pending in the California Assembly (AB 1746) to ban the sale of electrolyte replacement beverages in schools during the school day.

The California Senate passed a similar bill (SB 1255) in May 2010 prohibiting the sale of these beverages. If approved by the Assembly and signed by the governor, the law will become effective in July 2013.

The passage of this bill will modify current Education Code, section 49431.5, which has allowed the sale of these beverages.

## All Schools

Effective July 1, 2009, from one-half hour before to one-half hour after the school day, foods containing artificial trans-fats cannot be served or sold on a school campus. A food contains artificial trans-fat if it contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food lists the total trans-fat content as less than 0.5 grams per serving. This requirement can be found in Education Code section 49431.7

## Laws and Regulations

The following codes and regulations relate to ASBs and food sales.

Education Code § 48931	Authorizes the governing board to allow the ASB organization to sell food on school premises. This section also permits the governing board to allow other organizations, such as the PTA, to sell food on school premises.
Education Code § 35182.5	Limits the ability to sell non-nutritious foods and beverages, including soda, through exclusive or non-exclusive vending contacts.
Education Code § 49431	Prohibits the sale of non-nutritious foods and beverages in elementary schools during breakfast and lunch periods (includes new regulations created by SB 12).
Education Code § 49431.5	Limits sales of beverages in elementary and middle/junior high schools (includes new regulations created by SB 965).
CA Code of Regulations, Title 5, § 15500	Limits food sales in elementary schools to one item per sale and four sales per year, with additional subsidiary restrictions on the time of sale and the nature of the food being sold.
CA Code of Regulations, Title 5, § 15501	Allows ASB organizations in junior high and high schools to sell food during or after school under the conditions outlined in this regulation.
United States Department of Agriculture APB: SP-01-04, Title 7, Code of Federal Regulations, Parts 210 and 215	The USDA prohibits the sale of foods of minimal nutritional value (FMNV), such as carbonated beverages, water ices, chewing gum, and candies made predominantly from sugar and corn syrup, during meal periods anywhere reimbursable meals are sold or eaten. If a school lacks a cafeteria or students eat their reimbursable meals anywhere on campus, FMNV may not be sold anywhere on the campus during the meal period.

## Laws Regarding Food Sales to Students

### Competitive Food Sales Laws

### 2012

Federal and state regulations have established laws for all food sales on school campuses by student and adult organizations at K-12 LEAs. This includes vending machine and student store sales. The intent is to ensure that such sales do not impair the ability of the food service department to remain financially sound. The foods allowed for sale listed on the following summary pages indicate changes in laws effective July 2009. Sales must also meet local district wellness policies, adopted in June 2006. More information may be found in the following documents:

7CFR 210.11, 215, & 220.12 • California Education Code Sections 48931, 489431.2, 48431.5, 49430-49431.7  
 California Administrative Code 15500 & 15501 • California Administrative Code 15575-15578  
 California Senate Bills SB 12 and SB 677 • District Wellness Policy • California Health and Safety Code

Law	Elementary Schools	Middle & High Schools
<p><b>Sales by Organizations (During the school day)</b></p> <p>CA Administrative Code #15500            7 CFR 210.11, 220.12</p>	<p>Student and adult organizations may sell <u>not more than one food item per day</u>, and only if it meets the following requirements:</p> <ul style="list-style-type: none"> <li>• Sales must be approved by the district's governing board</li> <li>• Must meet the attached <u>Food &amp; Beverage Requirements</u></li> <li>• Must be sold after lunch period *</li> <li>• May not be prepared on school premises or in private homes (must be commercially prepared)</li> <li>• Limited to four sales per year and one food item per sale.</li> <li>• The item must not be sold in the school cafeteria on that day.</li> </ul> <p><i>* Lunch period is defined as "from the time students are released from class until they return to class."</i></p> <p><u>Noncompliant food and beverages may be sold only if:</u></p> <ul style="list-style-type: none"> <li>• The sale takes place off campus</li> <li style="text-align: center;"><b>or</b></li> <li>• The sale takes place at least ½ hour after the school day.</li> </ul>	<p>Student and adult organizations (this includes vending machines and student stores) may sell food any time of day if the following conditions are met:</p> <ul style="list-style-type: none"> <li>• Sales must be approved by the district's governing board</li> <li>• Must meet the attached <u>Food &amp; Beverage Requirements</u></li> <li>• One organization per day (i.e., student store) may sell no more than three types of approved food or beverage.</li> <li>• On no more than four days during the year, multiple organizations may sell approved foods (all on the same four days).</li> <li>• Food may not be prepared on school premises or in private homes (must be commercially prepared).</li> <li>• Food sold during the school day may not be the same as is sold by the school cafeteria on that day.</li> </ul> <p><u>Noncompliant food and beverages may be sold only if:</u></p> <ul style="list-style-type: none"> <li>• The sale takes place off campus</li> <li style="text-align: center;"><b>or</b></li> <li>• The sale takes place at least ½ hour after the school day</li> <li style="text-align: center;"><b>or</b></li> <li>• The sale takes place at a school-sponsored event after the school day.</li> </ul>

Law	Elementary Schools	Middle & High Schools
<p><b>Food Items</b></p> <p>CA Senate Bill 12 Escutia (Amends Section 49431 of Ed Code) Effective July 2007</p> <p>CA Education Code 49431.7</p>	<p>Restricts <u>food</u> sold to pupils during the school day to:</p> <ul style="list-style-type: none"> <li>• <u>Full Meals</u></li> </ul> <p style="text-align: center;"><b>or:</b></p> <ul style="list-style-type: none"> <li>• <u>A la carte items</u>, (individual portion sizes) of nuts/seeds, eggs, cheese, fruit, and nonfried vegetables.</li> <li>• <u>Dairy and grain products</u> (e.g., yogurt, ice cream, muffins granola bars) <u>may be sold a la carte, if:</u> <ul style="list-style-type: none"> <li>• Not more than 175 calories per item and a maximum of: <ul style="list-style-type: none"> <li>• 35% of calories from fat</li> <li>• 10% of calories from saturated fat.</li> <li>• 35% of weight from sugar* (excepting fruits and vegetables)</li> <li>• No artificial trans fats</li> </ul> </li> </ul> </li> </ul> <p><i>*Sugar means all free mono- and disaccharides, such as glucose, fructose, lactose and sucrose.</i></p>	<p>Restricts all <u>a la carte food sales</u> during the school day (including food service, student sales and vending machines) to the following:</p> <ul style="list-style-type: none"> <li>• <u>Snacks</u> are limited to a maximum of: <ul style="list-style-type: none"> <li>• 250 calories per item.</li> <li>• 35% of calories from fat (excepting nuts, nut butters, seeds, eggs, single-serving cheese, fruit, &amp; nonfried vegetables).</li> <li>• 10% of calories from saturated fat (excepting eggs, and single-serving cheese).</li> <li>• 35% of weight from sugar* (excepting fruits and vegetables).</li> <li>• No artificial trans fats.</li> </ul> </li> </ul> <p><i>*Sugar means all free mono- and disaccharides, such as glucose, fructose, lactose and sucrose.</i></p> <ul style="list-style-type: none"> <li>• <u>Entrees</u> (except those sold as part of a government lunch or breakfast ) are limited to: <ul style="list-style-type: none"> <li>• Maximum of 400 calories.</li> <li>• 4 grams of fat per 100 calories (36% fat).</li> <li>• Must be categorized as an entrée in the National School Lunch or breakfast program.</li> </ul> </li> </ul>

Law	Elementary Schools	Middle Schools	High Schools
<p><b>Beverages</b></p> <p>CA Senate Bill 677 (Effective Jan 2006)</p> <p>CA Childhood Obesity Prevention Act of 2003</p> <p>CA Senate Bill 965</p> <p>CA Ed Code 49431 (Effective July 2007)</p>	<p><b>Elementary Schools</b> <b>Effective January 2006</b></p> <p>Restricts beverages sold to students during the school day to water, milk (except whole milk), vegetable juice and fruit juice (minimum 50% juice, no added sweeteners).</p> <p>Noncompliant beverages may be sold only if:</p> <ul style="list-style-type: none"> <li>• sold by students</li> </ul> <p style="text-align: center;">and</p> <ul style="list-style-type: none"> <li>• sold at least ½ hour after school day or sold off campus.</li> </ul>	<p><b>Middle Schools</b> <b>Effective January 2006</b></p> <p>Restricts beverages to water, milk (except whole milk), vegetable juice and fruit juice (minimum 50% juice, no added sweeteners) and electrolyte replacement beverages (max. 42 grams of sugar per 20 oz).</p> <p>Noncompliant beverages may be sold only if:</p> <ul style="list-style-type: none"> <li>• At a school-sponsored event after school</li> </ul> <p style="text-align: center;">or</p> <ul style="list-style-type: none"> <li>• sold at least ½ hour before or after school.</li> </ul> <p>Restrictions apply to all sales, including vending machines and student stores.</p>	<p><b>High Schools</b> <b>Effective July 2005</b></p> <p>No carbonated beverages, but no other restrictions.</p> <p><b>Effective July 2007</b></p> <p>Same restrictions as middle schools (minimum of 50% compliance required).</p> <p><b>Effective July 2009</b></p> <p>100% compliance with the same standards as middle schools.</p> <p>Restrictions apply to all sales, including vending machines and student stores.</p>



The California Department of Education maintains a comprehensive website with information related to food sales and has a variety of guidance, manuals and resources to assist educational agencies in understanding the many guidelines that must be followed.

The most current link to a wide variety of topics related to competitive food and beverage requirements is at <http://www.cde.ca.gov/ls/nu/he/compfoods.asp> on a web page titled *Competitive Food and Beverages – Healthy Eating & Nutrition*. This page contains many sub links, including a summary of all management bulletins, questions and answers, training modules, and flow charts related to this topic.

### Parent Groups

Parent groups (e.g., booster clubs, PTAs) must ensure that they follow the food and beverage restrictions found in SB 12 and SB 965 when selling to students on campus during the school day, as well as ensuring that the federal foods of minimal nutritional value (FMNV) rules are followed. In addition, each district's wellness policy may contain rules and regulations that non-student groups must follow. The number of sales that these parent groups may hold each year during the school day is also usually determined by local policy and is normally limited to four per year.

### Additional Resources

Types of fund-raising activities allowed on school campuses are governed by many state and federal regulations. The California Department of Education (CDE) strongly encourages groups to sell non-food items at fund-raisers, but schools may conduct food or beverage sales if all regulations are followed.

Two CDE management bulletins published in 2010 offer excellent explanations of regulations and best practices for competitive food sales. They are titled *The Definition of 'Sold' For Competitive Food*, (Bulletin #NSD-SNP-04-2010, June 2010) and *Competitive Food & Beverage Sales* (Bulletin # NSD-SNP-01-2010, April 2010) and are available via the following links to the CDE website:

<http://www.cde.ca.gov/ls/nu/sn/mbnsdsnp012010.asp>

<http://www.cde.ca.gov/ls/nu/sn/mbnsdsnp042010.asp>



# Chapter 4

## Chapter 4 – Forming an ASB

### ASB Types: Organized vs. Unorganized

ASB organizations are classified as either organized or unorganized. There are some differences in procedures between organized and unorganized ASB organizations. In general, unorganized ASBs are those in which the students do not govern the ASB organization, and organized ASBs are those in which the students organize their activities around student clubs and a student council. The requirements for unorganized ASBs are generally not as complex or specific as for organized ASBs. Except where noted, guidance in this manual applies to both types of organizations.

Community colleges are able to form student organizations just as K-12 educational agencies are. The goal is the same: to raise money for extra-curricular activities beyond what the educational agency can provide. However, the students are older, attend classes at many different times and days, and can be full- or part-time. They are not classified as either organized or unorganized; neither the California Education Code nor other references provide a distinction between the two. Thus, in FCMAT's opinion, community college ASBs should operate as if they are organized ASBs for all intents and purposes.

While it is allowable for an unorganized ASB to operate as if it is an organized ASB, it is not appropriate for an organized ASB to operate as if it is unorganized. If it is decided to run the unorganized ASB as organized, it is up to the district whether that means that all rules pertaining to organized ASBs will apply, or only some (for example, the principal/site administrator could still make all decisions without students voting, but there could be a student council with minutes taken at all meetings).

### Elementary/Unorganized ASB Schools

In elementary schools, the ASB organization is called unorganized because as a rule, the students do not govern the ASB organization. Usually there is only the primary student body organization and no additional clubs with a more focused agenda. Adult education, continuation, special education, regional occupational programs (ROPs) and K-8 schools are also considered to have unorganized ASBs.

Although students in unorganized ASBs raise funds, they usually have more limited involvement in making decisions about the fund-raising events and how the funds are to be spent. The governing board delegates the authority to oversee the raising and spending of funds to the principal/site administrator or another school employee, who is able to make all of the decisions related to the ASB operations and funds.

### Secondary/Organized ASB Schools

Student organizations in middle, junior and high schools are called organized because the students organize their activities around student clubs and a student council. Community college students also organize their activities around student clubs and a student council. At both community colleges and secondary schools, there is oversight by district administration and advisors.

Organized ASBs normally have individual clubs under the primary student body organization, each with its own focus and organizational requirements. Students in organized ASBs are primarily responsible for their organizations; the student council and student club leaders hold formal meetings, develop budgets, plan fund-raisers, decide how the funds will be spent, and approve payments. The students make the decisions; the school administration, ASB bookkeeper and club advisor(s) assist and advise.

### Students Make Decisions

The student council is composed of the student leaders, who are responsible for the decisions they make and are advised on. The student advisor and school principal's roles are not to make the student council's decisions but to guide the student council.

The school principal and advisor should understand that the will of the students should come first unless there is a specific conflict with district policy, safety of student, school culture or other specific reason why an event or student council decision should be denied. Denial of a student council decision should not occur simply because the school principal or ASB advisor dislikes or disagrees with the decision.

To promote good governance, the site administrator (i.e. principal) should require students who wish to form a new club at the school to submit a formal application that has the endorsement of the certificated employee (a teacher or other faculty member of the school) who agrees to serve as the club advisor for the entire school year. The Education Code requires that advisors be certificated employees of the local educational agency (LEA). Additional information that should be gathered includes the title, powers and duties of the officers, the manner of their election, the scope of proposed activities, and the name of the organization. The Application for Student Club form at the end of this chapter can be used for this purpose.

Some LEAs require an application for all ASB organizations annually so that there is a clear record of the current officers, members and advisor and to ensure that the most current constitution and bylaws are on file. Keeping this information current is a sound practice that could be accomplished more simply using the sample Club Information Sheet form provided at the end of this chapter.

The student council and each club should prepare and adopt an official constitution. The constitution must state the name and purpose of the organization and must present the framework within which the organization will operate. This document should clearly state all of the policies and rules for student governance of the student organization or club. A set of bylaws that identifies operational parameters is also an important component of a club or ASB structure, even though only the student council is required to have one. The bylaws are often part of the constitution.

At a minimum, the constitution should include the following:

- Background information on the organization.
- The name of the organization.
- The purpose of the organization.
- The type of activities that the organization will conduct.
- The membership requirements for the organization, including the eligibility requirements.
- The definition of quorum.
- How the constitution is amended.
- Information on the officers and meetings.
- The titles and terms of office of the officers.
- The duties of the officers.
- How officers are elected and eligibility requirements.
- Whether or not the club/organization will be represented on the student council.
- How representatives other than officers will be selected.
- The qualifications for eligibility on the student council.
- The term limits on the student council.
- How the club advisors will be appointed.
- The time, frequency, and place for meetings.
- How and when the budget is prepared.
- How expenses are approved.

- Who will monitor the budget.
- What types of financial statements and reports will be generated and distributed.
- How committees will be appointed.
- How clubs within the student body organization will be formed, including their purpose, method of organization and discontinuance; financial activities; and requirements for constitution and/or bylaws.

A set of sample constitutions and bylaws for high schools, middle schools, community colleges and clubs are included in the appendices of this manual.

## Student Organization and Club Trust Accounts

To become a recognized part of the student body organization, a club, like a student organization, must be composed entirely of currently enrolled students. These clubs, also known as trust accounts for financial purposes, must have the approval of the student council and the site administrator, at the board's direction. All clubs should follow regulations stated in the ASB constitution related to the formation of school clubs. Any group of students may apply for permission to form a club by submitting a proposed charter of constitution to the ASB, or by submitting an application as discussed above. The ASB constitution should specify what needs to occur.

There are generally three types of ASB trust accounts in schools:

- Class groups, such as the Freshman Class, or the Class of 2012
- Scholarships and memorials
- Clubs

All trust accounts, with the exception of scholarship accounts, must be formed as outlined in the ASB constitution and board requirements. Each club or class group must have the following:

- A purpose
- Regular meetings that include approved meeting minutes
- A constitution that outlines policies and rules
- An ASB club advisor
- An approved budget
- All expenditures approved in advance by appropriate individuals (student representatives, ASB advisor, and board designee)

Bylaws outlining specific operational parameters should also be in place. Education Code mandates that the club advisor be a certificated employee. All clubs operate under the same regulations as the ASB organization.

All trust accounts are part of the general ASB, so if a club becomes inactive or all students in the club graduate, the funds should be transferred to the general ASB unless the club's constitution or a decision made by students before the club became inactive provides specific instructions to do otherwise. The district's board policy regarding ASB or the ASB constitution and/or bylaws should state what is to be done with the funds of a club that has become inactive (for example, they should be transferred to the general ASB). The ASB bylaws or guidelines in the constitution should also contain a definition of an inactive club. For example, an inactive club could mean any club that has no financial activity for more than 18 months.

## Minutes of Meetings

Because there is a formal process of student governance for organized student groups, the student council and each club must prepare and maintain a record of each meeting. These records are called minutes. The meeting

minutes serve as the record of each meeting and the actions taken during the meeting and demonstrate that the student council or club has followed the ASB organization's policies and procedures.

Minutes should include details of proceedings, including financial matters pertaining to the budget, approval of fund-raising ventures, and expenditure authorizations. Minutes are not a verbatim transcript of every word spoken; rather, they are a concise documentation of the essential matters discussed at each meeting so there is a record of what occurred. The minutes should be clearly written so that they can be read and understood in the future. It is important to remember that abbreviations that mean something to one group may mean nothing to someone reading the minutes a year later. Abbreviations for special projects or groups should be avoided.

### Good Business Practices for Meeting Minutes

Although the form of minutes may vary from organization to organization, the following are the minimum items of information that should be documented in meeting minutes:

- Name of the club or organization holding the meeting.
- Date, time, and place of the meeting.
- Names of those in attendance.
- Name of the presiding officer.
- Approval of minutes from the previous meeting.
- What was discussed or reported on during the meeting.
- Report on activities of standing committee(s) or special committee(s).
- What action was taken during the meeting, e.g., the budget was amended or the expenses were approved.
- The results of any votes taken, including who made a motion, who seconded the motion and anyone in opposition, if applicable.
- Reporting on any communication to the ASB.
- Listing of any unfinished business.
- Date and time of next meeting.
- What time the meeting adjourned.
- Who prepared the minutes.

Any information provided to those attending the meeting, such as bylaws, project outlines and letters, should be attached to the original minutes and kept on file. The club secretary, or whoever took the minutes, should also sign the minutes when they are completed.

At the next regularly scheduled student council or club meeting, the students should review and approve the minutes of the previous meeting. The secretary should maintain a binder of all of the approved minutes for the school year. A sample ASB Meeting Minutes record is included at the end of this chapter. The sample can be modified for either general student council use or for a club meeting record. Also included at the end of this chapter is a document titled "Let's Get the Meeting Moving," which some districts use to help clubs understand how to run a meeting and what should be discussed.

## Application for Student Club

Name of School \_\_\_\_\_

### Application for Student Club

I. We the students of the \_\_\_\_\_ (name of the school site), request permission to form a Student Club. Attach a list of the students sponsoring this application.

II. This club will be called \_\_\_\_\_  
and will have as its purpose: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

III. Mr./Ms. \_\_\_\_\_ (name of certificated faculty member) will serve as the advisor for this club for the \_\_\_\_\_ school year.

IV. We have attached:

A copy of the proposed constitution for this club.

A copy of the proposed budget for this club for the school year.

V. Submitted by:

Student Club Representative: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Approved by:

Principal/Site Administrator: \_\_\_\_\_  
Signature, Title and Date

ASB President: \_\_\_\_\_  
Signature, Title and Date

Recorded in Student Council Minutes on (date): \_\_\_\_\_

Club Information Sheet

Name of School \_\_\_\_\_

ASSOCIATED STUDENTS  
CLUB INFORMATION SHEET

(PLEASE PRINT)

Fiscal Year: \_\_\_\_\_

Name of Club: \_\_\_\_\_

Name and Department of Advisor: \_\_\_\_\_

Signature of Advisor: \_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone)

Name of Club President: \_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone)

Name of Additional Student Representative: \_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone)

Name of Alternate: \_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone)

Day and Time of Club Meetings: \_\_\_\_\_

Place of Club Meetings: \_\_\_\_\_

Please Attach:

A copy of the proposed constitution for this club.

A copy of the proposed budget for this club for the school year.



## Student Council or Club Meeting Minutes

Name of School \_\_\_\_\_

Name of Club \_\_\_\_\_

### Associated Student Body Minutes

Meeting Date: \_\_\_\_\_ Meeting Time: \_\_\_\_\_ Location: \_\_\_\_\_

The meeting was called to order by: \_\_\_\_\_ The minutes of the meeting dated \_\_\_\_\_ were read and approved (corrected and approved).

The following purchase orders were approved (list below or attach separate listing):

Purchase Order Number	Vendor Name	Amount	Club	Purpose of Expenditure

Motion by: \_\_\_\_\_ Second by: \_\_\_\_\_

Vote Count: \_\_\_\_\_ Number For: \_\_\_\_\_ Number Opposed: \_\_\_\_\_

The following invoices were submitted for payment (list below or attach separate listing):

Check Number	Payable To	Amount	Club	Purpose of Expenditure

Motion by: \_\_\_\_\_ Second by: \_\_\_\_\_

Vote Count: \_\_\_\_\_ Number For: \_\_\_\_\_ Number Opposed: \_\_\_\_\_

Communication and Reports:

Old Business: \_\_\_\_\_

New Business: \_\_\_\_\_

Submitted by: \_\_\_\_\_

ASB Secretary: \_\_\_\_\_  
(Signature and Date)

ASB Advisor: \_\_\_\_\_  
(Signature and Date)

Meeting Attendees (list below or attach separate listing):

## Instructions for Structuring Meetings

### LET'S GET THE MEETING MOVING!

#### 1. Call to Order

The meeting is called to order by the president, who rises and says, “The meeting will please come to order.”

#### 2. Minutes

The minutes of the last meeting are read.

Example: The president says, “The secretary will read the minutes of the last meeting.” After the reading, the president asks, “Are there any corrections or additions to these minutes?” “If not, they stand approved as read.”

If there are corrections, the president informally directs corrections be made.

“The minutes are approved as corrected.”

The secretary signs the minutes, “Respectfully submitted.” They may be initialed by the president.

#### 3. Reports of Officers

The president makes announcements by reading the president’s report.

The secretary informs the group of any letters that have been received by the group. Each communication should be handled by a main motion before another is read.

The treasurer reports on receipts and expenses paid. These are “received and placed on file.” No vote is taken on reports “placed on file.”

#### 4. Reports of Committees

The reports of committees are called for by the president.

Standing committees

Special committees (temporary)

Procedure: In each case, the president calls upon the chairperson of the committee to make the report. The report is read.

After this has been done, the president says, “This report will be placed on file. Any action required in this report will be taken care of under the proper order of business.”

## 5. Unfinished Business

This is any business postponed from a previous meeting. Discussion follows the motion and then a vote is taken.

## 6. New Business

This includes any ideas not presented previously. It is moved and discussed by the members. Example: President states, “We are now ready for the new business of the meeting, which includes the decision about the admission fee for the party. Will someone make a motion so that we may discuss the question?”

Member says: “I move that the admission fee for the party be fifty cents.”

Second member: “I second the motion.”

President: “It has been moved and seconded that the admission fee for the party be fifty cents. Is there any discussion?” Discussion follows. One member calls “Question,” which means that the president must ask, “Are you ready for the question?” (Ready to vote.) Or the president acts on personal initiative and, if there are no objections, brings the matter to a vote.

## 7. The Program of the Meeting

Example: Guest speaker, movie, slide presentation, etc.

## 8. Adjournment

This happens after a motion to adjourn is made and carried, (or if business is finished). The presiding officer declares the meeting adjourned.

# Chapter 5

## Chapter 5 – General Business Practices and Internal Controls

ASB organizations offer students the opportunity to learn about business principles and practices. Student organizations are no different from other organizations in that they must follow sound business practices to ensure confidence in their governance and financial management and to ensure success. Just as a business is responsible to its owners and a school district is responsible to the public, student organizations are responsible to all students and must ensure that the funds generated are used effectively and accounted for in accordance with the student council governing body. Sound business practices help ensure compliance, effectiveness and accountability.

### The Business Operating Cycle

Businesses operate on a cycle that begins when the organization is formed. The business operating cycle consists of various phases that normally recur each year, such as posting transactions, closing the books and preparing financial reports. ASB organizations operate on a yearly cycle, just as businesses do, but as is the case with local educational agencies, the year runs from July 1 to June 30 rather than from January 1 to December 31.

Successful businesses pay close attention to the various stages of their operating cycle and ensure that good procedures are used at each stage. To ensure that the ASB organization is efficient and effective, all individuals involved in ASB must understand the ASB operating cycle and how to establish effective policies and procedures for each stage.

### Establishing the Bank Account

At a minimum, ASB organizations will need a checking account at a local bank for each school site. In middle, junior high and high schools, as well as community colleges, a savings account or money market fund may also be established because of the large amounts of money raised. Education code sections 48933 (K-12) and 76063 (community college) provide guidance concerning where the ASB organization may legally deposit funds.

### Good Business Practices for Bank Account Management

Because the ASB organization is opening the bank and savings accounts using the district's federal employer identification number, district guidelines must be followed. At a minimum, the district's business office should be notified when any bank accounts need to be opened or closed. Most local educational agencies (LEAs) have a specific procedure to be followed when opening bank accounts; in many cases, only the district's business office is able to open bank accounts. Those responsible for ASB operations need to be familiar with their district's policy. At a minimum, the district's business office should maintain a list of all of the district's bank accounts, including ASB accounts.

The bank accounts should be held in the name of the ASB organization and not in the name of any individual. These bank accounts are for the exclusive use of the ASB organization, and the site administrator should establish procedures to ensure that only ASB funds are deposited into these accounts. There must be at least two signatories on each account, and these signatories should not include students. Most districts will have at least one back-up signature, often someone in the district office, because school sites usually close during summer and holidays.

Clubs should not be permitted to open their own bank accounts; rather, they are all part of the original ASB bank account first set up when the student council account was opened.

Whenever possible, the funds should be placed in interest-bearing accounts.

As funds on hand in the ASB bank account approach the maximum amount insured by the Federal Deposit Insurance Corporation (FDIC), the ASB should consider reducing its risk of loss by opening additional bank accounts in other banking institutions. As of 2008, the maximum amount insured by the FDIC at any one banking institution was \$250,000; however, this level may change and the ASB advisors should consult with their bank to ensure that the ASB funds are within the insurance limits.

## Internal Controls

### What Are They and Why Are They Important?

Internal controls are the foundation of sound financial management. They include the policies and procedures that an organization establishes to do the following:

- Ensure that operations are effective and efficient.
- Safeguard and preserve the organization's assets.
- Promote successful fund-raising ventures.
- Protect against improper fund disbursements.
- Ensure that unauthorized obligations cannot be incurred.
- Provide reliable financial information.
- Reduce the risk and promote the detection of fraud and abuse.
- Protect employees and volunteers.
- Ensure compliance with applicable laws and regulations.
- Ensure the accurate documentation of all transactions.

As shown throughout this manual, it is critical to establish good policies and procedures—internal controls—for ASB organizations. Internal controls not only protect assets such as money and equipment, they also protect people. For example, establishing good internal controls for fund-raising events significantly reduces the risk that anyone participating in the event will be accused of any impropriety. Disagreements between site administrators, advisors, faculty, parents, students and/or community members sometimes result in false accusations. These accusations can be difficult or even impossible to disprove if the organization does not have sound internal controls. Once a person is accused of wrongdoing it is difficult to clear one's reputation, even if the accusation is false.

Internal controls include segregating duties according to employees' functions so that one person is not handling a transaction from beginning to end. This is a critical part of a system of checks and balances. Functions that need to be segregated include the following:

- Those who initiate, authorize or approve transactions.
- Those who execute the transactions.
- Those who record the transaction.
- Those who reconcile the transaction.
- Those responsible for the item resulting from the transaction.

Internal controls are also affected by the practices and attitudes of management. One should be able to answer the following questions in the affirmative:

- Does the site administrator set a good example by following established policies?
- Does the ASB advisor ensure that students follow the established policies and help students understand the reasons behind the policies and procedures?

- Does the business office provide continual assistance and staff development training for all staff members involved in ASB management?
- Does the site administrator or advisor take action when an infraction occurs?

The basic components of internal controls include the following:

- Segregation of duties
- System of checks and balances
- Staff cross training
- Use of pre-numbered documents
- Asset security
- Timely reconciliations
- Inventory records
- Comprehensive annual budget

To help ensure that adequate internal controls are in place, policies and procedures based on laws, regulations and sound business principles need to be established, implemented and maintained. The policies and procedures should be communicated to those involved (e.g. advisors and students). It is critical that employees be aware of the proper internal accounting control expectations. All individuals who are expected to carry out the policies and procedures should be trained; more than one person should be trained for each job (cross training).

It is important to provide assurance to management that the internal control system is sound. Adequate documentation of all procedures should be prepared and maintained, such as an ASB manual and standardized forms, to provide proof of what is occurring. Periodic monitoring (i.e. internal audits) should be performed throughout the year, including oversight by the site administrator, ASB advisor and the district business office. The annual independent audit provides both another monitoring device and a regulatory check of state and federal compliance.

If problems with internal controls are identified, action should be taken as soon as possible to correct any inefficient or problematic processes or procedures. Standardization should also not be overlooked: if something works well, it should be used districtwide rather than each site creating its own procedure.

Good internal controls do not completely eliminate the chance that errors or fraud will occur, but they reduce the risk to an acceptable level. Very few entities have perfect internal control structures in place, so it is imperative that management develop techniques to offset any weaknesses that exist.

### Internal Controls Checklist

Two different internal control checklists are provided for use in evaluating the internal controls for an ASB organization by each participant's function or job responsibility. Other internal controls include the district office's internal audits of ASB operations at the different sites and the independent annual audit at the end of each year.

The following internal control checklist is an easy way for those with responsibility for ASB organizations to review the responsibilities of their position. A "no" answer to any one of these questions indicates a possible internal control weakness that the responsible person should address.

The underlying premise in effective oversight and the internal control process is that the business office provides overall coordination, training, assistance, internal control review, support and monitoring that results in a "yes" response to every item listed.

These questions are intended as a helpful guide to educational agencies. In some cases, depending on individual structure, a question for one position, office or individual school site would be answered more appropriately by another position or office. What is important is the clear distinction about who is responsible for what.

The following checklist is divided by job responsibility. The appendix of this manual contains an additional checklist that is divided by function.



## Internal Controls Checklist

District Business Office Staff	YES	NO	N/A	Comments
1. Does the district have a comprehensive board policy and administrative regulations that provide rules and regulations for ASB governance and operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Does the district have a comprehensive ASB manual with detailed procedures?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Has the FCMAT ASB Accounting Manual been adopted as part of the district's ASB policies and procedures?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. If the district has a comprehensive manual, is it reviewed and updated, if necessary, at least annually? Does the update address areas of concern or confusion identified in the previous year's audit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Does the business office provide annual ASB training for all site and district employees who work with ASB activities and retain a signed and dated training attendance log as proof that employees received training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Do members of the business office staff periodically (at least annually) visit each school site to provide support and to review the ASB procedures used at the site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Has the business office taken immediate action to correct annual audit findings related to ASB activities? Are the school sites involved in developing action plans to ensure that the findings do not recur?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Are all proposed fund-raising events approved by the governing board or its designee at the beginning of each school year? Is this list updated throughout the year?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Does the business office's sales tax report include the sales and use tax for the student store and other purchases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
10. Before any disbursement is issued to any independent contractor, does the business office have on file a valid and signed IRS Form W-9, Request for Taxpayer Identification Number and Certification?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
11. Does the business office issue 1099s for all independent contractors paid with ASB funds?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
12. Has the business office developed standard forms, processes and systems for ASB operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

	YES	NO	N/A	Comments
13. Does the business office receive and review periodic financial statements from the ASB organizations and sign and date that they have reviewed the documents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
14. Does the business office review the monthly bank reconciliations from the site ASBs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
15. Does the district have access to an independent third party fraud reporting whistleblower web site and telephone hotline?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Signature \_\_\_\_\_

Date \_\_\_\_\_

## Principal/Site Administrator

The site administrator is the primary manager and responsible person at the school site. This is where the ultimate responsibility lies for all activities on campus, from test scores and athletic events to parental satisfaction with teachers in the classroom. Many site administrators delegate the responsibility and authority for ASB coordination and management to others, such as a vice principal, ASB advisor, club advisors and/or a teacher or other staff. This varies by school level and school size.

Some items listed as internal control questions for the site administrator are equally important for the ASB advisor with delegated responsibilities.

Questions below that are more relevant to secondary sites or to schools with organized ASBs contain the notation [Secondary].

	YES	NO	N/A	Comments
1. At the beginning of each year, do you spend some time at a staff meeting discussing ASB issues, operations and internal controls at the school (e.g., what is allowed and what are the procedures)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Do you spend time each month discussing ASB activities with the ASB bookkeeper, particularly problems that are developing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Do you report any questionable or suspicious activities to the district's business office for investigation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Do you verify that only ASB funds are maintained in ASB bank accounts? ASB bank accounts should not include PTA or booster club money, or faculty charitable funds.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Is a formal application required from any students who want to establish a new club at the school? [Secondary]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Is each club advisor a certificated staff member?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Do the student council and all clubs have a constitution that establishes the policies and rules for the student governance of the council or club? [Secondary]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Are all clubs required to prepare and maintain minutes of all club meetings? [Secondary]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Are the student council and each club required to prepare a budget for the fiscal year? [Secondary]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
10. Do you ensure that only allowable expenses are paid from ASB funds?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
11. Do you use a purchase order form with the three required approval signatures? [Secondary]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

	YES	NO	N/A	Comments
12. Are purchase orders dated and approved before the item is purchased?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
13. Do you ensure that students are truly approving expenditures and that adults (teachers, advisors or coaches) are not making the decisions? [Secondary]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
14. If food is sold in the student store, has it been approved by the director of food services? [Secondary. Primary grades cannot sell food daily.]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
15. Do you verify that all ASB bank accounts are reconciled within two weeks of the end of each month?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
16. If bank account reconciliations are not performed within two weeks of the end of each month, is a reconciliation completion promise date obtained and followed up to insure the bank reconciliation is completed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
17. Are you one of the individuals authorized to sign ASB checks? Who are the other approved signers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
18. Do you know who the board has approved to sign contracts? Up to what amount?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
19. Do you review the bank reconciliations each month and initial the bank statement as well as the reconciliation as evidence of your review?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
20. If you clearly delegated specific responsibilities and authority to an ASB advisor or advisors, do you meet regularly to coordinate and collaborate regarding school site needs and activities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
21. Is there a safe adequate to hold all cash receipts until deposit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
22. Are bank deposits made at least weekly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
23. Do you review ASB financial reports monthly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Signature \_\_\_\_\_

Date \_\_\_\_\_

## ASB Advisor

The ASB advisor is a vital contributor to the success of ASB operations. This position is used in different ways in different LEAs statewide.

In numerous secondary schools, the site administrator has delegated significant responsibility and authority to the ASB advisor. When this is the case, a number of the items identified above as internal control questions for the site administrator apply to the ASB advisor.

	YES	NO	N/A	Comments
1. Do you feel that the district staff and/or the site administrator have adequately explained your responsibilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Do you know where to go for help if you have questions about ASB policies or procedures?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Do you ensure that careful minutes are taken at each club meeting, with all necessary items noted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Do you assist your club in preparing and monitoring an annual budget?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Do you monitor spending during the year to ensure that the club will not end the year with a large carryover balance or a negative balance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Do you work with your club to ensure that fund-raisers are appropriate and adequate controls are in place to make them successful?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Do you work with the students to establish and implement cash receipt control procedures for each fund-raising event?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Is potential revenue projected for each fund-raising event?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Do you ensure that cash receipts are given to the ASB bookkeeper immediately, or as soon as possible, after the fund-raising event?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
10. Do you ensure that those responsible for the fund-raising event have had two people count all funds raised and that both individuals sign off and date the fund-raising cash collection form?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
11. Do you count the cash receipts in the presence of a second person and you both sign off and date that the counted funds are accurate?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
12. Do you keep your duplicate copies of cash count forms, and all other forms that are part of the financial process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

	YES	NO	N/A	Comments
13. Do you understand what types of expenses ASB funds are allowed to be used for?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
14. Are you one of the individuals who preapproves expenditures (with a student representative and the principal/site administrator) via a purchase order?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
15. Do you review ASB financial reports monthly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
16. Are you one of the authorized signers of the ASB checks? Who are the other approved signers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
17. If you are the advisor for the student store, are additional internal controls in place, such as comparing sales to inventory, periodic inventory of goods, and review of pricing policy?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
18. Does the district provide staff development and training opportunities for you throughout the year?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Signature \_\_\_\_\_

Date \_\_\_\_\_

## ASB Bookkeeper

Many accounting functions need to be performed for ASB operations. In the best-case situation, a person with adequate time and appropriate technical skills and knowledge will be assigned to perform these functions.

	YES	NO	N/A	Comments
1. Do you have sufficient time to devote to ASB recordkeeping?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Do you provide each club with information on the revenues and expenses to date each month? Is this also provided to the ASB advisor, site administrator and ASB treasurer? [Secondary]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Do you understand the appropriate internal controls for cash receipts from each type of fund-raising event?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Do you ensure that students and staff establish cash receipt control procedures for each fund-raising event?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Do you maintain an adequate stock of supplies for cash receipt control procedures, such as prenumbered tickets, prenumbered receipt books, and duplicate carbon cash count forms?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Do you ensure that the advisors turn in the appropriate documentation for the fund-raising event in addition to the cash collected? This documentation includes reports on tickets issued and other items.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Do you ensure that all cash count forms for fund-raising and all events where funds are collected are counted and signed prior to you taking custody of the deposit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. If a startup cash change box is issued, is the startup cash counted by the person(s) receiving the change in front of the ASB bookkeeper and signed off that the startup change is accurate?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Is cash deposited into the bank account within a few days after it is collected and received?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
10. Are all expenses approved in advance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
11. Do you have copies of the signed purchase orders?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
12. Is the purchase order dated and approved prior to the purchase?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
13. Are the checkbook and the check stock stored in a locked file cabinet or safe?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

	YES	NO	N/A	Comments
14. Is there a log that identifies who are the individuals that have access to the ASB safe?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
15. Are expenses paid only with an original invoice and a document that verifies that the goods were received?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
16. Are two signatures required on all checks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
17. Are checks made to vendors and employees only for reimbursements (not to cash)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
18. Is a record maintained of all equipment purchased with ASB funds?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
19. Do you have a process to determine whether a worker is an employee or an independent contractor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
20. Are all employees who perform work for the ASB paid through the district's payroll?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
21. Is a W-9 form obtained from all independent contractors prior to any disbursements issued to the independent contractor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
22. Do you reconcile all bank accounts within two weeks of the end of the month?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
23. Are all outstanding deposits and checks identified and their clearing of the bank timely? (Outstanding deposits should only be outstanding for no more than two or three days.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
24. If any journal entries or transfer entries are part of the bank reconciliation, are those entries authorized?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
25. Does the district provide staff development and training opportunities for you throughout the year?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
26. Is there a knowledgeable contact person in the business office to coordinate answering your questions and providing assistance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
27. Is your recordkeeping computerized? If so, is the software adequate to meet the ASB's needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
28. Is the computer that the ASB accounting software resides user ID and password protected?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
29. Is the ASB accounting software access user ID and password protected?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
30. Are ASB computer and accounting software passwords safeguarded, not given out, and changed periodically?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____



	YES	NO	N/A	Comments
31. Are only ASB receipts deposited into the ASB account (e.g., not library fines or principal's/site administrator's discretionary accounts)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
32. Are you being listened to when you express concerns about expenditures or other items?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
33. When money is brought to you from fund-raisers, are you given time to count in the person's presence and do you both sign and date the cash count form that the funds agree?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Signature \_\_\_\_\_

Date \_\_\_\_\_

In addition to sound internal controls, an ASB office should have good access controls. Easy or unobstructed access to an ASB office creates the opportunity for fraud. At the same time, the ASB office and bookkeeper need to be available to conduct business and meet clients' needs. Access controls allow the ASB bookkeeper to control who enters the office, especially during times of heavy traffic. A split door is a simple solution that allows visual access and the ability for the ASB bookkeeper to answer questions without having to grant others access to the office.

Finally, strong internal controls promote the perception that detection of fraud is more likely. Those who believe they may be caught committing fraud may be less likely to do so. Limiting access and installing surveillance cameras with warning signs offer strong visual deterrents to a potential thief.

An Information Summary, Document Checklist and Questionnaire form is provided at the end of this chapter to further assist in improving sound internal controls.

## Maintaining ASB Records

Like any business, the ASB organization must maintain accurate records. The records are the history of what occurred during the year. Although the annual audit is usually completed within six months of the close of the school year, other groups and individuals may have questions about the ASB organization a year or more after the school year has ended.

### Good Business Practice for Record Retention

The business office should have a complete list of which documents need to be maintained and for how long. A variety of legal and procedural requirements, established in statute or locally by each LEA, affects the retention of records. If the business office does not have specific guidelines, it is a good practice to maintain all of the ASB information for at least four years from the date of the audit, unless the information is considered a permanent record. Permanent means that these records should *never* be destroyed. The site administrator at each school should ensure that students have a safe place to store the permanent ASB records indefinitely and the nonpermanent records until the end of the four-year period.

A sample record retention guideline follows.

### Retention Guidelines for Student Body Records

Record	Retention Period
ASB Constitution, Bylaws and Charters	Permanent
Equipment Inventory	Permanent
Club and Council Minutes	4 Years
Budgets	4 Years
Invoices and Approval Documents	4 Years
Bank Statements, Deposit Slips, Cancelled Checks and other Banking Records	4 Years
Financial Statements and other Accounting Records	4 Years

As of January 1, 2000, Education Code section 35254 was amended to permit retention of permanent records in electronic formats as an alternative to microfilming or photographing the original documents. The original of any records may be destroyed once they have been copied via photographic, microfilm or electronic methods, except that no original record that is basic to any required audit shall be destroyed prior to the second July 1st succeeding the completion of the audit.

## Insurance

Just as the school district has insurance to protect the various components of its operations, the ASB also must have adequate insurance. The responsibility for the ASB insurance coverage rests with the district's governing board, which normally delegates the responsibility to the district's business office. The business office should assist in determining the types of insurance the student organization needs. Although the district can charge the ASB for the cost of insurance, most districts pay for it out of their central budget rather than invoicing the ASB.

ASB organizations should have the following insurance coverage:

- Fire insurance covering the physical property purchased by the student organization.
- Theft insurance covering the funds and physical assets of the organization.
- Workers' compensation insurance for ASB employees.
- Fidelity bonding insurance protecting the organization against losses due to employees' or members' actions.
- Property and liability insurance protection for the organization.
- Federal Deposit Insurance Corporation (FDIC) bank account balance insurance.

## Whistleblower Hotlines and Fraud Reporting Websites

All ASBs should consider establishing or becoming part of an independent third-party whistleblower hotline and/or web-based fraud reporting service. The creation and/or use of fraud reporting services is essential to establishing a perception that there is a likelihood of being detected. Fraud experts believe that the greater the perception of the probability of detection, the less likely fraud is to occur; people who think they might get caught committing fraud are less likely to try.

## Information Summary, Document Checklist and Questions

The following form has been developed to help ASBs maintain appropriate information regarding general business operations and specific activities of all clubs at a school.



## Information Summary, Document Checklist and Questions

### Organization

First year: July 1, 20\_\_ - June 30, 20\_\_

School Name: \_\_\_\_\_

Principal: \_\_\_\_\_

ASB Bookkeeper: \_\_\_\_\_

ASB Advisor: \_\_\_\_\_

ASB Approved by Board of Education Date: \_\_\_\_\_

	Yes	No
ASB constitution & bylaws?	<input type="checkbox"/>	<input type="checkbox"/>
Trust account charter & constitution - all trust accounts?	<input type="checkbox"/>	<input type="checkbox"/>
Fund-raising activities agree with district policy?	<input type="checkbox"/>	<input type="checkbox"/>

### Financial & Accounting

Accounting software name: \_\_\_\_\_

Accounting software version: \_\_\_\_\_

Names of individuals who have ASB accounting software access:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Names of individuals who know the combination to the ASB safe:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

	Yes	No
Are there any unapproved copies of the ASB accounting software? (There should be only one working copy of the software)	<input type="checkbox"/>	<input type="checkbox"/>

Is the ASB accounting software backed up daily and the backup copy kept in a separate and secure location?	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------

Approved annual budget?	<input type="checkbox"/>	<input type="checkbox"/>
-------------------------	--------------------------	--------------------------

*Financial Statements*

Submitted monthly to district office?	<input type="checkbox"/>	<input type="checkbox"/>
---------------------------------------	--------------------------	--------------------------

Provided monthly to each club/trust?	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------------------	--------------------------	--------------------------

*Bank Statements and Bank Reconciliations*

Reconciled monthly within two weeks of receipt of bank statements?	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------

Reviewed and approved by the principal/ASB advisor and district office?	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------

Are all bank reconciliation journal and transfer entries authorized?	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------

Signed and dated by the individual performing the bank reconciliation?	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------

*Suspense/Clearing Accounts*

Reconciled monthly and approved by the ASB advisor?	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------

All transactions, including transfers and journal entries, are properly approved?	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------

*Annual Budget*

Prepared?	<input type="checkbox"/>	<input type="checkbox"/>
-----------	--------------------------	--------------------------

Approved?	<input type="checkbox"/>	<input type="checkbox"/>
-----------	--------------------------	--------------------------

Budget vs. actual results compared?	<input type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------	--------------------------

**Minutes**

Minutes are prepared for every meeting?	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------

*Minutes Authorize*

Fund-raising?	<input type="checkbox"/>	<input type="checkbox"/>
---------------	--------------------------	--------------------------

Purchases?	<input type="checkbox"/>	<input type="checkbox"/>
------------	--------------------------	--------------------------

Establishment of clubs?	<input type="checkbox"/>	<input type="checkbox"/>
-------------------------	--------------------------	--------------------------

_____	<input type="checkbox"/>	<input type="checkbox"/>
-------	--------------------------	--------------------------

_____	<input type="checkbox"/>	<input type="checkbox"/>
-------	--------------------------	--------------------------

<b>Sales and Purchases</b>	<b>Yes</b>	<b>No</b>
----------------------------	------------	-----------

*Cash Count Forms & Deposits*

- |   |                          |                          |
|---|--------------------------|--------------------------|
| Fund-raising cash boxes checked in/out?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Cash box startup cash counted and signed off on the cash count form by the person(s) receiving the cash box?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Starting/ending cash reconciled?  | <input type="checkbox"/> | <input type="checkbox"/> |
| All cash and funds collected are pre-counted and signed off in the cash count form by those responsible for the event prior to submitting cash to the ASB bookkeeper?   | <input type="checkbox"/> | <input type="checkbox"/> |
| The fund-raising club advisor has kept their copy of the cash count form after signing off that the funds have been counted and before submitting the confirmed deposit to the ASB bookkeeper??   | <input type="checkbox"/> | <input type="checkbox"/> |
| The ASB bookkeeper has confirmed that the cash count form has been properly completed before accepting the funds for deposit?   | <input type="checkbox"/> | <input type="checkbox"/> |
| The ASB bookkeeper has counted the funds in the presence of the individual(s) to confirm that the funds collected are accurate, and both the ASB bookkeeper and witnesses have resolved any differences and signed the cash count form indicating that the deposit is accurate. | <input type="checkbox"/> | <input type="checkbox"/> |

If the cash counted by the ASB bookkeeper and witness differs by less than \$5, the ASB bookkeeper may adjust the deposit and both the witness and ASB bookkeeper should initial and date all cash count form changes.

If the cash counted by the ASB bookkeeper and witness differs by more than \$5, the ASB bookkeeper should request the club advisor to re-initial both the ASB bookkeeper's copy and the club advisor's copy of the cash count form.

*These cash count form and deposit counting and signing procedures are an important safeguard against fraud, help protect both the ASB bookkeeper and advisor from allegations of fraud, and help establish the chain of custody in order to identify fraud.*

*Revenue Projection for Fund-raising Activities and Other Events*

- |             |                          |                          |
|-------------|--------------------------|--------------------------|
| Approved?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Completed?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Signed off? | <input type="checkbox"/> | <input type="checkbox"/> |

	Yes	No
<i>Ticket Control, "dance, etc."</i>		
Approved?	<input type="checkbox"/>	<input type="checkbox"/>
Completed?	<input type="checkbox"/>	<input type="checkbox"/>
Signed off?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Student Store Inventory</i>		
Inventory performed regularly?	<input type="checkbox"/>	<input type="checkbox"/>
Do students count and sign off for each of their own cash register cash-outs?	<input type="checkbox"/>	<input type="checkbox"/>
Are student store deposits recorded on a cash count form and witnessed and signed by the student store representative and the witness?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Purchases &amp; Disbursements.</i>		
Purchase order prepared?	<input type="checkbox"/>	<input type="checkbox"/>
Purchase order pre-approved?	<input type="checkbox"/>	<input type="checkbox"/>
Purchase order dated and approved prior to the purchase?	<input type="checkbox"/>	<input type="checkbox"/>
Received goods reconciled?	<input type="checkbox"/>	<input type="checkbox"/>
W-9 received and signed prior to payments being sent to an independent contractor?	<input type="checkbox"/>	<input type="checkbox"/>
Check register periodically reviewed to confirm no missing checks?	<input type="checkbox"/>	<input type="checkbox"/>
Bank statement cancelled checks periodically reviewed to confirm that the payee on the check is the same as in the check register?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Year End</b>		
<i>Electronic Backup</i>		
Accounting program data?	<input type="checkbox"/>	<input type="checkbox"/>
Spreadsheets and other electronic data?	<input type="checkbox"/>	<input type="checkbox"/>
Backup copy documented and stored safely?	<input type="checkbox"/>	<input type="checkbox"/>



	<b>Yes</b>	<b>No</b>
<i>Listings Printed</i>		
Accounts receivable?	<input type="checkbox"/>	<input type="checkbox"/>
Accounts payable?	<input type="checkbox"/>	<input type="checkbox"/>
Student store inventory?	<input type="checkbox"/>	<input type="checkbox"/>
General ledger detail report?	<input type="checkbox"/>	<input type="checkbox"/>



# Chapter 6

## Chapter 6 – Budgets and Budget Management

### What Budgets Represent

The school district's governing board must establish procedures to be followed in preparing and controlling student body organization budgets. A budget is a financial plan for a specific period of time. A budget allows the ASB organization to estimate at the beginning of the school year where it will be financially at the end of the year.

For elementary and other schools that are considered unorganized ASBs, budgets are not usually necessary (though they are encouraged as a budgeting tool and learning experience) because usually only a few fund-raising events are held, and the funds are usually raised before any commitments are made or any money is spent.

The operations at middle schools, junior high schools, high schools and community colleges, are different; budgets are required for each club. For example, the student council may have to make commitments and requests to enter into contracts at the beginning of the year before any funds are raised. A budget allows the organization to estimate how much income it will raise that year and compare the income to the planned expenses. It is important to establish a procedure and practice requiring budgets to be in place and approved before the club enters into any commitments or requests that contracts be entered into.

Budgets are usually prepared for a one-year period. The general student council and each individual club need to develop a budget document with their annual goals and a plan for achieving those goals by deciding the following:

- Estimated revenues: What fund-raisers will we have?
- Estimated expenses: What will the fund-raisers cost us to hold?
- Estimated ending reserves and club carryover: Is there enough left over to accomplish the goals we've outlined?

The budget allows students to determine if they will raise enough funds during the year to cover their anticipated expenses. Because ASB organizations also provide an opportunity for students to learn about business operations, a budget is one of the tools of business that students can learn to use. Budgeting is also a life skill needed to manage one's own personal finances.

At the beginning of each school year (or the preceding spring), the student council and each club should decide what they want to do that year. For example, the student council may decide that they want to beautify two or three parts of the campus during the year. The students estimate that the beautification projects will cost about \$8,600. They determine that they will hold a fall festival, a winter dance, and a spring dance to raise the necessary funds. They want to begin the first project in December. Once the students have decided on their goals for the year, they can develop a budget that estimates the income from each fund-raising event, the expenses it will take to run the fund-raising events, and the expenses of the planned projects. A budget allows the students to see whether they will have enough funds to cover their expenses for the year. After preparing the budget, the students may determine that they will only be able to complete one project during the year or that they may have enough money to do more projects than they had originally planned.

Many school districts formally prohibit a club from spending any funds until there is an approved budget in place. This is a way to ensure that all clubs have established budgets.

A sample budget can be found in the appendices in Chapter 23 of this manual. A budget is broken down into four parts.

- Part I: Estimated Revenues
- Part II: Estimated Expenses
- Part III: Ending Balance and Carryover
- Part IV: Budget Approval

Following are the steps in preparing each part of the budget:

## Budget Development

Directions for budget preparation are specifically related to the suggested budget development forms included in this manual. Refer to the budget development forms (presented later in this chapter) starting with the Sample Budget form.

The student council, with assistance from the ASB advisor, plans for and prepares the budget. The ASB bookkeeper should not prepare the budget.

### Part I – Estimated Revenues

The faculty advisor for each club and the club officers should review plans for the school year and complete an estimate of actual revenue for each event. Prior year data can usually be obtained from the ASB bookkeeper or the school secretary.

1. The advisor and students should use the account numbers and account descriptions that the school establishes in its unique chart of accounts. Chapter 7, Accounting and Financial Management, includes information on how to establish a complete chart of accounts for the school. Clubs should use the titles to match the actual fund-raiser events they are planning. They should not combine the projections if multiple occurrences of one type of event are planned (such as spring and fall car washes). Each fund-raiser should be entered separately.
2. The first two columns in Part I are used for the appropriate account number and description.
3. The third column is a place to enter the revenues from the previous year. This information is helpful when the fund-raising operations of the organization remain fairly constant from year to year. Comparing the actual revenues received in one year to the amounts that are budgeted for the new school year is a good way to evaluate whether the budgeted revenues are reasonable.
4. The last column in Part I is for the estimated revenues for the new school year. Before the students can estimate the revenues, they must determine where the revenue will come from. For example, does the club or student council usually receive donations each year, or will all of the revenue come from fund-raising events?
5. For the revenue that will come from fund-raising events, the students need to prepare an estimate of the revenue for each event. The Fund-Raising Event Profit Form found in Chapter 13 can be used for this. The students should prepare one form for each fund-raising event. In addition, the form indicating that the fund-raiser has been approved should be attached.
6. Note: Throughout the year, the students should also prepare a Fund-Raising Event Profit Form if they decide to add a fund-raising event that was not included in the original budget.
7. After the students have completed the estimates of revenue for each fund-raising event and determined the other sources of revenue, they can enter the information line by line in the revenue section.
8. Once all of the information in Part I is complete, the students should total the revenues from all sources and enter the amount on the Total Revenues line.

9. When estimating revenue it is always best to use the most conservative number. For example, if the student council has received donations of between \$500 and \$2,000 in the past few years, use \$500 in the initial budget. The budget can always be adjusted to a higher amount later.

### **Part II – Estimated Expenses**

The advisor and students should use the account numbers and account descriptions that the local school has established in its chart of accounts. Chapter 7, Accounting and Financial Management, includes information on how to establish a chart of accounts for the school. The first two columns in Part II are for the appropriate account number and description.

1. The students should review the club's past years' expenses to determine the types of expenses the organization usually incurs each year (e.g., supplies and postage).
2. When estimating expenses, the students should include any items that the organization may reasonably have to pay during the school year, together with the cost of planned projects.
3. The students should include the expenses for each fund-raising event that they estimated when preparing the Fund-Raising Event Profit Form.
4. Once all of the information in Part II is complete, the students should total the expenses and enter the total on the Total Expenses line.

When estimating expenses it is best to budget the maximum amount an item is likely to cost and adjust the budget once the actual cost is determined.

### **Part III – Ending Balance and Carryover**

1. This first line in Part III is to compute the difference between the estimated revenues and the estimated expenses. When the estimated revenues equal or exceed the estimated expenses, the budget is balanced.
2. The advisor should ensure that the students prepare a balanced budget. If the club had a significant amount of carryover from the prior year, it is acceptable for the expenses to exceed the revenues by the amount of the prior year's carryover. Funds should be carried over only when there is a definite plan and purpose for the use of the funds. Examples include long-term projects or events that span years or occur early in the next school year.
3. If the students find that the expenses exceed the revenues they have budgeted and there is no carryover from the previous year to cover the shortfall, they need to review and reduce expenditures to balance the budget or plan to hold an additional fund-raiser.
4. The second line in Part III is to enter the amount of the ending balance, if any. This amount is the carryover from the previous year.
5. On the third line in Part III, the difference between the estimated revenues and expenses on line 1 and the carryover from the prior year on line 2 are added together to determine the amount of the projected ending balance. This is the amount that the students estimate will be available at the end of the school year based on the estimates in the budget. This amount becomes the estimated carryover for the next school year, unless it is spent in the current year.

### **Part IV – Budget Approval**

The advisor should assist the students in preparing the budget. Once the budget is complete, the advisor and a student representative of the club should sign and date the budget. This signature indicates that the advisor has reviewed the budget and determined that it is reasonable and realistic. The student council or club (depending on whose budget it is) should vote on the budget and include that vote in their meeting minutes prior to submitting the budget to the student council/leadership class. The student council/leadership class should approve all submitted budgets for each club.

Once the budget is approved by the students, the advisor and the student council, it should be sent to the district's business office for approval. In many districts, the governing board receives all ASB budgets and they are part of a public forum at an official district board meeting. In other districts, the governing board has delegated another administrator, such as the superintendent or business manager, to review and approve all budgets. Individuals involved with the ASB should be familiar with their district's budget review and approval policy and practice.

## Budget Monitoring

Budget monitoring is the process of comparing the budget to the actual revenues and expenses at a point in time to determine whether the revenues are coming in as expected and that the expenses are not exceeding the amounts authorized in the budget. The students and advisor should monitor the budget at least monthly so that there is adequate time to adjust plans if the budget is not realistic or if the planned goals will not be met because of lower than projected revenue or higher than projected expenses.

The budget monitoring form at the end of this chapter is a good format to use. The form shows the original budget and the revenues and expenses effective the date the form is prepared. It is an easy way to see how the club is doing financially.

If problems are noted in either the revenue or expense categories during budget monitoring, the students can revise the budget. For example, if the students had planned their first fund-raising event for October and the event had raised \$1,500 less than they budgeted, they will need to revise the budget. They will need to reduce the amount of revenue in the budget and reduce the planned expenses for the year, unless there is additional revenue or carryover from the previous year to cover the shortfall or an additional revenue-creating event will be planned.

The students should revise the budget whenever any significant changes in the estimated revenues occur or any increases in expenses are expected. A rule of thumb to use for significant change is a variance of 10 percent or more. To show the changes in the budget, the students can use the same form that was used to prepare the budget. The advisor and/or site administrator should also approve all changes to the budget. Again, individuals should be familiar with board policy in their district so that they can know if further approval of revised budgets is required, such as approval by the district's business office.

## Carryover of Unexpended Balances

Carryover is the amount of money the club has at the end of the year after all of the revenues are deposited and all of the bills have been paid. It is also called the ending balance.

The site administrator, advisor and students should ensure that the funds raised by students during a given school year are spent on behalf of those students while they are at the same school site. In one elementary school, the students raised over \$4,000 each year; however, only about \$1,000 was spent each year. Within a few years, the ASB organization had an ending balance of \$12,000. This practice is clearly contrary to the intent of the law.

Reasonable carryover balances often are used as seed money for a project in a new year, and a club may work toward a large project that takes more than one year to fund. Large or excessive carryover balances are discouraged. Thus, a good practice would include a regular review of carryover balances to be certain that the funds are spent for the benefit of the students who raised the funds.

## Good Business Practice for Budget Carryover

The governing board should include a limit on carryover in its ASB policy. Some districts include this issue in their own district-generated ASB manual or ASB board policy. If a district has already provided guidance about this issue, it is clear what needs to be done. However, if a district's board and/or administration has not included language regarding carryover balances, it is suggested that this issue be brought to their attention. A

good rule of thumb guideline could be something like the following: “No student club or organization may carry over more than 20 percent of the total amount raised in a given school year without a spending plan that has been approved by the business office.” Under this rule, for example, if the total club revenues were \$4,000 in a given year the club could carry over up to \$800 without approval.

There may be circumstances in which it would be appropriate for a club to carry over more than 20 percent. For example, if the student council wants to participate in a band competition and parade festival overseas, it could take them two years to raise the funds. If the student council has voted for this project, it may be appropriate for the business office to approve the carryover of funds.

The Budget Carryover Request form is the form that the student club (organized ASB) or site administrator (unorganized ASB) should submit to the district business office in April or May of each school year to request approval to carry over more than the allowed district amount (e.g. 20 percent).

### What Happens when a Class Graduates?

Education Code sections 48930 (K-12) and 76060 (community college) tell us that the purpose of ASB is to conduct activities on behalf of the students, clearly indicating that the funds held in ASB can only be spent for current students. Also inferred from this is that the funds are held for current students at the same school site at which the funds were raised. If cash balances exist for classes that have already graduated, those accounts need to be cleared. If there is no provision in the ASB constitution or board policy stating where remaining funds should be transferred after a class graduates, it is suggested that the funds be transferred to the general ASB account at the same school. The ASB constitution or board policy should be revised to provide guidance for similar circumstances in the future.

The funds should not be transferred to the students’ new school site upon graduation. For example, if an 8<sup>th</sup> grade class has remaining funds when they graduate, the funds should not follow the students to their new high school. The funds need to remain at the school where they were raised. If the 8<sup>th</sup> grade students do not spend their remaining funds prior to graduation, they should gift the funds to an existing ASB club at their school site. Otherwise, the funds should revert to the general ASB at the school.

It is a good practice to review outstanding balances a few months before a class graduates. If there is a balance, the class that is about to graduate should do one of the following:

1. Spend the remaining funds on allowable expenditures prior to graduation at their existing school site.
2. Gift the funds to another ASB club at the same school site. Many times the outgoing seniors gift the funds to the upcoming freshman class so that they have seed money to begin their freshman year.
3. Gift the funds to the general ASB at the same school site (this is also what will happen if the graduating class does nothing, especially if the ASB constitution and policy are silent on the issue).





## Budget Form

Name of School \_\_\_\_\_

Name of Club \_\_\_\_\_

### Budget Development

Fiscal Year: \_\_\_\_\_

As of what date: \_\_\_\_\_

#### Part I: Revenues

Account Number	Account Description	Prior Year Budgeted Revenue	Current Year Estimated Revenue
	Total		

#### Part II: Expenses

Account Number	Account Description	Prior Year Budgeted Expense	Current Year Estimated Expense
	Total		

#### Part III: Ending Balance and Carryover

Difference between total revenues and expenses: \_\_\_\_\_

Plus carryover (ending balance) from prior year: \_\_\_\_\_

Projected ending balance: \_\_\_\_\_

Report prepared by club representative: \_\_\_\_\_  
Signature and Date

Report reviewed by club advisor: \_\_\_\_\_  
Signature and Date

Presented and approved by ASB on: \_\_\_\_\_  
Signature, Title and Date

Approved by principal/site administrator: \_\_\_\_\_  
Signature and Date

Approved by business office: \_\_\_\_\_  
Signature, Title and Date

**Budget Monitoring Form for ASB or Club**

**Name of School** \_\_\_\_\_

**Name of Club** \_\_\_\_\_

**Budget Monitoring Form**  
**Fiscal Year:** \_\_\_\_\_

As of what date: \_\_\_\_\_

**Part I: Revenues**

Account Number	Account Description	Budgeted Revenues	Revenues Received to Date
	Total		

**Part II: Expenses**

Account Number	Account Description	Budgeted Expense	Actual Spent to Date
	Total		

Report prepared by club representative: \_\_\_\_\_  
Signature and Date

Report reviewed by club advisor: \_\_\_\_\_  
Signature and Date

Presented and recorded in Student Council Minutes: \_\_\_\_\_  
Signature, Title and Date

## Budget Carryover Request Form

Name of School \_\_\_\_\_

Name of Club \_\_\_\_\_

### Request to Carry Over Excess Ending Balances

Fiscal Year: \_\_\_\_\_

- I. The following organization requests approval to carry over an amount in excess of the district's 20 percent limit.

Club/Organization: \_\_\_\_\_

Club Advisor: \_\_\_\_\_ Date: \_\_\_\_\_

- II. Calculation of Excess Carryover

A. Total estimated annual revenues: \_\_\_\_\_

B. 20 percent of annual revenue: \_\_\_\_\_

C. Amount of carryover requested: \_\_\_\_\_

D. Excess carryover (B minus C): \_\_\_\_\_

- III. Explanation

Provide an explanation of the need to carry over amounts in excess of the 20 percent limit. Indicate the manner in which student approval was obtained, and when the club will use the excess funds. Attach explanation on an additional page.

Report prepared by club representative: \_\_\_\_\_  
Signature and Date

Report reviewed by club advisor: \_\_\_\_\_  
Signature and Date

Approved by principal/site administrator: \_\_\_\_\_  
Signature and Date

Approved by district business office: \_\_\_\_\_  
Signature and Date

Presented by and recorded in Student Council Minutes: \_\_\_\_\_  
Signature, Title and Date

# Chapter 7

## Chapter 7 – Accounting and Financial Management

### Accounting Systems

Every ASB organization must have an accounting system to record the money raised and spent. Accounting systems are either manual or computerized. The decision of which system to use is important because the system must provide assurance that adequate and effective internal controls are in place. This chapter briefly defines the two types of systems and indicates which systems ASBs usually use. The simplest accounting system is the checkbook. For elementary schools and other unorganized ASBs, where there are only a few fund-raising events each year, a checkbook may provide an adequate accounting system. In secondary schools and community colleges (organized ASBs), a more complex system is needed because many student clubs require separate accounting.

### Manual Accounting Systems

The simplest and least expensive system is a checkbook and a set of ledger cards. The ledger cards are used to record the transactions by club; the revenues are posted as additions on the ledger cards and the expenses are posted as deductions. This type of system was commonly used before computers were readily available. Manual systems are now found mostly in unorganized ASBs because of the limited amount of transactions. This type of system can work, but it requires a significant amount of time to maintain. Because all of the transactions are posted manually, the risk of error is high.

Even with manual sets of books, a backup of those books should be maintained. Photocopying the general ledger and subsidiary journals for archiving in a district fireproof safe is recommended. Scanning the books into some form of readable file such as a portable document format (PDF) file is also a good alternative; the scanned documents can be written to compact disks (CDs) and stored in the district's fireproof safe.

### Computerized Accounting Systems

Most secondary school ASB advisors and ASB bookkeepers use computers to account for ASB activities. Some vendors have developed accounting systems specifically for ASB records and accounting transactions.

These systems are more expensive and require ongoing support, but they enable the organization to produce more accurate reports and can save an enormous amount of time when producing information. Some accounting software packages such as Blue Bear are used by secondary schools in California and are designed specifically for ASBs. Other software systems range from spreadsheet applications such as Microsoft Excel to accounting software such as Quicken, QuickBooks and Peachtree. Some districts have developed their own proprietary accounting software. Large secondary schools with multiple ASB clubs and trust accounts may be best served by software applications that specialize in ASB operations because separate accounting is needed for clubs. The California Association of Directors of Activities, the professional organization for ASB advisors, can provide information about which districts use which products.

The importance of backing up data cannot be overemphasized. Whether it is stored on a district server or locally on the ASB office computer, electronic accounting information *must* be backed up to a secondary storage device at least weekly and preferably daily. Secondary backup storage devices such as compact disks (CDs), portable flash drives, portable hard drives and internet cloud backup services all provide efficient

#### Fraud Alert



Beware of multiple copies of accounting data located on the same computer drive or anywhere else. Using the guise of needing a second set of electronic books to practice accounting entries, perpetrators will carry out any number of frauds. Multiple sets of electronic books are most commonly used to create bank reconciliations. Some perpetrators of fraud have used up to six sets of books to prepare bank reconciliations, reprint checks, provide understated club financial records, and carry out many other fraudulent transactions and reports.

media for backups that can be stored in a district's fireproof safe or online. All financial data should also be backed up daily, and a copy of the all ASB computer files, which may contain other valuable data, should be backed up annually.

### Journal Entries and Transfers

Because so many ASBs use electronic accounting systems, greater control of journal entries and transfers is required. Journal entries and transfers should be prepared only with prior written approval from the ASB advisor, site administrator and/or within the club's minutes.

Because journal entries and transfers are not a common occurrence, great care should be taken to properly document their purpose. In accordance with standard accounting practices for all journal entries and transfers, the detailed reason for the entry and supporting documentation should accompany the transaction and be retained. This is true whether a journal entry is used to transfer resources between clubs, correct an error, or document an extraordinary event such as a theft loss.

Some ASBs consider transfers less critical than journal entries; however, both are equally significant and should be thoroughly documented and approved.

In cases of theft, or misplaced or lost deposits, the amount of funds and club identity may or may not be known.

- When the amount of loss and the club is known, the following options are available:
  - Corresponding increasing and decreasing journal entries may be considered to identify the club's loss, and a theft loss account may even be created to separately track the transaction. Corresponding increasing and decreasing entries will identify the loss but will have a no net effect on the club's account.
  - Some clubs may want to document a theft loss as an expense and place the other side of the transaction in another account which they are willing to reduce.
  - Some ASBs may choose to account for this type of transaction within their cash over-short account.
- When the amount of loss and the club is unknown, an increasing and decreasing estimated journal entry may be considered to minimally identify an estimated loss and may be recorded within some miscellaneous account type.

#### Fraud Alert



Any journal entry that is not properly documented is a fraud indicator. While mistakes may be made, even corrections to journal entries should be printed, signed and approved. Failure to document journal entries and obtain approval allows a fraud perpetrator to completely manipulate the accounting records. In the absence of proper approval procedures, perpetrators of fraud can and will enter numerous transactions allocated over many clubs and accounts, all disguised to make the transaction so complex and tedious that it is difficult to follow.

### Centralized versus Decentralized Accounting

Because governing boards are ultimately responsible for everything that happens in a district, including the activities of and guidelines for student organizations, they have a fiduciary duty to ensure that sponsored activities and accounting are performed in a correct and accountable manner. At the same time, governing boards are *not* ultimately responsible for ASB expenditure decisions; the students are. For expenditures to qualify as an allowable use of student funds, they must meet the following criteria:

- They must directly promote the general welfare, morals or educational experience of the students.
- They may not be used for expenses that are the responsibility of the district, or due to the district making budget cuts.
- They must benefit a group of students (with few exceptions).

- Students must be involved in decisions regarding how the ASB funds are to be spent (organized ASB).

The most important question that should be asked is, “Is this something the district should provide, or is it really an ‘extra’ that the students want?”

The district is responsible for ensuring that ASB funds are safeguarded at the school site and deposited in the bank in a timely manner; for maintaining adequate ASB financial records and financial transactions; for ensuring that the district’s ASB policies are followed; and for reporting any suspected fraud or abuse to the site administrator. These duties are usually performed by an ASB bookkeeper. In addition, an ASB advisor should supervise club activities and serve as the liaison between the club and the ASB bookkeeper and principal/site administrator.

### Who Pays for the ASB Bookkeeper?

The district usually pays for the ASB bookkeeper’s and ASB advisor’s services because completion of these tasks ensures that the ASB organizations follow board policy and handle funds appropriately. The district decides how the ASB funds are monitored and safeguarded, but the governing board specifies how this responsibility is carried out.

Most ASB accounting is decentralized, meaning that the accounting for student organizations is done at the school sites where the clubs exist. The advantage of this is that the students can learn how accounting works. Information can usually be obtained quickly and is easily communicated among clubs, advisors and bookkeeper.

Centralized accounting for student organizations is handled at a location other than the individual school, such as the district office. This method is more efficient in producing standardized accounting and reporting, can improve the elements of internal control, and can provide significantly improved budgetary controls.

### Chart of Accounts

Regardless of the accounting system selected, each ASB needs to use a structured, systematic grouping or listing of accounts that conforms to generally accepted accounting principles. This system consists of a numeric organization for all account groups, known as a chart of accounts. There is a common schematic for ordering the chart of accounts. Two samples are included at the end of this chapter: one is suitable for a small ASB, and the second is designed for a larger ASB. A standard chart of accounts should be used for all school sites and clubs.

ASB accounting will have several groups of accounts within the following categories:

#### Assets

Assets are usually defined as anything the ASB owns that has value, either tangible or intangible. Assets may be further segregated into current assets and fixed assets. Current assets are readily available or liquid, such as cash in a bank or in savings. Fixed assets are of a more permanent nature, such as a piece of sound system equipment.

#### Liabilities

Liabilities are debts to other parties, i.e., legal obligations that are unpaid. These include invoices to vendors for items received but not paid for, as well as sales tax balances due to the state.

#### Trust Accounts

Trust accounts are amounts that the ASB is holding on behalf of approved school clubs. These also include scholarship accounts and class accounts, such as the freshman class or class of 2010.

## Equity or Fund Balances

Equity accounts represent the net worth of the ASB. The equity is the difference between the total assets and the total liabilities.

## Revenue

Revenue is the amount of money received from the sale of goods or services, or money raised from fund-raising activities. This is the money earned by the ASB.

## Expenses

Expenses are the costs incurred for the purchase of goods or services. This is the money spent by the ASB.

## Sound Business Practices for Accounting System Management

In school districts with several secondary schools and organized ASBs, or in community colleges with multiple sites, the district's business office should standardize the accounting systems. This ensures that the system is appropriate for use in ASB activities. The ASB advisors, bookkeepers, and the business office should work together to select the software system.

If only one computer software package is used throughout the district, there may be enough resources to buy updates when new versions of the software are released and to provide computer support when problems arise at the school sites.

## Computer Hardware and Software Purchases for Accounting Functions

With student council approval, it is legal and appropriate for an ASB to purchase computer and software systems for its operations. It is equally legal and appropriate for the district to provide the requisite hardware and software for daily business use. The decision to purchase computer systems for ASBs and to determine the funding source for this type of purchase can be made at the local level.

## Financial Reporting and Closing the Books

Financial reports are the most important monitoring devices that businesses and public agencies use to determine their fiscal position. The timing and composition of these reports varies with the type and size of the entity. A range of industry standards affect how financial reports are structured, prepared and presented. A similar structure exists for the financial reporting for ASB organizations.

For site administrators, ASB advisors, and students to understand the financial position of the ASB, the ASB bookkeeper must prepare periodic financial statements. The size of the ASB operations and the grade level of the school often determine the type and frequency of financial reports. The governing board policy also may determine how and when financial reports are prepared. The district's business office should also receive reports at least quarterly.

The business year for all ASB operations is July 1 to June 30. This is formally called the fiscal year, for both ASB operations and the district.

## Standard for Unorganized ASB Operations

Because the amount of money in unorganized school ASB accounts is often small, periodic financial statements are not as important. The school will have to provide summary financial information at the end of the year for the auditors. However, if an unorganized school ASB operation has annual financial activity of \$25,000 or more, financial statements should be provided throughout the school year.

## Standard for Organized ASB Operations

In schools with organized ASBs, it is important that the site administrator, advisors and students see their financial status periodically. Best practices for organized ASB schools dictate that the financial status be



reviewed monthly; in no case should it be reviewed less than quarterly. A monthly reporting requirement is most common.

The district's business office staff should also give input into the decision about how often financial reports are produced and reviewed.

## Types of Financial Reports

The ASB bookkeeper is responsible to many customers, each of which has a unique set of needs. The reporting responsibilities for each are also unique.

- **Site Administrator:** The site administrator must review and sign for approval all financial reports throughout the year and ensure that all required reports and submissions are made to the district's business office as requested.
- **Student Council:** For organized ASBs, the student council must approve and enter into the minutes the monthly and annual financial reports.
- **District Business Office:** The district's business office must receive financial statements at least quarterly.

There are two basic industry-standard financial reports. They are most useful when they are prepared properly and explained clearly:

- Profit and loss statement, which compares ASB revenue to expenses
- Balance sheet, which summarizes the assets and liabilities of the ASB

## Profit and Loss Statement

This report is a comparison of actual revenue to actual expense. It is best used when it also includes the projected budget for the revenues and expenses. The statement illustrates the financial picture of an organization at a specific point in time, such as the end of a month, and includes all financial activity from the beginning of the fiscal year through the end of that month.

The comparison of the budget to the actual revenues and expenses is probably the most useful financial statement. The student council may want to have the ASB bookkeeper prepare this financial statement each month.

In addition to preparing financial statements at various times throughout the school year, a year-end financial report should always be prepared at the end of the fiscal year and should include a summary of the financial activities of all projects.

The site administrator or designee should do the following:

- Review the year-end report to ensure that it balances: that is, that the revenues less expenditures equals the net profit/loss and that beginning balances are reconciled with ending balances.
- Review and investigate any excess of expenditures over revenues, both budget and actual, at both the individual club and ASB levels.
- Review any encumbered purchase orders that appear out of the ordinary.
- Initial and date the report as evidence of their review.

## Balance Sheet

A balance sheet is an important document used by businesses, public agencies and municipalities of all sizes worldwide. It is the main indicator of fiscal solvency and a tool for making future business decisions. The balance sheet has similar value in ASB management.

The balance sheet statement lists all of the assets and liabilities of the ASB organization on a specific date. The assets are what the ASB owns, such as the following:

- Cash in the bank
- Savings deposits
- Student store inventory
- Anything else of value

The liabilities are what the ASB owes, such as the following:

- Unpaid bills to vendors for merchandise received
- Unspent balances in club accounts
- Sales tax payments due
- Other bills owed

The fund balance indicates the ASB's net resources available for future projects and activities. As periodic financial reports (including a balance sheet) are prepared during the year, the line titled "profit or loss to date" indicates the success or failure of fund-raising up to that point in time. A sample balance sheet is included at the end of this chapter.

The site administrator or designee should do the following:

- Review the balance sheet to determine that assets less liabilities equals fund balance.
- Review assets and liabilities for reasonableness and investigate any anomalies or anything that appears out of the ordinary.
- Initial and date the report as evidence of their review.

## Closing the Books

Without exception, every business, whether private enterprise or public agency, must close its books at the end of each fiscal year. At the end of June, the ASB bookkeeper must close the ASB books for that school year.

Closing the books means posting all of the transactions for a given year to that fiscal year. For ASB organizations that prepare periodic reports, it may mean posting only those transactions from June 1 to June 30 because activity from July 1 through May 31 has already been posted.

To close the books, the bookkeeper needs to complete the following by June 30:

- Collect all undeposited money from fund-raising events and deposit the funds into the bank.
- Pay all outstanding invoices for goods and services received.
- Contact the vendor for any purchase orders that are outstanding. Obtain an invoice for purchase orders that have been delivered by the vendor but not invoiced. Pay these invoices.
- Ensure that the ASB advisor and students take a final inventory of the student store and any vending machine stock on hand.
- Balance the inventory count with the book value of the inventory. Make adjusting entries as needed.
- Verify and balance all trust and club accounts. Coordinate this bank reconciliation with the ASB advisor and with individual club sponsors. Make adjusting entries as needed and verify data.
- Prepare the financial statements for the fiscal year.

- Distribute the financial statements according to district guidelines.

## Business Office Support

Preparing financial reports can be a challenging and sometimes intimidating experience for students and ASB personnel. An understanding and supportive business office staff should have the expertise and responsibility to train ASB personnel and offer them assistance. The annual meeting and training sessions sponsored by the district's business office should include a review of the financial reports for ASBs. Similarly, the business office should provide the ASB with technical assistance and support in reviewing and selecting computer hardware and accounting software for ASB operations.

## Annual Audit

The California Education Code states that the governing board is responsible for auditing student body funds by means of both a district internal control plan and a certified public accountant or public accountant licensed by the California State Board of Accountancy. The audits must include a study of financial procedures and controls to ensure conformance with the law. In addition, all outstanding accounts must be verified.

Annual audits are essential to the district's oversight responsibilities. These audits help the district's administration ensure that appropriate procedures and controls are in place. Audit findings alert the district office to weaknesses in the system that must be addressed. Site personnel who work with the ASB should be aware of all audit findings and should participate in the steps needed to ensure that they do not recur.

Audit procedures are in place to ensure that student body financial transactions are accurately recorded in the ASB's financial records. The independent auditor should do the following:

- Review records and systems for adequacy of internal controls and conformity with generally accepted accounting principles (GAAP).
- Read meeting minutes and note matters pertaining to the audit.
- Determine if the district's governing board has adopted rules and regulations regarding how the student body is governed.
- Verify assets, liabilities, revenues, expenditures and equity.
- Determine whether fund-raisers were approved by the governing board and were in the student body's best interest.
- Reconcile recorded receipts with the value of what was actually charged during fund-raisers (e.g. the value of items or ticket prices for entertainment).
- Check for commingling of funds.
- Ensure that receipts were credited to the proper account.
- Determine that trust funds were not used to finance student body activities.
- Determine that student funds were not used for expenses that are the district's responsibility.
- Ensure that a policy or policies allow student body revenues and expenditures to be clearly distinguished from those of the district.

Following are some of the annual audit findings that commonly occur in districts throughout the state:

- ASB budgets are not prepared.
- Little or no supervision over budget preparation.
- Revenue projections are not prepared.

- Revenue projection actual results are not monitored and compared to projected results.
- Prenumbered receipt books and/or receipts are not used.
- Receipt books are not logged in and out with signatures.
- Cash counts are not recounted.
- Prenumbered tickets are not used.
- The number of tickets sold is not reconciled to tickets collected.
- Deposits received are not taken to the bank for deposit within the time specified in district guidelines.
- Purchase orders are not used.
- The actual purchase date is prior to the purchase order date.
- The three signatures required for organized ASB expenditures are not obtained prior to purchase.
- A lack of confirmation that the product purchased was received prior to payment being made.
- Checks are made out to cash.
- Check stock is visible and unsecured.
- Bank reconciliations are not prepared regularly.

Because they review a sampling of transactions, auditors will not find every instance when things are not being done appropriately. Incorrect procedures not detected by the auditors should nonetheless be corrected.

The ASB audit is part of the school district's audit, and the cost should be paid by the school district.

## Bank Reconciliations

Timely and accurate bank account reconciliations and review are prudent and necessary. Each ASB organization will have at least one bank account with monthly statements. Bank account statements may be sent directly to the school site, or to the district office, which then forwards them to the school site. Normally the ASB bookkeeper is responsible for reconciling all ASB bank statements to checkbooks and general ledger accounts.

## Challenges of Bank Account Reconciliations

Staff members typically report difficulties with bank account reconciliation, and auditors often find problems in this area at year end. In addition to a regular bank account reconciliation process, a reconciliation between all club balances and the total bank account balances needs to be performed.

For example, consider a situation in which there is a reported \$5,000 balance in the combined ASB checking and savings accounts, yet the ASB bookkeeper reports total club balances of \$6,000. Can this occur? If it does, who takes what action?

Some of the challenges reported by staff and auditors are listed below, and immediately following are recommended best practices that help prevent these challenges from plaguing other ASB operations.

Reported challenges include the following:

- The bank account is not reconciled each month in a timely manner.
- No one reviews the bank reconciliation after it is prepared by the ASB bookkeeper.
- The total in all club accounts differs from the total of the bank accounts.
- No one prepares a monthly report showing all cash balances and all club balances.
- No one is certain if there is enough money for the senior class picnic.

- The ASB treasurer does not make a monthly report to the student council regarding all bank accounts and all club and trust account balances.

## Good Business Practices for Bank Account Management and Reconciliation

For all accounts maintained by the student organization(s), reconciliations between financial institution account balances and student organization records should be performed for every period for which a statement is received. Control measures should be established to ensure that bank reconciliations are performed on time and accurately, and that sufficient separation of duties exists.

Best practices for bank account management and for bank reconciliations are as follows:

- The site administrator or ASB advisor should ensure that the bank statement is reconciled within two weeks after the statement arrives. The ASB bookkeeper may find errors made by the bank or errors in the ASB books when reconciling the bank account.
- The site administrator or ASB advisor should compare the bank statement and the checkbook or general ledger to the numbers on the bank reconciliation.
- The site administrator or ASB advisor should verify that outstanding items are cleared in the following month.
- The site administrator or ASB advisor should identify any journal entries and confirm that the journal entries were properly approved and authorized.
- The site administrator or ASB advisor should initial and date the bank reconciliation and the bank statement as evidence that they were reviewed and showed equal totals.
- The business office should conduct a monthly review of ASB bank reconciliations prepared at the school sites. This should include the reviewer from the business office signing and dating the reconciliation.
- The ASB bookkeeper should reconcile the total amount in the club accounts with the checkbook or general ledger monthly.
- The ASB treasurer should provide monthly reports on bank account balances and all club and trust account balances. This report should be entered into the student council minutes.
- The district's business office should review the reconciliations monthly.

The ASB bookkeeper performs the bank reconciliation by comparing the transactions posted by the bank to the transactions posted in the ASB books (checkbook or general ledger) for the same period.

The ASB Bank Reconciliation Worksheet at the end of this chapter has been developed for use when performing this task. Instructions for using this worksheet are as follows:

### Fraud Alert



Even with established timelines for completing and submitting bank reconciliations, many ASBs are allowed to continue for many months before the district office makes them accountable for late reconciliations. Numerous excuses are given for late bank reconciliations, but too often they are late because the prospective thief needs time to alter the books.

When the bank reconciliation is late, offer assistance and/or provide a new deadline such as the next day. One late bank reconciliation may not be a problem; however, many financial frauds in ASBs are connected to inaccurate and late bank reconciliations. The honest person who is late with a bank reconciliation will not object to receiving assistance because they have nothing to hide. Resistance to help and continued excuses are a fraud indicator that should always be taken seriously.

### Fraud Alert



Bank statement reconciliation fraud is as easy as recording a deposit, stealing the money, showing the deposit as outstanding, then creating a journal entry to write off the missing funds.

Everyone reviewing bank reconciliations should be alert for deposits that are outstanding for longer than two or three days and for journal entries that clear cash from the bank reconciliation cash account.

1. On line A, record the ending balance shown on the bank statement.
2. On line B, record any deposits made by the ASB bookkeeper that don't show on the bank statement as of the ending date. In addition, review the deposits in transit on last month's bank reconciliation to confirm that the bank has posted them to the ASB account.
3. On line C, total the deposits in transit.
4. On line D, record all of the checks that have been written and recorded in the student body books but have not cleared the bank as of the ending date. Review the outstanding checks on last month's bank reconciliation, and post on this month's bank reconciliation those that have not yet cleared the bank. Checks that are outstanding longer than one year should be stale dated and returned to the ASB cash balance.
5. On line E, total the outstanding checks.
6. On line F, compute the reconciled bank balance. Add the amount on line A and the amount on line C, then subtract the total of the outstanding checks on line E.
7. On line G, record the amount in the ASB checkbook or general ledger. That amount must be as of the same date as the ending date on the bank statement.
8. On line H, add the interest and any other amounts added by the bank.
9. On line I, total all of the amounts from line H.
10. On line J, record the bank charges deducted by the bank. Also, record the returned checks and returned check charges.
11. On line K, total all of the bank charges.
12. On line L, compute the ending balance. Add the amount on line G and the amount on line I and deduct all bank charges on line K.

**The bank account is not reconciled until lines F and L show the same amount.**

13. Post the interest and the bank charges to the checkbook or the general ledger.

The ASB bookkeeper finishes the bank reconciliation by balancing all the general ledger accounts, including all club and trust accounts, and provides copies of the bank reconciliations to the site administrator, ASB advisor and business office.

The bookkeeper should also prepare a report of bank account and club and trust account balances for the ASB treasurer to present at the student council's monthly meeting. The ASB bookkeeper should also provide each club advisor with a monthly financial report that shows year-to-date activity and summary balances.

A more complete discussion of financial reports can be found in the Financial Reporting and Closing the Books section of the preceding chapter.

## Chart of Accounts – Intended for Small ASBs

### Asset Accounts • 100–199

101 Cash in Bank, Checking  
103 Petty Cash  
105 Cash in Bank, Savings  
107 Change Account  
109 Accounts Receivable  
111 Student Store Inventory  
113 Equipment  
115 Other Assets

### Liability Accounts • 200–224

201 Accounts Payable  
203 Sales Tax Payable

### Trust Accounts • 225–299

225 Scholarship Account A  
227 Scholarship Account B  
235 Class of 2010  
237 Class of 2011  
239 Class of 2012  
241 Class of 2013  
245 Club A  
247 Club B  
249 Club C  
251 Club D

### Equity Accounts • 300–399

310 Fund Balance

### Revenue Accounts • 400–499

401 Student Body Card Fees  
403 Student Store Sales  
405 Yearbook Sales  
407 Social Events & Activities  
409 Vending Machine Sales  
411 Interest Earned  
413 Other Revenue

### Expense Accounts • 500–599

501 Student Store Purchases  
503 Yearbook Publication  
505 Social Event Purchases  
507 Vending Machine Purchases  
509 Supplies and Purchases  
511 Depreciation  
513 Other Expenses

## Chart of Accounts – Intended for Large ASBs

### Asset Accounts • 1000–1999

#### Current Asset Accounts • 1000–1699

##### Bank Accounts • 1000–1199

- 1001 Bank of America, Checking Account # XXXX
- 1003 Bank of America, Savings Account # XXXX
- 1005 Bank of America, Money Market Account # XXXX
- 1103 United California Bank, Savings Account # XXXX
- 1105 United California Bank, Money Market Account # XXXX

#### Other Current Asset Accounts • 1200–1699

- 1201 Petty Cash Fund
- 1203 Change Fund
- 1301 Accounts Receivable
- 1303 Accounts Receivable Interest
- 1305 Accounts Receivable Bad Checks
- 1307 Accounts Receivable Yearbooks
- 1401 Inventory Student Store
- 1403 Inventory Vending Machines
- 1405 Inventory Snack Bar
- 1501 Other Current Assets

#### Fixed Assets • 1700–1999

- 1701 Equipment ASB Office
- 1703 Equipment Student Store
- 1705 Other Equipment
- 1801 Other Fixed Assets

### Liability Accounts • 2000–2999

#### Accounts Payable Accounts • 2000–2099

- 2001 Accounts Payable Vendors
- 2003 Accounts Payable District Salary Reimbursement
- 2005 Sales and Use Tax Payable
- 2007 Other Accounts Payable

#### Trust Accounts • 2100–2199

- 2101 JFK Memorial Scholarship
- 2103 Mary Smith Memorial Scholarship
- 2105 Ming Kim Memorial Scholarship
- 2105 Frank Diaz Memorial Scholarship
- 2107 Tony Petrali Memorial Scholarship
- 2109 Susan Thomas Memorial Scholarship
- 2111 Clearing Account – Field Trips
- 2113 Clearing Account – Athletics
- 2115 Clearing Account – Other



**Student Class Accounts • 2200–2299**

- 2201 Class of 2010
- 2203 Class of 2011
- 2205 Class of 2012
- 2207 Class of 2013

**Club Accounts • 2300–2399**

- 2301 Marching Band
- 2303 Black Student Union
- 2305 Latino Student Leaders
- 2307 Art Club
- 2309 Cheerleader Club
- 2311 California Scholarship Federation Club
- 2313 Filipino American Club
- 2315 Drill Team
- 2317 Orchestra Club
- 2319 Computer Club
- 2321 French Club
- 2323 Future Teachers Club
- 2325 MESA Club
- 2327 Spanish Club
- 2329 Speech Club
- 2331 Female Soccer Club
- 2333 Track Club
- 2335 Luau Student Association
- 2337 Travel Club
- 2339 Native American Culture Club
- 2341 Drama Club
- 2343 Football Club
- 2345 Basketball Club
- 2347 Yearbook Club

**Equity Accounts • 3000–3999**

- 3001 Fund Balance

**Revenue Accounts • 4000–4999**

- 4301 ASB Cards
- 4303 ASB Dance Revenue
- 4307 Championship Payoff Gate Receipts
- 4309 Yearbook Sales
- 4311 Yearbook Advertisements
- 4313 Homecoming Dance Revenue
- 4315 Interest Earned
- 4317 Pay Phone Commission
- 4319 Donations
- 4321 ASB Fund-raising
- 4323 Luau Revenue
- 4325 Carnival Revenue
- 4327 Copy Machine Commission
- 4329 Talent Show Revenue

4331 Car Wash Revenue  
4333 Student Store Sales  
4335 Student Store Over and Short  
4337 Vending Machine Revenue  
4339 Vending Machine Over and Short  
4341 Snack Bar Sales  
4343 Snack Bar Over and Short  
4345 Snack Bar Commissions  
4347 Inactive Clubs – Fund Close Out

**Expenditure Accounts • 5000–5999**

5301 Athletics – Men  
5303 Athletics – Women  
5305 Championship Playoff Expenses  
5307 Athletic Equipment and Supplies  
5309 Athletic Trophies  
5311 Athletic Awards Program  
5313 CIF League Dues  
5315 Band and Music  
5317 Cheerleaders  
5319 ASB Dance Expense  
5321 Luau Expense  
5323 Carnival Expense  
5325 Spring Musical Expense  
5327 Talent Show Expense  
5329 Yearbook Publication Expense  
5331 Academic Teams Expense  
5333 Audio Visual Expense  
5335 Armored Car Service  
5337 Community Service  
5339 Over and Short  
5341 Student Activities  
5343 Student Government  
5345 Speakers  
5347 Postage  
5349 Transportation  
5351 Conferences  
5353 Leadership Camp  
5355 Student Store Purchases  
5357 Student Store Returns  
5359 Student Store Taxes  
5361 Snack Bar Purchases  
5363 Snack Bar Returns  
5365 Snack Bar Taxes  
5367 Vending Machine Purchase  
5369 Vending Machine Returns  
5371 Deprecation  
5373 Other Expenses

## Balance Sheet – Small ASB

### Associated Student Body

#### Balance Sheet As of May 31, 2013

<b>Assets</b>		<b>Liabilities</b>	
Cash in Bank, Checking	\$8,000	Accounts Payable	\$5,000
Cash in Bank, Savings	2,500	<b>Total Liabilities</b>	<b>\$5,000</b>
Petty Cash	25		
Student Store Inventory	350	<b>Fund Balance</b>	
<b>Total Assets</b>	<b><u>\$10,875</u></b>	Fund Balance as of July 1, 2001	\$3,000
		Net Gain (Loss) to Date	<u>2,875</u>
		<b>Fund Balance as of May 31, 2013</b>	<b><u>5,875</u></b>
		<b>Total Liabilities and Fund Balance</b>	<b><u>\$10,875</u></b>

## ASB Items for the Annual Audit

The following items should be available for review by district auditors during the annual audit:

- Copy of the annual financial report that includes a list of the trust account balances.
- Copy of the ASB budget for all clubs/trust accounts and budget revisions/updates.
- Schedule of accounts receivable which lists name and amounts due as of June 30 (do not include any amounts payable by trust accounts).
- Schedule of accounts payable which lists names and amounts owed to others as of June 30 (do not include any amounts payable to trust accounts).
- Detailed analysis of any adjustments to the beginning fund balance.
- Copies of the inventory (e.g. student store, vending machines, ASB equipment and other items.).
- Bank statements for checking account(s) reconciled from July of the preceding year to July of current year.
- Interest earned on passbook savings account(s) through June 30.
- List of all petty cash funds and the name of the custodian of the funds.
- Official ASB minutes for all clubs/trust accounts.
- Price lists used during the year for ASB card discount tickets and yearbooks, and the number sold at each price.
- Support for expenditures, including original detail invoices and approved purchase requisitions.
- Support for revenues, including cash register reconciliations, ticket control, tally sheets, receipt books and deposit information.
- Equipment inventory lists.
- Written procedures for ASB functions, if available.

## Bank Reconciliation Worksheet

Name of School: \_\_\_\_\_

### ASB Bank Reconciliation Worksheet

Name of Bank: \_\_\_\_\_

Account Number: \_\_\_\_\_

For the Month of: \_\_\_\_\_

A. Ending Balance per Bank Statement \_\_\_\_\_

G. Balance per  
Accounting Records: \_\_\_\_\_

B. Plus Deposits in Transit:

H. Plus Interest: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I. Plus Adjustments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Total Deposits in Transit: \_\_\_\_\_

J. Total Adjustments: \_\_\_\_\_

D. Less Outstanding Checks:

K. Bank Charges:

Date	Check #	Amount
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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L. Total Bank Charges \_\_\_\_\_

E. Total Outstanding Checks \_\_\_\_\_

F. Ending Balance (A + C - E) \_\_\_\_\_

M. Ending Balance (G + H + J + L) \_\_\_\_\_

Reconciliation prepared by: \_\_\_\_\_  
(Name, Title, Date)

Reconciliation Reviewed by: \_\_\_\_\_  
(Name, Title, Date)

Review by ASB: \_\_\_\_\_  
(Name, Title, Date)

Review by District Business Office: \_\_\_\_\_  
(Name, Title, Date)

# Chapter 8

## Chapter 8 – Fund-Raising Events

Although ASB organizations may receive some donations, the primary revenue source for student organizations is fund-raising events. Elementary schools usually hold traditional fund-raising events such as book fairs and walkathons. At middle schools, junior high schools, high schools and community colleges, the students' involvement and the need for extra funds mean that the number and types of fund-raising events are constantly expanding.

### Approval of Fund-Raisers

California Education Code sections 48932 (K-12) and 76062 (community colleges) allow the governing board to authorize student body organizations to conduct fund-raising activities. These sections of the law make it clear that the governing board is responsible for approving fund-raising events. Before approving any events, the board must consider many issues such as student safety, whether the insurance company is comfortable with the event and whether the event is appropriate for the educational experience of the students. Board members may also have concerns about the number and type of fund-raising events and whether these events interfere with the normal conduct of the schools. For example, it would not make sense for all of the high schools to hold entertainment such as a school play or spaghetti feed on the same Friday night in September because participation would not be as high. For these reasons and as a good practice, the governing board should review and approve the ASB fund-raising events at the beginning of each school year or designate another administrator to do so. Another method is for the board to approve policies and administrative regulations that delineate allowable and prohibited fund-raising events.

It is also important that nondistrict organizations such as Boosters and the PTA coordinate the timing of their fund-raisers with student body fund-raisers so that they are not in competition with each other.

### Good Business Practices for Fund-Raising Approval

The site administrator or ASB advisor should fill out some type of documentation at the beginning of each school year indicating the number and types of fund-raising events that each school's student organizations will hold that school year. Two sample forms are presented at the end of this chapter. These forms should be sent to the district's business office upon completion. Depending on board policy and/or practice, the business office can compile these forms and either prepare a resolution for the governing board to authorize the fund-raising events, or send the information to the governing board's designee for approval of all listed events. If there are changes in the number or types of events during the year, the site administrator should submit a revised form that the board or its designee may approve. Alternatively, the business office can review the lists of additional fund-raisers and verify that they comply with board policy, if parameters have been established delineating what is allowable or prohibited.

### Revenue Projections for Individual Fund-Raiser Events

It is important for student organizations to have adequate internal controls over their fund-raising events, properly evaluate the effectiveness of those events and decide between often conflicting activity/fund-raising requests. A revenue potential form is a mechanism that can help with this task and account for a fund-raiser's financial activity. This form serves as a sales plan that includes expected sales levels, sale prices per unit, expected cost, and net income; thus it assists with planning and budgeting. Because Education Code sections 48932 and 7062 require that the governing board approve fund-raising events, a revenue potential form can also be the document that is compiled and submitted to the board or board designee for approval. It can also serve as an internal control because most external auditing firms will indicate audit findings if some form of revenue reconciliation is not done for each fund-raiser. The form can also serve as the document to ensure that the site administrator is informed and approves of all fund-raising activity at the site. An example of a revenue potential form is contained at the end of this chapter.

## Parameters for Fund-Raising Events

Fund-raising events should contribute to the educational experience and should not conflict with the school's educational program. Students should participate and make contributions to fund-raising events voluntarily. They cannot be required to participate in fund-raising events, and cannot be excluded from an activity funded by ASB funds because they did not participate in raising funds. In addition, fund-raising proceeds cannot be attributed to specific students based on what they raised. The funds are raised to benefit the entire club or student group, not individual students.

As a good practice, an elementary principal/site administrator may consider obtaining written permission for students to participate in fund-raising activities. This usually is not necessary for secondary students.

## Door-to-Door Sales

The California Code of Regulations, Title 1, 11706, allows minors under age 16 to engage in door-to-door sales only under the following conditions:

1. The minors must work in pairs, as a team, on the same or opposite side of the street.
2. The minors must be supervised by an adult, with one adult for every crew of ten or fewer minors.
3. The minors must be within the sight or sound of their adult supervisor at least once every 15 minutes.
4. The minors must be returned to their respective homes or meeting places after each day's work.

## Frequency and Scheduling of Fund-Raising Events

The governing board and the site administrator need to consider how many fund-raising events the students should hold during the school year. This can be a local decision. For example, a principal at an elementary school expressed concern that her predecessor had been holding one fund-raising event each month. She felt that this level of fund-raising was detracting from the educational program at the school.

Scheduling fund-raising events requires review, management and coordination by the student council, ASB advisor and site administrator. Clubs on campus need to know which fund-raising events are already scheduled before requesting permission to embark on another fund-raiser so that they do not conflict in timing or type. Only so many magazines can be sold in a community during a single month. Many districts publish an event schedule that lists all ASB fund-raisers for the year at each school site and that can be reviewed before scheduling any additional events. The district's business office will often maintain the event schedule because they frequently receive the paperwork submitted for board approval of the fund-raiser.

## Typically Allowed Fund-Raising Events and Revenues

In most school districts, the following types of fund-raising events (or revenues) are generally considered appropriate:

- Athletic events
- Concession sales
- Entertainment
- Advertising
- Publications
- Student stores
- Cultural events/international fairs
- Limited food sales
- Vending machines



- Car washes
- Book fairs
- Scholarships and trusts
- Gifts and grants
- Interest earned

Some of these fund-raisers are further explained below. Suggestions and good business practice hints are included along with potential pitfalls to avoid. The intent is to be certain that reasonable safeguards and internal controls have been built into the event to ensure that the students will benefit from the activity.

For the fund-raising examples, good business practices suggest that the site administrator or designee review and approve in advance any materials, performances and publications. Legal questions that arise should be referred to the district's legal counsel.

**Athletic Events** (usually organized ASB): A school may use any school-sponsored athletic event as a source of revenue as long as the event is in compliance with league agreements. Income can come from various sources such as ticket sales, sales of programs and concessions. This does not mean that the ASB will always be the recipient of revenues from all aspects of athletic events. The governing board decides which club, parent organization or district account will receive the different types of revenues.

One problem that often occurs with athletic events is that the funds are deposited into an ASB bank account, but a coach wants full control over the funds. ASB funds must benefit students, and students must control how the funds are spent. If it is an ASB activity, an official student club (i.e. one that has a constitution, budget, certificated club advisor, and official meetings and minutes) should sponsor the events and control the funds. The coach can be the club advisor if they are certificated and if the site administrator agrees to it. If the event is non-ASB and sponsored by the district, an athletic booster club or other parent group, the decisions can be made by the adults or the coach(es), but the funds must be deposited into a separate account, (e.g. district, booster club or parent club nondistrict account), not the ASB account.

**Concession Sales** (usually organized ASB): Concession sales at student body activities such as athletic events or dances are another popular way for the ASB to raise funds. The students may operate the concession stands themselves or they may enter into an agreement with an outside agency to run the stand (i.e. booster clubs, PTA/PTC, or commercial vendor). If an outside agency operates the concession stand, the school will often contract with the agency to split the profits based on an agreed-upon formula. If the concession sales are after the school day, the numerous food laws regarding quantity sold and nutritional requirements are not in force. However, if the event is during the school day, these nutritional regulations must be followed for grades K-12 (see Chapter 3 for nutrition rules and regulations).

**Entertainment:** Entertainment includes concerts, dances, variety shows, and other events where an admission fee is charged. The site administrator or designee should approve the content of any entertainment event in advance and ensure that the admission charge is a fixed amount that permits the maximum number of students to attend.

**Advertising:** The ASB organization may sell space in a school newspaper, yearbook, athletic or entertainment programs, athletic field billboards, or other school publications. The site administrator or designee should approve the content of advertising to ensure that it is suitable for a student publication or event. Appropriate contracts need to be entered into and an invoicing system developed so that all applicable revenue is collected.

**Publications:** The ASB organization may sell publications such as yearbooks, literary magazines, and school newspapers. The site administrator or designee should review the content of all school publications prior to the publication date. These publications may be sold to students and the general public. The ASB organization may want to establish a price for students that is lower (discounted price) than the price charged to the

general public. The goal should be to ensure that the maximum number of students are able to purchase them.

**Student Stores:** Student stores often are set up at secondary schools to sell items that students need each day or to sell items that have the school logo on them such as hats, shirts, and backpacks. Chapter 11 deals specifically with student stores.

**Cultural Events/International Fairs:** These events usually include food, and must comply with various applicable state laws regarding which food items can be offered and how often such sales can occur. In general, all student clubs are allowed to participate in schoolwide events where they can raise money and showcase club goals. Rules regarding selling food and beverage items are contained in Chapter 3.

**Limited Food Sales:** These events can include bake sales, after-school hot dog sales, and ice cream sales. While food sales have always been considered a good way to raise money, the sale of these items is becoming increasingly complicated and limited because of recent state laws regulating food sales in grades K-12. Legal issues regarding food sales are covered in Chapter 3.

**Vending Machines:** Vending machines have been considered a good way to raise money with a limited investment of time, but the sale of food and beverage items is becoming increasingly limited and profits are declining. Consideration must be given to contracts and inventory control; this area is discussed further in Chapter 10.

**Scholarships and Trusts:** Outside donors often give schools funds to establish a scholarship. The student council may accept scholarships and trusts with the approval of the governing board or authorized designee. The acceptance should be made in writing, with all conditions the donor is requesting clearly described. A separate account should be established within the student organization's accounting system, and the requirements of the scholarship should be documented and retained at the school site. A statement should also be included regarding the disposition of any remaining balance at the close of the period for which the fund is established. FCMAT recommends that the remaining balance not be given back to the donor because the donor probably received a tax deduction for the scholarship donation; rather, remaining balance should be moved to a different ASB account.

Included at the end of this chapter is a scholarship fund information sheet to be filled out when a scholarship or memorial is started so that future actions are clearly understood by all.

**Gifts and Grants:** Money, material or equipment may be accepted by the student body organization with the approval of the governing board or designee. The items received must have a legitimate use in the school program, with consideration given to installation and maintenance costs before equipment items are accepted. This area is further described in Chapter 12.

**Interest Earned:** Interest may be earned on checking accounts, savings accounts and other investments that meet legal requirements per the Education Code. Interest earned may be prorated to the various student activity accounts or credited as revenue to the general student body account. Checking account balances should also be reviewed to determine whether excess funds should be invested in accounts that earn higher interest.

## Fund-Raisers That May Not be Allowed

In the past, as a fund-raising event, high school students sometimes bought a used car for a few hundred dollars and allowed students to take a swing at the car with a hammer. Today, school districts would consider this too risky, and insurance companies would agree. There are other types of fund-raising events that school districts may not want to allow students to hold for safety or health reasons. The following are some of the types of fund-raising events that governing board members and principals/site administrators may not or

should not authorize. These items need to be reviewed and discussed at the local level if ASB groups wish to consider them.

### Cannot Allow:

- Raffles or games of chance.

School entities, including student clubs, are not authorized to participate in raffles because, unlike the local PTA, they are not nonprofit organizations exempt from state tax as defined in the Franchise Tax Code. Rather, school entities are exempt from tax by virtue of being a government entity.

It is possible for a private, nondistrict, non-ASB nonprofit group, such as a parent group, education foundation or booster club, to conduct raffles as long as the organization is a tax-exempt nonprofit organization with an approved tax identification number pursuant to Revenue and Taxation Code 23701d. The organization must have been licensed to do business in California for at least one year, must register with the attorney general's Registry of Charitable Trusts and must receive written confirmation of the annual registration before holding the initial raffle. These nonprofit groups must register every 12 months and distribute at least 90% of the proceeds to beneficial or charitable purposes. They must also submit an annual report with gross receipts, expenses, net profit and the charitable purpose for which they used the money. The raffle tickets and stubs must be numbered, and adults must supervise the drawing, which may not be conducted over the Internet.

Many school groups print tickets with the words "suggested donation" on them and call it a drawing rather than a raffle. This does not make it legal unless the group is prepared to give anyone who requests a ticket as many tickets as they want for free (no donation). And even if a district does this, it still runs the risk of someone challenging the issue because it is still legally a raffle. The only way to have a legal raffle is to work with an eligible nonprofit organization that has its own tax identification number, registers with the attorney general annually and disburses 90% of the proceeds to a charitable purpose.

### May Not Allow:

- Activities that pose liability, safety or risk concerns

Some fund-raisers may not be allowed because risk or health and safety concerns prevent the district from obtaining insurance coverage (if the insurance carrier will cover the event, then a district may decide to allow it). Examples include:

- Mechanical or animal rides.
- Use of darts or arrows.
- Objects thrown at people.
- Use of water tanks into which a person is dunked.
- Destruction of cars or similar objects with hammers.
- Trampolines or mini-trampolines.

When the governing board or other district staff members have concerns about potential fund-raising events and the issuance of insurance coverage, they should contact either their risk manager or their insurance agent to determine if the district's insurance will cover any accidents that occur during the event. For example, if the senior class wanted to bring in a traveling carnival as a fund-raising event, the district should consider all of the potential liabilities. Will the district's insurance cover any damage to property caused by the carnival rides? What happens if someone is injured on a ride or becomes ill from eating food served at the event? Insurance coverage should be determined when fund-raising ideas are first discussed, not when a decision has already been made to hold the event.

## Should Not Allow

- Rental of district-owned equipment or facilities to outside groups.

In most local educational agencies (LEAs), the equipment and facilities are considered the property of the LEA. The district's business office oversees the rental of district equipment and property, and the proceeds are deposited into the LEA's general fund. The governing board should address who has the authority to rent district equipment or property and who has the authority to spend the rental fees collected. Most district boards have adopted a facilities use policy that describes the steps required to use district facilities. Rental revenue is not normally considered the students' money because the students do not own the facilities.

## Fund-Raising Ideas

Schools at all levels have had many successful fund-raising events throughout the years. What is successful at one school may or may not be successful at another. Success is often the result of good planning and organization, support from school administration and the district business office, and communication and collaboration among all interested parties.

## Procedures for Reporting Revenue Sources other than Fund-Raisers

Although the primary revenue source for student organizations is individual club fund-raising events, funds are also received from other sources. It is important that student organizations recognize all of the revenue sources and establish control procedures for each. The control procedures may vary depending on the revenue source, and can include revenue from student stores, vending machines, and gifts and donations. These sources are all covered in other chapters of this manual.

Each revenue source must be identified and included in the budget of an individual club or of the ASB general student council. This ensures that the student organization is aware of the revenue and therefore will include it in periodic budget reviews. In addition, each revenue source must be allocated to a specific use.

## Nonstudent Group Fund-Raising

Student body funds and the funds of nonstudent organizations (booster, auxiliary and parent groups) should never be commingled. Student body funds are never to be used to "front" money for nonstudent body fund-raising expenses. Nonstudent organizations shall be responsible for the collection of their own money, tickets and other items.

Nonstudent organizations are not to solicit funds on behalf of a school or its students during the school day without prior approval by the school board or its designee for each individual fund-raising event.

Unless board policy or practice states otherwise, students can assist in nonstudent organization fund-raisers. It is important when students are involved that the donors understand this is a nonstudent fund-raiser. The state disclosure law (Business and Professions Code 17510 to 17510.7) requires volunteers 11 years of age and older to present potential donors or buyers with information, including the purpose of the solicitation and the address from which further information about revenues and administrative expenses may be obtained.

## ASB Accounts are not Pass-Through Accounts

Many school sites use the ASB account as a pass-through account or clearing account, making a deposit into ASB and then later journaling that amount out of ASB and moving it to another district account. ASB accounts are not and should not be used as pass-through or clearing accounts. Money should only be deposited into ASB accounts if it is ASB funds and will be used for appropriate ASB purposes.

ASB accounts are often found to contain funds that have been deposited for a site administrator's or teacher's discretionary account. An adult's name on an account clearly indicates that the funds will be spent based on the adult's decision, not the students'. ASB funds are to benefit the students, not to supplement an adult's budget.

**Request for Approval: Fund-Raising Event**

**Name of School:** \_\_\_\_\_

**Name of Club:** \_\_\_\_\_

**Request for Fund-Raiser Approval**

Fiscal Year: \_\_\_\_\_

Date this form is completed: \_\_\_\_\_

Proposed event: \_\_\_\_\_

Description of fund-raiser: \_\_\_\_\_

\_\_\_\_\_

Requesting Club/Organization(s): \_\_\_\_\_

Proposed Date(s) of Event: \_\_\_\_\_

Club Contact Person: \_\_\_\_\_

Club Advisor: \_\_\_\_\_

Location of Proposed Activity: \_\_\_\_\_

Status of Event (circle one):    New Event    Held Previously (Years): \_\_\_\_\_

Budget Plan for Activity (Attach Description)

Other Background Information (such as other schools or clubs that have held similar events): \_\_\_\_\_

\_\_\_\_\_

Club Representative: \_\_\_\_\_

Name, Signature and Date

Club Advisor: \_\_\_\_\_

Name, Signature and Date

Student Council Recommendation             Yes             No

Student Council Representative: \_\_\_\_\_

Signature, Title and Date

Site Administrator or Designee Recommendation

Yes

No

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Signature, Title and Date

Presented to District Office on: \_\_\_\_\_  
Signature, Title and Date

Reason for disapproval, if applicable: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Request for Approval: Fund-Raising Event**

**Name of School:** \_\_\_\_\_

**Name of Club:** \_\_\_\_\_

**Request for Fund-Raiser Approval**

Fiscal Year: \_\_\_\_\_

**Note: To be approved, applications must be submitted at least four (4) weeks prior to requested date.**

*Applications must be approved by principal/site administrator prior to the activity/fund-raiser.*

Date form submitted: \_\_\_\_\_

Name of Club/Organization(s): \_\_\_\_\_

**PROPOSED ACTIVITY:**

Name of activity or type of fund-raiser: \_\_\_\_\_

Location of activity: \_\_\_\_\_

Facilities needed: \_\_\_\_\_

Items to be sold: \_\_\_\_\_

Date of activity: \_\_\_\_\_

First choice: \_\_\_\_\_ Alternate date: \_\_\_\_\_

Time of activity: From \_\_\_\_\_ a.m./p.m. To: \_\_\_\_\_ a.m./p.m.

Ticket selling price: \$ \_\_\_\_\_

Cash box/Tickets required?  Yes  No

Number of items purchased for sale: \_\_\_\_\_ @ \$ \_\_\_\_\_ each = \$ \_\_\_\_\_

ASB purchase order required?  Yes  No

How much income is anticipated? \$ \_\_\_\_\_ How much expense is anticipated? \$ \_\_\_\_\_

How will profit be used? \_\_\_\_\_

**Note: Revenue analysis is due two weeks after close of activity/fund-raiser.**

Club Representative: \_\_\_\_\_  
Name, Signature and Date

Club Advisor: \_\_\_\_\_  
Name, Signature and Date

Student council recommendation       Yes       No

Student council representative: \_\_\_\_\_  
Name, Signature and Date

Site Administrator or Designee Recommendation       Yes       No

Site administrator or designee: \_\_\_\_\_  
Name, Signature and Date

Presented to ASB on: \_\_\_\_\_  
Date

Presented to district office on: \_\_\_\_\_  
Date

Date approved for/recorded on master calendar: \_\_\_\_\_

Disapproved:  
Reason for disapproval: \_\_\_\_\_



## Fund-Raising Budget versus Actual Statement

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Fund-Raising Budget versus Actual Statement

Fiscal Year: \_\_\_\_\_

EXPECTED REVENUE:	BUDGET	ACTUAL	DIFFERENCE
Sales quantity x Sales price	\$	\$	\$
<b>OTHER REVENUE:</b>			
Donations, Sales of ads, etc.	\$	\$	\$
<b>TOTAL REVENUE (A)</b>	\$	\$	\$
<b>EXPENSES:</b>			
Product quantity x Cost (per invoice)	\$	\$	\$
<b>OTHER EXPENSES:</b>			
Freight	\$	\$	\$
Advertising	\$	\$	\$
Other	\$	\$	\$
<b>TOTAL EXPENSES (B)</b>	\$	\$	\$
<b>OTHER: (C)</b>			
Items Donated or Given as Prizes – Quantity x Cost	\$	\$	\$
<b>TOTAL PROFIT (A-B-C)</b>	\$	\$	\$

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

Student Body Fund-Raising Status – Report to Governing Board and/or Designee

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

**Student Body Fund-Raising Schedule**  
Fiscal Year: \_\_\_\_\_

Date this Form is Completed: \_\_\_\_\_

Event	Sponsoring Club	New Event	One Time Event	Ongoing Event	Club Advisor	Estimated Net Revenue	Actual Net Revenue

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

## Fund-Raising Event Profit Form

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Fund-Raising Event Profit Form

Fiscal Year: \_\_\_\_\_

Name of Event: \_\_\_\_\_

Date of Event: \_\_\_\_\_

#### Part I: Revenue

Revenues	Estimated Sales			Actual Sales			Difference	
	Number	Unit Price	Total (# x price)	Number	Unit Price	Total (# x price)	Units	Dollars
Number of tickets sold								
Number of items sold								
Other Revenues								
Advertising								
(describe)								
(describe)								
Total All Revenue								
<b>Shortages</b>								
Given away								
Lost								
Stolen								
Damaged/Returned								
Remaining Unsold								
Total all losses								
<b>Total Revenue (Revenue - Shortages)</b>								

**Part II: Expenses**

Expenses	Estimated Cost of Sales			Actual Cost of Sales			Difference	
	Number	Unit Price	Total (# x price)	Number	Unit Price	Total (# x price)	Units	Dollars
Cost of Items Sold								
Other Expenses								
Supplies								
Advertising								
Custodial Overtime								
Fees								
(describe)								
(describe)								
<b>Total Expenses</b>								

**Part III: Net Profit for this Activity \_\_\_\_\_**

Net profit is the difference between total revenues and total expenses.

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

**Memorial Fund/Scholarship Fund**

**Name of School:** \_\_\_\_\_

**Name of Club:** \_\_\_\_\_

**Memorial Fund/Scholarship Fund General Information Sheet**

**Fiscal Year:** \_\_\_\_\_

Memorial / Scholarship Name: \_\_\_\_\_

School Site: \_\_\_\_\_

Year Established: \_\_\_\_\_ Initial Amount: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Relationship: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ Fax: \_\_\_\_\_

Bank Account for Funds: \_\_\_\_\_

Intended Purpose: \_\_\_\_\_

Selection Committee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Selection Criteria: *(attach application and instructions, if applicable)*

\_\_\_\_\_  
\_\_\_\_\_

Annual Award: \_\_\_\_\_

Special Instructions: \_\_\_\_\_

Received at: \_\_\_\_\_

Form prepared by: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

Business Office Approval: \_\_\_\_\_  
Signature, Title and Date

## Revenue Projection

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Revenue Projection Fiscal Year: \_\_\_\_\_

Fund-raiser: \_\_\_\_\_ Date of Fund-raiser: \_\_\_\_\_

SALES PROJECTION AND SUMMARY		Item #1	Item #2	Item #3	Item #4
<b>Pre-Event Information</b>					
1	Description of items sold				
2	Number of individual units received				
3	Less items given away (attach documentation)				
4	Less items lost/stolen (attach documentation)				
5	Potential items for sale (line 2-3-4)				
6	Sale price per individual item	\$	\$	\$	\$
7	Total revenue potential (line 5 x 6)	\$	\$	\$	\$
<b>Post-Event Information</b>					
8	Unsold items on hand (attach count)				
9	Calculated revenue from sales (line 8 x 6)	\$	\$	\$	\$
10	Actual proceeds from sales (see below)	\$	\$	\$	\$
11	Cash shortage or overage	\$	\$	\$	\$

	Proceeds From Sales	Item #1	Item #2	Item #3	Item #4	Total \$
1	Gross cash count	\$	\$	\$	\$	\$
2	Less change fund	\$	\$	\$	\$	\$
3	Proceeds from sales (line 1-2)	\$	\$	\$	\$	\$

Explanation of differences in cash counts/proceeds: \_\_\_\_\_

\_\_\_\_\_

Explanation of differences in projected sales: \_\_\_\_\_

\_\_\_\_\_

Report prepared by: \_\_\_\_\_

Signature, Title and Date

Club Advisor: \_\_\_\_\_

Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_

Signature, Title and Date

Presented to ASB on: \_\_\_\_\_

Signature, Title and Date

Presented to District Office on: \_\_\_\_\_

Date

Distribution:

**Pre-event** – Copy of form, with header and pre-event information complete, attached to activity request form.

**Post-event** – Original submitted to ASB bookkeeper, copy retained by club advisor.



# Chapter 9

## Chapter 9 – Class Fees, Deposits and Other Charges – Grades K-12

There is considerable confusion regarding fees, deposits and other charges, and how they relate to K-12 education. Because many fees are deposited into ASB accounts, a discussion is merited to provide clarity. Inclusion of this topic in the ASB manual, however, does not imply that the legally permitted fees, deposit and other charges belong to ASB. In fact, most of the allowable fees belong to the school district and should be deposited accordingly. This chapter is intended to educate readers about what is allowable in grades K-12, regardless of where the money should be deposited.

Public educational agencies have had to survive budget cuts year after year because of decreasing enrollment, decreases in state funding and various other factors; therefore, these agencies continue to find different ways to increase revenues. However, public educational agencies have limited options when charging student fees, and legal guidelines are in place regarding items for which fees can be charged. Before assessing or charging a fee or deposit of any kind, a public educational agency must ensure that it is legal. There have been lawsuits and challenges in this area in recent years because of the large number of reports from parents that schools were charging students illegal fees. The most publicized of these lawsuits resulted from a statewide investigation by the American Civil Liberties Union (ACLU), which found that more than 50 school districts listed illegal fees on their websites.

The California constitution provides for a free public school system. Since 1874, the California Supreme Court has interpreted this to mean that students are entitled to be educated at the public's expense. Any fees charged for educational activities would clearly be in violation of this free school system guarantee, including fees for textbooks, materials and/or supplies. Title 5, California Code of Regulations, section 350, specifically states:

A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law.

The state board of education has also stated that pupils enrolled in public schools shall not be required to pay any fee, deposit or other charge unless it is specifically authorized by law. This understanding is based on Article IX, Section 5 of the California constitution, which provides for a free public school system, stating the following:

The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

The attorney general's office has also made it clear in many of their opinions that public educational agencies cannot levy fees as a condition of participation in any class, whether the class is elective or compulsory. Prohibited fees include security deposits for locks, lockers, books, class apparatus, musical instruments, uniforms, or other equipment. Because of the *Hartzell v. Connell* case, (35 Cal. 3d 899 (1984)), the California Supreme Court stated that students may not be charged fees for participation in either curricular or extra-curricular activities. Whenever a curriculum or extra-curricular program is adopted, all supplies, both necessary and supplemental, must be provided free of charge by the district because these activities are an integral component of public education. Based on a footnote in the *Hartzell* case, fees can be charged for school- or district-sponsored activities that are purely recreational rather than educational and at which attendance is optional, such as an after-school dance or a weekend athletic event.

Fee waivers do not make unlawful fees permissible; a district cannot establish a two-tiered educational system by defining some minimum educational standard as the requirement and then telling students and parents that there is also a second, higher standard which they can strive for if they pay rent or fees or provide certain

additional supplies not provided by the school. Thus it is not permissible for a class to have a project that students will be graded on, but then offer an additional project that can be done if fees are paid for the materials and/or supplies for the additional project. All students in the class must have the same opportunity to make all of the projects and receive all applicable materials for free. Money cannot determine who gets to do what projects.

Schools can always ask for donations if they are genuinely voluntary and if a student's ability to participate in a school activity, either curricular or extracurricular, is in no way determined based on whether a donation was made. When asking for donations or fees, schools and districts should consider working with their own attorneys to ensure compliance with these important laws. Many schools send out donation requests with wording that indicates the donation is required rather than voluntary; this is in essence the same as a fee.

## Allowable Fees

The Education Code specifically includes certain fees that have been approved by the Legislature, which means that they are not forbidden by the code of regulations Title 5 prohibition discussed above. Thus schools are allowed, but not required, to charge the fees listed below. Although these allowable fees are discussed in this manual, it does not mean that they should be deposited into ASB accounts. Very few fees should be deposited into ASB accounts; rather, they are usually district revenues. In fact, when reviewing fees that have been deposited into ASB accounts, it is common to find that the fees collected were not legal, or that they were improperly deposited into an ASB account rather than a district account.

The following fees can be levied as authorized in Education Code sections cited:

- Fees for transportation to and from school if provided to children by the district. This fee is allowable because it is a service, not an essential part of school activity or an educational activity [Education Code section 39807.5(b), (d), and (f)].
  - These fees can also be charged for transportation between school and regional occupational centers, programs or classes.
  - If pupils are required to ride a bus for extracurricular activities, then fees cannot be charged. But if riding the school bus to an event is optional and pupils are also allowed to use other means of transportation, then a fee can be imposed.
  - By law, school districts must exempt from transportation charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board. There must also be a waiver provision based on financial need.
  - Fees may not be charged for students with disabilities whose special education individualized education program (IEP) includes transportation as a related service necessary for them to receive a free appropriate public education.
  - The fee cannot exceed the statewide average nonsubsidized cost per pupil.
- Fees for transportation of pupils to and from their places of summer employment in connection with any summer employment program for youth (Education Code section 39837).
- Charges for food served to pupils, subject to free and reduced-price meal program eligibility and other restrictions specified in law (Education Code sections 38082 and 38084).
- Fees at not less than cost for materials for adult classes, including materials necessary to make items that will become the property of the student who made the item (Education Code sections 52612, 52615 and 17552).
- Fees for an adult enrolled in any class except classes in English and citizenship (may be charged through July 1, 2015), classes in elementary subjects and classes for which high school credit is granted when taken by a person not holding a high school diploma [Education Code sections 52612(a) and (b)].

- Adult students may be charged fees for materials and textbooks or a refundable deposit on loaned items (Education Code sections 52165 and 60410).
- Adults students may be charged for all or part of the costs of transportation (Education Code section 39801.5)
- Class materials necessary for the making of articles by persons enrolled in adult classes. The materials shall be sold at no less than the cost to the district. Any article made is then the property of the person who made it (Education Code section 17552).
- Charges can be imposed by a high school district for textbooks used in adult classes, or a refundable deposit can be imposed on loaned books (Education Code section 60410).
- Deposits for school band instruments, music, uniforms and other items for use on an excursion to a foreign country (Education Code section 38120).
- Medical or hospital insurance for field trips that is made available by the school district. [Education Code section 35331(b)(2)].
- Payment for the replacement of books, supplies or property loaned to a pupil that the pupil fails to return or that are willfully cut, defaced or otherwise damaged, up to an amount not to exceed \$10,000 (Education Code sections 19911 and 48904).
  - When the minor and parent are unable to pay for the damages or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of payment of monetary damages.
    - The State Superintendent of Public Instruction (SPI) is required to annually adjust the original \$10,000 liability limit specified in EC Section 48904(a)(1) to reflect the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year.
- Tuition fees charged to pupils whose parents are actual and legal residents of an adjacent foreign country or an adjacent state. The pupils may be admitted to a school but shall be required to reimburse the district for the cost of educating the pupil. (Education Code sections 48050 and 48502).
- Tuition fees may be collected from foreign students attending a district school pursuant to an F-1 visa, equal to the full unsubsidized per-capita cost of providing education during the period of attendance [8 USC section 1184(m)(1)].
- Materials can be sold to a student for property the student has fabricated from such materials for their own use, provided that the price does not exceed the direct cost of the materials used and provided that the school district's governing board has authorized such sales pursuant to an adopted board policy. This applies to classes such as woodshop, art or sewing in which an item is kept by the pupil, but not when the items remain at school. It also does not apply to food in home economic classes, which is eaten as part of the course work (Education Code section 17551).
  - This section does not authorize a blanket general fee to cover multiple items, nor does it mean there is an obligation to purchase the item. This section must be read together with the constitutional free school guarantee and the statutes requiring schools to provide necessary school supplies and instructional materials. Whenever students fabricate products in a class such as woodshop or sewing, the wood or cloth for such products must be furnished free of charge. If the student decides to take a particular item home, the law authorizes the district to sell that item to the student for the cost of the materials, if a board policy exists allowing this. If there is such a policy and the student does not want to take an item home, the district keeps the item and cannot charge or otherwise penalize the student.

- The school district's board-adopted policies and guidelines should specify the conditions for implementing this section, keeping in mind the free school guarantee.
- Charges for safety glasses, for a pupil to keep, so long as the school provides them free of charge for use in specified courses or activities involving the use of hazardous substances likely to cause injury to the eyes (Education Code sections 32030-32033).
- Fees for the sale or lease of Internet appliances or personal computers to parents to provide access to the school district's educational computer network, at no more than cost, so long as the district provides network access for families who cannot afford it. An Internet appliance is a technological product that allows a person to connect to or access an online educational network. The Internet appliances and personal computers referred to in this section are deemed supplemental and not an essential part of the school district's educational program (Education Code section 17453.1).
- Fees for an optional fingerprinting program for students in kindergarten or other newly enrolled students if the fee does not exceed the actual costs associated with the program (Education Code section 32390).
- Fees for community classes in civic, vocational, literacy, health, homemaking, and technical and general education, not to exceed the cost of maintaining the community classes. These include classes such as dance, music, theatre, visual arts, handicraft, science, literature, nature study, nature contacting, aquatic sports and athletics. These classes are primarily intended for adults and are open only to minors whom the governing board believes will profit from such classes (Education Code sections 51810, 51811 and 51815).
- Fees for after-school education and safety programs, so long as no eligible student is denied the ability to participate because of an inability to pay the fee (Education Code section 8482.6).
- Fees for the actual cost of duplicating public records, pupil records, or a prospectus of the school curriculum. There are two exceptions: First, no charge shall be made for furnishing up to two transcripts of former pupils' records or up to two verifications of various records of former pupils. Second, if the cost would effectively prevent the parent of a special education pupil from exercising the right to receive copies of pupil records, the copies shall be reproduced at no cost (Education Code sections 49063(h), 49091.14, 49065 and 56504; Government Code section 6253).
  - The phrase, "direct costs of the duplication" means that a local agency may recover only the actual cost of copying documents; it does not include ancillary tasks associated with the retrieval, inspection and handling of the file from which the copy is extracted. [*North County Parents Organization et. al. vs. Department of Education* 23 Cal App 4th (1994)]
  - School districts must specify the cost, if any, which will be charged to the parent for reproducing copies of records in a parental notice upon enrollment and in the annual notification of parents of their rights required by the Education Code 48980. [Education Code 49063(h)]
- Charges for required medical and accident insurance for athletic team members that is not paid by school district or student body funds, so long as there is a waiver for financial hardship (Education Code sections 32220-32224).
- Fees for field trips and excursions in connection with courses of instruction or school-related social, educational, cultural, athletic or band activities, so long as no pupil is prevented from making the field trip or excursion because of a lack of sufficient funds [Education Code section 35330(b)].
  - Fees should be collected on a voluntary basis only.
  - A school must not require that a student pay an admission charge to an exhibit, fair, theater or similar activity for instruction or extracurricular purposes when a visit to such places is part of the district's educational program [Ops. Cal. Atty. Gen. No. NS-2469 (1940)].

- No student may be left behind due to insufficient funds, nor may a student be left behind for failing or refusing to participate in fund-raisers.
- Fees for outdoor science camp programs, so long as no pupil is denied the opportunity to participate because of nonpayment of the fee (Education Code section 35335).
- Fees for Advanced Placement and International Baccalaureate Diploma examinations for college credit, so long as (1) taking the exam is not a course requirement; (2) the exam results have no impact on a pupil's grade or credit in a course; (3) eligible economically disadvantaged high school pupils who receive school district funding towards the exam fee shall pay \$5.00 of the fee (Education Code sections 52240-52244 and 52920-52922).
- Fees for child care and development services, except that no fees shall be assessed to families whose children are enrolled in the state preschool program or for such services provided to severely disabled children. Fees for supervision of children before and after school, except that no child who desires to participate shall be denied the opportunity to participate because of the inability to pay the fee [Education Code sections 8250(d)(3), 8263(h)(1), 8265, 8487, and 8488].

## Prohibited Fees

California Education Code section 38118 states, "Writing and drawing paper, pens, inks, blackboard erasers, crayons, lead pencils and other necessary supplies for the use of the schools shall be furnished under direction of the governing board of the school district." Based on this section, the attorney general has concluded that art material for art classes and mechanical drawing sets, cloth for use in dressmaking classes, wood for carpentry classes, gym suits for physical education classes, bluebooks necessary for final examinations, and paper on which to write a theme or report when such a theme or report is a required assignment, are necessary supplies. Thus if a school district requires pupils to use them, they must be furnished by school district without charge so that the pupil can participate. It appears that such supplies must be available to enable students to participate in regular classroom work.

The attorney general's use of the term "school supplies" excludes those items or materials that are essential regardless of whether the person is a student. For example, a district is not obligated to furnish corrective lenses and clothes because these items are needed whether or not the person is a student.

Public schools can recommend, and even make available, strictly optional materials for the students' personal benefit. The law allows parents, other individuals and school districts to purchase instructional materials from the state-adopted lists (Education Code section 60310). Also, teachers may make available a list of suppliers for tutorials, books, supplemental educational materials, or may sell inexpensive quality paperback literature for leisure reading. Teachers may encourage students to use appropriate study aids as long as these purchases are strictly optional and in no way part of the regular instructional program. Materials are not considered necessary supplies if they are not part of the adopted curriculum or part of an established extracurricular program, and there is no penalty for failure to use or purchase the materials. On the other hand, when such enrichment literature or materials are used as supplemental instructional material for a class or are an established part of an extracurricular activity, it then becomes a necessary supply which must be provided or loaned free of charge. Whether a grade is assigned or not is not the crucial point; it is the participation that counts and whether the material used in the instructional or extracurricular activity becomes a necessary school supply.

The opinions of the attorney general indicate that charges may *not* be levied for the following:

- A deposit for potential lost or damaged school property. The law allows the district to charge students for lost or damaged school property after the fact, but not before the issuance and loss.
- An admission charge to an exhibit, fair, theater or similar activity for instruction or extracurricular purposes when a visit to such places is part of the district's educational program.



- A tuition fee or charge as a condition of enrollment in any class or course of instruction, including a fee for attendance in a summer or vacation school, a registration fee, a fee for a catalog of courses, a fee for an examination in a subject, a late registration or program change fee, a fee for the issuance of a diploma or certificate, or a charge for lodging.
- Membership fees in a student body or any student organization as a condition for enrollment or participation in athletic or other curricular or extra-curricular activities sponsored by the school (ASB cards may be sold to allow discounts or free entrance to games and social events, but not in order to join athletics or other curricular activities).
- Charges for textbooks and workbooks, except for classes for adults (Education Code sections 60070 and 60410).
- Charging an apprentice or their parents or guardian for admission or attendance in any class, pursuant to section 3074 of the Labor Code (Education Code section 48053).
- Charging for school supplies that are necessary and mandated for participation in any class.
- Charging for mandated standardized gym suits for physical education classes. A student's grade cannot be affected by not wearing the standardized clothes.
- Fees to enroll and/or participate in activities of career technical student organizations which are part of a career technical class or course of instruction offered for credit. This section shall apply to activities which occur both during and outside of the regular school day (Education Code section 52375).
- Fees to process an interdistrict transfer request from a pupil residing in another district.
- Reimbursement for lost average daily attendance (ADA) revenue for absences from school.
- Transportation associated with activities of career technical student organizations which are part of a career technical class or course of instruction offered for credit when those activities are integral to assisting the pupil to achieve the career objectives of the class or course (Education Code section 52373).
  - The exception to this is when the transportation is between the regular full-time day schools the pupil would attend and the regular full-time occupational training classes that they attend provided by a regional occupational center or program (Education Code section 39807.5).

On April 20, 1984, the *Hartzell vs. Connell* California Supreme Court decision raised serious questions about the imposition of nonstatutory fees for extracurricular activities. The lead opinion on this matter is that fees may be charged for activities that are recreational, but not for those that are educational. Because extracurricular activities are described in the opinion as an integral component of public education, they are a part of the educational program and thus must be free. The court further stated,

[The] imposition of fees as a precondition for participation in nonstatutory educational programs offered by public high school districts on a noncredit basis violates the free school guarantee. The constitutional defect in such fees can neither be corrected by providing waivers to indigent students nor justified by pleading financial hardship.

It is also the opinion of CDE and the *Hartzell* opinion that a school district may not charge a fee or require students to purchase necessary materials even if the district maintains a special fund to assist students with financial need or waives such a fee or charge for students with financial need, because the fee or charge still remains a condition for all other students not being assisted financially. **A fee waiver policy for needy students does not make the fee allowable.** Requiring low-income students and their families to apply for a waiver is considered discriminatory. The requirement to fill out a waiver discourages many students from attempting to enroll in a class because they are embarrassed to ask for a waiver, but also do not want to put their family in financial distress.

On the subject of gym or physical education clothes, Education Code section 49066 states, “No grade of a pupil participating in a physical education class may be adversely affected due to the fact that the pupil does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the pupil,” such as lack of sufficient funds. The California Department of Education has stated the position that a school district may require students to purchase their own gym clothes of a district-specified design and color so long as the design and color are of a type sold for general wear outside of school. Once the required gym uniforms become specialized in terms of logos, school name or other similar characteristics not found on clothing for general use outside of school, they are considered school supplies and the district must provide them free of charge.

The subject of fees, deposits and other charges is complicated and is attracting increased attention, especially as state funding declines year after year and school agencies try to generate additional revenues. School agencies that are considering any type of fee or that are not sure whether current fees should be charged will find it worthwhile to obtain a legal opinion on the matter as this is likely much less costly than a lawsuit against the district as a result of illegal fees.

## Charter Schools

Education Code section 47605(d) prohibits a charter school from charging tuition, but the code is silent on fees or other charges. Although charter schools are exempt from most laws governing school districts per Education Code section 47610, the California constitution cannot be rendered inapplicable by the Legislature. Therefore, the California constitution’s guarantee of a free public education also applies to charter schools.

Charter schools may only charge those fees authorized in Education Code sections that have been made applicable to charter schools. For example, charter schools can charge fees for food and field trips because those Education Code sections apply to charter schools. However, charter schools cannot charge the “other fees authorized by law” that districts can, except for fees related to activities that are not an integral component of public education.





# Chapter 10

## Chapter 10 – Vending Machines

Vending machines are set up and managed in various ways in school agencies. In some cases ASBs operate the vending machines and in others the district, student nutrition department or parent and booster club groups operate them. Vending machines are found on school campuses, in district offices and at athletic events.

### Purpose of Vending Machines

Vending machines have two purposes: to provide a product or supply that can be used by students and staff, and to provide a profit on the sale of those products.

### Products Sold in Vending Machines

A variety of items may be sold using vending machines, ranging from beverages and foods to school supplies such as pens and pencils. Food and beverage vending machine sales must comply with state laws, which have greatly reduced the variety of drinks and snacks that can be offered. Those laws also prohibit selling items that compete with the food service program.

Senate Bill 677, the California Childhood Obesity Prevention Act of 2003, regulates the use of vending machines and has established the following limits on the sale of specific food items in grades K-12:

#### Elementary Schools

- Bans during the entire school day the sale of all food and beverages not defined as healthy.
- Bans during the entire school day the sale of all food and beverages that compete with the food service program.
- Vending machines may be used to sell only healthy food and beverages.
- Permits the sale of healthy beverages, which include water, milk (not whole milk), 100% fruit juice, and fruit-based drinks with no less than 50% fruit juice and no added sweeteners.
- Allows the sale of unhealthy food and beverages for fund-raising under two circumstances: sale by pupils off school grounds and sale by pupils on school grounds at least 30 minutes before and after the end of the school day.

#### Junior High, Middle and High Schools

- Bans during the entire school day the sale of all food and beverages not defined as healthy.
- Bans during the entire school day the sale of all food and beverages that compete with the food service program.
- Vending machines may be used to sell only healthy foods and beverages.
- Permits the sale of healthy beverages, which include water, milk (not whole milk), 100% fruit juice, fruit-based drinks with no less than 50% fruit juice and no added sweeteners, and electrolyte replacement beverages with no more than 42 grams of added sweetener per 20 ounce serving.
- The sale of permissible food and beverages can occur from one half hour before school to one half hour after the end of the school day. These items may be sold during the school day, including during meal times at junior high, middle and high schools, if they comply with the competitive food sales laws applicable to secondary schools (see Laws Governing K-12 School Food Sales in Chapter 3). The law allows one organization a day to sell no more than three types of approved foods or beverages. If revenue from the vending machines (rather than a commission check) is going to a student organization, the vending machines may count as the one allowable sales entity per day. However, the student organization could not sell food and/or drinks daily from both vending machines and a student store.

Many schools have been able to maximize student fund-raising from vending machines and student stores by partnering with the Child Nutrition Program to either share profits or purchase supplies from food services, thus eliminating competition with the food service program.

- Allows the sale of unhealthy food and beverages for fund-raising under two circumstances: sale by pupils off school grounds and sale by pupils on school grounds at least 30 minutes before and after the end of the school day.

## Policy Issues for Vending Machines

The school board should create a policy to provide direction and parameters regarding how vending machines may be used in the district. The areas for policy direction should include the following:

1. How and where vending machines may be placed, indicating the responsibility or sponsorship through the following:
  - ASB
  - District nutrition services.
  - Parent or booster club.
  - Shared or joint sponsorship between two or more organizations or groups.
2. Products permitted:
  - Exclusive product selection or endorsement, in compliance with the Education Code.
  - Nutritional value of products, in compliance with state and federal regulations (SB 12, 95; Education Code sections 49431 and 49431.5).
3. Contract arrangements:
  - Installation, maintenance, quality, quantity, commission rates, and selection of vendor and products, in compliance with the Education Code and public contract code.
  - Adherence to competitive bid requirements.
  - Contract terms and conditions.
  - Contract review parameters and signatory authorization.
4. Financial management:
  - Periodic financial statements.
  - Internal control procedures, in compliance with the Education Code.
  - Inventory management.
  - Audit guidelines.

## Good Business Practices Related to Vending Machine Operations

Because of the many different ideas and options for vending machine operations, it is suggested that the district's business office first meet with site administrators and advisors to determine which options and practices would best meet the needs of the students and programs. To ensure successful operations, best practices unique to individual district and school needs should be identified. Board policies and administrative regulations may include items such as the following:

- Overall guidelines for key vending machine management

- Administrative regulations describing who does what when.
- Administrative regulations regarding new ideas and where to get help with new situations as they arise.

The procedures described on the following pages are also strongly recommended to ensure successful vending machine operations for ASB organizations.

The good business practices presented indicate when the business office should take the lead and when primary responsibility rests with the school site.

### Good Business Practices for Business Office Leadership

The district's business office should do the following:

- Actively support school site ASB vending machine management by hosting annual meetings to discuss vending machine operations.
- Review board policies and administrative regulations annually with school site ASB leaders. In collaboration with the site ASB leaders, the district's business office should propose and draft new policies or regulations to facilitate practices that benefit student organizations.
- Provide annual training on all aspects of ASB financial management, including vending machine operations.
- Assign a specific staff member to be the contact for all ASB financial management questions.
- Review bids, specifications and requests for proposals on all vending machine options and operations.
- Review all contracts of agreement, including annual contract renewals, for legal sufficiency and for maximum profit margin with minimal risk to the student funds.

### Good Business Practices for School Site ASB Leadership

The school site should do the following:

- Develop a collaborative relationship with the district's business office staff member assigned to work with ASB operations.
- Attend and actively participate in annual meetings and trainings hosted by the district's business office.
- Be familiar with board policies, administrative regulations and district procedures related to vending machine operations.
- Bring all questions to the attention of the district's business office, and request assistance with all problems.
- Determine which items will provide maximum benefit to students.
- Learn the rules and practices of sound inventory management. For example, monitor the inventory turnover and shelf life of individual products; conduct inventory counts regularly; store inventory stock in a secure place; and have two people count cash and stock/restock vending machines.
- Review and update the sale price of products to ensure an adequate profit margin for students.
- Consider inventory needs during holidays and other times when school is not in session.
- Refrain from using inventory items as a reward or payment for services (e.g., handing out free soft drinks to students who chalk the lines on the football field before games).
- Remember rules and good business practices related to risk management, such as not allowing students to drive to the store to replenish vending machine inventories.

## Vending Machine Operations

An ASB may set up vending machines several ways, depending on how and where the machine is to be used. The four main options for vending machine management are as follows:

- Option I – The machines are purchased, stocked, operated and managed by the ASB.
- Option II – The machines are leased or rented by the ASB and stocked, operated and managed by the ASB.
- Option III – The machines are owned, operated and managed by a contracted third party and a commission is paid to the ASB.
- Option IV – The vending machines are operated by the district's food service department or the district itself; the ASB is not involved with the vending machines.

For options I, II and III above, in which the vending machines are operated by the ASB, the following explanations will help districts determine the most successful option for a particular situation or operation.

### Vending Machine Management – Option I

The ASB organization may purchase the vending machines. In this case, the ASB organization is responsible for keeping the machines filled and handling the money. Stock is purchased, stored, and inventoried by the ASB. Included with this option are maintenance and repair costs. At some point, the ASB would probably need to set aside funds to replace the vending machine.

The ASB has sole discretion to establish product prices and thus determine profit margin, within any established district policy limits. Liability insurance for loss or damage, particularly vandalism, would be a cost of ownership.

Under this option, the club sponsoring the vending machine would count as the one group conducting daily sales, so no other club could sell food and/or beverages daily.

### Vending Machine Management – Option II

The ASB organization may contract with a vending machine company to rent or lease the vending machine. In this case, the ASB organization is responsible for keeping the machines filled and handling the money. This would include purchasing, storing and keeping inventory records of the stock.

The primary difference between option I and II is that under option II the ASB does not own the vending machines and probably would not have the primary responsibility for any machine repair or maintenance. The lease or rental agreement with the vendor would specify machine repair and replacement terms, including each party's risk management responsibilities.

Under this option, the club sponsoring the vending machine would count as the one group conducting daily sales, so no other club could sell food and/or beverages daily.

### Vending Machine Management – Option III

The ASB organization may contract with a vending machine company to install a machine at a school, fill the machine and take the money out of the machine. The contract must indicate the terms of the agreement. The ASB would receive a commission, usually based on the vending machine sales.

The district should consider including provisions in its contract that answer the following questions:

- How much will the ASB organization receive from the sale of each item?
- If the vending machine company raises the price of the product, does the ASB receive a portion of the increase?

- What products will be stocked?
- What happens if the machine is vandalized?
- Who is responsible for giving refunds to students when the machine loses money that is deposited or when the change feature of the machine malfunctions?

The contract should also include a provision that allows members of the ASB organization and the school staff to periodically observe the company's personnel emptying the machine. This allows the ASB to verify that it is receiving the correct amount of revenue.

Under this option, the club sponsoring the vending machine would *not* count as the one group conducting daily sales, so another club could sell food and/or beverages daily.

## Advantages and Disadvantages of Various Vending Machine Operations

Option III is obviously the easiest for the ASB organization, but it also results in less income.

Under the first two options, the ASB organization must purchase the items to sell, be responsible for the procedures (internal controls) for taking the money out of the machine, and restock the machine. Each of these functions takes time when performed in accordance with good business practices.

If the ASB is responsible for stocking the machine and handling the money, the organization needs to establish procedures for the following:

- Managing stock
- Emptying machines

In addition, if the ASB is responsible for the machines, the food laws regarding how many groups can sell food and beverage and how often will apply. For example, a vending machine that is available every day during school hours will count as the one group doing daily sales (see the Food and Beverage and Competitive Food Sales charts in Chapter 3 for an outline of the various laws) if the group stocks and manages the machine.

Following is an outline of good business practices and proven procedures for managing stock and emptying machines.

### Procedures for Managing Vending Machine Stock

If the ASB organization is responsible for stocking the machine, it should buy items in large quantities whenever possible because this usually provides a lower cost per item. However, food and beverages have a limited shelf life, so a two- or three-month supply is recommended as reasonable for these items. Recommended procedures for maintaining stock are as follows:

1. Store all items in a secure area where the access is limited.
2. Maintain a log of all items held in the storeroom (see the sample Vending Machine Inventory Log at the end of this chapter). Record the items in columns A and B of the log when they are purchased.
3. Compute the cost per item for the items purchased, and record in the cost per item column.
4. In column C of the Vending Machine Inventory Log, record the items taken from the storeroom.
5. Use the inventory balance column on the Vending Machine Inventory Log to maintain a total of the number of items that should be in the storeroom at any time. Update this column each time items are purchased or taken from the storeroom. This is accomplished by adding items purchased to the amount

on the previous line in the inventory balance column and deducting items taken out of stock from the previous line in the inventory balance column.

6. Take a physical inventory, or count, of the items in the storeroom once a month. Compare the number of items in the storeroom to the amount remaining in the inventory balance column of the Vending Machine Inventory Log.
7. Record the inventory in the last two columns of the log to provide a record that the inventory was taken. Two people should always count the inventory and initial the box marked “Initials”. The ASB advisor and the students should determine the reasons for any discrepancies between the amount shown in the inventory balance column and the count of the items remaining, which is shown in the “number of items in inventory” column.
8. The ASB advisor should contact the principal/site administrator and the business office for assistance if any significant discrepancies are noted or if help is needed with inventory management.

### **Fraud Alert**



A common fraud is to remove coins and cash from the vending machine funds collected. The funds pilfered are usually in the \$5-\$40 range depending on the number of vending machines and frequency of collection. This type of fraud is easy to reduce by reviewing the vending machine inventory count sheets and periodically recounting vending machine inventory to confirm that the counts are correct.

## **Procedures for Emptying Vending Machines**

When it is time to take the money out of the vending machine, the machine is also restocked. The number of times the students will perform this procedure will depend on the volume of sales. The following are recommended procedures for restocking and counting the money.

1. Two students or school staff members should have this responsibility.
2. One person counts the money and records it on the ASB Cash Count Form (see sample form at the end of Chapter 13). The total amount of money taken from the machine is recorded on line F of the Vending Machine Control Sheet.
3. The second person counts the number of items remaining in the machine and records this information on line B of the Vending Machine Control Sheet.
4. The second person takes the inventory needed to stock the machine from the storeroom where the stock is kept.
5. The second person stocks the machine and completes the information on line H of the Vending Machine Control Sheet.
6. When each person has completed their work, they trade duties and verify the counts made by the other person. Each person then signs the Vending Machine Control Sheet.
7. Line A is entered from line I of the Vending Machine Control Sheet that was completed the last time the machine was stocked.
8. Lines C, D, E, F, G, and I are entered and computed.
9. Any significant discrepancy on line G is reported to the ASB advisor and the principal/site administrator, and is investigated immediately by the ASB advisor. The business office also is advised immediately.
10. The ASB advisor signs the Vending Machine Control Sheet upon completion of the process.

11. The information on the Vending Machine Control Sheet is used as the beginning point the next time the machine is emptied and restocked.
12. If the school has more than one vending machine, separate control sheets are used for each machine.

These procedures can vary depending upon the type of vending machine the ASB has. If the machine is equipped with automated product counters, the students would verify the accuracy of that data.





## Vending Machine Control Sheet

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Vending Machine Control Sheet

Fiscal Year: \_\_\_\_\_

Machine Number: \_\_\_\_\_ Machine Location: \_\_\_\_\_

Number of items in the machine at the last count: \_\_\_\_\_  
(Report line I from the previous report here on line A)

Date of the last report: \_\_\_\_\_

Count of items in the machine on this day: B \_\_\_\_\_

Total number of items sold (*A minus B*): C \_\_\_\_\_

Price of items sold: D \_\_\_\_\_

Cost of items sold (*C times D*): E \_\_\_\_\_

Amount of cash taken from the machine:  
(*This amount comes from the ASB Cash Count Form*) F \_\_\_\_\_

Difference between the amount sold and cash count: G \_\_\_\_\_

Number of items added to the machine: H \_\_\_\_\_

Total number of items in the machine (*B plus H*): I \_\_\_\_\_

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Signature of person counting items: \_\_\_\_\_

Signature of person counting items: \_\_\_\_\_

Verified by ASB bookkeeper: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

Vending Machine Inventory Log

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

Vending Machine Inventory Log

Fiscal Year: \_\_\_\_\_

Machine Number: \_\_\_\_\_ Machine Location \_\_\_\_\_

This inventory log is for the following item (soda, juice, etc.): \_\_\_\_\_

Date	Total Cost of Items Purchased	Number of Items Purchased	Cost per Item	Number of Items Taken from Stock	Inventory Balance	Date of Inventory Count	Number of Items in Inventory	Initials of Persons doing Inventory



# Chapter II

## Chapter II – The Student Store

The student store is a popular fund-raising mechanism at secondary schools. A student store is usually operated by students and sells items that students use during the school day, such as pencils, paper, binders, limited snacks and beverages that meet state nutritional standards, and items that have the school logo such as hats, scarves and sweatshirts. Student stores raise money for the student organizations and provide a valuable service for students.

### ASB Store Operations

The student store is usually operated as a fund-raising event for the entire student body. For this reason, the student council usually sponsors and operates the store, though a group of clubs may also operate the student store. Guidelines and procedures will need to be developed regarding how revenues from the store are allocated, budgeted and spent. These decisions should be documented in meeting minutes and in the ASB's internal procedures at each school where stores are operated.

The sales volume and the profit level of a student store usually depend on the following:

- The size of the school
- The physical size of the store
- The number of products available
- The days and hours of operation
- Student leadership and the counseling role of the ASB advisor and bookkeeper

Student stores may operate only a few hours, a few days, or every day, all day long. This is decided jointly at each school site by the student organization, faculty advisor and school administration.

The student store augments the ASB organization and should operate only inasmuch as it enhances the students' educational experience. Because of the unique objective of a student store, considerations must extend beyond profit per square foot. Conflicts with class schedules, operational challenges, and appropriate focus of school administrative staff are all considerations that may point toward a smaller and more efficient student store operation rather than a larger one.

### Organized versus Unorganized

In organized ASBs, the student organization actively participates in decisions about student store operations and how the revenue is generated and used. Unorganized ASBs are much less active and take a lesser role in decisions regarding the store. In both organized and unorganized ASBs, however, a careful cost-benefit analysis will be required for decisions. Cost evaluations should take into account more than simply dollars spent; the analysis should include staff time, management effort, effects on facilities and the student population, and other considerations.

### Food Sales

Because of the laws and restrictions related to the sale of food and beverages at K-12 school sites, the ASB advisor and the students should always seek counsel from the district's food service program director to determine which food and beverage items can be sold in the student store. This will ensure compliance with state regulatory code and with the district's goals related to student nutrition.

Food and beverage sales cannot compete with the school lunch program. California Administrative Code section 15501 authorizes only one student organization at middle and high schools to sell food and drink items daily. The code must be followed, so if these types of items are sold daily in the student store, that constitutes

the one student organization authorized by the code. The district's food service program can help ensure an understanding of and compliance with all district, state and federal regulations.

Chapter 3 provides more detailed legal guidance on food and beverage sales by ASB organizations.

### **Clothing Sales**

Non-mandated clothes for physical education classes are often sold in student stores. This is a convenient place for such sales because it removes the need for a cash box, tracking procedures and inventory security at other locations on the school site. Most organized ASBs will also sell other clothing items with the school name or mascot on them. These are also appropriate sale items for the student store.

Regarding gym or physical education clothes, Education Code section 49066 states, "No grade of a pupil participating in a physical education class may be adversely affected due to the fact that the pupil does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the pupil," such as lack of sufficient funds. The school district may require students to purchase their own gym clothes of a district-specified design and color so long as they are of a type sold for general wear outside of school and can be purchased anywhere, not just the student store or the district. Once the required gym uniforms become specialized in terms of logos, school name or other similar characteristics not found on clothing for general use outside of school, they are considered school supplies and the district must provide the uniforms free of charge. Therefore, if physical education clothes with the school mascot and name on them are sold, their purchase cannot be mandated.

### **School Supplies**

Student stores can sell school supplies such as pencils, pens, folders and other items. However, no item carried in the store can be mandatory for students because this would constitute a fee for public education, which is not allowed by law.

### **Event Sales**

Events such as yearbook sales and payments for senior trips, school dances and similar items can all be carried out through the student store. The internal controls for the store must allow proper tracking and accounting of these types of sales. Once the controls are established, having the store carry out the sales can greatly simplify the administrative burden these events can create.

### **Sound Business Practices for Student Stores**

Although a student store is more complex and usually has many more transactions than most of the fund-raising events held by students, transactions should be recorded in ASB accounts just like other fund-raisers. The accounting methods, internal controls and rules used for other transactions and fund-raisers should be followed for the store, including the requirement of prior student council approval for all purchases. Responsible administrative staff should review these methods, internal controls and rules at least once a year to ensure that they are adequate.

Like any privately owned store, student store operations are susceptible to theft. The following good business practices for internal controls apply specifically to a student store and can help reduce the risk of theft:

#### **Location and Security**

The site administrator should provide a space for the student store with a layout that prevents theft, damage or other loss of items for sale and items used to support the store's operations. Items should be secured during the school day and on evenings, weekends and holidays when the student store is closed. This should apply to both inventory and cash receipts.

## Stock and Pricing Policies

The ASB advisor and ASB bookkeeper will need to work with the students to maintain a detailed record of all items purchased for the student store.

The ASB advisor should also work with students to determine what types of items to purchase for the store and an appropriate sales price for each item. Past sales should be evaluated each year to determine any changes in pricing or in items stocked. This is an opportunity for students to learn about retail operations.

## Cash Handling

Unless the volume of the store is very low, it is a good idea to purchase and use a cash register.

As sales are made each day, the students should maintain a record of the number and types of items sold and the amount of cash received. Some cash registers have a feature that tracks the types of items sold and the cash collected. If there is no cash register, or if the cash register does not have this tracking feature, the students will need a manual tally sheet or ticket control of the items sold throughout the day. The Student Store Daily Sales Form at the end of this chapter can facilitate daily reconciliation of items sold with cash collected.

As items are sold, the student records the sale on the Student Store Daily Sales Form. At the end of the day, the marks are totaled and multiplied by the sale price of each item. The total value of all sales is then compared to the cash collected. The ASB advisor and the students should immediately determine the reason for any significant differences reported on the Student Store Daily Sales Form.

Procedures should be established for daily reconciliation of cash registers/cash box collections and total sales receipts. Scheduled deposits should be made and nightly security established for all cash on hand. A cash count form (found in Chapter 13) and register tapes should accompany all deposits.

## Inventory Count and Management

At least once a month, students should take a physical inventory of all items in the student store and compare the physical number remaining to the calculated number remaining. The Student Store Daily Inventory Form at the end of this chapter is designed for this task.

Two students should count the inventory and record their counts on separate inventory forms. The students should then compare the two counts and recount any that do not agree.

After the count is complete, the students should compute the amount remaining in inventory using the Student Store Monthly Inventory Calculation form. This form is used to compare the monthly physical inventory of goods to the number of items that should be in the store based on the recorded daily sales and receipts.

### Fraud Alert



Student stores are often a fun and fast-paced location that offer many opportunities for friends of those operating the store to enter and remove inventory undetected. When this occurs and is discovered, those working in the store are often blamed for inventory shortages. In addition, because student stores are a cash intensive operation, it is very common for petty thieves to simply not ring up sales and pocket the cash. The strongest deterrent to unexplained inventory shortages or theft is a video surveillance system. If the ASB cannot afford a surveillance system, consider purchasing signs that state that there is a surveillance system. Sometimes the perception of detection is enough to deter theft.

### Fraud Alert



Student store cash is easily taken. Students who operate cash registers and sell inventory, as well as advisors who handle the cash, can easily be accused of theft because they have access and opportunity to remove cash.

Each student should count their own cash with a witness and reconcile cash and inventory at the end of each shift. Advisors should only count cash with a witness, and both the advisor and the witness should sign two copies of the cash count form. After the cash is counted, the deposit should be sealed and the advisor and the witness should take it to the ASB bookkeeper for deposit.

The students and the ASB advisor should investigate any significant differences noted on this form. The ASB advisor and the site administrator should seek the assistance and counsel of the district's business office if they cannot determine and correct the cause of discrepancies in student store inventory.

### Accounting

Procedures need to be established to ensure that the daily receipts are allocated to the proper account. This is important for student stores that conduct event sales for which the receipts go to a specific fund or club instead of into a general fund for the student organization.

### Training and Practices

A discussion of student store operations should be a standing agenda item at the periodic meeting of the district's business office and ASB leaders. This discussion should include practices, successes and areas where assistance is advisable. Everyone benefits when there is a successful ASB student store operation: the district, the school and, most important, the students.

### Sales and Use Tax

Although school districts are exempt from federal and state income taxes, they must pay California sales tax on gross sales. ASB organizations are exempt from collecting sales tax when the sales are irregular or intermittent, such as sales at football games or annual rummage sales. Because student store sales are neither irregular nor intermittent, they are taxable.

Sales tax is normally paid when goods are purchased at retail, so when the goods are resold, sales tax is due on the difference between the purchase price and the price at resale.

The district's business office files a sales tax return periodically for the sales tax it has collected. It is most efficient for the district to include on the same return any sales tax due on student store sales. The district's business office staff should obtain the necessary information from the student store sales and report the sales tax when it is due. This also ensures greater accuracy when preparing the sales tax form.

Use tax must be paid on items purchased from a retailer but for which sales tax was not paid at the time of purchase. This usually occurs when goods are purchased from out-of-state vendors. Just as the district's business office files a periodic sales tax return, it also files a use tax return. It is most efficient to include the student store's information on the use tax return.

Additional information about both sales and use taxes can be found on the State Board of Equalization Web site at [www.boe.ca.gov](http://www.boe.ca.gov).

### Fraud Alert



Separate inventory counting as described, using two students counting on separate forms, is critical. Without separate counts, a fraud perpetrator can easily inflate inventory for stolen items, which will then go undetected. If two students are not available, the store manager/advisor should at least spot-check inventory counts often to confirm the items of higher value.



## Student Store Daily Sales Form

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Student Store Daily Sales Form

Fiscal Year: \_\_\_\_\_

Item:					
Number Sold					
Unit Price					
Total Dollar Value of Units Sold					

Item:					
Number Sold					
Unit Price					
Total Dollar Value of Units Sold					

Item:					
Number Sold					
Unit Price					
Total Dollar Value of Units Sold					

Item:					
Number Sold					
Unit Price					
Total Dollar Value of Units Sold					

Reconciliation of daily sales to the cash collections:

Total dollar value of units sold: \_\_\_\_\_

Total cash collected: \_\_\_\_\_

Difference: \_\_\_\_\_

Sales log prepared by: \_\_\_\_\_ Date: \_\_\_\_\_

## Student Store Daily Inventory Log

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Student Store Daily Inventory Log

Fiscal Year: \_\_\_\_\_

Item:						
Total Number Counted:						
Item:						
Total Number Counted:						
Item:						
Total Number Counted:						
Item:						
Total Number Counted:						
Item:						
Total Number Counted:						
Item:						
Total Number Counted:						
Item:						
Total Number Counted:						
Item:						
Total Number Counted:						

Inventory prepared by: \_\_\_\_\_ Date: \_\_\_\_\_

## Student Store Monthly Inventory Calculation

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Student Store Monthly Inventory Calculation

Fiscal Year: \_\_\_\_\_

Inventory for the month of: \_\_\_\_\_

Item: (e.g. pencil, paper, etc.)						
Inventory Count from Last Month	A					
Items Added During the Month						
	B					
	C					
	D					
	E					
	F					
Total (A+B+C+D+E+F)	G					
Less Total of Items Sold (From Daily Sales Forms)	H					
Difference (G minus H)	I					
Inventory Count (From Student Store Inventory)	J					
Difference (I minus J)	K					

Inventory prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

## Student Store Sales and Inventory Reconciliation Worksheet

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Student Store Sales and Inventory Reconciliation Worksheet

Fiscal Year: \_\_\_\_\_

Beginning inventory at sales value: \_\_\_\_\_

Plus: Purchases made during period at sales value  
(For example: You purchased 20 drinks at varying prices from Costco; however, you sell them all for \$1. Your addition to inventory would be \$20.)  
Purchase values (maintain records for review including purchase invoice and item pricing): \_\_\_\_\_

Less: Deposits made during the period from sales: \_\_\_\_\_

Plus: Sales taxes included in deposits from sales: \_\_\_\_\_

Less: Documented surplus, destroyed, stolen, etc. inventory at sales value (maintain detailed records): \_\_\_\_\_

Equals: Inventory sales value to account for at end of period: \_\_\_\_\_

Physical count of inventory on hand at sales value: \_\_\_\_\_

Difference: \_\_\_\_\_

Notations regarding difference:

Inventory prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

# Chapter 12

## Chapter 12 – Gifts and Donations

Gifts and donations from the community and business entities are vital contributions to California public schools. These gifts are made in a variety of ways and for a variety of purposes. ASBs are frequently the recipients of gifts and donations.

Typically these gifts are made to the district or student body for one or more of three uses:

- For use at a specific school site
- For use in a specific program
- For student activities

These gifts may be in the form of cash, scholarships, equipment or supplies. Often an individual will make the donation at the school site. It is important for the site administrator or designee to determine whether the donation is meant for the school entity for exclusive use at that school site, or if the donor intends the donation to be given to the ASB organization. The donor may not understand the importance of identifying specifically for whom the donation is intended, so it is critical for the employee who accepts the donation to have a way to explain the difference.

There is a significant and practical difference between a donation to the school entity or school site and a donation to the ASB organization. In the former case, funds are allocated to a school site or program and adults will decide how the funds will be spent; in the latter case, funds are deposited into ASB accounts and students decide how the funds will be spent for their benefit, with the adults' assistance.

### Donations of Cash to a District for a Specific School Site or Program

If the donation is made to the school entity for a particular school site, the site administrator or designee must remit the donation to the district's business office in accord with the district's procedures for doing so. If the donation is a check or cash, the district's business office will deposit the funds into the county treasury and record the revenue as a donation for that specific school site. The school site budget will then be adjusted to allow the site administrator or designee to use the funds for the school. A separate budget is usually set up to identify donor funds and to show how they have been spent and their available balance. Funds that remain unexpended at year end are carried over to the new budget year. The site administrator or designee will determine how to use the donated funds, within district guidelines, and will ensure that the donor's requests are considered.

The district's board policy regarding gifts needs to be understood so that staff members can follow the correct procedure for notifying the district office of gifts to the school site or district. In some districts, all donations are brought to the governing board for acceptance; in others, only donations greater than a certain dollar amount are brought to the board. In either case, the correct policy and procedure should be followed.

### Cash Donations to an ASB Organization

If a cash or check donation is intended for the ASB organization, the site administrator or designee must deposit the check into the ASB account. Ideally, the donor should note on the check or in a separate letter that the donation is for the ASB organization. In the absence of a clear indication, the district's business office staff will usually assume that the donation is intended for the school site and the money will be deposited in the district's account for the benefit of the particular school, not the ASB. If the donation is for the ASB, it must be used in accord with ASB guidelines and the donor's requests. The donation should also be accepted/ approved by the student body and a thank you letter should be written to the donor.

In some cases the district's board policy regarding donations may include information on the correct procedure to be followed when receiving donations to the ASB. It is important to ensure that the board policy is reviewed to ensure compliance.

### **Ambiguous Situations**

After the books have been closed at the end of the year, auditors often find funds that were deposited into the ASB bank account but that appear to have been intended for the district for use at a particular school site, or vice versa. These situations are difficult to unravel and have the potential to cause misunderstandings. The donation forms at the end of this chapter can help ensure that donations are recorded correctly and the donor's intent stated clearly to prevent ambiguity.

### **Donations of Material or Equipment to an ASB Organization**

If the donation consists of material or equipment, the site administrator, ASB advisor or bookkeeper must understand and follow the district's requirements regarding this issue. All districts should have a rule that requires that all donations be formally accepted by the student body and recorded in the meeting minutes. Many districts also require that material or equipment donated to the ASB be approved by the school board or an authorized designee, or that all gifts or donations of equipment or other property be transferred to the district. The district would probably then accept responsibility for maintenance (though not necessarily for replacement) in accordance with district guidelines. If the materials or equipment are transferred to the district, instructions should be clear regarding who will be responsible for maintenance and replacement.

Before accepting any donation of this type, it must be determined that the school program has a legitimate use for the item and that district policy allows acceptance. For example, many people have donated computers and printers to school sites and/or ASB organizations, which found that the items did not work. The district should have a policy or procedure to ensure that items are inspected and found to be usable before they are accepted. Installation and maintenance costs must also be considered before an item is accepted.

### **Donations of Scholarships to an ASB Organization**

If they are large enough, donations intended as scholarships may require a separate bank account to simplify the tracking of interest earned by the principal amount. In these cases the school site will need to work with the district's business office to open a separate bank account for that purpose.

Whenever possible, student organizations should attempt to persuade potential scholarship donors to give without special award criteria or restrictions. This will allow the student organization to include the donation in its existing general scholarship fund without a separate bank account or selection and award process. The Memorial/Scholarship Donations form at the end of this chapter can help ensure that the donor's intentions are clear. Additional information on scholarships is included in Chapter 8.

### **Donations to ASBs from Booster Clubs and other Parent Organizations**

Booster clubs and other parent organizations are independent of both the district and the student organizations/ASB. Booster and parent clubs may decide to donate money to an ASB, but once they do so, all ASB rules and requirements apply and the booster club or parent organization no longer has any control or authority over the donated funds. In addition, the donation cannot occur until after the funds have been deposited and accounted for within the booster club or parent organization. Because many nonstudent organizations are organized as distinct 501(c)(3) not-for-profit organizations and have their own tax identification number, it is important that their operations remain separate and distinct from the district and from student organizations; they may not use the district's tax identification number for any of their operations.

### **Good Business Practices for ASB Donation Management**

The donation forms on the following pages can be used to ensure that donations are recorded correctly. These forms allow a donor's intent to be stated clearly to prevent ambiguity.

Updating gift and donation procedures should be a standing agenda item for the annual district-sponsored ASB meeting with the business office. A review of the past year's activities can serve as a starting point, with the intent to improve practices for the coming year.

When the ASB organization spends a donation, it is subject to the same policies and procedures as all other ASB expenses.

## **Tax-Exempt Status**

When outside business or individuals are considering making a donation, ASBs are frequently asked for their tax identification number. The ASB and the district are not considered a private nonprofit 501 (c) (3) organization; rather, they have nonprofit, tax-exempt status by virtue of being a governmental entity. The district's tax identification number should always be treated confidentially; it should not be given out when asked because it is not required for the donors to claim a tax deduction. All requests for the district's tax identification number should be forwarded to the district's business office unless sites have been provided with a letter to send out when asked for the number. Many districts have developed a letter for requestors that will meet their need to document a tax-deductible donation. A sample letter is included at the end of this chapter.

As a special service to government entities, the Internal Revenue Service (IRS) will also sometimes send a government affirmation letter free of charge to assist in this area. A government affirmation letter can be requested from the IRS by calling 1-877-829-5500. The district's tax identification number is needed to order the letter. The letter describes government entities' exemption from Federal income tax and cites applicable internal revenue code sections pertaining to deductible contributions and income exclusion. Most organizations and individuals will accept the government affirmation letter as sufficient.





**Donation to ASB Form**

**Name of School:** \_\_\_\_\_

**Name of Club:** \_\_\_\_\_

**Donation to ASB Form**  
**Fiscal Year:** \_\_\_\_\_

Name of Donor: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State & ZIP: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of the donation: (If cash or check, show the exact amount; if other than cash or check, include a detailed description of each item, including serial number, color, etc.)

Donor's estimate of value: \_\_\_\_\_

Purpose of the donation (ASB organization, school site, or district program):

If the donation is for a club or organization that is part of a school's ASB, indicate the name of the club or organization and deposit the cash or check into the ASB bank account. Retain this form as a record of the donation.

If the donation is for the district, either for the use of the school or for another district program, forward the cash, check, or other item to the district business office with this form. Explain below whether the donation is for the school site or a specific district program.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Verified by ASB bookkeeper: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

Donor: \_\_\_\_\_  
Signature, Title and Date

**Memorial Fund/Scholarship Fund Form**

**Name of School:** \_\_\_\_\_

**Name of Club:** \_\_\_\_\_

**Memorial Fund/Scholarship Fund Information Sheet**

**Fiscal Year:** \_\_\_\_\_

Memorial/Scholarship Name: \_\_\_\_\_

Year Memorial/Scholarship Established: \_\_\_\_\_ Initial Amount: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Relationship: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Fax: \_\_\_\_\_

Bank Account for Funds: \_\_\_\_\_

Intended Purpose: \_\_\_\_\_

Selection Committee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Selection Criteria: *(attach application and essay instructions if applicable)*

\_\_\_\_\_  
\_\_\_\_\_

Annual Award: \_\_\_\_\_

Special Instructions: \_\_\_\_\_

\_\_\_\_\_

Report prepared by: \_\_\_\_\_

Signature, Title and Date

Verified by ASB bookkeeper: \_\_\_\_\_

Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_

Signature, Title and Date

Presented to ASB on: \_\_\_\_\_

Date

Donor: \_\_\_\_\_

Signature, Title and Date

## Letter Regarding Tax-Exempt Status

**(Use district or school site letterhead)**

Date

To whom it may concern:

Thank you for interest in supporting our schools. We often receive inquiries about our nonprofit status. Please accept this letter as certification that the Sample USD qualifies as a not-for-profit organization. We are a state educational institution, which is considered a political subdivision of the State of California. Because of this, we are considered a nonprofit state entity rather than a private 501(c) (3) nonprofit organization. Donations and private grants made to our schools are tax-deductible under these statutes.

If you have further questions, please feel free to contact me at (000) 000-0000

Sincerely,

Name  
Chief Business Official



# Chapter 13

## Chapter 13 – Cash Receipt Management & Procedures

Sound cash management procedures are essential for successful ASB operations. The most common ASB problem noted in a district's annual audit (audit findings) involve failure to follow internal control procedures for the handling of cash from the time the cash is collected to the time it is deposited into the ASB bank account. Most of the fraud that occurs in ASB activities is directly related to the procedures for the handling of cash and checks.

Chapter 5 contains a discussion of the importance of sound internal control procedures. Sound internal controls for handling cash discourage theft of ASB funds and protect those who handle the cash. Whenever students hold a fund-raising event or collect cash, the students should establish and implement internal controls. The ASB bookkeeper should also establish and implement sound internal controls for the distribution of cash boxes and for cash (e.g., tickets, receipt books) before a fund-raiser begins and after it is over and the cash and checks are received to be deposited at the bank. All of these internal controls are critical to protect the ASB's assets (e.g., cash) and to protect the students, employees and staff who handle cash from accusations or errors.

### Good Business Practices for Cash Procedures

The cash control procedures described in this chapter are easy to implement and follow, and in most instances the cost is minimal. Each school administrator should ensure that the ASB advisor and students understand that they may not hold a fund-raising event unless they have established cash control procedures for the event. The ASB advisor is responsible for ensuring that the procedures are followed from the time the event begins until it is complete. If an advisor is not willing to accept this responsibility, the school administrator may need to reassess that advisor's role.

### Audit Findings and Preventive Action

Responses from administrators regarding audit findings about cash control procedures often indicates that they did not have time or the controls would cost too much. This is not true. As noted earlier, good internal controls for cash handling frequently involve little or no cost and little additional time if understandable procedures are available.

Internal controls not only protect against fraud but also help prevent honest errors and act as a defense for the innocent when fraud or errors do occur. Each year there are numerous reports of fraud in the handling of ASB funds. Some reports are not true and may result from a disagreement between students and/or staff. Cash receipt control procedures provide evidence that the cash was handled appropriately. Without this evidence, those involved in ASB will not have the information to prove that fraud did not occur. Well planned internal controls that are consistently followed by students and staff will leave a clear record of who did what, when, and why. When the site administrator insists that students and advisors follow good internal control procedures, the site administrator is protecting the students, the staff and himself/herself against false accusations if something does go wrong. For this reason, if anyone involved in the fund-raiser does not want to follow sound internal control procedures, that club should not be allowed to hold any fund-raising events.

The school administrators need to ensure that proper cash control procedures are established and followed at two levels of cash collection. The first level is when the fund-raising event is held and the cash and checks are collected. The second level is when the cash and checks are given to the ASB bookkeeper for deposit into the ASB bank account. This chapter explains the cash control procedures for both levels.

### Cash Control Procedures for Fund-Raising Events

It is important to be able to tie all proceeds to the specific fund-raiser from which they were generated and to ensure that all proceeds from an event are properly turned in and accounted for. To accomplish this, student

organizations/clubs, ASB advisors and school administrators must ensure that proper internal controls exist, including the following:

- Cash control procedures.
- Proper inventory of concession items.
- Proper cash handling and physical chain of custody for all cash receipts.
- No commingling of receipts from separate events.
- Immediate delivery of all event proceeds to the ASB bookkeeper or secretary.
- Use of three-part receipts when turning in all event proceeds.

This section describes simple cash control procedures that can be used for any fund-raising event. Each control procedure has strengths and weaknesses, thus different control procedures are suited to different types of fund-raisers. Nonetheless, it is imperative that some method be implemented that allows for reconciliation between money collected and the fund-raiser sales.

These cash control procedures are:

- Prenumbered tickets for all sales events.
- A cash register for store-type sales.
- Prenumbered receipt books for all receipt transactions.
- A tally sheet for designated activities.
- Inventory control for vending machines.
- Cash boxes to keep the received money safe.

The following table shows six different cash control procedures and examples of different events where each procedure may be most effective. However, as long as the procedure is well thought out and followed closely throughout the fund-raiser, different control procedures can work for almost any event.

<b>Control Procedure</b>	<b>Types of Events</b>
Prenumbered Tickets	Dances Entertainment events Car washes Athletic events Festivals
Cash Register	Student store Concession stands
Prenumbered Receipt Books	Publication sales Sale of advertising space
Tally Sheets	Dances Car washes Bake sales
Inventory Control	Vending machines Candy sales
Cash Box	Any event

After a fund-raising event is scheduled, the advisor is responsible for ensuring that control procedures are in place. The advisor should assist students in selecting and developing a good business practice for cash receipts, control procedures and implementing the correct internal controls once the event begins. No student should handle cash without direct adult supervision.

The school administrator responsible for reviewing and approving the activity request should ensure that the club advisor has developed appropriate controls as part of their fund-raiser planning.

Following are detailed steps for how the different procedures should be used.

### **Prenumbered Tickets**

1. The ASB bookkeeper (or other person/position responsible for bookkeeping) at the school site is responsible for purchasing prenumbered tickets and storing them in a safe place. Only the bookkeeper and the site administrator (or designee) should have access to the inventory of ticket rolls.
2. The ASB bookkeeper must maintain a record of the number of rolls of tickets in inventory and the beginning and ending ticket numbers on each ticket roll. The Ticket Inventory form (presented later in this chapter) was designed for the bookkeeper to use for this purpose. When a roll of tickets is given to an advisor for a fund-raising event, the beginning number is recorded on the form when the roll is issued, and the ending number is recorded when the roll is returned to the bookkeeper.
3. At the fund-raising event, this cash control procedure involves two people. One person collects the money and issues the ticket when a purchase is made. A second person takes the ticket when the person enters the dance or event.
4. At the end of the fund-raising event, the total number of tickets issued is counted and recorded on the Report of Ticket Sales form. A second person should count the tickets to verify the accuracy of the count.
5. At the end of the fund-raising event, at least two people should independently count the cash and checks collected. They should use the ASB Cash Count Form to facilitate the counting of the cash.
6. The students then enter the amount of the total cash counted on the Report of Ticket Sales form.
7. If the number of tickets sold does not equal the amount of cash collected, the students and the advisor should determine the reason for the cash overage or shortage immediately after the event.
8. At the end of the event, the advisor should see that the following items are stored in a safe place: cash and checks, Report of Ticket Sales form, ASB Cash Count Form, and the remaining tickets. Each school site must establish after-hours cash security procedures so that event cash and checks can be stored safely until the next business day when they can be placed in the school safe.
9. The next school day, the advisor should provide the ASB bookkeeper with the cash, Report of Ticket Sales Form, the ASB Cash Count Form, and the remaining tickets. When the cash and checks are turned in to the bookkeeper, the physical chain of custody should begin and a receipt should be issued from the bookkeeper for the cash and checks, but only after the two individuals have counted the dollar amount together and recorded that amount on the receipt.
10. For events that have tickets of different prices, the students should use different colored tickets for each price. The students must account for each roll of tickets separately, but they may use the same cash count and ticket sales forms.
11. Event tickets should be kept at least until after the annual audit of the ASB is complete, but not for more than two years. Some auditors will audit tickets and cash receipts before the end of the fiscal year, but other auditors will not audit these until October of the following fiscal year.

## Cash Registers (Primarily in Student Stores)

1. Each time a sale is made, a student/cashier working at the cash register rings up the sale.
2. At the end of the day, the cash register tape total should equal the total of the cash collected.
3. At the end of the day, all of the cash in the cash register should be counted and recorded on the ASB Cash Count form.
4. The advisor should immediately investigate any significant differences between the cash register tape and the amount reported on the ASB Cash Count Form.
5. At the end of the day, the advisor should ensure that the cash, the ASB Cash Count Form and the cash register tape are stored in a safe place. Each school site should establish after-hours cash security procedures so that cash and checks can be stored safely until the next business day when they can be placed in the school safe.
6. The next school day, the advisor should provide the cash to the ASB bookkeeper along with the ASB Cash Count form and the cash register tape. The physical chain of custody should begin and the bookkeeper should issue a receipt for the cash and checks after the two individuals have counted the dollar amount together and recorded that amount on the receipt.

## Prenumbered Receipt Books

1. The ASB bookkeeper is responsible for purchasing prenumbered receipt books and maintaining an inventory of all receipt books. The receipt books purchased should contain triplicate copies of each receipt.
2. The ASB bookkeeper should maintain a log of all receipt books and record the issuance of each book. The bookkeeper should record the beginning number of the receipt in the book when it is issued to the ASB advisor and the ending number when the ASB advisor returns it. The Receipt Book Log form facilitates the recordkeeping.
3. Receipts used for a fund-raising event should be in triplicate, with copies issued as follows:
  - One copy is given to the person making the purchase.
  - One copy is turned in with the cash.
  - One copy remains in the book as the historical record.
4. Receipts must always be issued in sequence.
5. The students need to note the following items on each receipt:
  - The date.
  - The description and number of items sold.
  - The total cash collected.
  - The name of the person who received the goods.
  - The name of the person who prepared the receipt.
6. If a mistake is made on a receipt, the student should mark the receipt void and issue another. For voided receipts, two copies remain in the receipt book, and one copy is turned in with the cash to provide for the continuity of receipts.



7. At the end of the fund-raising event, the amount of cash reported on the receipts is totaled and the receipts are sorted in numerical order. The students must account for all of the receipts that were used from the receipt book. At the end of the fund-raising event, at least two people should count the cash and checks collected. The ASB Cash Count form should be used for this purpose.
8. If the amount of cash recorded as collected on the cash receipts does not agree with the cash reported on the ASB Cash Count form, the students and the advisor should determine the reason for the cash overage or shortage immediately after the event.
9. The advisor should ensure that all cash and checks are turned in to the ASB bookkeeper each day for deposit. When cash and checks are turned in for deposit, the ASB advisor must also turn in all of the receipts issued, including voided receipts. The bookkeeper should issue a receipt for the cash and checks after the two individuals have counted the dollar amount together and recorded that amount on the receipt.

### Tally Sheets

1. When tally sheets are used as the cash receipt control procedure, two people should be involved: one person makes a mark on the tally sheet when an item is sold and issues the goods; the other person takes the cash.
2. The students may use a tally sheet to mark the number of items sold.
3. At the end of the event, the number of items sold is multiplied by the item's price.
4. At the end of the event, at least two people should independently count the cash and checks collected. The students should use the ASB Cash Count form to facilitate the counting of the cash.
5. The amount computed on the tally sheet is compared to the amount of the cash reported on the ASB Cash Count Form. If the amount on the tally sheet does not agree with the amount of cash collected, the ASB advisor and the students should determine the reason for the difference immediately after the fund-raising event.
6. At the end of the day, the advisor should ensure that the cash, the ASB Cash Count form and the tally sheet are stored in a safe place in accordance with site after-hours cash procedures.
7. The ASB advisor turns the cash collected, the tally sheet, and the ASB Cash Count form in to the ASB bookkeeper the next school day. The bookkeeper should issue a receipt for the cash and checks after the two individuals have counted the dollar amount together and recorded that amount on the receipt.

### Cash Box

Cash boxes are checked out from the ASB office and are usually loaded with some amount of starter or advance cash. Cash box procedures are a component of the procedures above for pre-numbered tickets, cash registers, prenumbered receipt books and tally sheets. The security of the cash box and the volunteer entrusted with the cash box are both essential.

When an event concludes and the funds are counted, cash boxes and volunteers should have access to security personnel to assist them in placing funds in school site safes. After the funds are counted, all of the cash collected is in one place and is an easy target for theft. If security personnel are not available, school site administrators should be available to assist in escorting cash boxes to school site safes. If administrators are not available, volunteers should make arrangements to avoid being alone, including walking with a trusted escort and having someone follow them home to ensure that the funds make it to the volunteer's residence.

Chapter 8 discussed how to use the Revenue Projection form and the Fund-Raising Event Profit form to estimate the amount of profit students could expect to earn from a fund-raising event. These forms have a place

to report the actual results of the fund-raising event as well as the estimated sales and expenses. The ASB advisor should assist the students in completing this form at the end of the fund-raising event. This is a sound internal control to determine that the funds were handled appropriately and will help students determine what types of fund-raising events are most profitable and worth repeating.

## Cash Control Procedures for the ASB Bookkeeper

The ASB bookkeeper is responsible for providing any materials the ASB advisor needs for fund-raising events, such as ticket rolls, receipt books and all necessary forms, and for keeping appropriate stock on hand. The ASB bookkeeper is responsible for the cash and checks from the time they are received from the ASB advisor until they are deposited in the bank.

The site administrator or designee must work with each student organization and site staff to develop methods for securing cash collected after hours and on non-school days.

The following table identifies the different internal control measures clubs use for fund-raisers and the documentation that should accompany the cash/checks when they are turned in to the bookkeeper and a receipt is given.

Cash Control Procedure	Documentation
Prenumbered Tickets	All cash and checks collected All remaining tickets Report of ticket sales ASB cash count form
Cash Register	All cash and checks collected The cash register tape ASB cash count form
Prenumbered Receipt Books	All cash and checks collected All receipt books issued One copy of the receipt issued ASB cash count form
Tally Sheets	All cash and checks collected Tally sheets used ASB cash count form

## Internal Controls for Cash after Receipt

The following are good business practices and internal controls for the ASB bookkeeper to follow when handling the cash and checks after they are received:

1. The ASB bookkeeper should not accept any cash or checks unless they are accompanied by the appropriate documents.
2. The ASB bookkeeper should always count the cash in the presence of the advisor when it is turned in. This is also known as a dual cash count. Although dual cash counts are always recommended, those in the field often state that there is not enough time to do it. Time should be set aside to count the receipts together because if a dual cash count is not performed and the advisor and bookkeeper end up with different totals, one of them may be suspected of wrongdoing. Many school sites have set up specific hours when cash can be brought to the bookkeeper to be counted *in the presence of the person who brings the receipts*. If this is not possible, a locked bank bag should be used so that there is some certainty that the money counted and put in the bag after the event cannot be tampered with until the bookkeeper is able to count it. When funds are eventually counted, a witness should be present.

3. To create a record of receipt of the cash, the ASB bookkeeper should prepare a written receipt indicating the amount of cash shown on the ASB Cash Count form and give a copy of the receipt to the ASB advisor when the funds are received. The ASB bookkeeper should use a triplicate receipt book for this process.
4. The ASB bookkeeper is responsible for endorsing the back of the checks received. Typically, a rubber stamp is used that states, “For deposit to the bank account of the Sample High School.”
5. The ASB bookkeeper is responsible for storing the cash and checks and the supporting documentation in a safe place until it is counted in the presence of a witness and deposited in the bank. Because of the amount of cash often stored on site, each school should have a safe for cash storage. If the safe is used almost exclusively for ASB funds, the purchase of a safe is an appropriate use of student body funds – if approved by the students.
6. As soon as possible, the ASB bookkeeper should recount the cash in the presence of a witness and compare this count to the information turned in by the ASB advisor. This includes the following:
  - ASB Cash Count form
  - Cash register tape
  - Report of ticket sales
  - Receipt book log
  - Tally sheet

If any discrepancies are noted during the cash count, the bookkeeper should immediately notify the advisor of the differences, whether it is an overage or shortage. Both the ASB bookkeeper and a witness should sign the cash count form and initial the difference.

The ASB advisor and the ASB bookkeeper should determine the reason for the discrepancy. The ASB bookkeeper should immediately report any significant discrepancies to the school site administrator. The loss of tickets is really the same as the loss of cash. If they don't reconcile, something has gone amiss and a plan should be developed to ensure that it does not continue.

7. After the ASB bookkeeper has verified the amount of cash, the bookkeeper should sign and date the ASB Cash Count form and provide a copy to the ASB advisor. When the information on the Report of Ticket Sales form has been verified, the ASB bookkeeper should sign and date the form and provide a copy to the ASB advisor. This

### Fraud Alert



If the proper documentation is not received and/or if that documentation does not contain the initials or signatures of one or two individuals who have counted the funds, there is a risk that someone may allege that more funds were raised than the bookkeeper indicates. All funds should be counted by those performing the fund-raising, even if the funds are only rough counted. The volunteers counting the funds may even indicate on the cash count sheet that funds were rough counted. A complete and comprehensive count is often not possible late at night after a long event, but counting the cash and initialing the rough count is preferable to no count at all.

### Fraud Alert



The deposit form must be at least in duplicate. To protect those performing the fund-raising and the ASB bookkeeper, the fund-raising club should retain a copy of the deposit form for comparison to the amount posted to their club account. When the ASB bookkeeper has sole custody of the funds raised and the only supporting documentation, transaction amounts can be altered and receipts voided or destroyed, and the opportunity for theft without detection is significant. Always have multiple-copy deposit and fund-raising forms, and always ensure that one copy is retained before the others are submitted to the ASB bookkeeper.

### Fraud Alert



Trusting advisors too often leave funds unattended on the ASB bookkeeper's desk. When the ASB bookkeeper returns, the funds have been taken. When the ASB bookkeeper is not available, assign another individual to receive the deposit and sign for the funds received. As a second level of theft deterrence, install surveillance cameras. Many times an ASB bookkeeper has been falsely accused of theft when students, teachers, parents or others have been the criminals. Do not leave money unattended.

information is the evidence that the amount of cash received by the ASB bookkeeper agrees with the amount the ASB advisor turned in.

8. Deposits should be made to the ASB bank account at least weekly, though within two to three school days is preferable. Money should never be left at a school over the weekend or holidays because many thefts occur during those times.
9. When the funds have been deposited, the ASB bookkeeper should retain a copy of the deposit slip with all of the documentation from the fund-raising event. This is important so that the auditors can determine when the fund-raising proceeds were deposited and compare the amount deposited to the amount the ASB advisor turned in.
10. The ASB advisor is responsible for maintaining the stock of ticket rolls and receipt books and updating the Ticket Inventory and Receipt Book Log forms whenever tickets or receipt books are used. The ASB bookkeeper must also maintain a master log of receipt books and ticket rolls.

## Petty Cash and Change Accounts

### Petty Cash

There are reasons for establishing a petty cash fund for ASB operations, such as to make immediate cash payments of a small amount. These expenditures require the same documentation and the same prior approval as other disbursements.

### Change Account

A change account is normally checked out for individual fund-raisers or activities and should be used solely for making change. Expenditures should not be made from this account under any circumstances; that is what the petty cash account is for. When the fund-raiser is complete, the change account should be deposited back into the bank account.

General cash control procedures for petty cash and change accounts include the following:

1. **Security:** Must be secured in an approved, locked safe at the end of each school day. Must be in a locked, supervised drawer or file cabinet with controlled access during school hours. A lockable cash box should be used to ensure physical security of the cash.
2. **Accountability:** Cash balances must always equal their authorized value, plus any receipted deposits or minus any receipted disbursements.
3. **Control:** A responsible faculty member from the school site must sign out the cash from the bookkeeper.
4. **Authorizations to increase cash balances:** Occasionally it may be necessary to temporarily increase the site's on-hand cash balances above the approved limit. The request to do so should go to the district's business office and should include justification for the temporary increase and a projected date that the cash balance will be returned to its original value.

### Fraud Alert



Ensure that the total of the checks and cash received agrees with the total collected. Would-be thieves swap receipts for checks with those for cash, enabling them to replace cash with checks received and pocket the cash. Many cash count forms are designed to verify that the total of the numbered receipts is the same as the combined total of cash and checks; however, this will not stop fraud.

All numbered receipts should be accounted for using beginning and ending numbers from the prior deposit and for completeness with the current deposit. There should be no missing receipt numbers, and cash and check receipts should be matched within the cash and check category totals. Finally, the name on the check should be matched with the name on the receipt. To commit fraud, most perpetrators of fraud need to have several event deposits available and the time and opportunity to mix and match checks and cash as needed. Good ASB bookkeepers will notice that they have not received funds for activities they know have occurred and will notify the site administrator and activities director of any patterns observed.

## Clearing Account

ASB accounts are not clearing accounts, and the ASB bank account should not be used for any transactions other than ASB transactions. Clearing accounts are established to set certain financial transactions apart from regular accounts so that different types of transactions are not commingled. They are temporary holding accounts, so a balance will not exist at the end of any fiscal year because all cash will have been transferred to the appropriate account. These transfers should be made monthly.

For example, if cash is collected at a site for a library fine, it should not be deposited into the ASB account and then transferred to the district's general fund. Rather, it should be deposited to a clearing account (if established), then transferred to the general fund at a later time.

When clearing accounts are used and transfers made, the journal or transaction entry used to make the transfer should be properly documented, with the signatures of the supervisor and the employee making the transfer affixed to the printed entry. At the end of each month, any balance remaining in the clearing account should be identified by printing the account balance and noting on the document the reason the balance remains and a list of the supporting documentation needed to conclude the use of the clearing account.

## Taxes

Although school entities are exempt from federal and state income taxes, they must collect and pay California sales tax on taxable items they sell unless those sales are irregular or intermittent, such as sales at football games or annual rummage sales.

If tax is paid when the goods to be sold at the fund-raiser are purchased, only the difference between the purchase price and the selling price is subject to sales tax, so this is the amount that will need to be included on the sales tax return. Those involved with ASB should check with their district's business office to see if this sales tax information can be combined on the sales return that is completed. Many business offices want to include all of the sites' tax information on one return. Chapter 18 contains more detailed information regarding taxes.

### Fraud Alert



Fraud perpetrators will set up suspense and clearing accounts to move funds in and out of club accounts. When a perpetrator finds a club that is not monitoring and reconciling its financial activities, funds can be cleared to the club's detriment. If a club notices that their account is incorrect, the perpetrator makes a correction and proceeds to abuse another club's account. Requiring the ASB bookkeeper to obtain signatures indicating that a transfer is approved and documentation retained will make any unauthorized transactions stand out. Printing the detailed transaction report of all clearing and suspense accounts monthly (or at least semiannually) will also identify activity even when the ending balances are zero.

### Fraud Alert



Be on the lookout for inter-club transfers. The authorization procedures recommended for clearing and suspense accounts also apply to inter-club transfers. No inter-club transfer should be allowed unless there is prior authorization for it in the ASB minutes.



## Tally Sheet

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Tally Sheet

Fiscal Year: \_\_\_\_\_

Fund-raiser \_\_\_\_\_

Date of Fund-raiser \_\_\_\_\_

(A) Item Sold	(B) Tally Marks	(C) Total Tally Marks	(D) Sales Price	(E) Extended Total
			\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$
			(F) Grand Total	\$
			(G) Cash Receipts	\$
			(H) Difference	\$

(A) Description of each item being sold

(B) Tally marks made, one mark for each item sold

(C) Number of tally marks for that item

(D) Individual item sales price

(E) Total of (C) multiplied by (D)

(F) Grand total—sum of all extended values in (E)

(G) Cash receipts—cash count of total cash from sales, less any start up cash

(H) Difference—if (F) does not equal (G), this is the difference between the two

Do not “force” the balance on this sheet. If there is an out of balance, it should be researched and resolved.

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

## Fund-Raising Event Profit Form

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Fund-Raising Event Profit Form

Fiscal Year: \_\_\_\_\_

*(This form is to be completed in a two-step process: estimates prior to the event; actuals and differences after the event)*

1. Prepare the estimated sales, cost of sales and net profit. Sign and submit a copy to site secretary or finance clerk.
2. After the event, complete the actual sales and differences. Sign, have reviewer sign, and submit one copy to the business office (lead accountant) and keep one copy for your student body records.

Student Club: \_\_\_\_\_ Name of Event: \_\_\_\_\_

Student Advisor: \_\_\_\_\_ Date of Event: \_\_\_\_\_

#### Part I: Revenue

Revenues	Estimated Sales			Actual Sales			Difference	
	Number	Unit Price	Total (# x price)	Number	Unit Price	Total (# x price)	Units	Dollars
No. of Tickets Sold								
No. of Items Sold								
Other Revenues:								
Advertising								
_____								
_____								
_____								
<b>Total all revenue</b>								
Loss Items:								
Given Away								
Lost								
Stolen								
Damaged/Returned								



Remaining/Unsold								
Total all losses								
Total Revenue (Revenues–Losses)								

**Part II: Expenses**

Expenses	Estimated Cost of Sales			Actual Cost of Sales			Difference	
	Number	Unit Price	Total (# x price)	Number	Unit Price	Total (# x price)	Units	Dollars
Cost of Items								
Cost of Items								
Other Expenses:								
Supplies								
Advertising								
Custodial OT								
Fees								
Equipment								
-----								
-----								
-----								
Total all Expenses								

**Part III: Actual Net Profit for this Activity** \_\_\_\_\_

*Net Profit is the difference between Total Revenues and Total Expenses.*

Report Prepared by \_\_\_\_\_ Date \_\_\_\_\_  
(Name, Title)

Report Reviewed by Advisor \_\_\_\_\_ Date \_\_\_\_\_  
(Name, Title)

Report Reviewed by Site Administrator \_\_\_\_\_ Date \_\_\_\_\_  
(Name, Title)

Presented to ASB on \_\_\_\_\_  
(Date)

## Report of Ticket Sales

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Report of Ticket Sales Fiscal Year: \_\_\_\_\_

Fund-raiser: \_\_\_\_\_

Date of fund-raiser: \_\_\_\_\_

Person(s) selling tickets: \_\_\_\_\_

Signature of person(s) selling tickets \_\_\_\_\_

*Note: This form was designed for one ticket color. If more are used with different prices, use additional Report of Ticket Sales sheets and summarize all sheets at the bottom.*

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Verified by Bookkeeper: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

## Dance Ticket Tally Form

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

### Dance Ticket Tally Form Fiscal Year: \_\_\_\_\_

#### Dance Ticket Sales

As payment is received by another party and each student enters through the door, please mark each payment as a tick mark, and count by fives.

Date: \_\_\_\_\_ Location: \_\_\_\_\_

Preparer: \_\_\_\_\_

\$3 Tickets		\$5 Tickets				

\$3 Tickets		\$5 Tickets				
<b>Totals:</b>						

**Total Collections Should be:**

x \$3 =		+	x \$5 =		=	
<b>Less:</b>	<b>Amount collected at the door:</b>					
	<b>Difference (short/over):</b>					

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

**Ticket Inventory Form**

**Name of School:** \_\_\_\_\_

**Name of Club:** \_\_\_\_\_

**Ticket Inventory**  
Fiscal Year: \_\_\_\_\_

Fund-raiser: \_\_\_\_\_

Date of fund-raiser: \_\_\_\_\_

Color of ticket roll: \_\_\_\_\_ Numbering: \_\_\_\_\_ to: \_\_\_\_\_

Date	Event	Beginning Number	Ending Number	Number of Tickets Sold

A separate ticket inventory control log must be used for each ticket roll. Use multiple sheets until the entire ticket roll is consumed.

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

**Receipt Book Log**

**Name of School:** \_\_\_\_\_

**Name of Club:** \_\_\_\_\_

**Receipt Book Log**  
Fiscal Year: \_\_\_\_\_

Name of person completing form: \_\_\_\_\_

Date completing this form: \_\_\_\_\_

Receipt Book Number	Receipt Number Sequence	Issued To	Date Issued	Date Returned	Receipts Used

For each approved ASB activity that will issue receipts as their internal control measure, the receipt book should be controlled by the ASB bookkeeper or other designee and signed out prior to the event through the use of this control log. When the event is over, the unused portions of all receipt books issued are to be returned and this control log completed.

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

ASB Cash Count Form -

## ASB Cash Count Form

\_\_\_\_\_

Name of School

\_\_\_\_\_

Name of Club

\_\_\_\_\_

Fiscal Year

Name of person completing form: \_\_\_\_\_

Date completing this form: \_\_\_\_\_

(A) Denominations	(B) Number of Bills or Coins	(A times B) Total Amount Collected			
Pennies	.01				
Nickels	.05				
Dimes	.10				
Quarters	.25				
Half dollars	.50				
Dollar coins	1.00				
Dollar bills	1.00				
Five dollar bills	5.00				
Ten dollar bills	10.00				
Twenty dollar bills	20.00				
	Total amount of all cash	\$	(D)	\$	Total Cash Receipts
	Total amount of all checks	\$	(E)	\$	Total Check Receipts
	Total amount of all cash and checks	\$			
(Pre-record amount and initial the amount of change funds received)	Less Startup change Fund Amount	\$			Initial upon receiving change funds
	Total net amount of all cash and checks				

**Totals  
from  
Receipts  
Adding  
Machine  
Tape**



**Note**

- Confirm that total "cash & coin" receipts equal total amount of all cash.
  - Confirm that all check receipts agree to attached receipts.
  - Confirm that all check payees individually agree to attached receipts.
  - Confirm that all receipt numbers are sequential, with none missing.
- Follow up on ANY differences.**

<b>ASB Bookkeeper</b>	
(D)	Initial
(E)	Initial
	Initial
	Initial

Cash count form prepared by: \_\_\_\_\_  
Signature, Title and Date

Signature of fund-raising staff counting the cash: \_\_\_\_\_  
Signature and Date

Signature of fund-raising staff counting the cash: \_\_\_\_\_  
Signature and Date

Verified by ASB Bookkeeper: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature and Date

Principal or designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on \_\_\_\_\_  
Date

**Supporting documentation:**  
(Must be included when this form is turned in)

*Cash register:*  
Report of ticket sales form  
Unused tickets returned

*Prenumbered receipt books:*  
Cash register tape  
Copy of each receipt issued

*Tally Sheet:*  
Copy of each receipt issued  
All receipt books returned  
All receipt books accounted for  
Completed tally sheet/sheets

# Bank Deposit Form

**DEPOSIT TICKET**

BANK NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 DATE: \_\_\_\_\_

DOLLARS    CENTS

CURRENCY	2784	00
COIN	348	92

1.	18	50
2.	34	00
3.	57	02
4.	91	45
5.	35.	84
6.	85	44
7.	18	33
8.		
9.		
10.		

SUBTOTAL (CHECKS)	340	58
TOTAL DEPOSIT	3473	50

SCHOOL NAME  
 SCHOOL ADDRESS  
 BANK ACCOUNT NUMBER

TAPE TOTALING ALL RECEIPTS

1,547.33 +
1,052.10 +
874.07 +
3,473.50 +

TAPE TOTALING DEPOSIT

2,784.00 +
348.92 +
340.58 +
3,473.50 +

TAPE TOTALING CHECKS

18.50 +
34.00 +
57.02 +
35.84 +
91.45 +
85.44 +
18.33 +
340.58 +

Summary Recap – ASB Deposit

Name of School: \_\_\_\_\_

Name of Club: \_\_\_\_\_

**Summary Recap - ASB Deposit**

Fiscal Year: \_\_\_\_\_

Date Funds Received	Received from Advisor/ Teacher	Receipt Number	Deposit for (Identify Club or Activity)	Amount Received
<b>Total Deposit</b>				

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Verified by ASB bookkeeper: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date



# Chapter 14

## Chapter 14 – Allowable and Questionable Expenses

Anything that is purchased must be in compliance with the law and local board policy, and cannot be considered a gift of public funds. Within these broad limits, however, ASB organizations have tremendous flexibility and discretion in how they may use their funds. The site administrator and ASB advisors are responsible for ensuring that the funds are used to purchase goods and services that promote the students' general welfare, morale and educational experiences. In general, ASB expenses that meet these criteria are allowable if they are directly linked to the students' benefit. With few exceptions (such as awards and scholarships, which are discussed later in this chapter), ASB expenditures will benefit a group of students rather than individuals. The expenditures must also be for goods and services other than those which the school entity should provide from its own funding sources. Thus if the expenditure is the district's responsibility, or the district has paid for the expenditure in the past, or the ASB is being asked to pay for the item or service because of district budget cuts, it is probably not an allowable ASB expenditure. The district is responsible for the curriculum of the class or program; ASBs are supposed to pay for extras, meaning items that are in addition to the regular curriculum.

In high schools, middle schools and community colleges, the students should be the primary authority that decides how the ASB funds are spent. This helps ensure that the interests of the students are protected. In elementary schools, the students are often not involved in the decision-making and operations. Regardless of the school type, the site administrator or designee is responsible for protecting the interests of the students and ensuring that the funds are spent for their benefit. Although the primary decision maker may vary depending on the type of ASB, the types of expenditures that should be made with ASB funds remain the same for all ASBs.

Questions often come up about whether an item is an appropriate use of ASB funds. In these instances, the site administrator or the ASB advisor should contact the appropriate staff in the business office for guidance.

### Examples of Allowable Purchases

Following are some examples of the many types of items generally considered allowable expenses from ASB funds. These examples include items that are frequently questioned; they do not include obviously appropriate ones, such as supplies for a student store, school photos, a disk jockey for a school dance, or decorations for the school prom. These and similar expenditures that are directly linked to the students' benefit are other than what the school entity must provide from its general funding sources.

The following are appropriate expenditures using ASB funds:

- Magazines and newspaper subscriptions for student use
- Playground equipment
- Library books
- Supplemental equipment for student use that is not normally provided by the school entity, such as telescopes and aquariums
- Field trips/excursions and outdoor education/science camps
- Extra-curricular athletic costs, including costs for ticket sales, game officiating and security
- Costs for student social events
- Scholarships (under specific circumstances)
- Awards (under specific circumstances)
- Indirect charges

## Examples of Prohibited Purchases

Expenditure of student funds for the following items is not usually allowable because they do not directly promote the general welfare, morale or educational experience of the students, or are considered a district responsibility, or are a gift of public funds:

- Salaries or supplies that are the responsibility of the district. Some examples are teachers' salaries and negotiated stipends, curriculum supplies, and office supplies and equipment. However, substitute teachers' pay may be allowed if they are substituting because of an ASB-related activity.
- Repair and maintenance of district-owned facilities and equipment. An exception might exist for equipment that the ASB donated to the district and for which the donation agreement includes a provision that the ASB will maintain the donation in the future, including paying for any repair, maintenance or replacement.
- Articles for the personal use of district employees
- Expenses for faculty meetings
- Expenses for parent-teacher organizations such as the PTA or boosters
- Large awards, unless board policy states otherwise
- Gifts of any kind
- Employee appreciation meals
- Employee clothing/attire
- Donations to other organizations, except in special circumstances
- Donations to families or students in need
- Cash awards to anyone, because internal controls cannot be established and documented, unless a district's board policy allows such awards (FCMAT does not recommend this).

Because student body funds are to benefit students as a group and not individuals, awards and scholarships generally are discouraged but are allowable as discussed later in this chapter.

Questions often arise about the giving of gifts, which has a personal as opposed to public character. Contrary to what often occurs in the field, gifts are not allowable, even if the amount is small. Gift certificates are ordinarily characterized as gifts of public funds even when purchased for an event with a public purpose, because they confer a tangible private benefit on an individual. To avoid making a gift of public funds with gift certificates, ask merchants or individuals to donate gift certificates. While some school administrators may feel that the school site or district benefits from positive relationships established by sending gifts to students, parents, board members or others, the real public relations value is of primary benefit to the respective individual leaders involved, not to the school entity itself as an institution. If students want to give gifts, use private funds, not public funds.

Discussions regarding gifts often conclude that trivial or insignificant gifts are acceptable. However, given modern governmental accounting practices and regulations, conflict of interest law and criminal law, FCMAT's recommendation is that such expenditures of public funds or use of public funds in any amount can never be considered trivial or insignificant. The law clearly regards the misappropriation of public funds as a criminal act, with no minimum monetary limit specified, so it is best to avoid gifts of any amount.

## Donations

Donations to nonprofit organizations and students or families in need usually are not allowable because they are considered a gift of public funds, no matter how worthy the cause. ASB funds are legally considered public funds because they are raised through the district's tax identification number and under its nontaxable

status. In general, fund-raising that occurs on campus should be for the benefit of the ASB and not for other organizations. However, a student group may organize a fund-raiser to support an outside organization such as a charity as long as the fund-raising event is clearly identified as raising funds to donate to that charity. All donations should be in the form of checks made payable to the charity and should be picked up by or delivered directly to the charity so that funds are not deposited into the ASB account. If it is not possible to have the checks made directly to the outside organization, open a trust account within the ASB specifically for these donations (with board approval), then write a check to the organization and close the account when the fund-raiser is over. It is crucial to ensure that the district's governing board approves this fund-raiser and that all paperwork associated with the fund-raiser clearly documents that the only funds donated to the outside organization were those raised for that specific purpose. No funds from other clubs or accounts should be donated to outside organizations.

Another viable option is to work with a parent group that has its own tax identification number and sufficient internal controls and ask them to operate the fund-raiser because groups such as this are not subject to the rules regarding gifts of public funds.

Many schools, especially elementary schools, like to hold what is often called a penny drive, during which students put collected pennies or other coins in jars and the money is then given to a designated charity. These are allowable but should be limited in their frequency. Rather than depositing coins directly into the ASB account, ask the bank to count and issue the money directly to the charity, or use a coin counting machine.

Under no circumstance should student groups donate funds to an individual needy student or use school equipment for a charity fund-raising drive. Those donations are not tax-deductible unless a legal foundation has been established for that family.

The issue of a gift of public funds arises when a check is written from ASB and given or donated to another organization. This is why a food or can drive is an allowable event: rather than money from the ASB being used for the charity, students bring food from home to donate to the charity.

## Scholarships

As discussed in Chapter 8, the student council may accept scholarships and trusts from outside donors (individuals or organizations) with the approval of the governing board or authorized designee. The acceptance should be made in writing and should clearly describe all the conditions the donor is requesting. These funds should be accounted for separately in a trust account within ASB and used specifically for scholarships. If the donor does not establish criteria for award of the scholarship, the site administrator should work with a committee that includes at least one student representative to determine the criteria for the scholarship. A donor may not donate toward a specific student's scholarship. If a donor wishes to fund a specific student's higher education, the donor should transact directly with the student; such donations are not tax-deductible.

Scholarships paid from student body fund-raisers rather than from outside donations are normally not allowable because they do not benefit a group of students. School district governing boards may sometimes approve fund-raisers specifically to raise scholarship funds, or may approve a club whose sole purpose is to raise scholarship funds. If governing board approval has been received, a separate trust account should be opened within the ASB specifically for these donations, with board approval, and then closed after the scholarship(s) are paid. It is critical to ensure that the board approves this fund-raising and to clearly document that the only funds raised for scholarships are those that were fund-raised and paid out for that specific purpose. No funds from other clubs or accounts should be used for scholarships.

If scholarships are to be allowed, the district should set guidelines regarding how many will be allowed annually. There should be established selection criteria for all scholarships. Cash awards are not allowed; rather, scholarship checks should be made payable to an institution of higher learning or a college bookstore, to be used toward tuition or books and supplies.

The normal rules regarding prior approval also apply to scholarship disbursements; as is the case with all ASB expenditures, the approval should be documented on the expenditure approval form by the signatures of the student representative, advisor and site administrator, and noted in the club meeting minutes.

## Awards

Education Code section 44015 authorizes school districts to make awards to employees for exceptional contributions and to students for excellence. If items are intended as some form of employee or student award, it also requires the governing board to adopt rules and regulations concerning such awards. Such awards shall not exceed \$200 unless a larger award is expressly approved by the governing board. Awards to community members, parents or volunteers are not considered authorized because they are not included as allowable in the Education Code.

To award to employees for exceptional contribution, the governing board of a school district must find that the employee did one or more of the following:

- Proposed procedures or ideas that thereafter are adopted and effectuated, and that resulted in eliminating or reducing district expenditures or improving operations.
- Performed special acts or special services in the public interest.
- By their superior accomplishments, made exceptional contributions to the efficiency, economy, or other improvement in the operations of the school district.

Because this manual's subject is ASB, FCMAT recommends that ASB funds be used for awards to pupils for excellence, if approved and in accordance with board policy. Awards to employees for exceptional contributions are best made from district funds because the intent is that ASB funds are to be used for students.

Thus, if a governing board adopts rules and regulations prior to any awards being made, a district or ASB can recognize superior accomplishments of any employee or student within the guidelines and provisions contained in the applicable district policies, rules and/or regulations. In the absence of applicable policies, rules and/or regulations, no district official can make the award and no one can legitimately purchase the award.

Life transition events such as birthdays, weddings, funerals, holidays and other similar circumstances can happen to anyone and so cannot be considered superior accomplishments, or merit an award.

Awards are often signified by letters of commendation, board resolutions, trophies, certificates, plaques, medals, badges, pins and the like, but may also be in the form of a gift certificate or a scholarship, within the statutory monetary limits and subject to IRS reporting requirements. The board may also approve an expenditure for flowers or candy as part of an award, which is appropriate only if the school district's board policy on awards complies with the Education Code and IRS regulations. FCMAT recommends that the district's board policy allowing awards specify what is considered an allowable award.

Mugs, cards and similar items given to promote good will or positive relations between either the district and its employees or between staff and students are not considered awards. The expenditure of public funds to promote positive employer-employee and/or staff-student relations does not serve a direct and/or substantial public purpose, so would likely violate the gift of public funds provisions contained in the California Constitution.

IRS Publication 15b provides guidance to employers regarding how to report awards paid to employees for outstanding work or safety achievement. IRS Publication 525 provides guidance to employees regarding how to report awards received.

Generally, cash or cash-equivalent awards to employees must be reported as taxable income. If the award is provided in the form of goods or services, the fair market value of the award is reportable. Tangible personal property awards (other than cash, gift certificates, other cash equivalents or certain intangible property) for



certain service or safety achievements are excludable up to certain amounts. Length of service and safety achievements are specific categories of awards that are not applicable to ASB situations and are further defined within IRS Publication 15b. Refer to the IRS publications for more information on the topic of employee awards and reporting of the awards for tax purposes.

### Employee Appreciation Meals

A 1978 legal opinion issued by the California attorney general concluded that a governing board is not authorized by Education Code section 44032 to provide for the reimbursement to its employees for the cost of meals purchased for community leaders, including public officials, regardless of whether such acts are deemed to be in the best interest of the school district. The attorney general concluded that the foregoing expenditures were not “actual and necessary” expenses within the meaning of Education Code section 44032 and thus could not be reimbursed. Absent special circumstance, it is unlikely that a court would conclude that an expenditure for employee appreciation meals, which do not qualify as awards, would serve a direct and/or substantial public purpose.

### Employee Clothing/Attire

There is no specific statute or case authorizing the expenditure of public funds for items such as employee jackets, sweatshirts or T-shirts, because these items benefit an individual and could be considered a gift of public funds. The only possible exceptions might arise when the clothing or equipment is necessary or required for the employee (e.g. athletic coach, club advisor) to perform his or her duties in that capacity, or where the clothing or equipment is properly given as an award under Education Code section 44015. However, FCMAT does not believe that it is appropriate to charge such employee expenditures to ASB funds.

### Indirect Charges

The question sometimes arises concerning whether it is allowable to charge ASB funds an indirect cost rate, just as the district is able to charge to local, state and federal programs in district funds. Although it is allowable to charge the ASB an indirect charge, this should be discussed with the schools so that they can plan for that expenditure and understand what that charge pays for. Ensure that the board policy regarding ASB includes this information. As with all ASB expenditures, any such charge would need to be approved in advance.

### Good Business Practices

Because the distinction between allowable and prohibited expenses can be confusing, what guidelines or practices should an ASB consider? As with many business situations, the use of common sense is important. The ASB can also ask the rhetorical question, “If this situation were to be published on the front page of the local newspaper, would the same action still be recommended?”

Questions to ask when deciding whether or not an expense would be allowable include the following:

- Will the expenditure be used to promote the general welfare, morale and educational experience of the students?
- Have the students agreed to the expenditure prior to it occurring?
- Is this expenditure a responsibility of the district?
- Has the ASB or the district paid for this in the past?
- Is the ASB being asked to pay for this because the district is making a budget cut?
- Is this something the district should provide, or is it really an “extra” that the students want?
- Who will be using the item?
- Will a group of students benefit?

Here is more specific advice on recommended good business practices.

The district should:

- Establish board policy or administrative regulations with guidelines regarding allowable and prohibited expenses.
- Establish board policy or administrative regulations regarding procedures to follow if questionable expenditures arise.
- Conduct regular reviews and updates of governing board policies and administrative regulations on this and all ASB matters.
- Include a statement in the ASB constitution setting parameters for determining the appropriateness of expenditures.
- Assign an employee position in the district's business office to provide assistance when questions arise.
- Provide annual training on expenditure guidelines, sponsored by the business office, for all staff members and students with ASB management responsibilities.

# Chapter 15

## Chapter 15 – Contracts

An ASB will normally need to execute contracts for goods or services. A contract is a legally binding document that must be carefully reviewed prior to execution. Like any other contracts, all contracts related to ASB must be in accord with the district’s rules regarding who is authorized to execute and/or sign contracts.

Some districts’ governing board policies clearly describe how all contracts, including ASB contracts, are to be managed from beginning to end. Other districts’ policies are completely silent regarding ASB contracting practices. If the board policies and administrative regulations are silent regarding ASB contracting practices, the normal assumption is that existing policies for other district contracts should be followed. This chapter suggests best practices to facilitate ASB contracts and to protect the ASB, the students and their assets.

### Contract Situations

An example of an ASB organization contract is an agreement for vending machine management as a fund-raising vehicle for student council projects. Additional contracts the ASB may agree to include yearbooks, disc jockeys, and picture sales, as well as other activities.

Some contract situations may be single events while others are subject to ongoing contractual agreements, such as yearbook and picture sales or events that repeat throughout the entire school year.

It is important to remember that any document that requires one party to do any specific action and receive consideration of any kind in return is considered a contract, regardless of what the document may be called. Contracts oblige the student organization to pay for goods or services, or they might guarantee payment to the student organization for allowing access or advertisement. Documents that are contracts may be called many things, including agreements, letters, memoranda of understanding, and grants.

### Potential Problem Situations

As previously mentioned, a contract is a legally binding document. Some ASB organizations have found that the contracts they executed did not adequately protect their interests and the organization lost money. Organizations also often find that the employee signing the contract did not have the authority to do so. In other cases, questions were raised about the propriety of the contract. For example, was it entered into at “arm’s length,” or was the vendor a relative of the assistant principal or another staff member? Questions to consider include the following:

- Are the contract terms and conditions stated clearly?
- Does the contract conform to board policies and regulations?
- Did the business office review the contract?
- Did legal counsel review the contract?
- Does the contract contain appropriate indemnification language to protect the ASB?
- Are there adequate insurance terms and hold harmless clauses in the contract? Who do these clauses protect?
- Does the contract have renewal provisions? Are they carefully scrutinized before the contract is signed?
- Did the person signing the contract on behalf of the ASB have signatory authority? Up to what dollar amount do they have authority to sign?
- Are there adequate funds to pay all costs for the contract? Have these funds been budgeted and approved by the students?
- Is the contract subject to the bid limit?

## Role of the Business Office

Because student organizations are considered part of the school entity, the district's business office has the same responsibility and authority over ASB contracts as it does over the contracts of any other district entity. This often includes the following:

- Risk management review for potential liability and any indemnity from contracts.
- Purchasing review to ensure that terms are clearly stated and understood.
- Business services review to ensure that financial considerations are clear and have been fully factored into the decision.
- Business services contacting the district's legal counsel for advice, if necessary.

For these reasons and because of the complexities of contract law, the ASB organization should have contracts, particularly long-term and ongoing contracts, reviewed by the district's business office before the contract is signed by the appropriate employee.

A supportive and informed business office can provide counsel and assistance in many ASB contracting matters. Several steps in contracting require expertise in specialized business areas. Many purchasing departments assist the ASB with defining specifications, requests for proposals, requests for bids, and evaluation of responses from vendors and bidders. The district's legal counsel may need to review the terms and conditions of the contract because of its size and complexity, or because such a review is mandated by governing board policy. The district's risk manager is often involved in various aspects of ASB contracting as levels of insurance, coinsurance, hold harmless or other indemnification terms are considered. Standard contracts should be developed for common ASB activities, such as disk jockeys for dances.

Signatory authority for district contracts, including the ASB contracts, is the prerogative of the governing board. This authority may be limited to certain individuals based on the monetary amount. For instance, in one district, all contracts for more than \$5,000 must be signed by the chief business official (CBO), while ASB contracts for less than \$5,000 may be signed by the site administrator. Individuals who sign contracts without proper authority assume personal responsibility. Students are never allowed to sign contracts on behalf of the ASB.

## Uncompensated Service Agreements

Sometimes an organization and/or a company wants to enter into an agreement with a student organization/ASB to provide specific services free of charge. While these organizations are not requesting compensation, it is a good business practice to use some type of agreement/contract so that terms can be specified and the issues of insurance and fingerprint clearance can be addressed. These agreements will usually be used for ongoing programs involving regular interaction with district students, but may also be used for one-time events. The primary concern is exposure to liability. Site administrators should seek guidance from the district's CBO whenever an uncompensated service for any event is discussed and prior to any agreement. A district office administrator, such as the CBO, should be responsible for approving any uncompensated service agreements.

## Booster Clubs

Booster clubs and other parent organizations are independent of both the district and the student organizations/ASB. Booster and parent clubs must enter into their own contracts or agreements with external organizations and must not be appended to or be part of existing district or student organization contracts. Because many of these nonstudent organizations are organized as distinct 501(c)(3) not-for-profit organizations and have their own tax identification number, it is important that their operations remain separate and distinct from the district and from student organizations and that they not use the district's tax identification number for any of their operations.

## Good Business Practices

To assist the ASB leaders and advisors in contract matters, the district should have procedures and policies in place regarding the following:

- Clear identification in board policy for ASB contracting authority.
  - Defined responsibility and support role for key district staff members, such as the following:
    - ASB advisor
    - Site administrator
    - Business office staff
    - Chief business official
    - Risk manager
    - Legal counsel
    - Purchasing officer, with responsibility for:
      - Identification of service or product with clear specifications
      - Solicitation and evaluations of proposals and bids
      - Selection of the best proposal
  - Contract Negotiation:
    - Terms and conditions
    - Price
    - Deliverables
    - Indemnification
    - Escape or termination provisions
    - Renewability
  - Mandatory review by the business office of all contracts over a certain monetary level.
  - Standard contracts for annual activities, such as DJs, pictures and yearbooks.
  - Limitation of contract term to one year.
  - Ensure that the project has been approved and budgeted by ASB.
  - Ensure that all contracts are reviewed for compliance with the bid limit. Pursuant to the Public Contract Code, some bid limits change annually, so it is critical that someone in the business or purchasing department review the contract to ensure compliance. As of January 1, 2009, the bid limit was raised by 7.72% to \$76,700 for the following:
    - (1) the purchase of equipment, materials, and supplies;
    - (2) services, except construction services; and
    - (3) repairs, including maintenance, as defined in Public Contract Code section 20115, that are not public projects as defined in section 22002(c).
- The \$15,000 threshold for construction contracts under Public Contract Code section 20111(b) remains unchanged.
- Only the governing board should enter into construction contracts; the ASB should not.



# Chapter 16

## Chapter 16 – Equipment Purchases and Management

Occasionally, students purchase equipment with ASB funds. Equipment is generally defined as moveable personal property of a permanent nature (other than land and buildings) with a useful life of more than one year and a cost of more than \$500. Examples include machines, furniture, vehicles, and furnishings that are not integral parts of a building or a building service system. Some equipment also requires periodic maintenance and repairs. When purchasing equipment, the ASB needs to consider insurance and its exposure to various risks such as vandalism and theft, and should understand inventory listing requirements.

### Equipment Ownership Options

Equipment purchased by an ASB organization is the property of the ASB. The student club may then donate the equipment to the district. This has many advantages for the student organization because the district usually assumes the responsibility of maintaining and repairing the equipment. If the student organization does not donate the equipment to the district, current and future students will have to assume responsibility for all associated costs, including those for maintenance, repair and insurance.

If the ASB chooses to donate the equipment to the district, the students should stipulate that the ASB club making the donation retains the right to exclusive use of the equipment. The governing board should formally accept the equipment donation just as it would all other donations. Acceptance of the gift does not necessarily mean that the district will replace the item in the future if it no longer works or is obsolete; in most cases the district will expect the ASB to maintain, repair or replace the equipment. In addition, because the district is not required to accept any donation, the ASB should communicate with the district before purchasing the equipment to ensure that the district agrees with the donation.

Many districts prohibit student organizations from owning equipment or long-term assets of any kind. A sample letter for transferring equipment to the district is included at the end of this chapter.

### Risk Management and Insurance Options

A district's insurance policy covers district-owned equipment for various risks. If the ASB prefers to retain ownership of the equipment, it should check with the district's risk manager before the purchase to determine what type of insurance is needed. The ASB advisor should counsel student leaders about business issues such as deductibles, replacement value, and depreciated value of equipment.

### Inventory Practices

If the district accepts a donation of equipment purchased by the ASB, the staff should place a tag on the equipment identifying it as district property and should include the item or items in the district's equipment inventory listing. The district should have in place specific policies and procedures related to inventory practices and should follow them. Per California Education Code section 35168, the following information must be recorded:

1. Name and description of the property
2. Name of titleholder
3. Serial number or other identification number
4. Cost of the property (a reasonable estimate may be used if original cost is unknown)

#### Fraud Alert



Digital cameras, scanners and other small devices that do not cost more than \$500 but may have a useful life of more than one year and are susceptible to theft are often too small for an inventory tag or bar code. Consider doing the following to deter theft.

- Engraving the ASB name on each item.
- Identify the make, model and serial number of each item in the inventory.
- Require that each item be checked in and out for use, using a signature log.

5. Acquisition date

6. Location of use

If the ASB retains ownership of the equipment, it should ensure that the equipment is marked and identified as ASB equipment. In some districts, the equipment marking is done with electronic bar coding. In addition, the ASB organization should maintain a list of all the equipment it owns, separate from the district's listing. This list should include the information listed in items 1-6 above and should be retained as a permanent record.

Once a year, the ASB bookkeeper should verify that all items on the ASB-owned equipment inventory list are still at the school site. This is referred to as taking a physical inventory of the equipment. When equipment owned by the ASB is sold or deemed obsolete, the ASB bookkeeper should credit the proceeds of the sale to the club that originally purchased the item and remove the item from the equipment inventory records. Appropriate accounts for all fixed assets will need to be set up in the student organization's accounting system.



## Equipment Donation Form

To: Sample USD, Chief Business Official or Designee

From: Sample School Site Club

Subject: Transfer of equipment ownership to Sample USD

The below items were purchased/received by the student organization for \_\_\_\_\_ School.

The governing board formally accepted the donation of the equipment on \_\_\_\_\_. It should be understood that acceptance of this gift does not necessarily mean that the district will replace the item in the future if it is no longer working or is obsolete.

It is requested that while ownership is transferred to \_\_\_\_\_ School District, operational control and use be retained by the student organization, as administered by the site administrator.

It is recognized that transfer of ownership only transfers responsibility for maintenance and replacement, consistent with the priorities and practice of the school district and in accordance with existing financial management guidelines and procedures.

The effective date of this transfer is: \_\_\_\_\_

Equipment listing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed by site administrator: \_\_\_\_\_

Signed by club advisor: \_\_\_\_\_

Signed by student representative: \_\_\_\_\_



# Chapter 17

## Chapter 17 – Employees and Consultants

In certain circumstances, the ASB will hire someone to perform some service on behalf of the students. For example, the ASB may hire extra custodial help after a school carnival or a disk jockey for a school dance. All of these individuals will need to be paid, so the question is, “What is the legal and proper method to compensate them?”

When people are paid to assist the ASB, they are compensated either as an employee or as a consultant/independent contractor (independent contractors are frequently called consultants in the education community, so this manual uses the two terms interchangeably). The Internal Revenue Service (IRS) has regulations regarding when someone may be paid as an employee and when they may be paid as a consultant. The business office and the personnel department also should be available to help the students, the ASB advisor and the site administrator determine on a case-by-case basis whether the individual hired is to be considered an employee or a consultant.

This chapter includes the criteria for determining who is an employee and who is a consultant, the best method of payment, and federal reporting requirements.

### ASB Employees

Because ASB organizations legally are a part of the school entity, anyone hired to be an ASB employee is actually an employee of the district, with requirements for employability and immigration status, fingerprinting and oath of allegiance certifications. Because the employee is an employee of the district, the district’s personnel department would be involved in the process and would provide the best counsel and guidance in this area. This department should help the ASB with any personnel it wishes to hire. Although the funding for the position might come from the ASB, all district rules and regulations apply.

### Good Business Practices for ASB Employee Payroll Management

All ASB employees, including substitute employees, are paid using the district’s normal payroll process. The individual fills out the standard time card used by other district employees who work in a similar capacity. This time card is processed with the regular district payroll. The business department then invoices the ASB for the cost of the salary and associated statutory benefits. The payroll department ensures that it obtains all of the documents needed to pay the individual correctly and legally.

Someone who works for the district and performs extra duties for the ASB must be paid as an employee through the payroll system regardless of the task they perform and even if the work performed is normally considered consultant work. For example, if the school secretary types the school play in the evenings for \$15 an hour or acts as a disc jockey at a dance, he or she must be paid through the district’s payroll because she is already an employee of the school entity. In addition to determining if this additional work is subject to overtime pay, the central office would determine if any collective bargaining parameters should be considered. Because the secretary is a district employee, the ASB may not write a check from ASB funds to pay for this additional work as they would in the case of a consultant.

To ensure that proper legal requirements are met without having to determine whether each individual should be classified as an employee or a consultant, the district could require that all individuals who work with ASB be paid as district employees. As mentioned above, the personnel department would be best suited to assist with the employment process.

The personnel department can also consider whether district regulations, personnel commission rules or collective bargaining provisions govern the choice of district employees to perform extra functions for the ASB.

## Guidelines for Determining Employee vs. Consultant Status

In general, if there is no written policy in the district stating that all people working with ASB are paid as district employees, the IRS will look at the level of control that the employer has in each specific case to help determine whether a person should be classified as an employee of the district or a consultant.

The general rule is that an individual is a consultant/independent contractor if the employer (the person for whom the services are performed) has the right to control or direct only the result of the work and not the means and methods of accomplishing the result. After considering all of the facts of the case, the greater the level of employer control, the more likely it is that the worker should be classified as an employee.

The following are IRS guidelines for making the distinction between employee and consultant/independent contractor. If the answer to any of these questions is yes, then the ASB organization should classify the worker as an employee, and they should be paid using the district's payroll process.

1. Does the ASB organization provide the worker with instructions for when, where and how to do the work? The following are all examples of types of instructions of how to do work and imply either independent determination by consultant or dependent status of employee:
  - a. When and where to do the work.
  - b. What tools or equipment to use.
  - c. What workers to hire to assist with the work.
  - d. Where to purchase supplies and services.
  - e. What work must be performed by specified individuals.
  - f. What order or sequence to follow.
2. Does the ASB organization provide the training for the worker? Consultants ordinarily use their own methods.
3. Does the worker realize a profit or loss? A consultant can make a profit or loss; an employee would not.
4. Is the worker's service a vital part of the ASB operations? If a worker provides services that are a key aspect of the regular business activity, it is more likely that the employer has the right to direct and control their activities, indicating an employer-employee relationship.
5. Does the worker perform services for the ASB regularly and continually? If a worker is engaged with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that the intent is to create an employer-employee relationship.
6. Is the worker guaranteed a regular wage amount per hour, week or other period of time? Employees are generally guaranteed a regular wage per a given period of time; consultants are usually paid a flat fee for a job.
7. Does the worker make their services available to the market? Consultants usually are free to seek out business opportunities; they often advertise, maintaining a visible business location and are available to work in the market.
8. Is the worker reimbursed for business and travel expenses? Contractors are more likely to have unreimbursed expenses than are employees.
9. Does the ASB provide the equipment and tools for the worker? Contractors often have a significant investment in the tools they use to perform services for someone else.

There is much gray area when determining whether or not someone should be classified as an employee or a consultant. The costs to the district/ASB of incorrectly classifying a worker as a consultant rather than an employee are significant, including back taxes, retirement contributions, interest and penalties. Thus, when in doubt, the default position should be to classify the worker as an employee.

The IRS Web site ([www.irs.gov](http://www.irs.gov)) has several reference materials to help determine whether a worker should be classified as an employee or a consultant. Publication 15-A, titled “Employer’s Supplemental Tax Guide,” covers this area in detail.

## Consultants

If someone is not already an employee of the school entity, and if the ASB has determined that the person is legally considered a consultant/independent contractor under the IRS regulations (see above), there is a different method of payment.

### Federal Tax Reporting Requirements for Consultants

If the ASB organization determines that it will pay the worker as a consultant/independent contractor, the ASB bookkeeper should ensure that the worker completes a W-9 taxpayer identification form before they begin work, because it is much more difficult to obtain the needed information after payment has been made. It is best practice never to pay any consultant for any work performed unless the ASB bookkeeper has obtained a W-9 from the consultant, because the IRS penalty for not obtaining the required information is large. Receiving the information prior to payment helps avoid such penalties.

### Good Business Practices for ASB Consultant Federal Tax Reporting

The IRS has many requirements for reporting payments to independent contractors, but as a general rule, ASB organizations are obligated by law to report student body fund payments by issuing Form 1099-MISC to any independent contractor who is paid a total of \$600 or more in a tax year. Because the district also issues 1099s at the end of the calendar year, it is most efficient for the district’s business office to issue all 1099s for the ASBs as well, since they are able to retrieve the information from all school sites. The 1099s must include all payments throughout the entire district, not just at one site. The best way to efficiently coordinate this is through the district’s business office. The ASB provides the district’s business office with information on the independent contractors, and the business office then issues the 1099s for all of the ASB’s independent contractors districtwide.

## Summary of Payment Techniques – Employee and Consultant

The following is a summary of how ASB workers are paid after the ASB has determined whether the workers are employees or independent contractors. In secondary schools, the costs for ASB workers should be approved in advance like all other ASB expenditures.

### Employee Payment Procedures

1. The worker completes all of the paperwork required by the district’s personnel and payroll departments.
2. The personnel department assists the ASB organization in determining the appropriate hourly rate.
3. The worker fills out a time card for work performed for the ASB.
4. The site administrator or the ASB advisor signs the time card, confirming that the hours reported on the card are appropriate.
5. The ASB bookkeeper turns the time card in to the payroll department, where it is processed with the next payroll.
6. The employee is paid.

7. The business office bills the ASB for salary and employee benefit costs.

### **Independent Contractor Payment Procedures**

1. The ASB bookkeeper obtains the W-9 Taxpayer Identification form from the independent contractor before their work begins.
2. The contractor submits an invoice to the ASB bookkeeper for payment.
3. The site administrator or ASB advisor signs off on the invoice, indicating that the work was completed satisfactorily.
4. The ASB bookkeeper pays the invoice.
5. By January 31, the ASB bookkeeper provides the district's business department with information about the amount paid to the independent contractor.
6. The district's business department issues a 1099 tax form to the contractor at year end.

# Chapter 18

## Chapter 18 – Cash Disbursement Management and Procedures

One of the primary purposes of the ASB is to allow students to raise and spend money for their benefit. Expenditures of ASB funds are called disbursements. Chapter 14, Allowable and Questionable Expenses, provided guidance regarding the types of items that are usually considered appropriate expenses from ASB funds. This chapter discusses how to ensure that adequate checks and balances, commonly known in business as internal controls, exist over the disbursement of ASB funds.

Student money must be spent in accordance with a system that includes sound internal controls, good accounting practices and conformity with board regulations (Education Code section 48933).

Elementary school ASBs are usually structured as unorganized ASBs, and secondary school and community college ASBs as organized ASBs. If the elementary school ASB is structured as an organized ASB and the students have authority over decisions about how funds are used, then the checks and balances for organized ASBs are applicable.

### Sales and Use Tax

State Revenue and Taxation Code (RTC) section 6006 identifies what constitutes a sale and what is subject to state sales tax. Section 6006 (f) of the RTC defines a sale as, “A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.”

Many out-of-state vendors assume that educational agencies do not have to pay sales tax and so do not charge it. If this is the case, the state sales tax is not paid to the vendor. Instead, the school agency must include the purchase of the item in the sales tax report to the California State Board of Equalization (BOE) and pay the obligation directly. Note that because the reporting schedule is based on the total sales in dollars (e.g. monthly, quarterly or annually), not all districts are on the same reporting schedule. Thus those involved should work with their district’s business office to learn the requirements for their district.

The BOE does not have a mechanism to track sales between California and other states for reporting purposes. Therefore, school agencies should not submit the sales tax to an out-of-state vendor when it is not charged, but should instead report those purchases on the periodic report filed with BOE. This ensures that the appropriate sales tax is submitted to the California State BOE with no fear of penalties for underpayment of sales tax.

The BOE’s Publication 18 provides guidance regarding the taxability of sales by nonprofit organizations such as ASBs. This publication and additional information about sales tax are available on the BOE’s Web site ([www.boe.ca.gov](http://www.boe.ca.gov)).

At the end of this chapter is an overview to help readers understand sales and use tax applicability and exemptions.

### Internal Controls

In general, the internal controls over cash disbursements should ensure that:

- All disbursements are for items that were included in the budget.
- All disbursements are for items that were authorized by the ASB and recorded in the ASB minutes.
- The ASB bookkeeper only pays for goods that were authorized and received.
- The ASB bookkeeper maintains adequate records of all expenses, including original detailed receipts.

Within the above general requirements, specific internal controls for cash disbursements differ slightly between unorganized and organized ASBs. For this reason, the internal controls in this chapter are separated into the following three categories:

- General internal controls that apply to all ASB operations.
- Internal controls for unorganized ASBs.
- Internal controls for organized ASBs.

### Internal Controls that Apply to All ASBs

The following items are general internal controls for all ASB cash disbursements:

1. Students and staff members should never pay for an expense out of cash collected from a fund-raising event; all of the cash must remain intact for deposit. This ensures that the students and ASB bookkeeper can perform a complete reconciliation of the fund-raising event and that a complete audit trail exists.

For example, if the students are holding a bake sale and they need to purchase extra napkins during the bake sale, they should not take some money out of the cash collected that day to pay for the napkins. Instead, an employee should be preapproved to purchase napkins during the event. The employee can use their own money for the purchase, then submit the original purchase receipt with a request for reimbursement.

2. The ASB bookkeeper may pay for a purchase with ASB funds only after the items have been received and only if the purchase has been approved in advance by the student council/club representative, the ASB advisor and the board designee. The Education Code states that these three individuals are the approved signatories.
3. The ASB bookkeeper must maintain the checkbook and all check stock in a safe or locked file cabinet.
4. The ASB bookkeeper should never allow checks to be signed in advance. For example, if the site administrator will be out of the district for a week or two, someone may ask for checks to be signed in advance. This request should not be granted. Instead, a backup signer should be approved. This could be a district office official.
5. The ASB bookkeeper should never make a check out to cash or issue a check lacking a payee name or amount. When ASB petty cash has been used to reimburse an individual for preapproved

#### Fraud Alert



When funds collected during the event are allowed to be used to allegedly purchase materials during the event, fraud perpetrators will simply reduce the amount of funds collected by keeping the cash. Too often, no additional materials are purchased and unsuspecting volunteers or students are so busy running the event that nobody misses the funds that are taken.

#### Fraud Alert



ASB purchases are allowed only for expenditures that are authorized and approved in advance. Using the trusting nature of many involved in ASB business, fraud perpetrators will submit personal receipts for reimbursement from student funds. Trusting bookkeepers, advisors and others often overlook an individual they have known for a long time and often issue reimbursement on the person's promise to provide supporting authorization the following day. The ASB is NOT obligated and must not pay for expenditures that are not authorized in advance with a properly signed purchase order.

#### Fraud Alert



When check stock is not safeguarded, even unsophisticated thieves know that they can simply copy a blank check and create their own duplicate check stock. For help copying check stock, organized fraud groups approach janitors, cleaning crews and other workers who have access and late night shifts. The original check stock remains and the fraud continues as the check information is transferred to check-printing software. Within a short time, thousands of dollars of checks are being presented at the ASB's bank. This fraud may go undetected until the next month's bank statement is received.



expenditures, the petty cash fund will need to be replenished by issuing a check to a designated person, who will cash the check and reimburse the petty cash fund.

6. The ASB bookkeeper must use checks in sequence.
7. If a check is written that is not correct or is not issued, the bookkeeper should mark the check void. The bookkeeper should retain these checks in the checkbook to account for all checks in numerical order.
8. The ASB bookkeeper should maintain adequate records and an audit trail, including original detail receipts of all expenses, per the district's retention guidelines.

### Internal Controls for Unorganized ASBs

Few elementary schools/unorganized ASBs have a formal student body organization, though one can be established if desired. Usually, the governing board designates the site administrator as the primary authority to operate the student activities and authorize all expenses from ASB funds. However, the site administrator should designate an alternate/second person to approve the disbursement of ASB funds. In addition, a third authorized check signer is recommended in case the first two are unavailable. Another reason for multiple authorized signatories is to prevent a situation in which an individual (e.g., the site administrator) approves a reimbursement to themselves and is the signatory on the check.

The following are good internal controls for schools with unorganized ASBs:

1. The site administrator should establish a process to allow other school staff members to get approval for the use of ASB funds. For example, the site administrator may decide that each teacher in the school will be allowed to spend \$50 each year out of ASB funds for appropriate student body expenses. Before these funds are spent or any purchase is made, teachers should submit to the site administrator (assuming the administrator is the board designee) a request to use the funds. This ensures that the funds are available before teachers spend personal money in anticipation of a reimbursement from ASB funds.
2. The ASB bookkeeper, who is usually the school secretary, should prepare an ASB check for payment from ASB funds only for those items that have been approved in advance by the site administrator or designee and for which appropriate proof of purchase (original invoice and supporting documents such as a purchase order or a receiving report) is in hand.
3. The ASB bookkeeper should only prepare a check for payment when an original invoice and supporting backup such as a purchase order or a receiving report is presented.
4. The ASB bookkeeper must ensure that two people sign each check.
5. The ASB bookkeeper should mark the invoice paid and record the date the check was issued and the check number.
6. The bookkeeper should maintain a file of all paid invoices. It is probably easiest to maintain these invoices in order of the check numbers or in vendor alphabetical order.

### Internal Controls for Organized ASBs

The operations of the ASBs at secondary schools and community colleges are usually more complex and therefore require more elaborate internal controls. At high schools and community colleges, the ASB bookkeeper will be responsible for keeping records for several different clubs. For instance, the ASB bookkeeper at a large high school could maintain the records for more than 50 clubs, writing checks for each club and ensuring that the amount is recorded as a deduction from the appropriate club account. It is important to remember that the ASB is not obligated to pay for an expenditure ordered by a teacher, other staff member, student or other person who has not received approval using a purchase order prior to purchase.

The following are good internal controls for schools with organized ASBs:

1. The site administrator needs to ensure that all club members, teachers and advisors understand that they cannot obligate ASB funds until a purchase order is prepared and approved by the student club representative, advisor and site administrator or other board designee prior to the purchase. For example, if a teacher places an order or goes shopping for materials without a purchase order that has the appropriate signatures, the teacher is responsible for paying for the goods.
2. Each school should have a purchase order form for use when ordering goods for the various clubs and for employees who use their own funds to purchase items and then request reimbursement. The purchase order form demonstrates that the proposed purchase has been approved by all of the appropriate staff members and students. A sample purchase order form is provided at the end of this chapter.
3. When the purchase orders are printed, they should be numbered or assigned a sequential number that is recorded in a purchase order log to track each document and transaction. Multiple copies of each purchase order should be printed and distributed as follows:
  - The first copy is retained by the club requesting the goods.
  - The second copy is for the club or advisor to acknowledge the receipt of the goods. Whoever will physically receive the goods should keep this copy and upon receipt confirm its accuracy, annotate the date/time the goods were received, sign the copy and forward it to the ASB bookkeeper.
  - The third copy is sent to the vendor (if applicable).
  - The fourth copy is retained by the ASB bookkeeper and attached to the receiving report when the ordered items are received.
4. At a minimum, the purchase order should include the following:
  - The name of the student club or organization that is requesting the materials. This is the group that the ASB bookkeeper will charge for the goods.
  - The name and address of the vendor, or of the employee making the purchase with their own money.
  - The quantity of goods, including a description and the cost. The requestor should also estimate the sales tax and shipping charges.
  - Three required signatures. These three signatures meet the requirements for approval in Education Code section 48933(b) for K-12 and section 76063 for community colleges. These signatures must include a student representative, a board designee (site administrator) and a certificated advisor. Because the purchase order has the three required approvals, the check only needs to have two signatures.
5. Before any club makes a commitment to purchase goods, it must prepare a purchase order and obtain all of the required approvals. This is the proof that appropriate prior approval was obtained.
6. If the vendor will not take a purchase order but requires payment by check, the purchase order form should be used to request a check and to obtain and document prior approval. The ASB bookkeeper could maintain a pending purchases file as a reminder to obtain an original receipt after payment is made.
7. The students submit the completed purchase order to the ASB bookkeeper after all of the approvals are obtained.
8. The students record the issuance and approval of the purchase order in the club's minutes. This approval can be given after the purchase or before depending on the district's requirements. The Education

Code does not require the club's approval prior to purchase but does require the approval of the three individuals mentioned in the fourth bullet under item 4 above.

9. The students retain two copies of the purchase order. One copy is saved as a permanent record of the order and the other copy is used as a receiving copy.
10. The ASB bookkeeper verifies that the club has sufficient funds to pay for the goods before the order is sent to the vendor or to the employee who will be purchasing with their own money and subsequently requesting reimbursement. If the club does not have sufficient funds, the bookkeeper should return the purchase order to the club with a request for a budget revision or a plan for how the item will be paid for.
11. Depending on the policy at the school site, the ASB bookkeeper or the club advisor may open and formally receive the goods.
12. The designated receiver (this could be either the ASB bookkeeper or the club advisor) will open the shipment and compare the shipped items to the packing slip.
13. After all of the items have been compared to the packing slip, the receiver will sign the receiving copy of the purchase order.
14. If the advisor is receiving the goods, the advisor should provide the signed receiving report (copy of the purchase order) and the packing slip to the ASB bookkeeper.
15. When the ASB bookkeeper is ready to pay bills, usually once a week, the bookkeeper matches the original purchase order to the invoice and the receiving copy of the purchase order. When all three documents are matched, the ASB bookkeeper will prepare a check to pay the invoice.
16. Two signatures are required on all checks written from ASB funds. One signature is usually the site administrator or designee and the other is a staff member from the school (e.g., the student council advisor) or from the district office. Students should never sign checks.
17. When the checks are presented for signatures, the ASB bookkeeper should also provide all of the documents for review. This allows the signers to review the invoices and purchase orders before signing the check.
18. After the check has both signatures, the ASB bookkeeper mails the check.
19. The check is then recorded in the accounting records for the club.
20. The invoice is marked paid and the check number is written on the invoice.
21. The ASB bookkeeper stores the paid invoices with the receiving report.
22. The invoice may be slightly higher or lower than the original purchase order. The district should have a policy regarding

### Fraud Alert



The following are fraud tips related to suppliers, vendors, contractors and others:

- Be wary of purchasing items from vendors who are farther away than other similar vendors. Often vendors provide kickbacks and special deals for those who bring business to them and the ASB ends up paying a higher price.
- Reconcile paperwork for graduation cap and gown and other contractors that provide a volume discount or other discount at the end of the year. Sometimes the credit that they indicate they will provide on the closing year's document will not match the credit they show on the new year's opening document.
- Beware of vendors that resubmit previously used and paid invoices.
- Beware of bookkeeping that overloads or inflates expense accounts and/or advances. Typically the excess cash is diverted for personal use.

the amount by which a purchase order may be exceeded and still be paid without further approval. For example, if the invoice exceeds the original purchase order by more than 10%, the ASB bookkeeper should obtain approval from the club advisor who approved the original purchase order.

23. The ASB bookkeeper should maintain a list or log of all purchase orders issued and the dates when the goods or services were received and the invoices were paid. This allows the bookkeeper to determine easily at any time whether there are goods that have been ordered and not received, or goods that have been delivered but not processed for payment. Some financial information systems create such a log automatically.

## W-9s and 1099s

Please review Chapter 17, Employees and Consultants. This chapter is applicable to consultants and many others who perform services for the ASB. Be prepared to ensure that consultants who qualify have returned a signed and fully completed W-9 to the ASB before any work is performed or any payment made.

## Associated Student Body Sales and Use Tax Applicability

### Overview of Sales and Use Tax

#### Sales Tax

Sales tax is the tax applied when an item is sold commercially. The liability for the tax and remittance to the state is the responsibility of the seller.

Sales tax is computed only on the end product being sold/purchased. Therefore, sales tax is not required on items purchased with the intent of contributing to a later final product; they are considered items for eventual resale. If vendors attempt to charge sales tax on items intended for resale, student organizations must obtain a seller's permit and show the vendors a resale certificate as proof of this permit to avoid paying the sales tax.

Items that are not intended to contribute to some future end product are considered consumed by their final purchaser, and sales tax is computed based on their full sales price.

#### Use Tax

Use tax is the tax applied to items purchased from outside the state (in which case no sales tax can be applied because of interstate commerce laws) for their use inside the state of California. The liability for the tax and remittance to the state is the responsibility of the buyer.

- The use tax rate is always exactly the same as the sales tax rate. Sales and use tax can never both apply; it is always one or the other.
- Items purchased for eventual resale can also be exempted from use tax using the seller's permit and resale certificate mentioned above.

#### Exceptions

There are two primary areas where student organizations are exempt from strict application of the above rules.

- Yearbooks and other student-produced publications that are actually sold are exempted. The state allows items purchased to produce these publications to be considered consumed, and thus releases the student organization for tax collection when the final item is sold.
- Student-manufactured items that are not sold on a regular basis are given the same exemption: purchases intended to go toward those products are considered consumed, and the final sale is released from tax collection.

## Specific Examples

- **Items sold (requirement to collect sales tax at time of sale).** Per California State Code for Revenue and Taxation, section 6361 and the State of California Board of Equalization Sales and Use Tax Regulations 1597 and 1603, the following applies:

*Any organization (as identified below) shall be considered a consumer (must pay sales/use tax) and not a retailer (does not need to collect sales tax) within the provisions of the part, of food products, nonalcoholic beverages, or tangible personal property, when: sales are made on an irregular or intermittent basis and that the organization's profits from those sales are used exclusively for furtherance of the purposes of the organization.*

## Specific Guidance from References

- **Who:** Any youth group sponsored by or affiliated with a qualified educational institution.
- **What:** Sales of food products, nonalcoholic beverages, and other tangible personal property sold by nonprofit organizations on an irregular or intermittent basis.
- **When:** On an irregular or intermittent basis, provided the profits from such sales are used solely and exclusively in the furtherance of the purpose of the organization.
- **Irregular or Intermittent.** Associated directly with particular events, such as fairs, galas, parades, games, and similar activities. This includes refreshment stands or booths that are used at scheduled events of organized leagues, but it does not include storefront or mobile retail outlets, which would ordinarily require local business licenses.
- **Sales of Food Products, Nonalcoholic Beverages.** Sales of meals or food products for human consumption to students of a school by public or private schools, school entities, and student organizations, are exempt from tax.
- **Other Tangible Personal Property.** A qualified youth organization is the consumer and not the retailer of . . . . tangible personal property that is created by members of the organization and that is sold on an irregular or intermittent basis.
- **Additional:** Any public/private school, school district, county office of education, or student organization is a consumer of and shall not be considered a retailer within the provisions of this part with respect to yearbooks and catalogs prepared for or by it and distributed to students.

By inference, this would not include items sold at the student store or elsewhere that are not items intended for human consumption (unless the tangible personal property was actually made by members of the organization), because the sales do not qualify as irregular or intermittent.

## Items Purchased (applicability to pay sales or use tax at time of purchase)

- **Items purchased for consumption (supplies, equipment, etc.).** For these items, schools or student organizations do not carry any applicable exemption status; therefore, all applicable state sales or state use tax is applicable and must be paid.
- **Items purchased for resale.** For items identified above that would not require the collection of sales tax at time of sale, the organization is considered a consumer and must pay the sales/use tax at point of purchase. For items where sales tax is applicable at the point of sale (tangible personal property, not made by members, not sold at intermittent or irregular events), the organization is considered a retailer and, as such, would not pay sales/use tax at the point of purchase, but should present a valid resale certificate.

## Procedures

Based on the above determinations, the following procedures are recommended:

- **Sales/use tax at point of purchase.** Based on the above categories of purchases, for all items where sales tax (or use tax in cases of out-of-state vendors) is applicable, the tax must be paid. If the tax is included on an invoice, it should be paid to the vendor and the district would allow the vendor to remit the tax to the state. If tax is not included on an invoice, it should be recorded and added to the regular remittance to the state for sales and use tax. Student organization bookkeepers must develop internal procedures for remitting quarterly sales and use tax to the California State Board of Equalization.
- **Sales tax at point of sale.** When sales tax is collected at the point of sale (for example, for nonfood items sold in the student store), it should be recorded and added to the regular remittance to the state for sales and use tax as outlined in the bookkeeper's established quarterly remittance procedures.
- **Remittance.** Remittance should be set at regular established periods (quarterly is recommended). Checks will be made directly to the California State Board of Equalization and the appropriate remittance forms will be used.
- **Tracking.** EPES accounting software does not accept the accrual of "taxes payable" entry. Therefore, all ASB sites will need to manually track taxes owed but not remitted and manually add these to scheduled remittances.

Purchase Order

**Sample Purchase Order**

School Name  
 School Address  
 City, State, ZIP

P.O. Number: \_\_\_\_\_

Date: \_\_\_\_\_

To:

Vendor Name
Vendor Address

Item Number	Description	Quantity	Unit Price	Total Amount

Requested By: \_\_\_\_\_  
 (Name of Person) (Name of Club)

Subtotal	
+ estimated sales tax:	
+ estimated shipping charges:	
Total of this purchase order:	

Notice to the Vendor

Please mail the invoice in care of the ASB bookkeeper at the address at the top of the purchase order.  
 Please indicate the purchase order number on the invoice.

**Certification (this section must be completed prior to submittal)**

Account(s) to be Charged: \_\_\_\_\_

We certify that this request has been approved and recorded in club minutes

Account Name: \_\_\_\_\_

Approval Date: \_\_\_\_\_

**Account(s) to be Charged**

Club or Class: \_\_\_\_\_

Club Representative Signature: \_\_\_\_\_

**We certify that this request has been approved by ASB or Student Council:**

Approval Date: \_\_\_\_\_

Club Advisor's Signature: \_\_\_\_\_

Site Administrator's or Board Designee's Signature: \_\_\_\_\_





# Chapter 19

## Chapter 19 – Cash Controls and Fraud

Every year FCMAT is brought in to review school district ASBs for suspected fraud. The reasons and methods for fraud vary, but there is no doubt that fraud is occurring in ASB organizations.

School district ASB programs have the potential for fraud because they generate cash, the people helping with them are trusting, and internal controls are often bypassed because everyone is in a hurry.

Regardless of an ASB's size, everyone must always be aware of the three components that are required in order for fraud to occur: motive, opportunity, and access. These three components are known as the fraud triangle, and all three must be present for fraud to occur. No program or person is immune to fraud. A person who is honest today can experience change or new circumstances that may make fraud an option for them tomorrow.

The purpose of internal controls is to protect individuals from situations in which all elements of the fraud triangle are present. Strong cash controls can limit the opportunity and access needed to commit fraud and prevent individuals from doing something they may otherwise have never considered.

If fraud does occur, strong cash controls can also help identify the suspect and help exclude from suspicion innocent individuals who may be wrongfully accused by the actual thief. Controls can also provide a documentation trail to quantify the loss, and to limit ongoing losses.

While reading the following sections of this chapter, consider who has the motive, opportunity and access required to commit fraud.

The following sections discuss cash controls and their importance.

### Fund Raising and Deposits

There are five main control points at which fraud may occur during ASB fund-raising or events.

1. **During a fund-raising event**, if nobody is monitoring how funds are collected, safeguarded and accounted for. Cash taken in this situation cannot be traced, and people are often left wondering why the event raised less money than it should have.

Without proper cash safeguards, allegations of fraud can and often are made against an unsuspecting advisor or innocent volunteer.

**Recommended Preventive Measure:** Always monitor and safeguard cash collections during events.

2. **After the fund-raising event but before the money is taken to the ASB bookkeeper.** A lack of cash controls that results in an advisor or volunteer counting the cash alone is a recipe for disaster. Cash should always be counted in the presence of two people so that there are witnesses.

For example, consider the possibility of a fund-raising event at which people believe approximately \$2,000 was raised but at which the advisor counts the cash alone, without witnesses, and finds that only \$1,100 was raised. These funds are deposited. However, later someone asks how much money was raised and is surprised that it was only \$1,100, then becomes suspicious. Questions and allegations follow, and the advisor's reputation is at stake with only his or her own word to defend it.

Cash controls are more for everyone's protection than to catch a thief. Every year, many ASB advisors, volunteers, bookkeepers, and others are accused of stealing cash. If an ASB does not enforce strong cash controls, these individuals' defense is limited to their word.

**Recommended Preventive Measure:** Always count money in the presence of a witness.

3. **After the cash is counted but before it is taken to the ASB bookkeeper.** Often the cash is placed in a desk until the next day; or put in the trunk of an individual's car; or delivered to the ASB office with the only signed and witnessed cash count form by one student or adult, who figures out that there is an opportunity to remove cash on the way to the ASB office. Proper procedures, including retention of duplicate cash count forms, are necessary to provide controls.
- a. Cash kept in desk drawers is not secure and can be easily lost or stolen, sometimes after the person who placed it there forgets about it. These types of practices unnecessarily make everyone a potential suspect, thus placing honest individuals, including school employees and students, at risk of suspicion, rumors and accusations, simply because the money was not properly deposited with the ASB bookkeeper.
  - b. Without proper cash controls, the real thief can also easily blame someone else for the theft.
  - c. Honest ASB club advisors, bookkeepers and volunteers have and continue to put cash in their car with good intentions. Some of these honest individuals have put cash in their car, forgotten about it, then had it stolen at a car wash. Imagine this happening with \$10,000 from the sale of football game tickets. Some thieves have also put the cash in their car and left it there for weeks to see if anyone noticed the cash missing and to give themselves an increasing sense of ownership of the cash.
  - d. After the money is counted in the presence of a witness and the cash count form completed and signed, individuals sometimes do not have or do not make multiple copies of the cash count form for their own records, but nonetheless give the deposit and cash count form to another lone individual for delivery to the ASB bookkeeper. Subsequently, the bookkeeper receives a deposit that is less than the individual who counted it remembers. The ASB bookkeeper, appropriately, refuses the deposit in order to avoid being blamed, and the person carrying the deposit claims to have only received the amount deposited and claims never to have seen a cash count form.

Without a copy of the cash count form signed by at least one witness, there is no recourse in this situation.

**Recommended Preventive Measures:** Always use a cash count form and ensure that it is signed by the individual responsible and by a witness. Make multiple copies of this completed form, and always keep at least one copy separate from the copy that is sent with the deposit. Whenever possible, have two people transport a deposit. If one person must transport the deposit, it should be one of the individuals who counted the money.

4. **After the deposit reaches the ASB bookkeeper.** Trusting a helpful ASB bookkeeper, some individuals send the bookkeeper their only copy of the cash count form and do not count the cash again with the ASB bookkeeper. In other cases, the ASB bookkeeper is absent so individuals simply leave the deposit on the bookkeeper's desk.

This eliminates fundamental controls and allows a dishonest ASB bookkeeper unchecked control of the deposit. The ASB bookkeeper can swap cash and checks within multiple deposits and take cash, or take as much of the cash deposit they want and change the amounts in the cash count form, or take all of the money and say they never received it.

This type of fraud has occurred in schools. Without documentation to show the chain of custody there is little or no recourse.

A common scheme for dishonest ASB bookkeepers is to take a deposit that is part cash and part checks (e.g. \$400 in cash and \$550 in checks) and wait for another cash deposit equal to or greater than the amount of the first deposit that was checks (\$550), then swap the check deposit with the same amount

of the later cash deposit. Dishonest bookkeepers will continue swapping checks for cash until they find a trusting club advisor who does not keep their cash count forms or check their club account reports, then start shorting that club's deposits.

Neglecting to count the money with the ASB bookkeeper can also leave an honest ASB bookkeeper open to accusations of theft or fraud. An ASB bookkeeper may be trusting enough to accept a deposit even if the advisor or other individuals is too busy to count the money with them. If there is a difference in the deposit because of an error caused by fatigue or haste on the part of the depositor, it may look as though the ASB bookkeeper committed fraud even though they did not. For example, if the depositor, even though fatigued at the time is sure they deposited a certain amount (e.g. \$2,520) but that some of it is missing (e.g. the ASB bookkeeper counted \$2,250) there is no way to either prove or disprove this. The ASB bookkeeper is left with no alibi, no witnesses and no help.

**Recommended Preventive Measures:** Always keep a copy of the completed and signed cash count form. Always count the cash again in the presence of the ASB bookkeeper and document this second count.

5. **When receiving startup cash for change.** Some events require a cash box containing startup cash to make change.

For example, if the ASB bookkeeper has the person sign a form that acknowledges receipt of the startup cash for change and that states the amount (e.g. \$400) but does not require them to count the money at that time in their presence, the person could end up with less money than stated on the form (e.g. \$300), and as a result be held accountable (i.e. be blamed) for the difference.

If the bookkeeper places startup money in the cash box but fails to document it with a cash count form signed by both parties and cash is subsequently stolen or miscounted for any reason, or the individual receiving the startup funds incorrectly identifies a smaller amount than was actually provided, the club will receive less revenue than expected.

Some ASB bookkeepers keep a startup cash log and require everyone who receives startup cash to sign it signifying that they have counted the startup cash together with the ASB bookkeeper and that they agree regarding the amount. Failure to keep such a log creates the potential for simple errors that can result in allegations of wrongdoing.

**Recommended Preventive Measures:** Always have both the ASB bookkeeper and the person receiving the startup cash count the money, and document this count with signatures signifying agreement regarding the amount.

## Checks, Reimbursements, and Advances

People often think that fraud cannot occur with checks, reimbursement and advances because they require multiple signatures, receipts or other verification. However, this is not the case.

### Checks

Checks are written to pay for services and purchases. Fraudulent vendors and services with credible looking invoices and business names can present invoices for payment. Checks can be altered by removing the legitimate payee's name and inserting another. These are common types of frauds.

#### *Fraudulent Vendors*

When cash controls and authorization procedures are weak or nonexistent, an unauthorized vendor can be added to the payee listings, fictitious invoices for products or services can be created, and money siphoned from clubs or the ASB general account.

The purchase order, authorization, and disbursement processes discussed in this guide are designed to provide step-by-step procedures for properly documenting the cash disbursement process. The disbursement process helps prevent fraud and financial errors.

### *Check Altering*

In more sophisticated check altering schemes, someone will obtain the proper authorizations and purchase orders for a check, then the club advisor, ASB bookkeeper or any other person in control of the check will remove the payee's name and insert their own.

Increasingly, banks are including electronic copies of checks with the account statement rather than the original checks. Extra care must be used to confirm that the payee on the check is the same as that listed on the check register. Confirming who endorsed a check helps establish the chain of custody.

When original checks are returned with bank statements, there is the potential opportunity for a perpetrator who has sole custody of the returned checks to alter the checks again in order to restore the original payee's name and thus avoid detection of the prior check altering fraud.

If it is not cost effective to create a separation of duties for the bank statement reconciliation process, the school principal, ASB advisor or district office should scan the returned checks to look for fading and other signs that the payee has been altered. The digital copies of checks printed in the bank statement should also be periodically compared to the cleared check register, and the endorsements on the reverse side of the check verified.

### **Reimbursements**

With reimbursements, two types of fraud can occur: The person receiving the reimbursement can falsify the reimbursement; and the amount of reimbursement can be altered and cash stolen.

The most typical type of reimbursement theft involves attempts to have the ASB pay for something that is unauthorized.

Every receipt and every line item of the reimbursement must be confirmed. Copies of receipts are not sufficient; original receipts should be presented for reimbursement whenever possible. If there is no policy requiring original receipts for reimbursements, one should be developed.

Because altering reimbursement is not common and requires some time and planning, this type of fraud is usually perpetrated by the ASB bookkeeper or someone with access to ASB petty cash, the ASB accounting software, and the completed reimbursement form. The perpetrator typically does the following:

- Pulls the completed reimbursement form from the payee file, adds expenses that do not have documentation, and increases the cash advance.
- Pockets the amount of the cash increase and alters the accounting records to agree with the new larger cash advance total.

### **Advances**

As is the case with all cash transactions, cash advances attract more fraudulent activity than non-cash advances such as those via check.

### *Theft*

The opportunity for theft exists when advances are not documented with signatures, initials next to a line item on the reimbursement form, and an advance log that requires signatures.

To safeguard against cash advance fraud and protect innocent parties, write the cash advance amount on at least two separate documents and have the recipient sign both documents and initial the cash advance

amount. This makes it more difficult for a potential perpetrator to alter the cash advance amount and protects the ASB bookkeeper from allegations that he or she issued a different cash advance amount.

### *Fictitious Advances*

Another common cash advance fraud is the fictitious cash advance. Although completely false, the fictitious cash advance may have documentation and is usually booked to an unsuspecting club advisor who does not check their club's monthly financial report. For example, a dishonest ASB bookkeeper could take \$60 from cash and record it as an advance or a petty cash expense for a certain club. If the club advisor does not check the club's financial report monthly, they are unlikely to remember or recognize that the \$60 advance was not used for club purposes. This is particularly true for relatively small amounts such as in the example, especially when the transaction is one of many.

## **ASB Financial Reports**

ASB financial reports and club reports may not be perceived as cash control measures, but they are. The financial report prepared for a club lists in detail all of the club's transactions and is thus an historical account of the club's financial activities.

Club advisors should receive a detailed monthly transaction report for the club that shows at least the deposits, checks, journal entries, transfers, and memos or notes of the club's financial transactions. Club advisors should keep duplicate cash count forms, club minutes, copies of purchase orders and other paperwork. This enables them to do the following:

- Compare the deposit amounts on the cash count forms with the financial report for the club to verify that the club's deposits are accounted for correctly. If there is a discrepancy, the advisor who has kept duplicate paperwork is able to identify discrepancies, question them, and be part of the solution.

A difference or discrepancy does not necessarily indicate fraud. A deposit may have simply been mis-coded to another club's account, which can be corrected.

Failure to review financial reports monthly makes it difficult to detect errors or fraud. It is far more difficult to review in detail hundreds of transactions or more at the end of a year than to do so with a much smaller number each month.

Club advisors who do not keep copies of deposit records, cash count forms and other paperwork will have few options and no documentation against which to compare the club's financial report and detect errors. Failure to keep such supporting financial documentation also gives a dishonest ASB bookkeeper the opportunity to commit fraud.

- Review the transfers and/or journal entries in the club's financial report. All transfers and journal entries should have been approved before being entered in the club account. Note and question any transfers or journal entries that are not readily recognizable.

One of the most common but less sophisticated frauds is to write off deposit amounts as transfers or journal entry errors during the bank reconciliation process.

Another common fraud is to shift forged or altered checks or shorted deposits between club accounts. Club advisors who do not reconcile their clubs' financial reports and do not question the ASB bookkeeper about discrepancies create the opportunity for this type of fraud.

If only some advisors review and question transactions, a dishonest ASB bookkeeper or other individual who has access to the ASB software can often continue to commit fraud without detection simply by moving the questioned transactions to the account of another club with an advisor who does not ask questions. If all club advisors retain backup documentation and scrutinize their clubs' financial reports, the opportunity for fraud decreases and the chance of detecting it increases.

Reviewing and questioning financial reports and activities also protects every honest ASB bookkeeper. In some cases, a person other than the ASB bookkeeper may have gained access to the ASB accounting

software, cash deposits and checks. For example, the ASB bookkeeper may be on vacation or may have inadvertently allowed someone to see the accounting software password or safe combination. In these types of situations, timely reporting of financial discrepancies to the ASB bookkeeper enables them to determine when the discrepancy occurred. Because ASB bookkeepers typically record thousands of transactions per year, the sooner an irregularity is discovered the better the chances of someone remembering what occurred and being able to resolve the error.

- Review and compare the checks, reimbursements and advances in the financial report for the club with records of financial and other activity, and note and question any disbursement transactions that are not readily recognizable.

Not all discrepancies are due to fraud; some may simply be the result of incorrect coding that attributes an expense to the wrong club, leaving one club with fewer funds than it should have.

Reviewing records in a timely manner is vital. Waiting several months or more can allow an error or a fraudulent transactions to remain undetected among many other similar transactions.

## Club Advisors' Copies of Financial Documents

Club advisors should keep all copies of every club-related record in their possession.

Diligent retention of cash count forms, copies of receipts, revenue potentials, budgets, purchase orders, minutes and other documents provides vital evidence in the event of fraud, improper spending, allegations of improper club administration, and even catastrophe.

Because perpetrators of fraud will often destroy any records they have access to, the records retained by the club advisor may be the only source from which it is possible to reconstruct events and determine the amount and probable location of any missing funds. Thus they serve as protection for the honest advisor and the ASB bookkeeper, and help ensure the public trust when allegations arise.

For example, a parent who wrongfully accuses a club advisor may not know the details of how an ASB club is run, but the advisor's detailed copies of records that reconcile with those of the ASB bookkeeper may demonstrate accuracy and reliability and thus restore confidence. Inadequate records, on the other hand, will invite skepticism and unneeded attention in such situations.

Club advisors should retain records for as long as they serve in that capacity, then give records to the district office for safekeeping, or do with them as directed by their district's policies. Most fraud investigations review the last one to four years of records, but some have investigated as many as 10 years of records.

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The cash controls discussed in this chapter and throughout this manual are designed to help protect all innocent parties from allegations of fraud, and to help identify who has committed fraud. Those who commit fraud depend on poor internal controls and the ability to gain the confidence of those they work with to accomplish the theft.

For everyone's protection, do the following:

- Never leave money unattended.
- Always count all money with a witness.
- When possible, have two people transport deposits.
- Always sign and initial and have a witness sign and initial documentation in as many places as possible indicating the status and amount of money that the two signers counted.

- Always retain duplicate cash count forms for the club's records.
- Always protect the ASB bookkeeper by counting cash with them and obtaining signatures attesting that your cash counts agree.
- Safeguard user identities, passwords, combinations and other access controls.
- Double-check bank reconciliations, cancelled/cleared checks, and check endorsements.
- Obtain proper authorizations for all transactions including journal entries, transfers, reimbursements and advances.
- Always compare the advisor's copies of club transactions with the financial report for the club.
- Ensure that all club advisors retain club-related records for as long as they serve as club advisor.
- Ensure that the ASB bookkeeper is never afraid to say no. The ASB bookkeeper should never be afraid to refuse an incorrect deposit or improper authorization for disbursement.





# Chapter 20

## Chapter 20 – Charter Schools and ASBs

Where do charter schools fit in? Are their ASBs considered organized or unorganized? These questions are often asked. The state statutes governing K-12 organizations and ASB funds (Education Code sections 48930 through 48938) appear to clearly address “laws governing school districts”; therefore, charter schools are likely exempt under the provisions of Education Code section 47610. Although no section of the Education Code states definitively how ASB rules relate to charter schools, Education Code section 47605(b) (5) states that charter schools are required to have within their charters a section addressing the “governance structure of the school.”

Charter schools that have student body funds in their possession have a trusteeship responsibility to safeguard those funds for the benefit of the students. Complying with ASB statutes and regulations would meet that responsibility. Thus, it appears to be entirely the prerogative of chartering authorities (a district, county office or the California Department of Education) to ask that charter petitioners address the issue of a student organization and the handling of ASB funds within the governance section or elsewhere in the charter, or in a memorandum of understanding separate from the charter. One simple way for chartering authorities and charters to address the issue, and help ensure that ASB funds and expenditures are properly handled, is to indicate that the charter school will comply with Education Code sections 48930 through 48939 and any other statutes guiding ASB operations.

Unlike noncharter schools, a charter school is not required to have a state and/or federally-funded nutrition program; however, many do. If a charter school elects to request state and/or federal funding for its nutrition program, all of the statutes and regulations pertaining to food laws apply to the charter school; if the charter school does not comply, that funding can be discontinued.



# Chapter 21

## Chapter 21 – Booster Clubs, Foundations, Auxiliary Organizations and Other Parent-Teacher Associations

Booster clubs, foundations, auxiliary organizations and other parent-teacher organizations are formed to contribute money to a club, sports team or other organization. For simplicity this manual will use the term “booster clubs” to refer to any of these types of organizations.

Booster clubs are popular in American high schools, community colleges and universities, and are usually run in high schools by the parents of students in the organization being supported, and in colleges by supporters and fans of athletic programs. Fund-raisers are often held to raise money for supplies or equipment that the students may need or for trips that the students may need to take. The main principle of funding by a U.S. IRS 501(c)(3) nonprofit is that the booster club may not discriminate in making grants to youth or college students on the basis of their family’s membership in or funding to the club, or the family’s fund-raising or time put into club activities.

Booster clubs are organized with many purposes in mind. One of the largest and most well-known booster clubs is the National Parent Teacher Association (PTA). Other booster clubs are organized to help with special interests or for school activities such as football, or to assist in buying school supplies, or support other sports programs, the arts, and field trips. Booster clubs and other school-related organizations or groups (all of which will be referred to as booster clubs in this chapter) are separate organizations from a school district.

In general, booster clubs provide financial support and/or direct assistance in some form to help achieve the common goals of booster and school programs. Booster clubs have many purposes and are not limited to the following examples:

- Assisting others:
  - Assisting a site administrator, faculty advisor, sports coach, and other district staff in performing parts of activities.
  - Assisting students through scholarships.
  - Purchasing supplies for the school.
  - Assisting with funds for field trip travel.
- Specific activities connected to students, parents and adults:
  - Sports programs
  - Field trips
  - Performing arts
  - Language programs

The relationship between student organizations and booster clubs is often confusing. Student organizations are legally considered a part of the school entity. For this reason, they are included in the school entity’s annual audit and have the benefit of the district’s tax-exempt status under the internal revenue code.

Booster clubs may raise funds and donate those funds to the district or purchase items with their funds for donation or assistance to the district, but they are not legally considered a part of the district and are not included in the annual audit. Some organizations, such as the PTA, are established as nonprofit corporations with a separate tax-exempt status. However, many of booster organizations have not applied for or received nonprofit status and do not have their own tax identification number, so it should not be assumed that they are all official groups in the eyes of the Internal Revenue Service (IRS).

Booster club funds and district funds, including ASB funds, must *never* be commingled. Booster clubs and the school entity should remain separate, including in the following ways:

1. The booster club name, address or any other correspondence should never imply any form of responsibility on the part of the ASB or district.
2. The district's tax-exempt status and identification number are *not* for use by any non-school organizations or groups.
3. Booster clubs are responsible for their own tax status and accounting.

Because student organizations operate under the school entity's tax-exempt status, the funds deposited in bank accounts are not subject to state or federal taxes. For this reason, the funds raised by booster clubs, foundations, auxiliary organizations or parent groups should not be deposited into or commingled with the student organization's or the school entity's funds or bank accounts; rather, they should be deposited into the booster club's own bank account. Booster clubs may donate funds to the student organization(s); however, after they do so, only the student organizations can control how the funds will be used.

These nonstudent groups are also responsible for their own tax status and accounting; they may not use the district's tax-exempt status or open bank accounts using the district's tax identification number. It is best if school staff members do not act as officers of nonstudent or non-district-sponsored clubs to avoid the appearance of district sponsorship.

Organizations formed by teachers and/or other employees of a school entity also are not a part of the ASB or the district and may not use the district's tax identification number or deposit funds into the school's ASB account or district bank accounts.

### Auxiliary Organization versus Student Organization at Community Colleges

If a student group at a community college is formed differently than described in the Education Code sections and is instead an auxiliary organization, different rules and guidelines apply, beginning with Education Code section 72673. These auxiliary organizations could be compared to parent or booster groups at K-12 schools, except that community college auxiliary groups are usually made up of adult students, whereas booster and groups at K-12 schools are made up of adults who are usually the students' parents or relatives.

Although they are different from student organizations, community college auxiliary organizations must follow the rules and regulations established by the community college's governing board, as there is an official relationship with the college. Governing board approval is needed to use the college's name in the auxiliary organization's title.

Community college district governing boards may establish an auxiliary organization to provide support services and special programs for the general benefit of its college or colleges. This can be compared to a foundation being formed at a K-12 district to support district programs. An auxiliary organization is separate from the college, unlike a student organization, yet a connection exists because the directors, governors and/or trustees of the organization are appointed or nominated by the college governing board, a district official or a student body or faculty member.

An auxiliary organization can include the following types of groups:

- Any entity that operates a commercial service for the benefit of a community college or district on a campus or other property of the district.
- Any entity whose purpose is to promote or assist a community college or district, or to receive gifts, property and funds to be used for the benefit of the community college or district or any person or organization having an official relationship therewith.
- Any entity that is designated as an auxiliary organization by the district's governing board.

## Regulations Governing Booster Clubs

Because booster clubs are separate from the district, they are not under the control of, nor are they the responsibility of, the site administrator, superintendent or governing board. Their funds are not controlled by the district or students, nor should they be involved in the administering or supervising the activities of student organizations.

However, governing boards are able to approve guidelines for these groups to follow, and these organizations' fund-raising activities are supposed to be approved by the governing board. California Education Code section 51521 requires that all organizations that conduct fund-raising to benefit clubs, schools, students or the district at the K-12 level have prior approval from the school district's governing board or the board-assigned designee. The code states the following:

*No person shall solicit any other person to contribute to any fund or to purchase any item of personal property, upon the representation that the money received is to be used wholly or in part for the benefit of any public school or the student body of any public school, unless such person obtains the prior written approval of either the governing board of the school district in which such solicitation is to be made or the governing board of the school district having jurisdiction over the school or student body represented to be benefited by such solicitation, or the designee of either of such boards.*

To meet this statutory requirement, a school district or community college should adopt board policy and regulations requiring all booster clubs to do the following:

- Complete and file an application to form a booster club.
- Submit for approval annually a copy of the application and an updated plan of activities.
- Submit a copy of the organization's adopted constitution and bylaws with the application.
- Ensure that renewal applications include the following:
  - An annual financial statement for the year just ended; the statement is to include all expenditures and all income for all events and fund-raisers.
  - A budget for the upcoming year.
  - A budget plan for the related activities.

Other recommended rules and regulations are as follows:

- The district has the express right to review and/or audit booster clubs' financial statements to ensure the clubs' financial integrity.
- Authorization of a booster club is valid for up to one year; however, if the superintendent/chancellor considers it necessary, he or she may revoke a booster club's authorization to conduct activities in the district.
- Requests for subsequent authorizations should be presented to the superintendent/chancellor or designee annually.
- Booster clubs are not legal components of the school entity. Each booster club should have its own tax identification number (TIN); booster clubs are not allowed to use the school entity's tax identification number in any way.
- Booster clubs are responsible for their own tax status, accounting and financial records, and must make their own arrangements for an audit if one is needed. The booster club is not audited as part of the district's annual financial audit.

- District or school site officials may require booster clubs to be officially recognized as tax-exempt organizations under internal revenue code section 501(c)(3) and may require them to provide a copy of their determination letter or certificate of nonprofit status (exempt status is discussed further below).
- Booster club funds should never be commingled with ASB funds or any other district funds.
- The booster club must carry its own liability insurance in an amount equal to or exceeding a minimum determined by the school entity.
- California Education Code section 51520 (discussed below) applies in the case of booster clubs at K-12 districts that wish to have student help with activities.
- Booster clubs' ability to use school facilities at K-12 districts is regulated by California Education Code sections 38130-38139, known as the Civic Center Act.
- Booster clubs must prepare and adopt a constitution and bylaws.
- Booster club officers should be elected according to the structure and process defined in the bylaws.
- It is suggested that K-12 school district personnel not hold any official position in a booster club organization. For community colleges, Education Code section 72673 states that the directors, governors and/or trustees of the organization are appointed or nominated by the college governing board, a district official or a student body or faculty member.
- Fund-raising at any school site is directly under the control of school authorities, such as the site administrator, and must be approved by at least the site administrator prior to any activity. Approval may be granted based on completion of some type of application or form, sometimes referred to as a "Request for Approval of Fund-Raising Activity by a Non-District Organization" form.
- Districtwide projects or fund-raising, such as collection drives, must be submitted in writing and authorized in advance by the district's governing board at a regular board meeting.
- Any rules and regulations developed for the organization must conform to the law, the board of education's policies and regulations, and the school site's rules and procedures.
- All booster club members must be made aware that no individual should personally benefit from the activities the organization conducts. This concept should be made a part of the bylaws.
- Any profits from fund-raising activities that are not spent for a booster club's nonprofit exempt purpose cannot be returned directly to members or their families.
- In case the booster club dissolves or terminates, the booster club's constitution should provide for the distribution of any excess funds to another nonprofit organization, the ASB or the district.

All other booster club activities are outside the control of the district and its governing board.

Should a booster club decide to operate a bingo or raffle activity, California Penal Code Sections 326.5 and 320.5 regulate these events. These regulations are enforced by the licensing agency of each county.

## **Booster Clubs as Nonprofit Organizations With Their Own Tax Identification Number**

Booster clubs are not legal components of the school district and each club must have its own tax identification number (TIN). There are several ways to approach being tax exempt, having a TIN, or choosing whether or not to accept donations. The recommended approach is for all booster clubs to apply for nonprofit tax-exempt status through the Internal Revenue Service (IRS) and state of California. Preparing constitutions, by-laws, articles of incorporation, budgets and projections are already part of the process of obtaining school entity approval. Taking the next step and completing the federal and state forms is not much more difficult.

IRS Form SS-4, *Application for Employer Identification Number*, may be submitted over the telephone after it is filled out. Regardless of whether it intends to file for nonprofit status, a booster club that will receive \$5,000 or more in annual revenues or gross receipts is required to file IRS Form 1023, "Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code,"

Likewise, if the booster club wishes to specify contributions as tax-deductible, the most direct path to doing so is through Form 1023, which upon approval will result in the IRS issuing a determination letter that recognizes the booster club's 501(c)(3) nonprofit, tax-exempt status. Booster clubs cannot legally furnish donors with receipts for a charitable tax deductible donation unless they have obtained this type of official determination letter from the IRS.

California nonprofit, tax-exempt status is similar and requires the completion of Form 3500, *Exemption Application*.

Forms are available on the IRS and California Franchise Tax Board Web sites at [www.irs.gov](http://www.irs.gov) and <http://ftb.ca.gov>.

## Financial Guidelines

Booster clubs are responsible for ensuring that proper internal controls exist for all of their financial activities. In accordance with its bylaws, each booster club should elect a treasurer who is assigned responsibility for recording, documenting and organizing all financial activities.

As do ASBs that exercise the best practices contained in this guide, booster clubs should adhere to sound business practices and maintain an adequate system of controls. These include, but are not limited to, the following:

Financial statements and treasury (See Chapter 7)

- The treasurer or designated officer should prepare monthly financial statements that are presented to the organization along with a copy of the most current bank statement and reconciliation. Financial statements may include cash receipts, cash disbursements, checking account beginning and ending balances, balance sheets, income statements and other relevant items.
- A budget should be developed at the beginning of the year to project expected revenues and expenses, and should be revised as needed.
- An auditor who is independent of the treasurer should be appointed and should report directly to the booster club board. The auditor should review all of the financial records, journals, check registers, receipts, invoices, bank statements, and other financial information at least annually.

Cash receipts and bank reconciliation (See Chapters 7 & 13)

- Prenumbered receipt books and supporting backup documentation.
- Preparation of duplicate deposit, cash count and fund-raising forms.
- Bank deposits should be made intact and in a timely manner.
- Someone other than the individual(s) responsible for depositing funds and writing checks should perform bank reconciliations monthly.

Cash disbursements (See Chapter 18)

- Checks should require a minimum of two signatures.
- Preparation of duplicate forms such as purchase orders.

- All expenditures should be approved by the booster board and the approval noted in the board meeting minutes.

Fund-raising activities should be conducted for a specific goal and not simply to raise money for the organization. All fund-raising activities conducted on school premises must adhere to the guidelines established by the board of education, each school site's individual guidelines, and those noted in Chapter 8.

Only organizations that have scheduled fund-raising activities and have obtained prior written approval from the ASB council and school site administrator will be authorized to conduct such activities on district or school premises.

### Solicitations on School Premises

California Education Code 51520, Prohibited Solicitations on School Premises, states the following for K-12 school entities:

*During school hours, and within one hour before the time of opening and within one hour after the time of closing of school, pupils of the public school shall not be solicited on school premises by teachers or others to subscribe or contribute to the funds of, to become members of, or to work for, any organization not directly under the control of the school authorities, unless the organization is a nonpartisan, charitable organization organized for charitable purposes by an Act of Congress or under the laws of the state, the purpose of the solicitation is nonpartisan and charitable, and the solicitation has been approved by the county board of education or by the Governing Board of the school district in which the school is located. Nothing in this section shall be construed as prohibiting the solicitation of pupils of the public school on school premises by pupils of that school for any otherwise lawful purpose.*

California Education Code section 51521, also for K-12 school entities, discusses solicitations on behalf of a school.

Ultimately, the K-12 school district's superintendent and governing board have complete authority over whether any such activity occurs on school district property. Thus, obtaining written permission for any such activities is of primary importance. The following are general criteria for obtaining permission.

- The purposes of the fund-raising activity, which must be nonpartisan, nonpolitical, nonsectarian, and nondenominational.
- The manner in which the fund-raising activity will be conducted (for example, demands made on staff time and district materials must be minimal, and the activity must not encroach on instructional time).
- Identification of the sponsors, officers and individuals participating in the fund-raising activity.
- Disclosure of the identity and location of any parent organization with which the soliciting organization is affiliated or of which it is a subsidiary.



## School District Employees and School Site Interaction

School employees are not employees of the booster club, and the booster club should be aware of the following:

- While serving as district employees, they have no authority to work for the booster club during their district work schedule. A district employee acting in his or her official capacity and during work hours may interact with booster club officials when this is a required part of his or her duties as a district employee.
- If a district employee would like to be employed by the booster club, the employee must obtain prior approval from the district's personnel department.
- Some districts that permit a district employee to also be employed by a booster club may require that the employee be paid through the district, with the district being reimbursed in turn by the booster club. The district may also require that any employee chosen to work for a booster club be hired and cleared for work through the district's personnel office.
- A district employee who acts in their personal capacity and on their own personal time is free to establish a booster club or to participate in it. The employee must ensure that participation in the booster club does not present a conflict of interest with their duties as a school employee. The employee should also make it clear that their participation is in their personal capacity and not in their capacity as a district employee.

## Donations for Supplies, Equipment and Transportation

Booster clubs by nature are designed to assist the school and/or ASB, and such assistance may come in the form of donations of supplies, equipment and transportation.

### Supplies

When a booster club wishes to give the ASB or one of its clubs money for supplies, the district should purchase the supplies and the booster club should reimburse the district. The purchase should be carried out through the district's purchasing system by a district-designated individual who is authorized to spend the funds, with the site administrator's approval. The purchase should be charged to a school account code, and the purchase requisition should contain the following information in bold:

- Paid by:
- Booster club name
- Person responsible for booster club
- Billing address

The purchase should be charged to the school account code on the requisition at the time of payment, and the district office should bill the booster club for the cost of the supplies purchased.

### Donations for Equipment Purchases

When a booster club wishes to donate equipment to a school, the preferred method for the transaction is the same as noted above for donation of supplies. Also as above, with the approval of the site administrator, the district-designated individual authorized to spend the funds purchases the equipment through the district's purchasing system. The purchase should be charged to a school account code, and the purchase requisition should contain the following information in bold:

- Paid by:
- Booster club name
- Person responsible for booster club
- Billing address

The purchase should be charged to the school account code on the requisition at the time of payment, and the district office should bill the booster club for the cost of the equipment purchased.

If the booster club wishes to purchase equipment outright and donate it to a school, the process is different. The booster club should notify the site administrator and the purchasing department before the equipment is ordered. Then, at a regular board meeting, the district's governing board must accept the equipment as a donation to the district.

### Donations for Transportation/Field Trips

A booster club may donate funds to the ASB or the district for transporting students to events. A field trip request form must be completed in conjunction with the ASB and school site, then sent to the district's transportation department. The request form should contain the following information in bold:

- Paid by:
- Booster club name
- Person responsible for booster club
- Billing address

The transportation cost should be charged to the school account code on the requisition at the time of payment, and the district office should bill the booster club for the cost of the transportation.

### Paying Stipends, Salaries and Consultants

#### Paying Stipends and Salaries

A booster club may *not* pay *any* employee of the school district an additional stipend or salary without prior approval from the district's business and/or personnel office. If the booster club wishes to supplement the school with additional personnel please refer to the section titled "School District Employees and School Site Interaction" earlier in this chapter.

#### Paying Consultants

Consultants are sometimes hired in the ordinary course of business to assist with various projects as needed. Consultants are not employees; they should have their own insurance and should meet all of the qualifications to be considered a consultant. Booster clubs should be aware of the regulations that must be followed when communicating with the ASB on this topic. Chapter 17 discusses this topic at length.

Sample Booster Club Application

(School District Name)

**BOOSTER CLUB APPLICATION**

Booster Club/Organization Name: \_\_\_\_\_

Name of the School: \_\_\_\_\_

The parents of XYZ School District, hereby requests approval for the formation of the: \_\_\_\_\_ Booster Club.  
Name of Organization

Objectives / Purposes of the Booster Club are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

We, the members of this booster club, have read the rules for forming and conducting this organization and agree to abide by them. We will submit a contact list, along with two copies of the proposed constitution and by-laws to the site administrator/designee, who will review the application for approval.

\_\_\_\_\_  
Signature of Organization Representative Date

Address / Phone No.: \_\_\_\_\_

Approved: \_\_\_\_\_  
Site Administrator's Signature Date

School Name: \_\_\_\_\_

## Sample School District Notice

(District Letterhead)

### MEMO

To: All Booster Clubs Supporting Sample School District Schools

From: Sam Smith, Superintendent of Schools

John Money, Fiscal Services

Subject: Booster Club Requirements

Thank you for applying to operate a Booster Club supporting Sample School District schools and for making a difference in the lives and education of our students.

We are providing you this memo in order to assist you in the process of applying as a booster club of the Sample School District. All booster clubs are considered separate organizations from the Sample School District. Before operating on any school site, the district requires the following items from each booster club:

Required Document	Comment
Booster club/support organization name	Define which school and sport or activity the group is supporting.
Booster club officers and contact information listing	List officers' titles, phone numbers, and e-mail addresses.
Employer/Tax Identification Number (TIN) of the booster club Note: The district's TIN is not available for use; the booster club must have its own TIN.	This is required to open a bank account and many other functions. If you used an individual's social security number, please indicate so. See Form SS-4 at <a href="http://www.irs.gov">www.irs.gov</a> .
Proof of tax-exempt status under Internal Revenue Code Section 501(c)(3) (if applicable) To apply for exempt status, you may review Form 1023 and the instructions for filing at <a href="http://www.irs.gov">www.irs.gov</a>	You will need this if your booster will normally have gross receipts of \$5,000 or more in a year OR if you wish to receive a determination letter that recognizes 501(c) (3) status and specifies that contributions to the organization are tax-deductible.
Meeting dates – calendar	For board meetings, committee meetings, etc.
A copy of the booster club current charter and bylaws	Provide most recent information.

Note: These required documents are subject to change at any time without notice.

To provide assistance, you may refer to the guidelines for booster clubs as outlined in the *Associated Student Body Accounting Manual, Fraud Prevention Guide and Desk Reference* published by FCMAT and available at [www.fcmat.org](http://www.fcmat.org). The FCMAT desk reference includes guidelines regarding the organization of booster clubs, financial guidelines, solicitation regulations, site interaction, and many other procedures and functions.

If you have any questions regarding this memorandum, please contact your school site administrator.

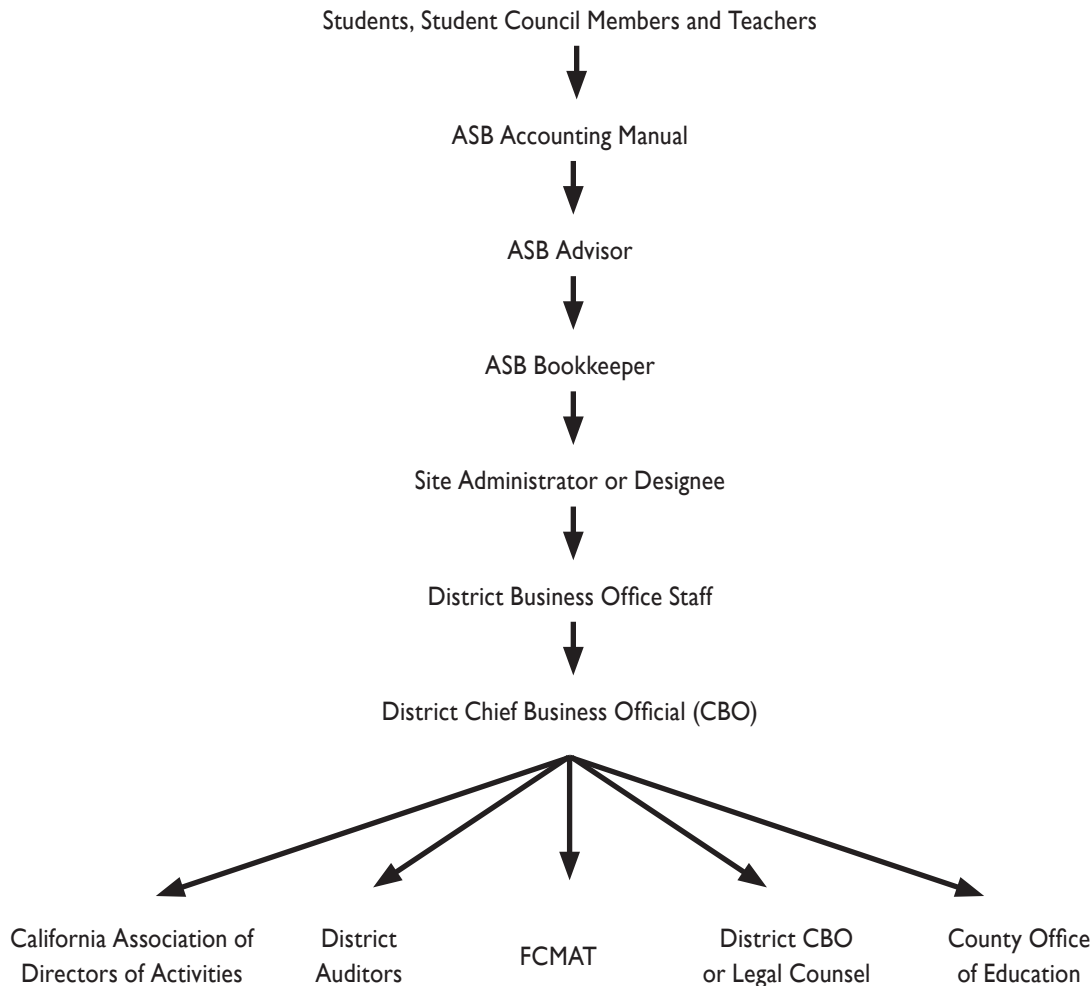
Sincerely,

Sam Smith  
Superintendent of Schools

# Chapter 22

## Chapter 22 – Where to Go for Help

As indicated throughout this manual, many people are involved in administering and supervising the activities of student organizations, and many people and organizations are available to solve problems, provide guidance and answer questions that arise. The following flow chart offers a recommended sequence for getting answers to ASB questions:



At times, a student organization may need to contact other people or groups outside the district. Following is a list of additional resources to help ensure the success of a school's student organization.

### Organizations and Online Resources

#### **Association of California School Administrators (ACSA)**

1029 J Street, Suite 500, Sacramento, CA 95814 • 916-444-3216 • [www.acsa.org](http://www.acsa.org)

#### **California Association of Directors of Activities (CADA)**

3540 Soquel Avenue, Suite A, Santa Cruz, CA 95062 • 831-464-4891 x202 • [www.cada1.org](http://www.cada1.org)

#### **California Association of Student Councils (CASC)**

1212 Preservation Park Way, Oakland, CA 94162 • 510-834-2272 • [www.casc.net](http://www.casc.net)

**California Association of School Business Officials (CASBO)**

700 N. Tenth Street, Suite 100, Sacramento, CA 95811 • 916-447-3783 • [www.casbo.org](http://www.casbo.org)

**California School Boards Association (CSBA)**

3100 Beacon Blvd., PO Box 1660, West Sacramento, CA 95691 • 800-266-3382 • [www.csba.org](http://www.csba.org)

**EdSource**

520 San Antonio Road, Suite 200, Palo Alto, CA 94040 • 650-917-9481 • [www.edsource.org](http://www.edsource.org)

**Ed-Data Education Partnership**

[www.ed-data.k12.ca.us](http://www.ed-data.k12.ca.us)

## State Agencies

**California Department of Education (CDE)**

1430 N Street, Sacramento, CA 95814 • 916-319-0800 • [www.cde.ca.gov](http://www.cde.ca.gov)

**Fiscal Crisis & Management Assistance Team (FCMAT)**

1300 17th Street, Bakersfield, CA 93301-4533 • 661-636-4611 • [www.fcmat.org](http://www.fcmat.org)

**Board of Equalization (BOE)**

450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080 • 800-400-7115 • [www.boe.ca.gov](http://www.boe.ca.gov)

**Legislative Analyst's Office (LAO)**

925 L Street, Suite 1000, Sacramento, CA 95814 • 916-445-4656 • [www.lao.ca.gov](http://www.lao.ca.gov)

**Office of Administrative Law (OAL)**

300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339 • 916-323-6225 • [www.oal.ca.gov](http://www.oal.ca.gov)

**Student Senate for California Community Colleges**

1102 Q Street, 3rd Floor, Sacramento, CA 95811 • [www..StudentSenateCCC.org](http://www.StudentSenateCCC.org)

## National Associations

**Association of School Business Officials International (ASBO)**

11401 North Shore Drive, Reston, VA 22090-4200 • 866-682-2729 • [www.asbointl.org](http://www.asbointl.org)

**National Association of Secondary School Principals (NASSP)**

1904 Association Drive, Reston, VA • 20191-1537 703-860-0200 • [www.nassp.org](http://www.nassp.org)

**National Association of Student Councils (NASC)**

1904 Association Drive, Reston, VA 20191-1537 • 703-860-0200 • [www.nasc.us](http://www.nasc.us)

# Chapter 23

## Chapter 23 – Glossary

The following list of commonly used terms and acronyms has been compiled to assist students, student councils, teachers, activity sponsors, student activity directors, ASB bookkeepers and all others who work with ASBs.

### Terminology

#### **Account Code**

A sequence of numbers assigned to identify sources of revenues, purposes of expenditures, assets, liabilities and fund balances.

#### **Account Numbers**

Numbers assigned as specific codes to describe the standard titles of accounts for classification and easy reference.

#### **Accounting**

The process of recording, classifying, and summarizing financial transactions in monetary units to show the results of those transactions.

#### **Accounting Cycle**

The series of procedures required to process financial transactions throughout a fiscal period. Procedures used during this cycle include recording transactions in books of original entry; posting to ledger accounts; taking a trial balance of the general ledger and ensuring that the subsidiary records agree with their controlling ledger account; making adjustments; preparing financial statements; and closing the books.

#### **Accounting Period**

A period of time for which records are maintained and at the end of which financial statements are prepared covering the period.

#### **Accounts Payable**

Amounts due and owed to persons, businesses, governmental units, or others for goods received or earned and services rendered before the end of the fiscal period. This includes amounts billed but not received or paid.

#### **Accounts Receivable**

Amounts due and owed from individuals, businesses, governmental units, or others for goods received or earned and services rendered before the end of the fiscal period. Includes amounts billed but not received.

#### **Accrual Basis**

The method of accounting in which revenue is recorded when earned, even though it is not collected, and expenditures are recorded when liabilities are incurred, even if not yet paid.

#### **Assets**

Anything owned that has value, either tangible or intangible. Assets may be further segregated into current assets and fixed assets.

#### **Associated Student Body**

Any organization of students having as its purpose the conduct of activities on behalf of the students as approved by the governing body of the organization and by the school authorities, and not in conflict with the authority and responsibility of the public school officials.

**Balance Sheet**

A statement that shows assets, liabilities, reserves and fund balance (or deficit) of an entity at a specific date, properly classified to exhibit the true financial position of the entity as of that specific date.

**Bank Charges**

Fees or charges made by banks to cover the expenses of handling depositors' accounts.

**Book of Original Entry**

A book that contains a chronological record of transactions, names the accounts to be debited and credited to record each transaction, and states the debit and credit amounts. The recording function is completed by posting the debits and credits shown in the journal to the various accounts in the ledgers.

**Budget**

A plan of financial operation consisting of an estimate of proposed revenues and proposed expenditures for a given period and purpose.

**Budgeting**

The process of allocating the available resources of an organization among potential activities to achieve the objectives of the organization; planning for the use of resources.

**California Code of Regulations**

Regulations that have been formally adopted by approximately 200 regulatory agencies in the state, including the State Board of Education.

**Canceled Checks**

Checks that have been issued by the depositor and paid by the bank.

**Capital Outlay**

Money spent for major physical changes to a school such as new buildings, renovations, reconstruction or certain new equipment. These investments in the physical structure of a school are expected to last for a number of years. Capital outlay also includes furniture and equipment.

**Cash**

Currency, checks, money orders, bankers' drafts and bank deposits.

**Cash Basis**

The method of accounting in which revenue and expenditures are recorded only when cash is actually received or disbursed.

**Cash Disbursement Journal**

A special accounting journal used for recording all cash disbursements.

**Cash in Bank**

Balances in bank accounts.

**Cash Receipts Journal**

A special accounting journal used for recording all cash receipts.

**Centralized Accounting**

A method of accounting in which a student body organization's financial transactions are handled at a central location rather than at the school site.

**Certificated Employees**

Employees who are required by the state to hold teaching credentials, including full time, part time, substitute or temporary teachers and most administrators. These requirements include having a bachelor's degree, completing additional required course work, and passing the California Basic Educational Skills Test



(CBEST) or other qualifying test. However, teachers who have not yet acquired a credential but have an emergency permit are allowed to teach in the classroom and are counted in this category.

**Chart of Accounts**

A list of accounts, systematically arranged, applicable to a specific organization. All account names and numbers are listed in order.

**Check**

A bill of exchange drawn on a bank payable on demand; a written order on a bank to pay on demand a specific sum of money to a named person or business out of money on deposit.

**Classified Employees**

School employees who are not required to hold teaching credentials, such as secretaries, custodians, bus drivers, instructional aides and some management personnel.

**Combination Journal**

A journal reflecting both cash receipts and cash disbursement transactions.

**Consumer Price Index (CPI)**

A measure of the cost of living compiled by the United States Bureau of Labor Statistics, often used as a measure of inflation. Consumer price indices are calculated regularly for the United States, California, some regions within California and selected cities. The CPI is one of several measures of economic change.

**Cost of Living Adjustment (COLA)**

An increase in funding for revenue limits or categorical programs. Current law ties COLAs to various indices. The amounts appropriated in a particular year may not be related to inflation.

**Credit**

A term used in double-entry bookkeeping for the right side of double-entry posting. The credit will reduce assets and expenditures and will increase liabilities, revenue and fund balance. The typical balance for liabilities, revenue and fund balance accounts is a credit amount.

**Current Assets**

Assets that are readily available, liquid and/or can be made readily available to meet the cost of operations or to pay current liabilities such as petty cash, cash in bank, cash in savings, or accounts receivable.

**Current Liabilities**

Liabilities that are due and payable for goods and services such as accounts payable, wages payable or state income tax payable.

**Debit**

A term used in double-entry bookkeeping for the left side of double-entry posting. The debit will increase assets and expenditures and reduce liabilities, revenue and fund balance. The typical balance for assets and expenditure accounts is a debit amount.

**Decentralized Accounting**

A method of accounting in which financial transactions of a student body organization are handled at the school site rather than at a central location.

**Deposit in Transit**

Any deposit recorded on the books but not shown on the bank statement.

**Disbursement**

Payment by currency or check.

**Double-entry**

A system of bookkeeping that requires an amount credited for every corresponding amount debited. A double-entry ledger maintains equality of debits and credits.

**Education Code**

The body of law that regulates education in California. Additional regulations are contained in the California Administrative Code, Titles 5 and 8, the Government Code, and general statutes.

**Equity or Fund Balances**

These accounts show the net worth of the ASB. The equity is the difference between the total assets and the total liabilities.

**Estimated Revenue**

Expected receipts of monies during a given period of time.

**Expenditure or Expenses**

Costs incurred to purchase goods or services. This is the money spent by the ASB.

**Financial Statement**

A formal statement that accurately reflects the results of business and the financial position of the enterprise.

**Fiscal Crisis and Management Assistance Team (FCMAT)**

The state agency formed to help ensure the fiscal solvency of school entities, including school districts, charter schools, community colleges and county offices of education.

**Fiscal Year**

A period of 12 months, with the beginning and ending dates fixed by law. In California, a school entity's fiscal year is from July 1 to the following June 30.

**Fixed Assets**

Assets that are of a permanent nature, having continuing value. A piece of equipment, such as a sound system, is an example of a fixed asset.

**General Journal**

A journal used primarily for opening, adjusting, accruing and closing entries. Transactions of a less routine and frequent nature are recorded in the general journal.

**General Ledger**

A book or file in which accounts are kept to the degree of detail necessary to summarize the financial transactions of an organization. Includes all of the assets, liabilities and elements of equity of an enterprise, including revenues and expenses.

**Indirect Cost Rate**

Rate used to charge a portion of the general expenses of operating a district to a specific program such as food services or adult education.

**Interest**

A fee charged a borrower for the use of money or a yield earned on money on deposit.

**Investments**

Disbursements of cash for the purpose of generating income.

**Joint School Districts**

School districts with boundaries that cross county lines.

**Journal**

Any accounting record in which the financial transactions of an organization are formally recorded for the first time (e.g., a check register or a receipt book).

**Ledger**

A group of accounts in which financial transactions of an organization are recorded. The final book or record in which all debits and credits from the journal are posted to the appropriate accounts.

**Liabilities**

Legal obligations that are unpaid. These include invoices to vendors for items received but not paid for as well as balances due for sales tax payable to the state.

**Modified Accrual Basis**

The method of accounting in which revenues are recorded when they become both measurable and available to finance expenditures of the current period. Most expenditures are recorded when the related liability is incurred, such as when issuing a purchase order.

**Net Income**

The difference between revenue and expenses.

**Organized ASB**

ASB organizations are either organized or unorganized. Student organizations in middle schools and high schools are called organized student body associations because the students organize their activities around student clubs and a student council.

**Outstanding Checks**

Checks that have been issued by a depositor but have not been presented for payment at the bank and do not appear on the bank statement.

**Petty Cash**

A sum of money set aside for the purpose of making change or for immediate payments of small amounts.

**Public Employees' Retirement System**

State law requires that most classified employees, their district and the state contribute to this retirement fund.

**Purchase Order**

A document issued to a vendor or business that authorizes the delivery of specified merchandise or the performance of certain services and the making of a defined charge for the goods or services.

**Reserves**

Funds set aside in a school entity budget to provide for future expenditures, to offset future losses, for working capital, or for other purposes.

**Revenue**

Receipt of money from the sale of goods or services or as profit from fund-raising activities or investments. This is the money earned by the ASB.

**School Districts**

There are three types of school districts: elementary, high school and unified. An elementary district is generally kindergarten through eighth grade (K–8); high school is generally grades 9 through 12; unified is kindergarten through 12th grade (K–12).

### **School Site Council**

Parents, students, teachers and other staff selected by their peers to prepare a school improvement plan and to assist in seeing that the planned activities are carried out and evaluated.

### **State Teachers' Retirement System**

State law requires all certificated employees, school entities and the state to contribute to this retirement fund.

### **Student Senate**

An organization that provides policy input to the consultation council on behalf of community college students.

### **Subsidiary Ledger**

Provides supporting detail to the general ledger accounts.

### **Trial Balance**

A list of the balances of the accounts is a ledger kept by double entry, with the debit and credit balances shown in separate columns. If the totals of the debit and the credit columns are equal, the ledgers are said to be in balance.

### **Trust Accounts**

Sums of money held by an organization for another group or organization. The ASB acts as trustee for scholarship accounts, class accounts and club accounts.

### **Unorganized ASB**

ASB organizations are either organized or unorganized. Student organizations in elementary schools are unorganized student body associations because the students do not form clubs or a student council. While elementary school students do raise funds, they have only limited involvement in decisions about the fund-raising events and how the funds are to be spent. If a student council exists, its activities are limited. The governing board delegates authority to oversee the raising and spending of funds to the school site administrator or designee.

## **Acronyms**

Student body administration, like every other business, has its set of frequently used abbreviations. This listing of acronyms is intended to identify some of the abbreviations that are used regularly in school entities.

A	AASA	American Association of School Administrators
	AB	Assembly Bill
	ACSA	Association of California School Administrators
	ADA	Americans with Disabilities Act
	ADA	Average Daily Attendance
	AFDC	Aid to Families with Dependent Children
	AP	Advanced Placement
	API	Academic Performance Index
	AS	Associated Students
	ASACC	American Student Association of Community Colleges
	ASB	Associated Student Body
	ASBGP	Associated Student Body Government Presidents
C	CAA	California Athletic Association

	CAHSEE	California High School Exit Examination
	CALPADS	California Longitudinal Pupil Achievement Data System
	CaIPERS	California Public Employees' Retirement System
	CALSACC	California Student Association of Community Colleges
	CASBO	California Association of School Business Officials
	CaSTRS	California State Teachers' Retirement System
	CBEDS	California Basic Educational Data System
	CBEST	California Basic Educational Skills Test
	CBO	Chief Business Official
	CCR	California Code of Regulations
	CDE	California Department of Education
	CFO	Chief Fiscal Officer
	CFR	Code of Federal Regulations
	CLAD	Cross-cultural, Language and Academic Development
	COE	County Office of Education
	COLA	Cost of Living Allowance
	CPA	Certified Public Accountant
	CPI	Consumer Price Index
	CPO	Chief Personnel Officer
	CR	Credit
	CSAM	California School Accounting Manual
	CSBA	California School Boards Association
	CSF	California Scholarship Federation
	CSIS	California School Information Services
	CSR	Class Size Reduction
	CST	California Standards Test
	CTC	Commission on Teacher Credentialing
	CTE	Career Technical Education
D	DGS	Department of General Services
	DOF	Department of Finance
	DR	Debit
	DSA	Division of the State Architect
E	EAAP	Education Audit Appeals Panel
	EC	Education Code

	EL	English Learners
	ESL	English as a Second Language
	ESY	Extended School Year
F	FAPE	Free Appropriate Public Education
	FCMAT	Fiscal Crisis and Management Assistance Team
	FTE	Full-time Equivalent
G	GAAP	Generally Accepted Accounting Principles
	GASB	Governmental Accounting Standards Board
	GATE	Gifted and Talented Education
	GO	General Obligation (Bond)
H	HQT	Highly Qualified Teacher
I	IDEA	Individuals with Disabilities Education Act
	IEP	Individualized Education Program
J	JPA	Joint Powers Authority
K	K-8	Kindergarten through grade 8
	K-12	Kindergarten through grade 12
	K-14	Kindergarten through grade 14
L	LAIF	Local Agency Investment Fund
	LAO	Legislative Analyst's Office
	LEA	Local Educational Agency
M	M&O	Maintenance and Operations
	MOU	Memorandum of Understanding
	MTYRE	Multi-Track Year-Round Education
	MYP	Multiyear Projection
N	NCLB	No Child Left Behind
	NPS/A	Nonpublic School/Agency
	NSS	Necessary Small School

O	OMB	Office of Management and Budget
	OPEB	Other Post-Employment Benefits
	OPSC	Office of Public School Construction
P	P-1	Period 1 (First Principal Apportionment Period)
	P-2	Period 2 (Second Principal Apportionment Period)
	PERB	Public Employment Relations Board
	PERS	Public Employees' Retirement System
	PI	Program Improvement
	PL	Public Law (Federal Law)
	PTA	Parent-Teacher Association
R	RDA	Redevelopment Agency
	RFA	Request for Application
	RFP	Request for Proposal
	ROC	Regional Occupational Center
	ROP	Regional Occupational Program
	ROTC	Reserve Officer Training Corps
	RRMA	Routine Restricted Maintenance Account
S	SAB	State Allocation Board
	SACS	Standardized Account Code Structure
	SAIT	School Assistance and Intervention Team
	SARB	School Attendance Review Board
	SARC	School Accountability Report Card
	SB	Senate Bill
	SBE	State Board of Education
	SCO	State Controller's Office
	SELPA	Special Education Local Plan Area
	SPI	Superintendent of Public Instruction
	STAR	Standardized Testing and Reporting
STRS	State Teachers' Retirement System	
T	TK	Transitional Kindergarten





# Chapter 24

## Chapter 24 – Appendices

### Sample Associated Student Body (ASB) Constitutions and Bylaws

#### “Best Practices School” Sample ASB Constitution

(Name of School)

#### **ASB Constitution**

##### Article I – Name and Purpose

The name of the organization shall be the Associated Student Body (ASB) of the “Best Practices School.”

This organization shall have as its purpose the conduct of activities on behalf of the students of the “Best Practices School” as approved by the school site administrator and the governing board of the “Best Practices School.”

##### Article II – Membership

All students enrolled in the “Best Practices School” shall be members of the Associated Student Body. Members shall be entitled to one vote in all student body elections.

##### Article III – Executive Board

The Executive Board shall consist of the following ASB officers:

- President
- Vice-President
- Treasurer
- Secretary
- Activities Chair (or Commissioner of Activities)
- Publicity Chair (or Commissioner of Publicity)
- Athletics Chair (or Commissioner of Athletics)
- Academics Chair (or Commissioner of Academics)

The Executive Board shall have all executive powers. The Executive Board members shall serve as acting and voting members of the “Best Practices School” Student Council.

Duties of the Executive Board members are outlined in the Bylaws to the Constitution.

The positions on the Executive Board shall be filled by a general election of the ASB held annually.

No member of the Executive Board may hold more than one ASB office or class office.

Executive Board members shall hold office for one school year.

#### Article IV – Student Council

The legislative powers of the ASB shall be vested in the student council.

The student council shall consist of 20 voting members: the ASB Executive Board and the president, vice president, secretary, and treasurer of each of the three classes (sophomore, junior, and senior).

(Note: The student council voting member number may vary, per desire of ASB.)

The elected, voting members of the student council shall be chosen by election as described in the bylaws.

The term of office for members of the student council shall be one school year.

#### Article V – Amendments

Amendments to this constitution may originate:

- In student council
- By petition by 10 percent of the student body
- By ballot
- To represent the student council at all school and school district meetings where this representation is appropriate.

#### Article VI – Ratification

The student council shall ratify this constitution and any subsequent amendments through a two-thirds vote of the council.

## “Best Practices School” Sample Associated Student Body Bylaws of the Constitution

(Name of School)

### Associated Student Body Bylaws of the Constitution

#### Article I – Student Council

It shall be the duty and power of the student council to:

- Be the supreme legislative body of the Associated Student Body.
- Propose and pass legislation that is considered important to the student body.
- Establish the annual student body dues, also known as the price of an ASB Card.
- Establish a disciplinary board as the need arises.
- Spend ASB monies.
- Propose and pass amendments to the Constitution and Bylaws.

Each member of the student council shall be able to cast one vote in each voting situation.

#### Article II – Executive Board

The ASB President shall have the following duties:

- Preside over all meetings of the student council.
- Call special meetings of the student council.
- Plan and prepare an agenda for the student council meetings.
- Appoint all committee members and chairpersons.
- Serve as ex-officio member of all committees.
- Represent the student council at all school and school district meetings where this representation is appropriate.
- Preside at all student body assemblies or authorize someone to do so in his/her place.
- Vote in student council only in cases where his/her vote would affect the result.

The ASB Vice-President shall have the following duties:

- Serve as the ASB President if the president becomes unable to fulfill his/her duties either temporarily or permanently.
- Serve as chairperson of the Elections Committee and supervise all student body elections.
- Lead the flag salute at all student council meetings, student body activities, assemblies, or authorize another member of student council to do so in his/her place.

The ASB Treasurer shall have the following duties:

- Maintain complete and accurate record of all ASB receipts and disbursements.
- Prepare monthly reports for the student council on the ASB bank balances and receipts and disbursements to date.

- Serve as chairperson of the Finance Committee with the assistance of the student body bookkeeper and a district business staff member.
- Act as co-chair of the Fund-Raising Standing Committee.
- Keep accurate profit and loss statements of all ASB functions and assist classes and clubs in keeping accurate records.
- Supervise the preparation of the annual budget.

The ASB Secretary shall have the following duties:

- Maintain accurate minutes of each student council meeting.
- Complete the minutes in the prescribed format by the next meeting of the student council for distribution to all members.
- Carry out all necessary correspondence for the student council.
- Record and distribute an agenda for each student council meeting.

The Activities Chair (or Commissioner of Activities) shall have the following duties:

- Coordinate and maintain the master calendar of all student body activities.
- Serve as chairperson of the Activities Committee.
- Serve as co-chair of the Fund-Raising Standing Committee.

The Publicity Chair (or Commissioner of Publicity) shall have the following duties:

- Publicize all school activities through the school newspaper, the school marquee, and school bulletin boards.
- Issue news releases to the press, radio and television stations.

The Athletics Chair (or Commissioner of Athletics) shall have the following duties:

- To initiate and organize the intramural sports.

The Academics Chair shall have the following duty:

- To serve as the representative to the district governing board.

### Article III – Standing Committees

The ASB President and the ASB Advisor shall appoint committee members and chairpersons to the following committees each year:

- The Finance Committee
- The Elections Committee
- The Activities Committee

The Finance Committee:

- The ASB Treasurer shall chair the Finance Committee.
- The treasurers from each class, the ASB advisor, the ASB bookkeeper, and one faculty member shall serve on this committee.

- The purpose of the committee is to prepare and submit the final budget and approve all requests to spend ASB funds.

The Elections Committee:

- The ASB Vice-President shall chair the Elections Committee.
- The ASB Advisor and the vice-presidents from each class shall serve on this committee.
- The purpose of the committee is to plan, organize, and supervise all student body elections.

The Activities Committee:

- The Activities Chair shall also serve as the chair of this committee.
- The purpose of the committee is to plan, organize, and supervise all student council activities and to facilitate requests from student clubs for use of school facilities.

#### Article IV – Succession

If the ASB President cannot fulfill his/her duties because of illness, physical disability or absence, the ASB Vice-President shall assume and carry out the duties of the president until the President becomes able to resume the duties of his/her office.

If the President is permanently unable to fulfill his/her duties, the ASB Vice-President becomes the ASB President.

After the Vice-President, succession to the presidency shall be appointed by the vote of the entire membership of the Executive Board.

Only ASB officers elected by the general student body shall succeed to the ASB presidency.

Upon the permanent disabilities of any ASB officer other than the President, the corresponding senior class officer shall assume the duties of that office.

Upon the permanent disability of any ASB Commissioner, the ASB President shall appoint the opposition runner to that position, if available, until the end of the current semester, when an election may be held.

#### Article V – Elections and Qualifications for Office

The student council shall hold the annual election of student council officers on the campus of the “Best Practices High School.” The voting shall take place during homeroom, by secret ballot.

The student council shall hold the elections for class officers at the same time as the elections for the ASB officers.

The candidates for ASB officer and class officer must have a minimum overall grade point average of 2.5 and have satisfactory citizenship and attendance. Candidates must also have the endorsement of their counselor and one other faculty member.

Candidates for ASB President and Vice-President must have served at least one year on the student council.

Each applicant for candidacy must submit an application to the screening committee. The application must include information on the student’s academic record, school activities, and reasons for desiring to serve as a school officer.

The ASB Advisor, four student council members, and two faculty members chosen by the ASB

President shall serve on the selection committee. The purpose of the selection committee is to ensure that all candidates for office meet the qualifications.

#### The Campaign:

- Students may use an unlimited number of bumper stickers and buttons during the campaign.
- Candidates may place eight posters on the campus. The posters may not exceed two feet by two feet.
- The Elections Committee must approve the content of all posters, bumper stickers, buttons, and other campaign materials in advance.

#### Counting the Ballots:

- The ASB President and members of the Elections Committee shall count the ballots on the same day as the election is held. No candidate for office may participate in counting the ballots.
- The ballots shall be counted twice and the results compared. A third count is required if the results of the first and second count are not within one percent of each other.

#### Article VI – Student Clubs

Each student club must prepare and approve a constitution before it can begin fund-raising activities or make expenditures of club funds.

#### Article VII – Amendments

The student council, whenever it is necessary, shall propose amendments to the constitution. To make such amendments valid, two-thirds of the total student body must approve the proposed amendment in a general election.

#### Article VIII – Adoption

These bylaws may be adopted by a two-thirds vote of the student council, whereupon they shall go into effect immediately.

#### Article IX – Finances

The student council must approve all requests for expenditures of all student funds prior to any commitments.

Student clubs must have a positive balance in their club account before the student council may approve an expenditure.

All ASB checks require two signatures. The ASB Advisor or the site administrator may sign ASB checks. In addition, at least one district office administrator will be an approved signer.

#### Article X – Meeting Schedule

The student council shall meet at least once every two weeks and for special sessions, as called by the ASB President or the ASB Advisor.

A quorum consists of two-thirds of the student council members, e.g., 14 members in the standard case of 20 on the council.

The ASB President shall conduct the student council meetings under Robert's Rules of Order.

**”Best Practices School” Sample ASB Club Constitution and Bylaws Combined as One Document  
(Name of School)**

**ASB Constitution and Bylaws for**

**(Name of Club)**

**Article I – Name, Purpose and Authority**

The name of the organization will be the “Name of Club” of the “Best Practices School.”

This organization will have as its purpose (identify specific purpose of the club) as directly approved by the student council and indirectly by the school site administrator and the governing board of the (name of the school district).

**Article II – Membership**

All students enrolled in the “Best Practices School” are eligible for membership.

**Article III – Meetings**

Meetings will be held (state time and date, such as every Wednesday, immediately after school) unless a special meeting is called.

**Article IV – Club Officers**

The club officers shall consist of the following:

- President
- Vice-President
- Treasurer
- Secretary

**Article V – Duties**

The club president will have the following duties:

- To preside over meetings of the club.
- To call special meetings of the club.
- To plan and prepare an agenda for the club meetings.

The club vice-president will have the following duties:

- To serve as the club president if the president becomes unable to fulfill his/her duties either temporarily or permanently.
- To support the club president

The club treasurer will have the following duties:

- To maintain complete and accurate record of all club receipts and disbursements
- To oversee club fund-raising efforts

- To supervise the preparation of the club budget

The club secretary will have the following duties:

- To maintain accurate minutes of each club meeting
- To carry out all correspondence for the club

The publicity chair will have the following duty:

- To publicize all club activities and fund-raisers through the school newspaper, the school marquee, and school bulletin boards

#### Article VI – Elections

The club will hold the election of officers once a year. The voting will take place by secret ballot.

#### Article VII – Amendment

A two-thirds majority vote of the members in attendance is required to amend this club constitution.



Sample ASB Constitution for Associated Students at a Junior/Community College

**THE CONSTITUTION OF THE  
ASSOCIATED STUDENTS OF  
\_\_\_\_\_ JUNIOR/COMMUNITY COLLEGE**

**PREAMBLE**

We, the students of \_\_\_\_\_ Junior/Community College, in order to promote general welfare of the students, to guarantee the equality of opportunity among students, to offer experience in moral, aesthetic, social and economic values under an atmosphere of intellectual freedom, to encourage student participating, planning and direction of student activities as permitted under the rules, regulations and policies of the State of California and the Board of Trustees of the \_\_\_\_\_ County Junior/Community College District do ordain and establish this Constitution of the Associated Students of \_\_\_\_\_ Junior/Community College. Other rules, regulations and constitutions shall not be in conflict with this Constitution.

**ARTICLE I  
NAME, PURPOSE, MEMBERSHIP**

- SECTION 1** The name of this organization shall be the Associated Students of \_\_\_\_\_ Junior/Community College.
- SECTION 2** The primary legislative body of the Associated Students of \_\_\_\_\_ Junior/Community College shall be the Student Senate and no actions of student groups or organizations shall be in conflict with the rules, regulations, or policies of the Student Senate or the \_\_\_\_\_ County Junior/Community College District.
- SECTION 3** All currently enrolled students of the \_\_\_\_\_ County Junior/Community College District shall be members of the Association.
- SECTION 4** All non-student employees, retired non-student employees, members of the Board of Trustees, former members of the Board of Trustees, and former officers of the association shall be recognized as honorary members of the Association.
- SECTION 5** The purpose of this organization shall be the representation of its membership at the college, in the community, to the State of California and other governments. It shall establish the rules, regulations, and policies by which its members and the organizations they establish may coordinate their activities and participate in the shared governance process. It shall promote student life, activities, and advocacy at the college, in the community, and throughout the State of California.
- SECTION 6** The Associated Students of \_\_\_\_\_ Junior/Community College shall be funded by the Student Representation Fee, which shall be used by the association as governed by the State Education Code and in the Financial Code.
- SECTION 7** The Associated Students of \_\_\_\_\_ Junior/Community College may be funded by additional fees established in a manner approved by the Board of Trustees of the \_\_\_\_\_ County Junior/Community College District. These fees shall be in compliance with the State Student Fee Handbook and shall be used by the association as governed by the State Education Code and in the Financial Code.

**SECTION 8** All student groups and organizations shall be governed by the *Standard Code of Parliamentary Procedure* by Alice Sturgis.

**SECTION 9** For the purpose of establishing quorum in any group empowered by this constitution, one-half (1/2) of the total voting membership rounded up to the next whole number, plus an Advisor appointed by the Director of Student Affairs and New Student Programs shall be required. If less than two-thirds (2/3) of the total voting membership is present, it shall take a two-thirds (2/3) vote of the group to pass any motion.

## **ARTICLE II RIGHTS AND BENEFITS**

**SECTION 1** All members of the Association shall have the right to vote in any election of the Associated Students of \_\_\_\_\_ Junior/Community College, the right to hold any elected office, and the right to propose legislation to the Student Senate.

**SECTION 2** All members of the Association who shall choose not to pay the Student Representation Fee shall remain members of the Association and retain all the rights of membership and the benefits provided.

**SECTION 3** All members of the Association who shall choose not to pay additional fees established by the association shall remain members of the Association and retain all the rights of membership, however, they shall no longer be eligible for the benefits provided to members.

**SECTION 4** All honorary members of the Association shall be eligible for the benefits provided members of the Association.

**SECTION 5** All benefits established for Members of the Association shall be outlined in the Association Benefits Code.

## **ARTICLE III ASSOCIATED STUDENTS STUDENT SENATE**

**SECTION 1** The Student Senate shall be comprised of the following senators: Associated Students President, Executive Vice President, Vice President of Programs, Vice President of Organizations, Vice President of Committees, Vice President of Membership and Marketing, Vice President of Advocacy, and Vice President of \_\_\_\_\_ Campus. Each is entitled to one vote.

**SECTION 2** All meetings of the Student Senate shall fall under the provisions of the Ralph M. Brown Act.

**SECTION 3** Meetings of the Student Senate shall take place biweekly and the location of each meeting shall alternate between the college's different campuses.

**SECTION 4** All members of the Student Senate shall participate in leadership training in the application of the Ralph M. Brown Act, the *Standard Code of Parliamentary Procedure* by Alice Sturgis, and the Associated Students Constitution and Codes as specified in the Election Code.

**SECTION 5** All members of the Student Senate shall take an Oath of Office as specified in the Election Code.

**SECTION 6** The Order of Succession of the Student Senate shall be: Associated Student President, Executive Vice President, Vice President of Programs, Vice President of Organizations, Vice President of Committees, Vice President of Membership and Marketing, Vice President of Advocacy, Vice President of \_\_\_\_\_ campus.

## **ARTICLE IV ELECTED OFFICERS**

### **SECTION 1** Associated Students President

- A. Preside as Chair of the Student Senate and vote only to make or break a tie.
- B. Preside as Chief Administrative Officer of the Association directing and coordinating all policies of the Associated Students.
- C. Set the agenda for the Student Senate, ensuring that the Advisor signs and dates the agenda.
- D. Report to the Board of Trustees on behalf of the Associated Students.
- E. Attend meetings of, or send a designee to, the Programs Committee.
- F. Authorize and sign all expenditures of the Student Senate.
- G. Appoint or remove members, with the approval of the Student Senate, to vacant positions.
- H. Perform other duties as pertain to the office, to include the making of policies not in conflict with the Constitution or Codes. Such duties and policies shall be reviewed by the Student Senate.

### **SECTION 2** Executive Vice President

- A. Assume the duties of the President during their absence and succeed to the office upon the vacancy of the Presidency.
- B. Preside as Vice Chair of the Student Senate.
- C. Serve as Assistant Administrative Officer of the Association as directed by the President.
- D. Ensure that the President has posted the agenda and that the Advisor has signed and dated it.
- E. Attend meetings of the Board of Trustees on behalf of the Student Senate.
- F. Track and report all expenditures of the Associated Students.
- G. Carry out the provisions of the Financial Code.
- H. Preside as Chair of the Budget Committee.
- I. Ensure that the Officers of the Student Senate maintain clear channels of communication and work effectively toward their shared goals.

### **SECTION 3** Vice President of Programs

- A. Preside as Chair of the Programs Committee.
- B. Serve as Assistant Administrative Officer of the Association as directed by the president.
- C. Set the agenda for the Programs Committee, ensuring that the Advisor signs and dates the agenda.
- D. Carry out the provisions of the Programs Committee Code.
- E. Authorize and sign all program expenditures.
- F. Confirm the appointment of Student Ambassadors selected by the Programs Committee to execute events and activities on campus.

### **SECTION 4** Vice President of Organizations

- A. Be responsible for the coordination and operation of clubs and organizations.
- B. Carry out the provisions of the Inter-Club Council Code.
- C. Work collaboratively with the Chair of each Inter-Club Council.
- D. Act as a liaison between clubs and the Student Senate.
- E. Organize all records of club status to ensure continuity.

### **SECTION 5** Vice President of Committees

- A. Appoint students to the Collegewide Committee system, with the ratification of the Student Senate.
- B. Maintain records of student involvement in the Collegewide Committee system.
- C. Carry out the provisions of the Shared Governance Code.
- D. Report to the Academic and Classified Senate as a representative of the Student Senate.
- E. Recruit and interview students wishing to sit on active Collegewide Committees.

- SECTION 6** Vice President of Membership and Marketing
- A. Carry out the provisions of the Association Benefits Code.
  - B. Coordinate communication regarding media and outreach to Members of the Association.
  - C. Promote the Association Benefits Program such that new students are aware of the program before class registration begins.
  - D. Administrate the Association Benefits Program.
  - E. Be responsible for recruiting new membership in a timely fashion, ensuring that there is a stable membership base to fund each semester.
  - F. Meet with the Student Affairs Accountant to review the financial standing of the benefits program.

- SECTION 7** Vice President of Advocacy
- A. Serve as their designee, as the representative of the \_\_\_\_\_ Junior/Community College at the regional meetings of the Statewide Student Senate.
  - B. Be informed of statewide legislation and issues affecting students and student government.
  - C. Be responsible for the coordination of statewide efforts involving the association.

- SECTION 8** Vice President of \_\_\_\_\_ Campus
- A. Be responsible for representation of student issues and concerns of \_\_\_\_\_ Campus to all branches of the Student Senate.
  - B. Serve on the Student Senate Budget Committee.
  - C. Serve on the Programs Committee.
  - D. Work collaboratively with the Chair of the \_\_\_\_\_ Inter-Club Council.

## **ARTICLE V PROGRAMS COMMITTEE**

- SECTION 1** The Student Senate shall establish a Programs Committee which shall serve as an advisory body responsible for proposing and outlining implementation of events and activities for student learning, enrichment, and enjoyment.
- SECTION 2** The Programs Committee shall be composed of the Vice President of Programs, Vice President of \_\_\_\_\_ Campus, two student members at-large, one representative of the Academic Senate, one representative of the Classified Senate, and one representative of the Management Team appointed by their constituent groups. Each is entitled to one vote. The Associated Student President, or designee, shall serve on the committee as an Ex Officio Member.
- SECTION 3** The Programs Committee shall abide by the Programs Committee Code.

## **ARTICLE VI INTER-CLUB COUNCIL**

- SECTION 1** The Student Senate shall establish one Inter-Club Council for the \_\_\_\_\_ Campus and one for the \_\_\_\_\_ Campus. These groups shall be responsible for the recognition, activation, and coordination of all clubs and organizations present at each respective campus.
- SECTION 2** Each Inter-Club Council shall be comprised of a representative for each club or organization recognized by that council. Each is entitled to one vote.
- SECTION 3** Each meeting of an Inter-Club Council shall fall under the provisions of the Ralph M. Brown Act.
- SECTION 4** Each Inter-Club Council shall abide by the Inter-Club Council Code.
- SECTION 5** Each Inter-Club Council shall elect a chair from among the representatives sitting on that body.

## **ARTICLE VII BUDGET**

- SECTION 1** The Student Senate shall establish a Budget Committee. That committee shall serve as an advisory body responsible for generating a budget proposal. This proposal shall be based on the previous year's expenditures and income in addition to recommendations made by the college community.
- SECTION 2** The Budget Committee shall be comprised of the Executive Vice President, the Vice President of the \_\_\_\_\_ Campus, and the Vice President of the \_\_\_\_\_ Campus. Each is entitled to one vote.
- SECTION 3** The Budget Committee shall abide by the Budget Committee Code.

## **ARTICLE VIII ELECTIONS**

- SECTION 1** The Student Senate shall appoint a Student Election Coordinator who shall be responsible for the implementation of the Election Code.
- SECTION 2** The Student Election Coordinator shall ensure that all polling places are open and fully staffed during the elections and that the ballots are counted promptly after the polling places close.
- SECTION 3** The Student Election Coordinator shall have an advisor appointed by the Director of Student Affairs and New Student Programs. This advisor shall not be responsible for executing any of the duties of the Student Election Coordinator.

## **ARTICLE IX INITIATIVE, REFERENDUM AND RECALL MEASURES**

- SECTION 1** An initiative measure may be proposed by a petition signed by a number of members equal to one-third (1/3) of the votes cast in the last Associated Students election. The Student Senate shall schedule an election to be held during the semester of receipt of a valid petition. Approval of an initiative measure shall require a two-thirds (2/3) majority of the votes cast. Any initiative approved shall go into effect on the first day of the academic year following the elections.
- SECTION 2** Any measure may be submitted to referendum by a two-thirds (2/3) vote of the Student Senate. The Student Senate shall schedule an election to be held during the semester of submitting the measure to referendum. Approval of a referendum measure shall require a two-thirds (2/3)

majority of the votes cast. Any referendum approved shall go into effect immediately following the election.

**SECTION 3** A recall may be proposed by a petition signed by a number of students equal to one-half (1/2) of the votes cast on the last Associated Students election. The Student Senate shall schedule an election to be held not more than fifteen (15) instructional days after receipt of a valid petition. Approval of the recall measure shall require a two-thirds (2/3) majority of the votes cast.

A. Instructional days are Monday through Friday during the semester, as designated by the college according to state reporting guidelines.

## **ARTICLE X AMENDATORY SYSTEMS AND PROVISIONS**

**SECTION 1** Amendments shall be designated as those items which directly or indirectly affect either the intent or scope of those articles within the main body of the Constitution.

- A. No amendment to the Constitution may conflict with Federal Laws, the Education Code or laws of the State of California or the regulations of the \_\_\_\_\_ County Junior/Community College District.
- B. Initiative proposals to amend this Constitution must meet the requirements as prescribed in Article IX, Section 1.
- C. Ratification of an amendment shall require two-thirds of all votes cast at a special or general election.
- D. Amendments from general elections shall go into effect on the first day of the academic year following the elections.
- E. Copies of proposed amendment(s) must be made available to all registered students at least twenty (20) instructional days prior to being voted upon.

**SECTION 2** A Code shall be designated as an area of activity deemed necessary to perpetuate and comply with the purposes of this Constitution. It shall contain only ratified statutes.

- A. All Codes shall be separate from, but subordinate to, this Constitution.
- B. The establishment or amendment of a Code shall require at least a one-week postponement and then a simple majority vote of the Student Senate for action.

## **ARTICLE XI ENABLING CLAUSE**

**SECTION 1** This Constitution shall become effective when approved by a simple majority of the Associated Student Constitution Committee, a simple majority of the Associated Student Senate, and two-thirds (2/3) of the votes cast by the Associated Students in the General Election and deemed operational not later than the first day of the Summer Session, 20\_\_.

Sample ASB Club Constitution at a Community College

CLUB CONSTITUTION  
Junior/Community College

ARTICLE I

The Club shall be called \_\_\_\_\_

ARTICLE II

The purpose of the \_\_\_\_\_ Club shall be to

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ARTICLE III

Any \_\_\_\_\_ College student shall be eligible for membership.  
There shall be no restrictions. Membership shall begin when a person signs the club roll.

ARTICLE IV

The Club shall elect a President by a simple majority vote of members present.  
The Club shall appoint a representative to the Inter-Club Council, in addition to an alternate for that position.  
The Club may elect any other officers it deems necessary by a simple majority vote.  
There may also be various members appointed to be in charge of various tasks as the need arises.  
All officers shall serve for \_\_\_\_\_. Officers may be removed when a 2/3 vote of the members present at any meeting decides to eliminate them, whereupon only a simple majority will be needed to elect the new officers.

ARTICLE V

The Club shall meet \_\_\_\_\_. Other meetings shall be held if sufficient need exists in the opinion of the members.  
Parliamentary authority shall be Sturgis' *Standard Code of Parliamentary Procedure*.

ARTICLE VI

This Constitution shall be amendable with the consent of 2/3 of the members present at a regular meeting. Any amendment the majority decides on shall be considered an amendment and the Constitution shall reflect that change.

ARTICLE VII

This Constitution becomes effective upon the acceptance of a majority of the members present at the first meeting.

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Faculty Advisor (Name / Signature) \_\_\_\_\_ (Date)





## Sample Budgets

### Sample Budget for Large High School

		Name of School	
		Proposed ASB Budget	
		Fiscal Year 20xx–20xx	
Account	Account Description	Budget	
	<b>Net Beginning Fund Balance</b>		<b>\$168,488.18</b>
<b>Revenue</b>	<b>Estimated Income</b>		
4000	Men's Basketball Income	\$8,800.00	
4001	Football Income	9,066.00	
4003	Women's Basketball Income	4,275.00	
4004	Championship Playoff Income		
4020	Yearbook Income Advertising	17,500.00	
4021	Yearbook Income Sales	48,000.00	
4022	Clarion Income	1,500.00	
4033	Adult Booster Card Sales	380.00	
4031	ASB Discount Cards	9,756.00	
4032	Interest Earned	15,000.00	
4035	Pay Phone Commission	500.00	
4024	ASB Fund-raising	1,000.00	
4045	Copy Machine Income	100.00	
4046	Inactive Clubs		
4052	Spring Musical Income		
4053	ASB Dance Income	6,500.00	
4054	Homecoming Dance Income	13,667.00	
4055	Talent Show Income		
4900	Store Sales	1,247.00	
4950	Snack Bar Sales	50,000.00	
4952	Snack Bar Commission		
	<b>Total Sales and Income</b>		<b>187,291.00</b>
	<b>Total Income and Beginning Fund Balance</b>		<b>355,779.18</b>
	<b>Estimated Expenses</b>		
5000	Baseball Expense	6,500.00	
5001	Men's Basketball Expense	8,800.00	
5002	Women's Basketball Expense	6,500.00	
5003	Football Expense	9,800.00	
5004	Golf Expense	500.00	

5005	Men's Tennis Expense	100.00
5006	Women's Tennis Expense	100.00
5007	Track Expense	1,500.00
5008	Wrestling Expense	1,500.00
5009	Men's Soccer Expense	2,000.00
5010	Women's Soccer Expense	2,000.00
5011	Softball Expense	1,500.00
5012	Swimming Expense	500.00
5013	Cross Country Expense	1,000.00
5014	Men's Volleyball Expense	700.00
5015	Women's Volleyball Expense	1,500.00
5016	Water Polo Expense	600.00
5017	Championship Playoff Expense	0.00
5018	Athletic Equipment Supply Expense	5,000.00
5019	Athletic Trophy Expense	2,000.00
5021	Athletic Awards Program	500.00
5022	Athletic Letter Expense	2,500.00
5023	CIF League Dues Expense	1,500.00
5030	Band and Music	4,500.00
5031	Cheerleader Expense	685.00
5032	Choir Expense	7,000.00
5050	ASB Dance Expense	5,000.00
5054	Spring Musical Expense	0.00
5055	Homecoming Dance Expense	9,896.00
5056	Talent Show Expense	0.00
5060	Clarion Expense	1,500.00
5061	Yearbook Expense	63,000.00
5063	Bad Debts	0.00
5100	Academic Team Expense	3,144.00
5101	Audio Visual Expense	1,000.00
5102	Other Award Expense	500.00
5103	Armored Car Service Expense	1,850.00
5104	Cash Over and Short Expense	0.00
5105	Commencement Expense	500.00
5106	Controller's Office Expense	1,250.00
5107	Photo Copy Machine Expense	500.00
5108	Community Service Expense	700.00
5109	Conference Expense	5,000.00
5111	Equipment and Supply Expense	8,000.00
5112	Miscellaneous Expense	100.00
5113	Form and Printing Expense	1,000.00

5114	Graphic Art Expense	200.00
5115	Homecoming Expense	500.00
5116	Recognition Expense	100.00
5117	Improvement of Gym Bleacher Expense	20,000.00
5120	Crew Expense	4,000.00
5121	Postage Expense	250.00
5122	Debate Team Expense	5,000.00
5123	Productive Advertising	300.00
5124	Publicity and Spirit Expense	2,000.00
5125	Refreshment and Courtesy Expense	500.00
5126	Student Activities Expense	2,750.00
5127	Student Aid	100.00
5128	Student Government Expense	5,100.00
5129	Speaker Expense	2,500.00
5130	Student Leader Award Expense	200.00
5131	Renaissance Program Expense	1,500.00
5132	Substitute Expense	400.00
5133	Transportation Expense	2,135.00
5910	Student Store Purchases	2,500.00
5912	Student Store Change	0.00
5913	Student Store Taxes	100.00
5964	Snack Bar Expense	4,500.00

<b>Total Estimated Expenses</b>	<b>226,360.00</b>
<b>Estimated Ending Fund Balance</b>	<b>129,419.18</b>

<b>Total Estimated Expenses and Fund Balance</b>	<b>\$355,779.18</b>
<b>Estimated Operating Loss for Year</b>	<b>(39,069.00)</b>
<b>Summary Net Gain or (Loss)</b>	<b>(39,069.00)</b>

**Approvals:**

Report prepared by: \_\_\_\_\_  
Signature, Title and Date

Verified by ASB bookkeeper: \_\_\_\_\_  
Signature, Title and Date

Club Advisor: \_\_\_\_\_  
Signature, Title and Date

Site Administrator or Designee: \_\_\_\_\_  
Signature, Title and Date

Presented to ASB on: \_\_\_\_\_  
Date

Sample Fund-Raising Summary — Budget-to-Actual Performance

**Name of School**  
**Fund-Raising Summary: Budget to Actual Performance**

Fiscal Year 20xx–20xx

Account	Account Description	Budget	Actual	Better	Worse
	<b>Net Beginning Fund Balance</b>		<b>\$168,488.18</b>	<b>\$168,488.18</b>	
Revenue	Estimated Income				
4000	Men's Basketball Income	\$8,800.00	\$8,830.00	\$30.00	
4001	Football Income	9,066.00	9,066.00	0.00	
4003	Female Basketball Income	4,275.00	4,275.00	0.00	
4004	Championship Playoff Income		(141.00)		\$141.00
4020	Yearbook Income Advertising	17,500.00	17,887.75	387.75	
4021	Yearbook Income Sales	48,000.00	54,055.00	6,055.00	
4022	Clarion Income	1,500.00	2,400.03	900.03	
4030	Adult Booster Card Sales	380.00	380.00	0.00	
4031	ASB Discount Cards	9,756.00	10,886.00	1,130.00	
4032	Interest Earned	15,000.00	16,760.13	1,760.13	
4035	Pay Phone Commission	500.00	367.77		132.23
4042	ASB Fund-raising	1,000.00	1,013.50	13.50	
4045	Copy Machine Income	100.00	83.17		16.83
4046	Inactive Clubs		7,212.63	7,212.63	
4052	Spring Musical Income		1,030.00	1,030.00	
4053	ASB Dance Income	6,500.00	10,728.95	4,228.95	
4054	Homecoming Dance Income	13,667.00	13,667.00	0.00	
4055	Talent Show Income		680.14	680.14	
4900	Store Sales	1,247.00	1,423.80	176.80	
4950	Snack Bar Sales		196.95	196.95	
4952	Snack Bar Commission	50,000.00	48,528.15		1,471.85
	<b>Total Sales and Income</b>		<b>187,291.00</b>	<b>209,330.97</b>	<b>23,801.88</b>
	<b>Total Income and Beginning Fund Balance</b>		<b>\$355,779.18</b>	<b>\$377,819.15</b>	
Expense	Estimated Expenses				
5000	Baseball Expense	6,500.00	6,649.76		149.76
5001	Men's Basketball Expense	8,800.00	7,305.29	1,494.71	
5002	Women's Basketball Expense	6,500.00	5,739.77	760.23	
5003	Football Expense	9,800.00	12,592.50		2,792.50
5004	Golf Expense	500.00	524.75		24.75
5005	Men's Tennis Expense	100.00	120.00		20.00
5006	Women's Tennis Expense	100.00	42.48	57.52	

5007	Track Expense	1,500.00	1,573.26		73.26
5008	Wrestling Expense	1,500.00	1,739.00		239.00
5009	Men's Soccer Expense	2,000.00	179.80	1,820.20	
5010	Women's Soccer Expense	2,000.00	2,589.20		589.20
5011	Softball Expense	1,500.00	1,856.00		356.00
5012	Swimming Expense	500.00	90.00	410.00	
5013	Cross Country Expense	1,000.00	653.00	347.00	
5014	Men's Volleyball Expense	700.00	685.00	15.00	
5015	Women's Volleyball Expense	1,500.00	1,402.00	98.00	
5016	Water Polo Expense	600.00	574.40	25.60	
5017	Championship Playoff Expense	0.00	276.81	(276.81)	276.81
5018	Athletic Equipment Supply Expense	5,000.00	5,384.64		384.64
5019	Athletic Trophy Expense	2,000.00	1,472.72	527.28	
5021	Athletic Awards Program	500.00	251.33	248.67	
5022	Athletic Letter Expense	2,500.00	1,358.56	1,141.44	
5023	CIF League Dues Expense	1,500.00	1,579.85		79.85
5030	Band and Music	4,500.00	4,461.25	38.75	
5031	Cheerleader Expense	685.00	791.57		106.57
5032	Choir Expense	7,000.00	7,162.81		162.81
5050	ASB Dance Expense	5,000.00	6,907.92		1,907.92
5054	Spring Musical Expense	0.00	1,137.58		1,137.58
5055	Homecoming Dance Expense	9,896.00	10,202.48		306.48
5056	Talent Show Expense	0.00	514.17		514.17
5060	Clarion Expense	1,500.00	2,400.03		900.03
5061	Yearbook Expense	63,000.00	82,859.48		19,859.48
5063	Bad Debts	0.00	13.00		13.00
5100	Academic Team Expense	3,144.00	3,413.15		269.15
5101	Audio Visual Expense	1,000.00	214.93	785.07	
5102	Other Award Expense	500.00	356.17	143.83	
5103	Armored Car Service Expense	1,850.00	1,462.20	387.80	
5104	Cash Over and Short Expense	0.00	249.50		249.50
5105	Commencement Expense	500.00	215.27	284.73	
5106	Controller's Office Expense	1,250.00	1,386.34		136.34
5107	Photo Copy Machine Expense	500.00		500.00	
5108	Community Service Expense	700.00	679.36	20.64	
5109	Conference Expense	5,000.00	1,706.50	3,293.50	
5111	Equipment and Supply Expense	8,000.00	2,076.27	5,923.73	
5112	Miscellaneous Expense	100.00		100.00	
5113	Form and Printing Expense	1,000.00	203.41	796.59	
5114	Graphic Art Expense	200.00		200.00	
5115	Homecoming Expense	500.00	192.87	307.13	
5116	Recognition Expense	100.00		100.00	

5117	Improvement Gym Bleacher Expense	20,000.00	22,789.26		2,789.26
5120	Crew Expense	4,000.00	4,364.44		364.44
5121	Postage Expense	250.00	66.00	184.00	
5122	Debate Team Expense	5,000.00	4,900.00	100.00	
5123	Productive Advertising Expense	300.00		300.00	
5124	Publicity and Spirit Expense	2,000.00	847.53	1,152.47	
5125	Refreshment and Courtesy Expense	500.00	585.83		85.83
5126	Student Activities Expense	2,750.00	3,064.18		314.18
5127	Student Aid	100.00		100.00	
5128	Student Government Expense	5,100.00	4,363.31	736.69	
5129	Speaker Expense	2,500.00	1,840.45	659.55	
5130	Student Leader Award Expense	200.00	911.50		711.50
5131	Renaissance Program Expense	1,500.00	642.33	857.67	
5132	Substitute Expense	400.00		400.00	
5133	Transportation Expense	2,135.00	2,594.75		459.75
5910	Student Store Purchases	2,500.00	2,198.05	301.95	
5912	Student Store Change	0.00	53.71		53.71
5913	Student Store Taxes	100.00	99.09	0.91	
5964	Snack Bar Expense	4,500.00	4,514.00		14.00
	<b>Total Estimated Expenses</b>	<b>226,360.00</b>	<b>237,080.81</b>	<b>24,343.85</b>	<b>35,341.47</b>
	<b>Estimated Ending Fund Balance</b>	<b>129,419.18</b>	<b>140,738.34</b>		
	<b>Total Estimated Expenses and Fund Balance</b>	<b>\$355,779.18</b>	<b>\$377,819.15</b>		
	<b>Estimated Operating Loss for Year</b>	<b>(39,069.00)</b>	<b>(27,749.84)</b>		
	<b>Summary Net Gain or (Loss)</b>	<b>(\$39,069.00)</b>	<b>(\$27,749.84)</b>	<b>\$48,145.73</b>	<b>\$37,103.38</b>

Approvals:

ASB Treasurer: \_\_\_\_\_ Date: \_\_\_\_\_

ASB Advisor: \_\_\_\_\_ Date: \_\_\_\_\_

Site Administrator: \_\_\_\_\_ Date: \_\_\_\_\_

Sample ASB Balance Sheet – Large High School

**Associated Student Body  
Balance Sheet**

*As of June 30, 20xx*

Description	Balance	Total
CA Bank and Trust, Acct XXX	\$9,092.65	
CA Bank and Trust, Acct XXX	108,423.06	
CA Bank and Trust, Acct XXX	186,511.59	
Wells Fargo, Acct XXX	54,522.57	
Wells Fargo, Acct XXX	25,666.32	
Total Cash Accounts		<u>\$384,216.19</u>
Change Fund	78.50	
Inventory Student Store	282.14	
Total Other Assets		<u>360.64</u>
Total Assets		<u>\$384,576.83</u>
Total Class Accounts	17,930.01	
Total Student Club Accounts	49,560.52	
Total Student Body Accounts		<u>\$67,490.53</u>
Total General Liabilities	7,786.31	
Total Scholarship Accounts	25,466.32	
Total Other Trust Accounts	29,256.42	
Total Deferred Income Accounts	90,289.00	
Total Clearing Accounts	23,549.91	
<b>Total Trust and General Liability Accounts</b>		<u><b>\$176,347.96</b></u>
<b>Student Body Reserve, July 1</b>	<b>168,488.18</b>	
<b>Net Loss for Year</b>	<b>(\$27,749.84)</b>	
<b>Fund Balance as of June 30</b>		<u><b>140,738.34</b></u>
<b>Total Liabilities and Fund Balance</b>		<u><b>\$384,576.83</b></u>

## Sample Summary Financial Report

Account Group	Account Name	Trial Balance		Income Statement		Balance Sheet	
		Debit	Credit	Debit	Credit	Debit	Credit
Assets	Cash – Checking	\$9,092.65				\$9,092.65	
	Cash – Savings	375,123.54				375,123.54	
	Change Fund	78.50				78.50	
	Inventory Student Store	228.14				228.14	
Liabilities and Trust	Student Body Accounts		\$67,490.53				\$67,490.53
	Scholarship Accounts		25,466.32				25,466.32
	Other Trust Accounts		29,256.42				29,256.42
	Deferred Income Accounts		90,289.00				90,289.00
	Other Liability Accounts		31,336.22				31,336.22
	<b>Fund Balance</b>	<b>Fund Balance</b>		<b>168,488.18</b>			
Income	ASB Cards		10,886.00		\$10,886.00		
	Yearbook Sales		54,001.00		54,001.00		
	Yearbook Advertising		17,887.75		17,887.75		
	Interest Income		16,760.13		16,760.13		
	Other Income		109,742.09		109,742.09		
Expenses	Yearbook	82,859.48		\$82,859.48			
	Gym Bleacher Project	22,789.26		22,789.26			
	Other Expenses	131,432.07		131,432.07			
<b>Total</b>		<b>\$621,603.64</b>	<b>\$621,603.64</b>	<b>\$237,080.81</b>	<b>\$209,276.97</b>	<b>\$384,522.83</b>	<b>\$412,326.67</b>
<b>Profit or (Loss) for Year</b>					<b>27,803.84</b>		
<b>Total</b>				<b>\$237,080.81</b>	<b>\$237,080.81</b>		
<b>Change to Fund Balance</b>						<b>27,803.84</b>	
<b>Total</b>						<b>\$412,326.67</b>	<b>\$412,326.67</b>



# Legal References

## California Education Codes Specific to K-12 Education

Section	Title and Content
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§ 35182.5	Sales of Non-nutritious Foods and Beverages
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| § 35182.5 | Sales of Non-nutritious Foods and Beverages |
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- a) The Legislature finds and declares all of the following:
1. State and federal laws require all schools participating in meal programs to provide nutritious food and beverages to pupils.
  2. State and federal laws restrict the sale of food and beverages in competition with meal programs to enhance the nutritional goals for pupils, and to protect the fiscal and nutritional integrity of the school food service programs.
  3. Parents, pupils, and community members should have the opportunity to ensure, through the review of food and beverage contracts, that food and beverages sold on school campuses provide nutritious sustenance to pupils, promote good health, help pupils learn, provide energy, and model fit living for life.
- b) For the purposes of this section, the following terms have the following meanings:
1. “Non-nutritious beverages” means any beverage that is not any of the following:
    - A. Drinking water
    - B. Milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.
    - C. An electrolyte replacement beverage that contains 42 grams or less of added sweetener per 20 ounce serving.
    - D. A 100 percent fruit juice or fruit-based drink that is composed of 50 percent or more fruit juice and that has no added sweeteners.
  2. “Added sweetener” means any additive that enhances the sweetness of the beverage, including, but not limited to, added sugar, but does not include the natural sugar or sugars that are contained within any fruit juice that is a component of the beverage.
  3. “Non-nutritious food” means food that is not sold as part of the school breakfast or lunch program as a full meal, and that meets any of the following standards:
    - A. More than 35 percent of its total calories are from fat.
    - B. More than 10 percent of its total calories are from saturated fat.
    - C. More than 35 percent of its total weight is composed of sugar. This subparagraph does not apply to the sale of fruits or vegetables.
- c) The governing board of a school district may not do any of the following:
1. Enter into or renew a contract or permit a school within the district to enter into or renew a contract that grants exclusive or nonexclusive advertising or grants the right to the exclusive or nonexclusive sale of carbonated beverages or non-nutritious beverages or

non-nutritious food within the district to a person, business, or corporation, unless the governing board of the school district does all of the following:

- A. Adopts a policy after a public hearing of the governing board to ensure that the district has internal controls in place to protect the integrity of the public funds and to ensure that funds raised benefit public education, and that the contracts are entered into on a competitive basis pursuant to procedures contained in Section 20111 of the Public Contract Code or through the issuance of a Request for Proposal.
  - B. Provides to parents, guardians, pupils, and members of the public the opportunity to comment on the contract by holding a public hearing on the contract during a regularly scheduled board meeting. The governing board shall clearly, and in a manner recognizable to the general public, identify in the agenda the contract to be discussed at the meeting.
2. Enter into a contract that prohibits a school district employee from disparaging the goods or services of the party contracting with the school board.
  3. Enter into a contract or permit a school within the district to enter into a contract for electronic products or services that requires the dissemination of advertising to pupils, unless the governing board of the school district does all of the following:
    - a. Enters into the contract at a noticed public hearing of the governing board
    - b. Makes a finding that the electronic product or service in question is or would be an integral component of the education of pupils
    - c. Makes a finding that the school district cannot afford to provide the electronic product or service unless it contracts to permit dissemination of advertising to pupils
    - d. Provides written notice to the parents or guardians of pupils that the advertising will be used in the classroom or other learning centers. This notice shall be part of the district's normal ongoing communication to parents or guardians.
    - e. Offers the parents the opportunity to request in writing that the pupil not be exposed to the program that contains the advertising. Any request shall be honored for the school year in which it is submitted or longer if specified, but may be withdrawn by the parents or guardians at any time.
- d) A governing board may meet the public hearing requirement set forth in subparagraph (B) of paragraph (1) of subdivision (c) for those contracts that grant the right to the exclusive or nonexclusive sale of carbonated beverages or non-nutritious beverages or non-nutritious food within the district, by either of the following:
    1. Review of the contract at a public hearing by a Child Nutrition and Physical Activity Advisory Committee established pursuant to Section 49433 that has contract review authority for the sale of food and beverages.
      - (A) An annual public hearing to review and discuss existing and potential contracts for the sale of food and beverages on campuses, including food and beverages sold as full meals, through competitive sales, as fund-raisers, and through vending machines.
      - (B) The public hearing shall include, but not be limited to, a discussion of all of the following:

- I. The nutritional value of food and beverages sold within the district.
- II. The availability of fresh fruit, vegetables, and grains in school meals and snacks, including, but not limited to, locally grown and organic produce.
- III. The amount of fat, sugar, and additives in the food and beverages discussed.
- IV. Barriers to pupil participation in school breakfast and lunch programs.

(C) A school district that holds an annual public hearing consistent with this paragraph is not released from the public hearing requirements set forth in subparagraph (B) of paragraph (1) of subdivision (c) for those contracts not discussed at the annual public hearing.

- e) The governing board of the school district shall make accessible to the public any contract entered into pursuant to paragraph (1) of subdivision (c) and may not include in that contract a confidentiality clause that would prevent a school or school district from making any part of the contract public.
- f) The governing board of a school district may sell advertising, products, or services on a nonexclusive basis.
- g) The governing board of a school district may post public signs indicating the district's appreciation for the support of a person or business for the district's education program.
- h) Contracts entered into prior to January 1, 2004, may remain in effect, but may not be renewed if they are in conflict with this section.

§ 35564 Property, Funds and Obligations of Student Body

If the reorganization of a school district under this chapter results in the relocation of district boundaries so that a portion of the pupils will not be residents of the district thereafter maintaining a school previously attended by the pupils, and if there is in the school an organized student body, the property, funds, and obligations of the student body shall be divided as determined by the county committee, except that the share shall not exceed an amount equal to the ratio which the number of pupils leaving the school bears to the total number of pupils enrolled. The ownership of the property, funds, and obligations, which is the proportionate share of each segment of the student body, shall be transferred to the student body of the school or schools in which the pupils are enrolled after the reorganization. Funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided.

§ 44015 Awards to Employees and Pupils

- (a) The governing board of a school district may make awards to employees who do any of the following:
  - (1) Propose procedures or ideas that thereafter are adopted and effectuated, and that result in eliminating or reducing district expenditures or improving operations.
  - (2) Perform special acts or special services in the public interest.
  - (3) By their superior accomplishments, make exceptional contributions to the efficiency, economy, or other improvement in operations of the school district.
- (b) The governing board of a school district may make awards to pupils for excellence.

Before any awards are made pursuant to this section, the governing board shall adopt rules and regulations. The board may appoint one or more merit award committees made up of district officers, district employees, or private citizens to consider employee proposals, special acts, special services, or superior accomplishments and to act affirmatively or negatively thereon or to provide appropriate recommendations thereon to the board.

Any award granted under the provisions of this section that may be made by an awards committee under appropriate district rules, shall not exceed two hundred dollars (\$200), unless a larger award is expressly approved by the governing board.

When an awards program is established in a school district pursuant to this section, the governing board shall budget funds for this purpose but may authorize awards from funds under its control whether or not budgeted funds have been provided or the funds budgeted are exhausted.

§ 44032      Payments to Employees

The governing board of any school district shall provide for the payment of the actual and necessary expenses, including traveling expenses, of any employee of the district incurred in the course of performing services for the district, whether within or outside the district, under the direction of the governing board.

§ 47605      Charter School Petitions and Responsibilities

§ 47605 (b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. A school district governing board shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

- (1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
- (2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
- (3) The petition does not contain the number of signatures required by subdivision (a).
- (4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

- (5) The petition does not contain reasonably comprehensive descriptions of all of the following:
- (A) (i) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.
  - (ii) If the proposed school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the “A” to “G” admissions criteria may be considered to meet college entrance requirements.
  - (B) The measurable pupil outcomes identified for use by the charter school. “Pupil outcomes,” for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school’s educational program.
  - (C) The method by which pupil progress in meeting those pupil outcomes is to be measured.
  - (D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

§ 47610 Charter School Applicable Education Code Sections

A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts, except all of the following:

- (a) As specified in Section 47611.
- (b) As specified in Section 41365.
- (c) All laws establishing minimum age for public school attendance.
- (d) The California Building Standards Code (Part 2 (commencing with Section 101) of Title 24 of the California Code of Regulations), as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located.
- (e) Charter school facilities shall comply with subdivision (d) by January 1, 2007.

§ 48930 Purpose and Privileges of Student Body Organization

Any group of students may organize a student body association within the public schools with the approval and subject to the control and regulation of the governing board of the school district. Any such organization shall have as its purpose the conduct of activities on behalf of the students approved by the school authorities and not in conflict with the authority and responsibility of the public school officials. Any student body organization may be granted the use of

school premises and properties without charge subject to such regulations as may be established by the governing board of the school district.

§ 48931 Authorization for Sale of Food By Student Organization

The governing board of any school district or any county office of education may authorize any pupil or adult entity or organization to sell food on school premises, subject to policy and regulations of the State Board of Education. The State Board of Education shall develop policy and regulations for the sale of food by any pupil or adult entity or organization, or any combination thereof, which shall ensure optimum participation in the school district's or the county office of education's nonprofit food service programs and shall be in consideration of all programs approved by the governing board of any school district or any county office of education. The policy and regulations shall be effective the first of the month following adoption by the State Board of Education.

Nothing in this section shall be construed as exempting from the California Uniform Retail Food Facilities Law (Chapter 4 (commencing with Section 113700) of Part 7 of Division 104 of the Health and Safety Code), food sales that are authorized pursuant to this section and that would otherwise be subject to the California Uniform Retail Food Facilities Law.

§ 48932 Authorization for Fund-raising Activities by Student Organizations

The governing board of any school district may authorize any organization composed entirely of pupils attending the schools of the district to maintain such activities, including fund-raising activities, as may be approved by the governing board.

The governing board of any school district may, by resolution, authorize any student body organization to conduct fund-raising activities on school property during school hours provided that the governing board has determined that such activities will not interfere with the normal conduct of the schools.

§ 48933 Deposit or Investment of Student Funds

- a. The funds of any student body organization established in the public schools of any school district shall, subject to approval of the governing board of the school district, be deposited or invested in one or more of the following ways:
  - 1) Deposits in a bank or banks, or other institution, whose accounts are federally insured.
  - 2) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations, provided those associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.
  - 3) Purchase of repurchase agreements issued by savings and loan associations or banks.
  - 4) Purchase of bonds, notes, bills, certificates, debentures, or any other obligations issued by the United States of America.
  - 5) Shares or certificates for funds received or any form of evidence of interest or indebtedness issued by any credit union in this state, organized under the provisions of Division 5 (commencing with Section 14000) of the Financial Code or the statutes of the United

States relating to credit unions insured by the administrator of the National Credit Union Administration or a comparable agency as provided by a state government.

- b. The funds shall be expended subject to such procedure as may be established by the student body organization subject to the approval of each of the following three persons, which shall be obtained each time before any of the funds may be expended: an employee or official of the school district designated by the governing board, the certificated employee who is the designated advisor of the particular student body organization, and a representative of the particular student body organization.

§ 48934 Kindergarten and Grades 1 to 6 Student Body Funds

The funds of a student body organization established in the public schools for kindergarten and grades 1 to 6, inclusive, of any school district maintaining kindergarten and grades 1 to 6, inclusive, may be used to finance activities for non-instructional periods or to augment or to enrich the programs provided by the district.

§ 48936 Additional Uses of Student Funds

In addition to deposit or investment pursuant to Section 48933, the funds of a student body organization may be loaned or invested in any of the following ways:

- a. Loans, with or without interest, to any student body organization established in another school of the district for a period not to exceed three years.
- b. Invest money in permanent improvements to any school district property including, but not limited to, buildings, automobile parking facilities, gymnasiums, swimming pools, stadium and playing fields, where such facilities, or portions thereof, are used for conducting student extracurricular activities or student spectator sports, or when such improvements are for the benefit of the student body. Such investment shall be made on condition that the principal amount of the investment plus a reasonable amount of interest thereon shall be returned to the student body organization as provided herein. Any school district approving such an investment shall establish a special fund in which moneys derived from the rental of school district property to student body organizations shall be deposited. Moneys shall be returned to the student body organization as contemplated by this section exclusively from such special fund and only to the extent that there are money in such special fund. Whenever there are no outstanding obligations against the special fund, all moneys therein may be transferred to the general fund of the school district by action of the local governing board.

Two or more student body organizations of the same school district may join together in making such investments in the same manner as is authorized herein for a single student body. Nothing herein shall be construed so as to limit the discretion of the local governing board in charging rental for use of school district property by student body organizations as provided in Section 48930.

§ 48937 Supervision and Audit of Student Funds

The governing board of any school district shall provide for the supervision of all funds raised by any student body or student organization using the name of the school.

The cost of supervision may constitute a proper charge against the funds of the district.



The governing board of a school district may also provide for a continuing audit of student body funds with school district personnel.

§ 48938 Trustee for Funds of Unorganized Student Body

In schools or classes for adults, regional occupational centers or programs, or in elementary, continuation, or special education schools in which the student body is not organized, the governing board may appoint an employee or official to act as trustee for student body funds and to receive these funds in accordance with procedures established by the board. These funds shall be deposited in a bank, a savings and loan association, a credit union, or any combination of these financial institutions, approved by the board and shall be expended subject to the approval of the appointed employee or official and also subject to such procedure as may be established by the board.

§ 49430 The Pupil Nutrition, Health and Achievement Act of 2001

As used in this article, the following terms have the following meanings:

- (a) “Elementary school” means a public school that maintains any grade from kindergarten to grade 6, inclusive, but no grade higher than grade 6.
- (b) “Middle school” means a public school that maintains grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.
- (c) “High school” means a public school maintaining any of grades 9 to 12, inclusive.
- (d) “Full meal” means a combination of food items that meet USDA-approved School Breakfast Program or National School Lunch Program meal pattern requirements or the menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).
- (e) “Added sweetener” means an additive other than 100 percent fruit juice that enhances the sweetness of a beverage.
- (f) “Sold” means the exchange of food for money, coupons, or vouchers.
- (g) “Entree” means a food that is generally regarded as being the primary food in a meal, and shall include, but not be limited to, sandwiches, burritos, pasta, and pizza.
- (h) “Snack” means a food that is generally regarded as supplementing a meal, including, but not limited to, chips, crackers, onion rings, nachos, french fries, donuts, cookies, pastries, cinnamon rolls, and candy.
- (i) “Deep fried” means a food item is cooked by total submersion in oil or fat.
- (j) “Par fried” means a food item is fried to reach an internal temperature of 160 degrees Fahrenheit then is cooled to room temperature so that it may be refrigerated or frozen for future frying.
- (k) “Flash fried” means a food item is quickly fried on both sides in oil with a temperature of 400 degrees Fahrenheit or higher.



- § 49430.3 Notwithstanding any provisions of law, including, but not limited to, Chapter 3 (commencing with Section 38080) of Part 23 or Section 48931, this article shall control over contrary provisions relating to the sale of food items to public school pupils.
- § 49430.5
- (a) The reimbursement a school receives for free and reduced price meals sold or served to pupils in elementary, middle, or high schools included within a school district, charter school, or county office of education shall be twenty-one cents (\$0.21).
  - (b) To qualify for the reimbursement for free and reduced price meals provided to pupils in elementary, middle, or high schools, a school shall follow the Enhanced Food Based Meal Pattern, Nutrient Standard Meal Planning, or Traditional Meal Pattern developed by the United States Department of Agriculture or the SHAPE Menu Patterns developed by the state.
  - (c) The reimbursement rates set forth in this section shall be adjusted annually for increases in cost of living in the same manner set forth in Section 42238.1.
- § 49430.7
- (a) For purposes of this section, the following terms have the following meanings:
    - (1) “School” means a school operated and maintained by a school district or county office of education, or a charter school.
    - (2) “School district” means a school district, charter school, or county office of education.
    - (3) “Child development program” means a program operated pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1.
  - (b) As a condition of receipt of funds pursuant to Section 49430.5, commencing with the 2007-08 fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a school or school district shall comply with all of the following requirements and prohibitions:
    - (1) Follow the United States Department of Agriculture (USDA) nutritional guidelines or the menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).
    - (2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school or school district.
    - (3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer’s documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.
    - (4) Not sell or serve a food item that, as part of the manufacturing process, has been deep fried, par fried, or flash fried in an oil or fat that is prohibited by this paragraph. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this paragraph include, but are not limited to, canola, safflower, sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.

- (c) Commencing with the 2007-08 fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a child development program is encouraged to comply with all of the following guidelines:
  - (1) Meet developmentally and programmatically appropriate meal pattern and meal planning requirements developed by the USDA or menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).
  - (2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school, school district, or child development program.
  - (3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.
  - (4) Not sell or serve a food item that, as part of the manufacturing process, has been deep fried, par fried, or flash fried in an oil or fat prohibited by this paragraph. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this provision include, but are not limited to, canola, safflower, sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.
- (d) The prohibitions and requirements of this section regarding food items sold or served by a school or school district apply to raw bulk USDA commodity foods ordered by schools or school districts and sent to commercial processors for conversion into ready to use end products, but do not apply to other USDA commodity foods until the scheduled 2009 reauthorization of the USDA National School Lunch Program is complete or ingredient and nutrition information is available for all USDA commodity foods, whichever is earlier.
- (e) As a condition of receipt of funds pursuant to Section 49430.5, by no later than June 30, 2008, and annually thereafter, schools and school districts shall provide the department with an annual certification of compliance with the provisions of this section.
- (f) This section shall become operative only upon an appropriation for its purposes in the annual Budget Act or another statute.

§ 49431 Sale of Non-nutritious Foods and Beverages in Elementary Schools

- (a) (1) Commencing July 1, 2007, at each elementary school, the only food that may be sold to a pupil during the school day are full meals and individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, and legumes.
- (2) An individually sold dairy or whole grain food item may be sold to pupils at an elementary school, except food sold as part of a USDA meal program, if it meets all of the following standards:
  - (A) Not more than 35 percent of its total calories shall be from fat.
  - (B) Not more than 10 percent of its total calories shall be from saturated fat.

(C) Not more than 35 percent of its total weight shall be composed of sugar, including naturally occurring and added sugar.

(D) Not more than 175 calories per individual food item.

- (b) An elementary school may permit the sale of food items that do not comply with subdivision (a) as part of a school fund-raising event in any of the following circumstances:
- (1) The items are sold by pupils of the school and the sale of those items takes place off of and away from school premises.
  - (2) The items are sold by pupils of the school and the sale of those items takes place at least one-half hour after the end of the school day.
- (c) It is the intent of the Legislature that the governing board of a school district annually review its compliance with the nutrition standards described in this section and Section 49431.5.

§ 49431.2 Sale of Non-nutritious Foods and Beverages in Middle, Junior and High Schools

- (a) Commencing July 1, 2007, snacks sold to a pupil in middle, junior, or high school, except food served as part of a USDA meal program, shall meet all of the following standards:
- (1) Not more than 35 percent of its total calories shall be from fat. This paragraph does not apply to the sale of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, vegetables that have not been deep fried, or legumes.
  - (2) Not more than 10 percent of its total calories shall be from saturated fat. This subparagraph does not apply to eggs or cheese packaged for individual sale.
  - (3) Not more than 35 percent of its total weight shall be composed of sugar, including naturally occurring and added sugars. This paragraph does not apply to the sale of fruits or vegetables that have not been deep fried.
  - (4) No more than 250 calories per individual food item.
- (b) Commencing July 1, 2007, entree items sold to a pupil in middle, junior, or high school, except food served as part of a USDA meal program, shall contain no more than 400 calories per entree, shall contain no more than 4 grams of fat per 100 calories contained in each entree, and shall be categorized as entree items in the School Breakfast Program or National School Lunch Program.
- (c) A middle, junior, or high school may permit the sale of food items that do not comply with subdivision (a) or (b) in any of the following circumstances:
- (1) The sale of those items takes place off of and away from school premises.
  - (2) The sale of those items takes place on school premises at least one-half hour after the end of the school day.
  - (3) The sale of those items occurs during a school-sponsored pupil activity after the end of the school day.
- (d) It is the intent of the Legislature that the governing board of a school district annually review its compliance with the nutrition standards described in this section.

§ 49431.5 Non-nutritious Foods and Beverages

- (a) (1) Regardless of the time of day, only the following beverages may be sold to a pupil at an elementary school.
  - (A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.
  - (B) Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.
  - (C) Drinking water with no added sweetener.
  - (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.
- (2) An elementary school may permit the sale of beverages that do not comply with paragraph (1) as part of a school fund-raising event in any of the following circumstances:
  - (A) The items are sold by pupils of the school and the sale of those items takes place one-half hour or more after the end of the school day.
  - (B) The items are sold by pupils of the school and the sale of those items takes place one-half hour or more after the end of the school day.
- (3) From one-half hour before the start of the school day to one-half hour after the end of the school day, only the following beverages may be sold to a pupil at a middle or junior high school:
  - (A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners.
  - (B) Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.
  - (C) Drinking water with no added sweetener
  - (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.
  - (E) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.
- (4) A middle or junior high school may permit the sale of beverages that do not comply with paragraph (3) as part of a school event if the sale of those items meets all of the following criteria:
  - (A) The sale occurs during a school-sponsored event and takes place at the location of that event at least one-half hour after the end of the school day.
  - (B) Vending machines, pupil stores, and cafeterias are used later than one-half hour after the end of the school day.
- (5) This subdivision does not prohibit an elementary, or middle or junior high school from making available through a vending machine any beverage allowed under paragraph (1) or (3) at any time of day, or, in middle and junior high schools, any beverage that does not comply with paragraph (3) if the beverage only is available not later than one-half

hour before the start of the school day and not sooner than one-half hour after the end of the school day.

- (b) (1) Commencing July 1, 2007, no less than 50 percent of all beverages sold to a pupil from one-half hour before the start of the school day until one-half hour after the end of the school day shall be those enumerated by paragraph (3).
- (2) Commencing July 1, 2009, all beverages sold to a pupil from one-half hour before the start of the school day until one-half hour after the end of the school day shall be those enumerated by paragraph (3).
- (3) Beverages allowed under this subdivision are all of the following:
  - (A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.
  - (B) Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.
  - (C) Drinking water with no added sweetener.
  - (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.
  - (E) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.
- (c) For the purposes of this section, the following terms have the following meanings:
  - (1) “Added sweetener” means any additive that enhances the sweetness of the beverage, including added sugar, but does not include the natural sugar or sugars that are contained within the fruit juice which is a component of the beverage.
  - (2) “Sale of beverages” means the exchange of a beverage for money, coupons, or vouchers.
- (d) It is the intent of the Legislature that the governing board of a school district annually review its compliance with this section.
- (e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.

§ 49431.7 Non-nutritious Foods and Beverages

- (a) Commencing on July 1, 2009, a school or school district, through a vending machine or school food service establishment during school hours and one-half of an hour before and after school hours, shall not make available to pupils enrolled in kindergarten, or any of grades 1 to 12, inclusive, food containing artificial trans fat, as defined in subdivision (b), or use food containing artificial trans fat in the preparation of a food item served to those pupils.
- (b) For purposes of this section, a food contains artificial trans fat if a food contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil, unless the manufacturer’s documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 grams of trans fat per serving.

- (c) For purposes of this section, “school food service establishment” means a place that regularly sells or serves a food item or meal on a school campus.
- (d) This section does not apply to food provided as part of a USDA meal program.

§ 49432 Posting District Information on Nutrition and Physical Activity Policies

By January 1, 2004, every public school may post a summary of nutrition and physical activity laws and regulations, and shall post the school district’s nutrition and physical activity policies, in public view within all school cafeterias or other central eating areas. The State Department of Education shall develop the summary of state law and regulations.

§ 51520 Prohibited Solicitations on School Premises

- a) During school hours, and within one hour before the time of opening and within one hour after the time of closing of school, pupils of the public school shall not be solicited on school premises by teachers or others to subscribe or contribute to the funds of, to become members of, or to work for, any organization not directly under the control of the school authorities, unless the organization is a nonpartisan, charitable organization organized for charitable purposes by an act of Congress or under the laws of the state, the purpose of the solicitation is nonpartisan and charitable, and the solicitation has been approved by the county board of education or by the governing board of the school district in which the school is located.
- b) A licensed dentist who provides voluntary dental health screening programs for pupils on school premises, shall not solicit a pupil, or the pupil’s parent or guardian, or encourage, or advise treatment or consultation for the pupil by the licensed dentist, or any entity in which the licensed dentist has a financial interest, for any condition discovered in the course of the dental health screening. It is the intent of the Legislature that no licensed dentist use voluntary dental health screening programs for the generation of referrals or for financial benefit. The Legislature does not intend to deny or limit freedom of choice in the selection of an appropriate dental provider for treatment or consultation.
- c) A licensed optometrist who provides voluntary vision testing programs for pupils on school premises, shall not solicit a pupil, or the pupil’s parent or guardian, or encourage, or advise treatment or consultation for the pupil by the licensed optometrist, or any entity in which the licensed optometrist has a financial interest, for any condition discovered in the course of the vision testing. It is the intent of the Legislature that no licensed optometrist use voluntary vision testing programs for the generation of referrals or for financial benefit. The Legislature does not intend to deny freedom of choice in the selection of an appropriate vision care provider for treatment or consultation.
- d) Nothing in this section shall be construed as prohibiting the solicitation of pupils of the public school on school premises by pupils of that school for any otherwise lawful purpose.

§ 51521 Fund-raising Projects

No person shall solicit any other person to contribute to any fund or to purchase any item of personal property, upon the representation that the money received is to be used wholly or in part for the benefit of any public school or the student body of any public school, unless such person obtains the prior written approval of either the governing board of the school district in which such solicitation is to be made or the governing board of the school district having juris-

diction over the school or student body represented to be benefited by such solicitation, or the designee of either of such boards.

The prohibitions of this section shall not apply with respect to any solicitation or contribution the total proceeds of which are delivered to a public school, nor to a solicitation of a transfer to be effected by a testamentary act.





## California Education Codes Specific to Community Colleges

### Section Title and Content

#### § 72673 Auxiliary Organization versus Student Organization, Community Colleges

Student body organizations not formed or operating pursuant to Article 4 (commencing with Section 76060) of Chapter 1 of Part 47; student or faculty societies, social clubs, fraternities, and sororities; and alumni associations shall be exempt from the provisions of this article, unless any such organization, society, club, fraternity, sorority, or association has been established as an auxiliary organization pursuant to the provisions of this article.

This section shall not be construed to alter or limit the powers of the district governing board to establish rules and regulations governing organizations which maintain an official relationship with a college or district or which uses the name or facilities of the college or district.

#### § 76060 Purpose and Privileges of Student Body Organization, Community Colleges

The governing board of a community college district may authorize the students of a college to organize a student body association. The association shall encourage students to participate in the governance of the college and may conduct any activities, including fund-raising activities, as may be approved by the appropriate college officials. The association may be granted the use of community college premises and properties without charge, subject to any regulations that may be established by the governing board of the community college district.

The governing board of the community college district may authorize the students of a college to organize more than one student body association when the governing board finds that day students and evening students each need an association or geographic circumstances make the organization of only one student body association impractical or inconvenient.

A community college district may assume responsibility for activities formerly conducted by a student body association if the student body association is dissolved. A student body association employee who was employed to perform the activity assumed by the district pursuant to this section shall become a member of the classified service of the district in accordance with Section 88020.

#### § 76060.5 Student Representation Fees, Community Colleges

If a student body association has been established at a community college as authorized by Section 76060, the governing body of the association may order that an election be held for the purpose of establishing a student representation fee of one dollar (\$1) per semester. The election shall be held in compliance with regulations of the Board of Governors of the California Community Colleges and shall be open to all regularly enrolled students of the community college. The affirmative vote of two-thirds of the students voting in the election shall be sufficient to establish the fee. However, the election shall not be sufficient to establish the fee unless the number of students who vote in the election equals or exceeds the average of the number of students who voted in the previous three student body association elections.

The student representation fee authorized by this section shall be collected by the officials of the community college, together with all other fees, at the time of registration or before registration and shall be deposited in a separate fiduciary fund established per the California Com-

munity Colleges Budget and Accounting Manual for student representation fees. The money collected pursuant to this section shall be expended to provide for the support of governmental affairs representatives who may be stating their positions and viewpoints before city, county, and district governments, and before offices and agencies of the state government. The chief fiscal officer of the community college shall have custody of the money collected pursuant to this section and the money shall be disbursed for the purposes described above upon the order of the governing body of the student body association. The district may retain a portion of the fees collected and deposited pursuant to this section that is equal to the actual cost of administering these fees up to, but not more than, 7 percent.

The student representation fee authorized by this section may be terminated by a majority vote of the students voting in an election held for that purpose. The election shall be called and held in compliance with regulations of the Board of Governors of the California Community Colleges and shall be open to all regularly enrolled students of the community college.

A student may, for religious, political, financial, or moral reasons, refuse to pay the student representation fee established under this section. The refusal shall be submitted in writing to the college officials at the time the student pays other fees collected by the college officials. The refusal shall be submitted on the same form that is used for collection of fees as provided by the college, which, as determined by the college, shall be as nearly as practical in the same form as a model form prescribed by regulations of the Board of Governors of the California Community Colleges.

§ 76061 Student Government Officer Requirements, Community Colleges

A student who is elected to serve as an officer in the student government of a community college shall meet both of the following requirements:

- (a) The student shall be enrolled in the community college at the time of election, and throughout his or her term, with a minimum of five semester units, or its equivalent.
- (b) The student shall meet and maintain the minimum standards of scholarship prescribed for community college students by the community college district.

§ 76062 Approval of Activities, Community Colleges

The governing board of a community college district may authorize any organization composed entirely of students attending the colleges of the district to maintain any activities, including fund-raising activities, as may be approved by the governing board.

§ 76063 Deposit or Investment of Student Funds, Community Colleges

The funds of any student body organization established in the public schools of any community college district shall, subject to approval of the governing board of the district, be deposited or invested in one or more of the following ways:

- (a) Deposits in trust accounts of the centralized State Treasury system pursuant to Sections 16305 to 16305.7, inclusive, of the Government Code or in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.
- (b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations, if the associations are

doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation and if any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by the insurance.

- (c) Purchase of any of the securities authorized for investment by Section 16430 of the Government Code or investment by the Treasurer in those securities.
- (d) Participation in funds that are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code and that are open exclusively to nonprofit colleges, universities, and independent schools.
- (e) Investment certificates or withdrawable shares in federal or state credit unions, if the credit unions are doing business in this state and have their accounts insured by the National Credit Union Administration and if any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by the insurance.

The funds shall be expended subject to procedures that may be established by the student body organization subject to the approval of each of the following three persons, which shall be obtained each time before any of the funds may be expended: an employee or official of the community college district designated by the governing board, the certificated employee who is the designated adviser of the particular student body organization, and a representative of the particular student body organization.

#### § 76064 Additional Uses of Student Funds, Community Colleges

In addition to deposit or investment pursuant to Section 76063, the funds of a student body organization may be loaned or invested in any of the following ways:

- (a) Loans, with or without interest, to any student body organization established in another community college of the district for a period not to exceed three years.
- (b) Invest money in permanent improvements to any community college district property including, but not limited to, buildings, automobile parking facilities, gymnasiums, swimming pools, stadium and playing fields, where those facilities, or portions thereof, are used for conducting student extracurricular activities or student spectator sports, or when those improvements are for the benefit of the student body. The investment shall be made on condition that the principal amount of the investment plus a reasonable amount of interest thereon shall be returned to the student body organization as provided herein. Any community college district approving the investment shall establish a fund in accordance with the California Community Colleges Budget and Accounting Manual in which moneys derived from the rental of community college district property to student body organizations shall be deposited. Moneys collected by the governing board for automobile parking facilities as authorized by Section 76360 shall be deposited in the fund designated by the California Community Colleges Budget and Accounting Manual if the parking facilities were provided for by investment of student body funds under this section. Moneys shall be returned to the student body organization as contemplated by this section exclusively from the special fund and only to the extent that there are moneys in the special fund. Whenever there are no outstanding obligations against the special fund, all moneys therein may be transferred to the general fund of the school district by action of the local governing board.

Two or more student body organizations of the same community college district may join together in making the investments in the same manner as is authorized herein for a single student body.

Nothing herein shall be construed so as to limit the discretion of the local governing board in charging rental for use of community college district property by student body organizations as provided in Section 76060.

§ 76065 Supervision and Audit of Funds, Community Colleges

The governing board of any community college district shall provide for the supervision of all funds raised by any student body or student organization using the name of the college.

The cost of supervision may constitute a proper charge against the funds of the district.

The governing board of a community college district may also provide for a continuing audit of student body funds with community college district personnel.

§ 76067 Student Political Organizations, Community Colleges

Any student political organization that is affiliated with the official youth division of any political party that is on the ballot of the State of California may hold meetings on a community college campus, and may distribute bulletins and circulars concerning its meetings, provided that there is no endorsement of that organization by the school authorities and no interference with the regular educational program of the district.

## Public Contract Code

Section	Title and Content
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§ 20110	The provisions of this part shall apply to contracts awarded by school districts subject to Part 21 (commencing with Section 35000) of Division 3 of Title 2 of the Education Code.
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§ 20111	(a) The governing board of any school district, in accordance with any requirement established by that governing board pursuant to subdivision (a) of Section 2000, shall let any contracts involving an expenditure of more than fifty thousand dollars (\$50,000) for any of the following:
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- (1) The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district.
- (2) Services, except construction services.
- (3) Repairs, including maintenance as defined in Section 20115, that are not a public project as defined in subdivision (c) of Section 22002.

The contract shall be let to the lowest responsible bidder who shall give security as the board requires, or else reject all bids.

(b) The governing board shall let any contract for a public project, as defined in subdivision (c) of Section 22002, involving an expenditure of fifteen thousand dollars (\$15,000) or more, to the lowest responsible bidder who shall give security as the board requires, or else reject all bids. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

- (1) Cash.
- (2) A cashier's check made payable to the school district.
- (3) A certified check made payable to the school district.
- (4) A bidder's bond executed by an admitted surety insurer, made payable to the school district.

Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the school district beyond 60 days from the time the award is made.

(c) This section applies to all equipment, materials, or supplies, whether patented or otherwise, and to contracts awarded pursuant to subdivision (a) of Section 2000. This section shall not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from this section, or to any work done by day labor or by force account pursuant to Section 20114.

(d) Commencing January 1, 1997, the Superintendent of Public Instruction shall annually adjust the dollar amounts specified in subdivision (a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustments shall be rounded to the nearest one hundred dollars (\$100).

- § 20111.5
- (a) The governing board of the district may require that each prospective bidder for a contract, as described under Section 20111, complete and submit to the district a standardized questionnaire and financial statement in a form specified by the district, including a complete statement of the prospective bidder's financial ability and experience in performing public works. The questionnaire and financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection.
  - (b) Any school district requiring prospective bidders to complete and submit questionnaires and financial statements, as described in subdivision (a), shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, in order to determine the size of the contracts upon which each bidder shall be deemed qualified to bid.
  - (c) Each prospective bidder on any contract described under Section 20111 shall be furnished by the school district letting the contract with a standardized proposal form that, when completed and executed, shall be submitted as his or her bid. Bids not presented on the forms so furnished shall be disregarded.
  - (d) A proposal form required pursuant to subdivision (c) shall not be accepted from any person or other entity who is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (a), but has not done so at least five days prior to the date fixed for the public opening of sealed bids or has not been pre-qualified, pursuant to subdivision (b), for at least one day prior to that date.
  - (e) Notwithstanding subdivision (d), any school district may establish a process for pre-qualifying prospective bidders pursuant to this section on a quarterly basis and may authorize that prequalification to be considered valid for up to one calendar year following the date of initial prequalification.

§ 20112 For the purpose of securing bids the governing board of a school district shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some newspaper of general circulation, circulated in the county, and may post on the district's Web site or through an electronic portal, a notice calling for bids, stating the work to be done or materials or supplies to be furnished and the time when and the place and the Web site where bids will be opened. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time. The governing board of the district may accept a bid that was submitted either electronically or on paper.

- § 20113
- (a) In an emergency when any repairs, alterations, work, or improvement is necessary to any facility of public schools to permit the continuance of existing school classes, or to avoid danger to life or property, the board may, by unanimous vote, with the approval of the county superintendent of schools, do either of the following:
    - (1) Make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.
    - (2) Notwithstanding Section 20114, authorize the use of day labor or force account for the purpose.

(b) Nothing in this section shall eliminate the need for any bonds or security otherwise required by law.

- § 20114
- (a) In each school district, the governing board may make repairs, alterations, additions, or painting, repainting, or decorating upon school buildings, repair or build apparatus or equipment, make improvements on the school grounds, erect new buildings, and perform maintenance as defined in Section 20115 by day labor, or by force account, whenever the total number of hours on the job does not exceed 350 hours. Moreover, in any school district having an average daily attendance of 35,000 or greater, the governing board may, in addition, make repairs to school buildings, grounds, apparatus, or equipment, including painting or repainting, and perform maintenance, as defined in Section 20115, by day labor or by force account whenever the total number of hours on the job does not exceed 750 hours, or when the cost of material does not exceed twenty-one thousand dollars (\$21,000).
- (b) For purposes of this section, day labor shall include the use of maintenance personnel employed on a permanent or temporary basis.

§ 20115 For purposes of Section 20114, “maintenance” means routine, recurring, and usual work for the preservation, protection, and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually usable condition for which it was designed, improved, constructed, altered, or repaired. “Facility” means any plant, building, structure, ground facility, utility system, or real property.

This definition of “maintenance” expressly includes, but is not limited to: carpentry, electrical, plumbing, glazing, and other craftwork designed consistent with the definition set forth above to preserve the facility in a safe, efficient, and continually usable condition for which it was intended, including repairs, cleaning, and other operations on machinery and other equipment permanently attached to the building or realty as fixtures.

This definition does not include, among other types of work, janitorial or custodial services and protection of the sort provided by guards or other security forces.

It is the intent of the Legislature that this definition does not include painting, repainting, or decorating other than touchup, but instead it is the intent of the Legislature that such activities be controlled directly by the provisions of Section 20114.

§ 20116 It shall be unlawful to split or separate into smaller work orders or projects any work, project, service, or purchase for the purpose of evading the provisions of this article requiring contracting after competitive bidding.

The district shall maintain job orders or similar records indicating the total cost expended on each project in accordance with the procedures established in the most recent edition of the California School Accounting Manual for a period of not less than three years after completion of the project.

Informal bidding may be used on work, projects, services, or purchases that cost up to the limits set forth in this article. For the purpose of securing informal bids, the board shall publish annually in a newspaper of general circulation published in the district, or if there is no such



newspaper, then in some newspaper in general circulation in the county, a notice inviting contractors to register to be notified of future informal bidding projects. All contractors included on the informal bidding list shall be given notice of all informal bid projects in any manner as the district deems appropriate.

§ 20117 Notwithstanding any other provision of law, in the event there are two or more identical lowest or highest bids, as the case may be, submitted to a school district for the purchase, sale, or lease of real property, supplies, materials, equipment, services, bonds, or the awarding of any contract, pursuant to a provision requiring competitive bidding, the governing board of any school district may determine by lot which bid shall be accepted.

§ 20118 Notwithstanding Sections 20111 and 20112, the governing board of any school district, without advertising for bids, if the board has determined it to be in the best interests of the district, may authorize by contract, lease, requisition, or purchase order, any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases from a vendor. Upon receipt of the personal property, if the property complies with the specifications set forth in the contract, lease, requisition, or purchase order, the school district may draw a warrant in favor of the public corporation or agency for the amount of the approved invoice, including the reasonable costs to the public corporation or agency for furnishing the services incidental to the lease or purchase of the personal property, or the school district may make payment directly to the vendor. Alternatively, if there is an existing contract between a public corporation or agency and a vendor for the lease or purchase of the personal property, a school district may authorize the lease or purchase of personal property directly from the vendor by contract, lease, requisition, or purchase order and make payment to the vendor under the same terms that are available to the public corporation or agency under the contract.

§ 20118.1 The governing board of any school district may contract with an acceptable party who is one of the three lowest responsible bidders for the procurement or maintenance, or both, of electronic data-processing systems and supporting software in any manner the board deems appropriate.

§ 20118.2 (a) Due to the highly specialized and unique nature of technology, telecommunications, related equipment, software, and services, because products and materials of that nature are undergoing rapid technological changes, and in order to allow for the introduction of new technological changes into the operations of the school district, it is in the public's best interest to allow a school district to consider, in addition to price, factors such as vendor financing, performance reliability, standardization, life-cycle costs, delivery timetables, support logistics, the broadest possible range of competing products and materials available, fitness of purchase, manufacturer's warranties, and similar factors in the award of contracts for technology, telecommunications, related equipment, software, and services.

(b) This section applies only to a school district's procurement of computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus. This section does not apply to contracts for construction or for the procurement of any product that is available in substantial quantities to the general public.

(c) Notwithstanding Section 20118.1, a school district may, after a finding is made by the governing board that a particular procurement qualifies under subdivision (b), authorize the



procurement of the product through competitive negotiation as described in subdivision (d).

- (d) For purposes of this section, competitive negotiation includes, but is not limited to, all of the following requirements:
  - (1) A request for proposals shall be prepared and submitted to an adequate number of qualified sources, as determined by the school district, to permit reasonable competition consistent with the nature and requirement of the procurement.
  - (2) Notice of the request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
  - (3) The school district shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposals is received.
  - (4) The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.
  - (5) The school district shall provide reasonable procedures for the technical evaluation of the proposals received, the identification of qualified sources, and the selection for the award of the contract.
  - (6) Award shall be made to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the school district with price and all other factors considered.
  - (7) If award is not made to the bidder whose proposal contains the lowest price, the school district shall make a finding setting forth the basis for the award.
- (e) The school district, at its discretion, may reject all proposals and request new proposals.
- (f) Provisions in any contract concerning utilization of small business enterprises, that are in accordance with the request for proposals, shall not be subject to negotiation with the successful proposer.

§ 20118.3 The governing board of any school district may purchase supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

This section shall become operative January 1, 1989, and is declaratory of existing law and practice.

§ 20118.4 (a) If any change or alteration of a contract governed by Article 3 (commencing with Section 17595) of Chapter 5 of Part 10.5 of the Education Code is ordered by the governing board of the district, the change or alteration shall be specified in writing and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration, without the formality of securing bids, if the cost so agreed upon does not exceed the greater of the following:

- (1) The amount specified in Section 20111 or 20114, whichever is applicable to the original contract.

(2) Ten percent of the original contract price.

- (b) The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year, may also authorize any change or alteration of a contract for reconstruction or rehabilitation work, other than for the construction of new buildings or other new structures, if the cost of the change or alteration is in excess of the limitations in paragraphs (1) and (2) of subdivision (a) but does not exceed 25 percent of the original contract price, without the formality of securing bids, and the change or alteration is a necessary and integral part of the work under the contract and the taking of bids would delay the completion of the contract. Changes exceeding 15 percent of the original contract price shall be approved by an affirmative vote of not less than 75 percent of the members of the governing board.

§ 22002

- (a) “Public agency,” for purposes of this chapter, means a city, county, city and county, including chartered cities and chartered counties, any special district, and any other agency of the state for the local performance of governmental or proprietary functions within limited boundaries. “Public agency” also includes a nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.
- (b) “Representatives of the construction industry” for purposes of this chapter, means a general contractor, subcontractor, or labor representative with experience in the field of public works construction.
- (c) “Public project” means any of the following:
- (1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
  - (2) Painting or repainting of any publicly owned, leased, or operated facility.
  - (3) In the case of a publicly owned utility system, “public project” shall include only the construction, erection, improvement, or repair of dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.
- (d) “Public project” does not include maintenance work. For purposes of this section, “maintenance work” includes all of the following:
- (1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
  - (2) Minor repainting.
  - (3) Resurfacing of streets and highways at less than one inch.
  - (4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
  - (5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.
- (e) For purposes of this chapter, “facility” means any plant, building, structure, ground facility, utility system, subject to the limitation found in paragraph (3) of subdivision (c), real property, streets and highways, or other public work improvement.

## California Administrative Code, Title 5, Education

### Section Title and Content

#### § 15500 Food Sales in Elementary Schools

- a. Except as provided in subsection (b) and Section 15501, no school providing kindergarten or any of grades one through eight shall permit sale of food by pupil organizations if such school is participating in the National School Lunch, School Breakfast, or Food Distribution program.
- b. The governing board of a school district or a county superintendent of schools may permit a student organization to sell not more than one food item per sale when all of the following conditions are met:
  - (1) The specific nutritious food item is approved by the governing board.
  - (2) The food sales do not begin until after the close of the regularly scheduled midday food service period.
  - (3) The sales during the regular school day are not of food items prepared on the premises.
  - (4) There are no more than four such sales per year per school.
  - (5) The food item sold is a dessert type food, such as pastry, ice cream, or fruit.
  - (6) The food item sold is not one sold in the food service program at that school during that school day.

#### § 15501 Food Sales in High Schools and Junior High Schools

The governing board of any district or a county superintendent of schools maintaining a high school or a junior high school may permit an organization consisting solely of pupils of such school to sell food items during or after the regular school day if the following conditions are met:

- a. The specific nutritious food items are approved by the governing board.
- b. A student organization, or organizations, may be approved to sell food at any time during the school day, including the regularly scheduled food service period(s), as provided in (1) and/or (2):
  - (1) Only one such organization each school day selling no more than three types of food or beverage items such as confections, popcorn, nuts, fruit, or soft drinks; and/or
  - (2) Any one or more student organizations may conduct no more than four food sales of any food items during a school year in each school, but such sales shall be held on the same four days for any or all organizations.
- c. The sales during the regular school day are not of food prepared on the premises.
- d. The food items sold during the regular school day are not those sold by the district in the food service program at that school during that school day.

§ 15575 Definitions for Foods.

As used in this article, the term:

- (a) “Dairy” means a food made from milk with the exception of cheese packaged for individual sale.
- (b) “Entree item” means a food generally regarded as the primary food in a meal and contains:
  - (1) Two or more of the following groups: meat/meat alternate, grain/bread, vegetable/fruit that are eaten together (e.g., turkey sandwich, pizza, hamburger on a bun, bean burrito, chef’s salad, fruit and cheese platter, baked potato with chili, chicken vegetable stir-fry, veggie sandwich), or
  - (2) A meat/meat alternate alone (e.g., sausage patty, egg, chicken nuggets), excluding nuts, nut butters, seeds, cheese, and yogurt.
- (c) “Exempt foods” means nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, vegetables that have not been deep fried, and legumes that do not contain added sugars or fat, and
  - (1) Fruit that is dried and contains added sugar is exempt only if the added sugar is part of the dehydration process or added as dextrose to prevent caking and maintain flowability.
  - (2) Fruit that is canned or frozen is exempt only if it contains no added sugar other than 100 percent fruit juice.
- (d) “Full meal” means any combination of food items that meet the United States Department of Agriculture (USDA) approved School Breakfast Program or National School Lunch Program meal pattern requirements found in 7 CFR 210.10 or 220.8.
- (e) “Meat/meat alternates,” “grain/breads,” and “vegetables/fruits” mean those described in the USDA’s Food Buying Guide for Child Nutrition Programs (2001 edition) Sections 1, 2, and 3, which is incorporated by reference.
- (f) “Non-exempt foods” means foods other than nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, vegetables that have not been deep fried, and legumes that do not contain added sugars or fat.
- (g) “Whole grain” means, but is not limited to, whole wheat flour, graham flour, cracked wheat, crushed wheat, wheat berries, entire wheat flour, whole durum flour, whole oats, oat groats, oatmeal, rolled oats, whole corn, whole grain cornmeal, popcorn, brown rice, brown rice flour, wild rice, whole rye, whole rye flour, dehulled barley, dehulled barley flour, whole grain barley, whole grain barley flour, buckwheat groats, whole buckwheat flour, bulgur (cracked wheat), whole millet, whole millet flour, whole quinoa, whole quinoa flour, whole spelt, whole spelt flour, whole sorghum (milo), whole sorghum flour, whole triticale, whole triticale flour.
- (h) “Whole grain food item” means:
  - (1) For purchased grain or bread products:
    - (A) A product that contains the following statement: “Diets rich in whole grain foods and other plant foods and low in total fat, saturated fat, and cholesterol, may help reduce the risk of heart disease and certain cancers”, or

- (B) The first listed grain ingredient is a whole grain, or
  - (C) If the first listed ingredient is not specifically identified as a whole grain, documentation has been obtained within the previous 12 months from the manufacturer that lists whole grains, which, when combined, shall represent at least 51 percent of the weight of the total grains in the product.
- (2) For grain or bread products prepared by schools:
- (A) The weight of the whole grains shall represent at least 51 percent of the total grain weight of the product.

§ 15576 Definitions for Beverages.

As used in this article the term:

- (a) “Beverage” means any potable liquid.
- (b) “Electrolyte replacement beverage” means a potable liquid that meets all of the following requirements:
  - (1) Water as the first ingredient.
  - (2) Contains no more than 2.1 grams of added sweetener per fluid ounce.
  - (3) Contains at least 10 milligrams but no more than 150 milligrams of sodium per 8 ounces.
  - (4) Contains at least 10 milligrams but no more than 90 milligrams of potassium per 8 ounces.
  - (5) Contains no added caffeine.
- (c) “Milk” means cow’s or goat’s milk that:
  - (1) Contains Vitamin A, Vitamin D, and at least 25 percent of the FDA-established Daily Value (DV) for calcium per 8 ounces.
  - (2) Contains no added sweeteners exceeding 28 grams of total sugars per 8 ounces.
  - (3) Is two-percent fat milk, one-percent fat milk, or nonfat milk.
- (d) “Non-dairy milk” alternative (e.g., rice milk, soy milk) means a beverage that:
  - (1) Contains Vitamin A, Vitamin D and at least 25 percent of the DV for calcium per 8 ounces,
  - (2) Contains no added sweeteners exceeding 28 grams of total sugars per 8 ounces, and
  - (3) Contains no more than 5 grams of fat per 8 ounces.

§ 15577 Food and Beverages Restrictions.

As used in this article the term:

- (a) “Caloric restriction” means:
  - (1) In elementary schools, no more than 175 calories per item.

- (2) In middle, junior, or high schools, no more than 250 calories per item for a snack item and no more than 400 calories per item for an entree item.
- (b) “Fat restriction” means no more than 35 percent of calories from fat.
- (c) “Saturated fat restriction” means no more than 10 percent calories from saturated fat.
- (d) “Sugar restriction” means no more than 35 percent sugar by weight.
- (e) “Sugar” means all free mono- and disaccharides, such as glucose, fructose, lactose, and sucrose

§ 15578

Sale of Food Items.

- (a) Any food items appearing together on a menu and sold together as if they were a single food item, and typically combined for simultaneous consumption (e.g., pita with hummus, salad with dressing, chicken patty on a bun), shall be considered as one item for compliance (1) with the fat restriction, saturated fat restriction, sugar restriction and caloric restriction for a snack item or (2) with the fat restriction and caloric restriction for an entree item.
- (b) All non-exempt food items for sale must meet the fat restriction, saturated fat restriction, sugar restriction and caloric restriction for a snack item or the fat restriction and caloric restriction for an entree item.
- (c) A food item for sale containing non-exempted foods or ingredients combined with fruits, vegetables, nuts, nut butters, seeds, eggs, or legumes shall comply with the restrictions for non-exempted foods as described in section 15578(b).
- (d) A food item for sale containing solely a mix of exempted foods is exempt from the fat restriction, saturated fat restriction, sugar restriction and caloric restriction.

## Code of Federal Regulations, Title 7

### Section Title and Content

#### § 210.11 Competitive Food Services

(a) Definitions. For the purpose of this section:

- (1) Competitive foods means any foods sold in competition with the Program to children in food service areas during the lunch periods.
- (2) Food of minimal nutritional value means: (i) In the case of artificially sweetened foods, a food which provides less than five percent of the Reference Daily Intakes (RDI) for each of eight specified nutrients per serving; and (ii) in the case of all other foods, a food which provides less than five percent of the RDI for each of eight specified nutrients per 100 calories and less than five percent of the RDI for each of eight specified nutrients per serving. The eight nutrients to be assessed for this purpose are — protein, vitamin A, vitamin C, niacin, riboflavin, thiamine, calcium, and iron. All categories of food of minimal nutritional value and petitioning requirements for changing the categories are listed in appendix B of this part.

(b) General. State agencies and school food authorities shall establish such rules or regulations as are necessary to control the sale of foods in competition with lunches served under the Program. Such rules or regulations shall prohibit the sale of foods of minimal nutritional value, as listed in appendix B of this part, in the food service areas during the lunch periods. The sale of other competitive foods may, at the discretion of the State agency and school food authority, be allowed in the food service area during the lunch period only if all income from the sale of such foods accrues to the benefit of the nonprofit school food service or the school or student organizations approved by the school. State agencies and school food authorities may impose additional restrictions on the sale of and income from all foods sold at any time throughout schools participating in the Program.

#### § 215.1 General Purpose and Scope

This part announces the policies and prescribes the general regulations with respect to the Special Milk Program for Children, under the Child Nutrition Act of 1966, as amended, and sets forth the general requirements for participation in the program. The Act reads in pertinent part as follows:

Section 3(a)

- (1) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (A) nonprofit schools of high school grade and under, except as provided in paragraph (2), which do not participate in a meal service program authorized under this Act or the National School Lunch Act, and (B) nonprofit nursery schools, child care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a meal service program authorized under this Act or the National School Lunch Act.

- (2) The limitation imposed under paragraph (1) (A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.).
- (3) For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia.
- (4) The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by Pub. L. 89- 642, as amended, during the fiscal year ending June 30, 1969.
- (5) Any school or nonprofit child care institution which does not participate in a meal service program authorized under this Act or the National School Lunch Act shall receive the special milk program upon their request.
- (6) Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) be eligible for free milk upon their request.
- (7) For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.
- (8) Such adjustment shall be computed to the nearest one-fourth cent.
- (9) Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

§ 220.12 Competitive Food Services

- (a) State agencies and School Food Authorities shall establish such rules or regulations as are necessary to control the sale of foods in competition with breakfasts served under the Program. Such rules or regulations shall prohibit the sale of foods of minimal nutritional value, as listed in appendix B of this part, in the food service areas during the breakfast periods. The sale of other competitive foods may, at the discretion of the State agency and the School Food Authority, be allowed in the food service area during the breakfast period only if all income from the sale of such foods accrues to the benefit of the nonprofit school food service or the school or student organizations approved by the school. State agencies and School Food Authorities may impose additional restrictions on the sale of and income from all foods sold at any time throughout schools participating in the School Breakfast Program.
- (b) (1) Any person may submit a petition to FNS requesting that an individual food be exempted from a category of foods of minimal nutritional value listed in appendix B. In the case of artificially sweetened foods, the petition must include a statement of the percent of RDI for the eight nutrients listed in Sec. 220.2(i-1) that the food provides per



serving and the petitioner's source of this information. In the case of all other foods, the petition must include a statement of the percent of RDI for the eight nutrients listed in Sec. 220.2(i-1) that the food provides per serving and per 100 calories and the petitioner's source of this information. The Department will determine whether or not the individual food is a food of minimal nutritional value as defined Sec. 220.2(i-1), and will inform the petitioner in writing of such determination, and the public by notice in the Federal Register as indicated under paragraph (b) (3) of this section. In determining whether an individual food is a food of minimal nutritional value, discrete nutrients added to the food will not be taken into account.

- (2) Any person may submit a petition to FNS requesting that foods in a particular category of foods be classified as foods of minimal nutritional value as defined in Sec. 220.2(i-1). The petition must identify and define the food category in easily understood language, list examples of the foods contained in the category and include a list which the foods in that category usually contain. If, upon review of the petition, the Department determines that the foods in that category should not be classified as foods of minimal nutritional value, the petitioner will be so notified in writing. If upon review of the petition, the Department determines that there is a substantial likelihood that the foods in that category should be classified as foods of minimal nutritional value as defined in Sec. 220.2(i-1), the Department shall at that time inform the petitioner. In addition, the Department shall publish a proposed rule restricting the sale of the foods in that category, setting forth the reasons for this action, and soliciting public comments. On the basis of comments received within 60 days of publication of the proposed rule and other available information, the Department will determine whether the nutrient composition of the foods indicates that the category should be classified as a category of foods of minimal nutritional value.

The petitioner shall be notified in writing and the public shall be notified of the Department's final determination upon publication in the Federal Register as indicated under section (b) (3) of this section.

- (3) By May 1 and November 1 of each year, the Department shall amend appendix B to exclude those individual foods identified under paragraph (b)(1) of this section, and to include those categories of foods identified under paragraph (b)(2) of this section, Provided That there are necessary changes.



## California Penal Code

### Section Title and Content

#### § 319 Definition of a Lottery

A lottery is any scheme for the disposal or distribution of property by chance, among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property or a portion of it, or for any share or any interest in such property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name the same may be known.

- § 319.3
- (a) In addition to Section 319, a lottery also shall include a grab bag game which is a scheme whereby, for the disposal or distribution of sports trading cards by chance, a person pays valuable consideration to purchase a sports trading card grab bag with the understanding that the purchaser has a chance to win a designated prize or prizes listed by the seller as being contained in one or more, but not all, of the grab bags.
  - (b) For purposes of this section, the following definitions shall apply:
    - (1) “Sports trading card grab bag” means a sealed package which contains one or more sports trading cards that have been removed from the manufacturer’s original packaging. A “sports trading card grab bag” does not include a sweepstakes, or procedure for the distribution of any sports trading card of value by lot or by chance, which is not unlawful under other provisions of law.
    - (2) “Sports trading card” means any card produced for use in commerce that contains a company name or logo, or both, and an image, representation, or facsimile of one or more players or other team member or members in any pose, and that is produced pursuant to an appropriate licensing agreement.

§ 319.5 Neither this chapter nor Chapter 10 (commencing with Section 330) applies to the possession or operation of a reverse vending machine. As used in this section a reverse vending machine is a machine in which empty beverage containers are deposited for recycling and which provides a payment of money, merchandise, vouchers, or other incentives at a frequency less than upon each deposit. The pay out of a reverse vending machine is made on a deposit selected at random within the designated number of required deposits. The deposit of an empty beverage container in a reverse vending machine does not constitute consideration within the definition of lottery in Section 319.

#### § 320 Operation of a Raffle or Lottery

Every person who contrives, prepares, sets up, proposes, or draws any lottery, is guilty of a misdemeanor.

- § 320.5
- (a) Nothing in this chapter applies to any raffle conducted by an eligible organization as defined in subdivision (c) for the purpose of directly supporting beneficial or charitable purposes or financially supporting another private, nonprofit, eligible organization that performs beneficial or charitable purposes if the raffle is conducted in accordance with this section.

- (b) For purposes of this section, “raffle” means a scheme for the distribution of prizes by chance among persons who have paid money for paper tickets that provide the opportunity to win these prizes, where all of the following are true:
- (1) Each ticket is sold with a detachable coupon or stub, and both the ticket and its associated coupon or stub are marked with a unique and matching identifier.
  - (2) Winners of the prizes are determined by draw from among the coupons or stubs described in paragraph (1) that have been detached from all tickets sold for entry in the draw.
  - (3) The draw is conducted in California under the supervision of a natural person who is 18 years of age or older.
  - (4) (A) At least 90 percent of the gross receipts generated from the sale of raffle tickets for any given draw are used by the eligible organization conducting the raffle to benefit or provide support for beneficial or charitable purposes, or it may use those revenues to benefit another private, nonprofit organization, provided that an organization receiving these funds is itself an eligible organization as defined in subdivision (c). As used in this section, “beneficial purposes” excludes purposes that are intended to benefit officers, directors, or members, as defined by Section 5056 of the Corporations Code, of the eligible organization. In no event shall funds raised by raffles conducted pursuant to this section be used to fund any beneficial, charitable, or other purpose outside of California. This section does not preclude an eligible organization from using funds from sources other than the sale of raffle tickets to pay for the administration or other costs of conducting a raffle.
  - (B) An employee of an eligible organization who is a direct seller of raffle tickets shall not be treated as an employee for purposes of workers’ compensation under Section 3351 of the Labor Code if the following conditions are satisfied:
    - (i) Substantially all of the remuneration (whether or not paid in cash) for the performance of the service of selling raffle tickets is directly related to sales rather than to the number of hours worked.
    - (ii) The services performed by the person are performed pursuant to a written contract between the seller and the eligible organization and the contract provides that the person will not be treated as an employee with respect to the selling of raffle tickets for workers’ compensation purposes.
  - (C) For purposes of this section, employees selling raffle tickets shall be deemed to be direct sellers as described in Section 650 of the Unemployment Insurance Code as long as they meet the requirements of that section.
- (c) For purposes of this section, “eligible organization” means a private, nonprofit organization that has been qualified to conduct business in California for at least one year prior to conducting a raffle and is exempt from taxation pursuant to Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of the Revenue and Taxation Code.
- (d) Any person who receives compensation in connection with the operation of the raffle shall be an employee of the eligible organization that is conducting the raffle, and in no event may compensation be paid from revenues required to be dedicated to beneficial or charitable purposes.

- (e) No raffle otherwise permitted under this section may be conducted by means of, or otherwise utilize, any gaming machine, apparatus, or device, whether or not that machine, apparatus, or device meets the definition of slot machine contained in Section 330a, 330b, or 330.1.
- (f) No raffle otherwise permitted under this section may be conducted, nor may tickets for a raffle be sold, within an operating satellite wagering facility or racetrack enclosure licensed pursuant to the Horse Racing Law (Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code) or within a gambling establishment licensed pursuant to the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code). A raffle may not be advertised, operated, or conducted in any manner over the Internet, nor may raffle tickets be sold, traded, or redeemed over the Internet. For purposes of this section, advertisement shall not be defined to include the announcement of a raffle on the Web site of the organization responsible for conducting the raffle.
- (g) No individual, corporation, partnership, or other legal entity shall hold a financial interest in the conduct of a raffle, except the eligible organization that is itself authorized to conduct that raffle, and any private, nonprofit, eligible organizations receiving financial support from that charitable organization pursuant to subdivisions (a) and (b).
- (h) (1) An eligible organization may not conduct a raffle authorized under this section, unless it registers annually with the Department of Justice. The department shall furnish a registration form via the Internet or upon request to eligible nonprofit organizations. The department shall, by regulation, collect only the information necessary to carry out the provisions of this section on this form. This information shall include, but is not limited to, the following:
  - (A) The name and address of the eligible organization.
  - (B) The federal tax identification number, the corporate number issued by the Secretary of State, the organization number issued by the Franchise Tax Board, or the California charitable trust identification number of the eligible organization.
  - (C) The name and title of a responsible fiduciary of the organization.
- (2) The department may require an eligible organization to pay an annual registration fee of ten dollars (\$10) to cover the actual costs of the department to administer and enforce this section. The department may, by regulation, adjust the annual registration fee as needed to ensure that revenues willfully offset, but do not exceed, the actual costs incurred by the department pursuant to this section. The fee shall be deposited by the department into the General Fund.
- (3) The department shall receive General Fund moneys for the costs incurred pursuant to this section subject to an appropriation by the Legislature.
- (4) The department shall adopt regulations necessary to effectuate this section, including emergency regulations, pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
- (5) The department shall maintain an automated data base of all registrants. Each local law enforcement agency shall notify the department of any arrests or investigation that may result in an administrative or criminal action against a registrant. The department may

audit the records and other documents of a registrant to ensure compliance with this section.

- (6) Once registered, an eligible organization must file annually thereafter with the department a report that includes the following:
  - (A) The aggregate gross receipts from the operation of raffles.
  - (B) The aggregate direct costs incurred by the eligible organization from the operation of raffles.
  - (C) The charitable or beneficial purposes for which proceeds of the raffles were used, or identify the eligible recipient organization to which proceeds were directed, and the amount of those proceeds.
- (7) The department shall annually furnish to registrants a form to collect this information.
- (8) The registration and reporting provisions of this section do not apply to any religious corporation sole or other religious corporation or organization that holds property for religious purposes, to a cemetery corporation regulated under Chapter 19 of Division 3 of the Business and Professions Code, or to any committee as defined in Section 82013 that is required to and does file any statement pursuant to the provisions of Article 2 (commencing with Section 84200) of Chapter 4 of Title 9, or to a charitable corporation organized and operated primarily as a religious organization, educational institution, hospital, or a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code.
- (i) The department may take legal action against a registrant if it determines that the registrant has violated this section or any regulation adopted pursuant to this section, or that the registrant has engaged in any conduct that is not in the best interests of the public's health, safety, or general welfare. Any action taken pursuant to this subdivision does not prohibit the commencement of an administrative or criminal action by the Attorney General, a district attorney, city attorney, or county counsel.
- (j) Each action and hearing conducted to deny, revoke, or suspend a registry, or other administrative action taken against a registrant shall be conducted pursuant to the Administrative Procedure Act (Chapters 4.5 and 5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The department may seek recovery of the costs incurred in investigating or prosecuting an action against a registrant or applicant in accordance with those procedures specified in Section 125.3 of the Business and Professions Code. A proceeding conducted under this subdivision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.
- (k) The Department of Justice shall conduct a study and report to the Legislature by December 31, 2003, on the impact of this section on raffle practices in California. Specifically, the study shall include, but not be limited to, information on whether the number of raffles has increased, the amount of money raised through raffles and whether this amount has increased, whether there are consumer complaints, and whether there is increased fraud in the operation of raffles.
- (l) This section shall become operative on July 1, 2001.
- (m) A raffle shall be exempt from this section if it satisfies all of the following requirements:
  - (1) It involves a general and indiscriminate distributing of the tickets.

- (2) The tickets are offered on the same terms and conditions as the tickets for which a donation is given.
- (3) The scheme does not require any of the participants to pay for a chance to win.

§ 321–326 Penalties for Operation of a Raffle or Lottery

- § 321 Every person who sells, gives, or in any manner whatever, furnishes or transfers to or for any other person any ticket, chance, share, or interest, or any paper, certificate, or instrument purporting or understood to be or to represent any ticket, chance, share, or interest in, or depending upon the event of any lottery, is guilty of a misdemeanor.
- § 322 Every person who aids or assists, either by printing, writing, advertising, publishing, or otherwise in setting up, managing, or drawing any lottery, or in selling or disposing of any ticket, chance, or share therein, is guilty of a misdemeanor.
- § 323 Every person who opens, sets up, or keeps, by himself or by any other person, any office or other place for the sale of, or for registering the number of any ticket in any lottery, or who, by printing, writing, or otherwise, advertises or publishes the setting up, opening, or using of any such office, is guilty of a misdemeanor.
- § 324 Every person who insures or receives any consideration for insuring for or against the drawing of any ticket in any lottery whatever, whether drawn or to be drawn within this State or not, or who receives any valuable consideration upon any agreement to repay any sum, or deliver the same, or any other property, if any lottery ticket or number of any ticket in any lottery shall prove fortunate or unfortunate, or shall be drawn or not be drawn, at any particular time or in any particular order, or who promises or agrees to pay any sum of money, or to deliver any goods, things in action, or property, or to forbear to do anything for the benefit of any person, with or without consideration, upon any event or contingency dependent on the drawing of any ticket in any lottery, or who publishes any notice or proposal of any of the purposes aforesaid, is guilty of a misdemeanor.
- § 325 All moneys and property offered for sale or distribution in violation of any of the provisions of this chapter are forfeited to the state, and may be recovered by information filed, or by an action brought by the Attorney General, or by any district attorney, in the name of the state. Upon the filing of the information or complaint, the clerk of the court must issue an attachment against the property mentioned in the complaint or information, which attachment has the same force and effect against such property, and is issued in the same manner as attachments issued from the superior courts in civil cases.
- § 326 Every person who lets, or permits to be used, any building or vessel, or any portion thereof, knowing that it is to be used for setting up, managing, or drawing any lottery, or for the purpose of selling or disposing of lottery tickets, is guilty of a misdemeanor.

§ 326.5 Exception for Bingo Games for Charity

- (a) Neither this chapter nor Chapter 10 (commencing with Section 330) applies to any bingo game that is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the state Constitution, if the ordinance allows games to be conducted only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701h of the Revenue and Taxation Code and by mobile home park associations and senior citizens organizations; and if the receipts of those games are used only for charitable purposes.
- (b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the state Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games, as provided in subdivisions (j) and (k).
- (c) A violation of subdivision (b) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine is deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.
- (d) The city, county, or city and county that enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.
- (e) No minors shall be allowed to participate in any bingo game.
- (f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.
- (g) All bingo games shall be open to the public, not just to the members of the authorized organization.
- (h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.
- (i) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall hold a financial interest in the conduct of a bingo game.
- (j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.
- (k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account



and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

- (1) The proceeds may be used for prizes.
  - (2) A portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.
  - (3) The proceeds may be used to pay license fees.
  - (4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars (\$5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2).
- (l) (1) A city, county, or city and county may impose a license fee on each organization that it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars (\$50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.
  - (2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars (\$50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee for law enforcement and public safety costs incurred by the city, county, or city and county that are directly related to bingo activities may be imposed and shall be collected monthly by the city, county, or city and county issuing the license; however, the fee shall not exceed the actual costs incurred in providing the service.
- (m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place where the bingo game is being conducted.
  - (n) The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars (\$250) in cash or kind, or both, for each separate game which is held.
  - (o) As used in this section, “bingo” means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo includes cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, “for sale or use only in a bingo game authorized under California law and pursuant to local ordinance.” It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.



## Revenue and Taxation Code

### Section Title and Content

#### § 6361 Irregular or Intermittent Sales

- (a) Any organization listed or described in subdivision (b) is a consumer and shall not be considered a retailer within the provisions of this part, of food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization provided, however, that the organization's sales are made on an irregular or intermittent basis, and that the organization's profits from those sales are used exclusively in furtherance of the purposes of the organization.
- (b) For purposes of this section, "organization" includes any of the following:
  - (1) Any nonprofit organization which meets all of the following conditions:
    - A. The organization qualifies for tax-exempt status under Section 501(c) of the Internal Revenue Code.
    - B. The organization's primary purpose is to provide a supervised program of competitive sports for youth, or to promote good citizenship in youth.
    - C. The organization does not discriminate on the basis of race, sex, nationality, or religion.
  - (2) A. Any youth group sponsored by or affiliated with a qualified educational institution, including, but not limited to, any student activity club, athletic group, or musical group.
    - B. For purposes of this section, "qualified educational institution" means any of the following:
      - i. Any public elementary, secondary, or vocational-technical school providing education for kindergarten, grades 1 to 12, inclusive, and college undergraduate programs, or any part thereof, operated by state or local government.
      - ii. Any nonprofit private educational institution providing education for kindergarten, grades 1 to 12, inclusive, and college undergraduate programs, or any part thereof, that meets the requirements of the State Department of Education for a school. "Private educational institution" means any entity providing education which satisfies the requirements of state and local laws pertaining to private educational institutions in effect on January 1, 1990, and which does not discriminate on the basis of race, sex, nationality, or religion.
  - (3) Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire, Inc., Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boys' Clubs, Girls' Clubs, Special Olympics, Inc., American Youth Soccer Organization, California Youth Soccer Association, North, California Youth Soccer Association, South, and Pop Warner football.
- (c) For purposes of this section, "irregular or intermittent" means associated directly with a particular event, such as fairs, galas, parades, scout-o-ramas, games, and similar activities. That term includes refreshment stands or booths that are utilized at scheduled events of

organized leagues, but does not include storefront or mobile retail outlets which ordinarily require local business licenses.

§ 237 Tax Exemptions

- (a) (1) Subject to the requirements set forth in paragraph (2), there is exempt from taxation under this part that portion of the assessed value of property, owned and operated by a federally recognized Indian tribe or its tribally designated housing entity, that corresponds to that portion of the property that is continuously available to, or occupied by, lower income households, as defined in Section 50079.5 of the Health and Safety Code or applicable federal, state, or local financing agreements, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or rents that do not exceed those prescribed by the terms of the applicable federal, state, or local financing agreements or financial assistance agreements.
- (2) The exemption set forth in subdivision (a) applies only if the property and entity meet the following requirements:
  - A. At least 30 percent of the property's housing units are either continuously available to, or occupied by, lower income households, as defined in Section 50079.5 of the Health and Safety Code or applicable federal, state, or local financing agreements, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or rents that do not exceed those prescribed by the terms of the applicable federal, state, or local financing agreements or financial assistance agreements.
  - B. The housing entity is nonprofit.
  - C. No part of the net earnings of the housing entity inure to the benefit of any private shareholder or individual.
- (b) In lieu of the tax imposed by this part, a tribe or tribally designated housing entity may agree to make payments to a county, city, city and county, or political subdivision of the state for services, improvements, or facilities provided by that entity for the benefit of a low-income housing project owned and operated by the tribe or tribally designated housing entity. Any payments in lieu of tax may not exceed the estimated cost to the city, county, city and county or political subdivision of the state of the services, improvements, or facilities to be provided.
- (c) A tribe or tribally designated housing entity applying for an exemption under this section shall provide the following documents to the assessor:
  - (1) Documents establishing that the designating tribe is federally recognized.
  - (2) Documents establishing that the housing entity has been designated by the tribe.
  - (3) Documents establishing that there is a deed restriction, agreement, or other legally binding document requiring that the property be used in compliance with subparagraph (A) of paragraph (2) of subdivision (a).
- (d) This exemption shall be known as the "tribal housing exemption."

## Board of Equalization, Sales and Use Tax Regulations

### Section Title and Content

#### § 1597 Property Transferred or Sold by a Certain Nonprofit Organizations

- (a) **IN GENERAL.** Sections 6359.3, 6360, 6361, 6361.1 and 6370 of the Revenue and Taxation Code provide that certain organizations are consumers and not retailers of specified kinds of tangible personal property under certain conditions.

The subsections which follow describe the organizations and the kind of tangible personal property involved.

- (b) **FLAGS SOLD BY NONPROFIT VETERANS' ORGANIZATIONS.** Any nonprofit veterans' organization is a consumer of and shall not be considered a retailer of flags of the United States which it sells where the profits are used solely and exclusively in furtherance of the purpose of the organization.
- (c) **PRISONERS OF WAR BRACELETS TRANSFERRED BY CHARITABLE ORGANIZATIONS.** Any charitable organization qualifying for the welfare exemption from property taxation under Section 214 of the Revenue and Taxation Code is the consumer of bracelets designed to commemorate American prisoners of war, which it distributes, whether or not a contribution is made to such organization, where the profits are used solely and exclusively in furtherance of the purposes of such organization.
- (d) **HANDCRAFTED OR ARTISTIC TANGIBLE PERSONAL PROPERTY SOLD BY CERTAIN QUALIFIED ORGANIZATIONS.** Any organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code (26 U.S.C.A.); which, as its primary purpose, provides services to individuals with developmental disabilities or, effective August 3, 1995, to children with severe emotional disturbances, and which does not discriminate on the basis of race, sex, nationality, or religion is the consumer and not the retailer of any tangible personal property sold by them if all of the following conditions are met:
- (1) The tangible personal property is of a handcrafted or artistic nature and is designed, created, or made by individuals with developmental disabilities or, effective August 3, 1995, by children with severe emotional disturbances, who are members of, or receive services from, the qualified organization.
  - (2) The price of each item of tangible personal property sold does not exceed twenty dollars (\$20), or ten dollars (\$10) if sold prior to August 3, 1995.
  - (3) The qualified organization's sales are made on an irregular or intermittent basis.
  - (4) The qualified organization's profits from the sales are used exclusively in furtherance of the purposes of the organization.
- (e) **FOOD PRODUCTS, NONALCOHOLIC BEVERAGES AND OTHER TANGIBLE PERSONAL PROPERTY SOLD BY NONPROFIT YOUTH ORGANIZATIONS.**
- (1) A qualified youth organization is the consumer and not the retailer of food products, nonalcoholic beverages, and tangible personal property created by members of the organization which are sold on an irregular or intermittent basis provided the profits from such sales are used solely and exclusively in the furtherance of the purpose of the organization.

(A) “Qualified youth organization” means and includes:

1. Any nonprofit organization which qualifies for tax-exempt status under Section 501(c) of the Internal Revenue Code (26 U.S.C.A.); which provides a supervised program of competitive sports for youth or promotes good citizenship in youth as its primary purpose; and which does not discriminate on the basis of race, sex, nationality, or religion, or
2. Any youth group or club sponsored by or affiliated with a qualified educational institution, including but not limited to any student activity group, e.g., debating team, swimming team, band, or choir.

(B) “Qualified educational institution” means and includes:

1. Any public elementary, secondary, or vocation-technical school which provides education for either kindergarten; grades 1 through 12, inclusive; or college or university undergraduate programs, or any part thereof, or 2. any nonprofit private school which provides education programs for either kindergarten; grades 1 through 12, inclusive; or college or university undergraduate programs, or any part thereof. Nonprofit private school educational programs must meet the requirements of the State Department of Education and must satisfy the requirements of state and local laws governing private educational institutions in effect on January 1, 1990. The term does not include a nonprofit private school which otherwise qualifies but which discriminates on the basis of race, sex, nationality, or religion. For example, a youth group sponsored by a private school which has enrollment open only to females is not a “qualified youth organization.”

(C) “Irregular or intermittent” is defined to mean sales made at particular events, such as fairs, galas, parades, scout-o-ramas, games, and similar activities, which are not conducted on a regularly scheduled basis. Sales made at refreshment stands or booths at scheduled events of organized youth sports leagues are considered made on an “irregular or intermittent” basis; however, sales made in storefront or mobile retail outlets which ordinarily require local business licenses do not qualify.

- (2) The following organizations are “qualified youth organizations” and are consumers, not retailers, of tangible personal property under the circumstances described in paragraph (e) (1):

Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire, Inc., formerly Campfire Girls, Young Men’s Christian Association, Young Women’s Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boys’ Clubs, Girls’ Clubs, Special Olympics, Inc., American Youth Soccer Organization, California Youth Soccer Association, North, California Youth Soccer Association, South, and Pop Warner Football.

- (f) **TANGIBLE PERSONAL PROPERTY SOLD BY CERTAIN NONPROFIT ORGANIZATIONS.** The following organizations are consumers and not retailers of any tangible personal property sold by them if the profits from such sales are used exclusively in the furtherance of the purposes of the organization:

- (1) Nonprofit parent-teacher associations chartered by the California Congress of Parents, Teachers, and Students, Incorporated, and equivalent organizations performing the

same type of service for public or private schools and authorized to operate within the school by the governing authority of the school.

- (2) Nonprofit associations commonly called Friends of the Library, and equivalent organizations performing auxiliary services to any library district, municipal library, or county library in the state, which are authorized to operate within the library by the governing authority of the library.
- (3) Nonprofit parent cooperative nursery schools.
- (g) **RESALE CERTIFICATES: OBLIGATIONS OF PERSONS WHO SELL TO CONSUMERS.** An organization classed as a consumer under this regulation may not give a resale certificate with respect to the property it transfers. All persons, other than organizations classed as consumers, who make sales of tangible personal property not otherwise exempt, should report tax on their sales unless the purchasers furnish resale certificates which can be accepted in good faith.

It will be presumed that all sales of tangible personal property not otherwise exempt, by organizations not classed as consumers, for delivery in this state to purchasers who do not furnish resale certificates which the seller accepts in good faith are subject to sales tax or that the seller is obligated to collect use tax from the purchasers.

- (h) **TAXABLE SALES OF TANGIBLE PERSONAL PROPERTY BY OR THROUGH NON-PROFIT ORGANIZATIONS.** A nonprofit organization is treated as a consumer of tangible personal property it may sell under circumstances described in subdivisions (d), (e) and (f) of this regulation. In other cases, a nonprofit organization is regarded as a retailer of property it sells to consumers, or it is regarded as an agent of the companies which furnish the property to it for delivery to consumers.

When a nonprofit organization solicits orders, collects payments, and distributes tangible personal property for a supplier, it is considered to be the agent of that supplier. Accordingly, the supplier, not the organization, is the retailer of the merchandise sold. This is true unless documentation establishes that the nonprofit organization is buying and selling for its own account. The nonprofit organization is presumed to be buying and selling on its own account if all of the factors are present: 1) the organization solicits the orders from the public in its own name; 2) the organization collects the sale price from the customer in its own name; 3) the organization is responsible for and pays the supplier for the merchandise; and 4) the contract between the organization and the supplier clearly identifies the fact the organization will purchase and resell the products to its customers. If it is selling for its own account, the nonprofit organization will be required to obtain a permit and will be considered the retailer, unless the supplier has been classified by the Board as a retailer under Revenue and Taxation Code Section 6015 or the nonprofit organization is classified under subdivisions (d), (e) and (f) of this regulation.

If the supplier is a 6015 retailer, the supplier must pay the tax and the organization does not need a seller's permit.

The measure of tax is the amount charged to the consumer. When this price is unknown by the supplier, tax will apply to the suggested retail selling price. If the nonprofit organization is classified as a consumer under subdivisions (d), (e) and (f) of this regulation, the supplier will calculate tax measured by the selling price to the nonprofit organization.



(a) **RESTAURANTS, HOTELS, BOARDING HOUSES, SODA FOUNTAINS, AND SIMILAR ESTABLISHMENTS.**

(1) DEFINITIONS.

- (A) **Boarding House.** The term “boarding house” as used in this regulation means any establishment regularly serving meals, on the average to five or more paying guests. The term includes a “guest home,” “residential care home,” “halfway house,” and any other establishment providing room and board or board only, which is not an institution as defined in Regulation 1503 and section 6363.6 of the Revenue and Taxation Code. The fact that guests may be recipients of welfare funds does not affect the application of tax. A person or establishment furnishing meals on the average to fewer than five paying guests during the calendar quarter is not considered to be engaged in the business of selling meals at retail.
- (B) **American Plan Hotel.** The term “American Plan Hotel” as used in this regulation means a hotel which charges guests a fixed sum by the day, week, or other period for room and meals combined.
- (C) **Complimentary Food and Beverages.** As used in this subdivision (a), the term “complimentary food and beverages” means food and beverages (including alcoholic and non-alcoholic beverages) which are provided to transient guests on a complimentary basis and:
1. There is no segregation between the charges for rooms and the charges for the food and beverages on the guests’ bills, and
  2. The guests are not given an option to refuse the food and beverages in return for a discounted room rental.
- (D) **Average Retail Value of Complimentary Food and Beverages.** The term “average retail value of complimentary food and beverages” (ARV) as used in this regulation means the total amount of the costs of the complimentary food and beverages for the preceding calendar year marked-up one hundred percent (100%) and divided by the number of rooms rented for that year. Costs of complimentary food and beverages include charges for delivery to the lodging establishment but exclude discounts taken and sales tax reimbursement paid to vendors. The 100% markup factor includes the cost of food preparation labor by hotel employees, the fair rental value of hotel facilities used to prepare or serve the food and beverages, and profit.
- (E) **Average Daily Rate.** The term “average daily rate” (ADR) as used in this regulation means the gross room revenue for the preceding calendar year divided by the number of rooms rented for that year. “Gross room revenue” means and includes the full charge to the hotel customers but excludes separately stated occupancy taxes, revenue from contract and group rentals which do not qualify for complimentary food and beverages, and revenue from special packages (e.g., New Year’s Eve packages which include food and beverages as well as guest room accommodations), unless it can be documented that the retail value of the food and beverages provided as a part of the special package is 10% or less of the total package charge as provided in subdivision (a)(2)(B). “Number of rooms rented for that year” means the total number of times all rooms have been rented on a nightly basis provided the revenue for those rooms is included in the “gross room revenue”. For example,



if a room is rented out for three consecutive nights by one guest, that room will be counted as rented three times when computing the ADR.

- (F) In General. Tax applies to sales of meals or hot prepared food products (see (e) below) furnished by restaurants, concessionaires, hotels, boarding houses, soda fountains, and similar establishments whether served on or off the premises. In the case of American Plan hotels, special packages offered by hotels, e.g., a New Year's Eve package as described in subdivision (a)(1)(E), and boarding houses, a reasonable segregation must be made between the charges for rooms and the charges for the meals, hot prepared food products, and beverages. Charges by hotels or boarding houses for delivering meals or hot prepared food products to, or serving them in, the rooms of guests are includable in the measure of tax on the sales of the meals or hot prepared food products whether or not the charges are separately stated. (Caterers, see (h) below.) Sales of meals or hot prepared food products by restaurants, concessionaires, hotels, boarding houses, soda fountains, and similar establishments to persons such as event planners, party coordinators, or fund-raisers, which buy and sell on their own account, are sales for resale for which a resale certificate may be accepted (see subdivision (h)(3)(C)2.).

Soufflé cups, straws, paper napkins, toothpicks and like items that are not of a reusable character which are furnished with meals or hot prepared food products are sold with the meals or hot prepared food products. Sales of such items for such purpose to persons engaged in the business of selling meals or hot prepared food products are, accordingly, sales for resale.

- (G) Complimentary Food and Beverages. Lodging establishments which furnish, prepare, or serve complimentary food and beverages to guests in connection with the rental of rooms are consumers and not retailers of such food and beverages when the retail value of the complimentary food and beverages is "incidental" to the room rental service regardless of where within the hotel premises the complimentary food and beverages are served. For complimentary food and beverages to qualify as "incidental" for the current calendar year, the average retail value of the complimentary food and beverages (ARV) furnished for the preceding calendar year must be equal to or less than 10% of the average daily rate (ADR) for that year.

If a hotel provides guests with coupons or similar documents which may be exchanged for complimentary food and beverages in an area of the hotel where food and beverages are sold on a regular basis to the general public (e.g., a restaurant), the hotel will be considered the consumer and not the retailer of such food and beverages if the coupons or similar documents are non-transferable and the guest is specifically identified by name. If the coupons or similar documents are transferable or the guest is not specifically identified, food and beverages provided will be considered sold to the guest at the fair retail value of similar food and beverages sold to the general public. In the case of coupons redeemed by guests at restaurants not operated by the lodging establishment, the hotel will be considered the consumer of food and beverages provided to the hotel's guests and tax will apply to the charge by the restaurant to the hotel.

Lodging establishments are retailers of food and beverages which do not qualify as "incidental" and tax applies as provided in subdivision (a)(2)(A) above. Amounts paid by guests for food and beverages in excess of a complimentary allowance are gross receipts subject to the tax. Lodging establishments are retailers of otherwise complimentary food and beverages sold to non-guests.

In the case of hotels with concierge floor, club level or similar programs, the formula set forth above shall be applied separately with respect to the complimentary food and beverages furnished to guests who participate in the concierge, club or similar program. That is, the concierge, club or similar program will be deemed to be an independent hotel separate and apart from the hotel in which it is operated. The ADR and the retail value of complimentary food and beverages per occupied room will be computed separately with respect to the guest room accommodations entitled to the privileges and amenities involved in the concierge, club or similar program.

The following example illustrates the steps in determining whether the food and beverages are complimentary:

FORMULA:  $ARV \div ADR \leq 10\%$

Average Daily Rate (ADR):

Room Revenue	\$9,108,000
Rooms Rented	74,607
ADR (\$9,108,000 ÷ 74,607)	\$122.08

Average Retail Value of Complimentary Food and Beverages (ARV):

2. Regulation 1603. (Continued)

Complimentary Food Cost	\$169,057
Complimentary Beverage Cost	52,513
Total	\$221,570
Add 100% Markup	221,570
Average Retail Value	\$443,140
ARV per occupied room (\$443,140 ÷ 74,607)	\$5.94

Application of Formula:  $\$5.94 \div \$122.08 = 4.87\%$

In the above example, the average retail value of the complimentary food and beverages per occupied room for the preceding calendar year is equal to or less than 10% of the average daily rate. Therefore, under the provisions of this subdivision (a) (2) (B), the complimentary food and beverages provided to guests for the current calendar year qualify as “incidental”. The lodging establishment is the consumer and not the retailer of such food and beverages. This computation must be made annually.

When a lodging establishment consists of more than one location, the operations of each location will be considered separately in determining if that location’s complimentary food and beverages qualify as incidental.

(H) “Free” Meals. When a restaurant agrees to furnish a “free” meal to a customer who purchases another meal and presents a coupon or card, which the customer previously

had purchased directly from the restaurant or through a sales promotional agency having a contract with the restaurant to redeem the coupons or cards, the restaurant is regarded as selling two meals for the price of one, plus any additional compensation from the agency or from its own sales of coupons. Any such additional compensation is a part of its taxable gross receipts for the period in which the meals are served.

Tax applies only to the price of the paid meal plus any such additional compensation.

- (b) **“DRIVE-INS.”** Tax applies to sales of food products ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the “drive-in” establishment, even though such products are sold on a “take out” or “to go” order and are actually packaged or wrapped and taken from the premises of the retailer. Food products when sold in bulk, i.e., in quantities or in a form not suitable for consumption on the retailer’s premises, are not regarded as ordinarily sold for immediate consumption on or near the location at which parking facilities are provided by the retailer. Accordingly, with the exception of sales of hot prepared food products (see (e) below) and sales of cold food under the 80-80 rule (see (c) below), sales of ice cream, doughnuts, and other individual food items in quantities obviously not intended for consumption on the retailer’s premises, without eating utensils, trays or dishes and not consumed on the retailer’s premises, are exempt from tax. Any retailer claiming a deduction on account of food sales of this type must support the deduction by complete and detailed records.<sup>1</sup>

1. The records acceptable in support of such a deduction are:

(a) A sales ticket prepared for each transaction claimed as being tax exempt showing:

- (1) Date of the sale,
- (2) The kind of merchandise sold,
- (3) The quantity of each kind of merchandise sold,
- (4) The price of each kind of merchandise sold,
- (5) The total price of merchandise sold,
- (6) A statement to the effect that the merchandise purchased is not to be consumed on or near the location at which parking facilities are provided by the retailer, and

(c) **COLD FOOD SOLD ON A “TAKE-OUT” ORDER.**

(1) GENERAL.

(A) Seller Meeting Criteria of 80-80 Rule. When a seller meets both criteria of the 80-80 rule as explained in subdivision (c)(3) below, tax applies to sales of cold food products (including sales for a separate price of hot bakery goods and hot beverages such as coffee) in a form suitable for consumption on the seller’s premises even though such food products are sold on a “take-out” or “to go” order. Sales of cold food products which are suitable for consumption on the seller’s premises are subject to the tax no matter how great the quantity purchased, e.g., 40 one-half pint containers of milk. Except as provided elsewhere in this regulation, tax does not apply to sales of food products which are furnished in a form not suitable for consumption on the seller’s premises.

Operative April 1, 1996, although a seller may meet both criteria of the 80-80 rule, he or she may elect to separately account for the sale of “take-out” or “to go” orders of cold food products which are in a form suitable for consumption on the seller’s premises. The gross receipts from the sale of those food products shall be exempt from the tax provided the seller keeps a separate accounting of these transactions in his or her records. Tax will remain applicable to the sale of food products as provided in subdivisions (a), (b), (e), or (f) of this regulation. Failure to maintain the required separate accounting and documentation claimed as exempt under this subdivision will revoke the seller’s election under this subdivision.

- (B) Seller Not Meeting Criteria of 80-80 Rule. When a seller does not meet both criteria of the 80-80 rule as explained in subdivision (c)(3) below, tax does not apply to sales of cold food products (including sales for a separate price of hot bakery goods and hot beverages such as coffee) when sold on a “take-out” or “to go” order.

(2) DEFINITIONS.

- (A) For purposes of this subdivision (c), the term “suitable for consumption on the seller’s premises” means food products furnished:

1. In a form which requires no further processing by the purchaser, including but not limited to cooking, heating, thawing, or slicing, and
2. In a size which ordinarily may be immediately consumed by one person such as a large milk shake, a pint of ice cream, a pint of milk, or a slice of pie. Cold food products (excluding milk shakes and similar milk products) furnished in containers larger in size than a pint are considered to be in a form not suitable for immediate consumption.

Pieces of candy sold in bulk quantities of one pound or greater are deemed to be sold in a form not suitable for consumption on the seller’s premises.

The term does not include cold food products which obviously would not be consumed on the premises of the seller, e.g., a cold party tray or a whole cold chicken.

- (B) For purposes of this subdivision (c), the term “seller’s premises” means the individual location at which a sale takes place rather than the aggregate of all locations of the seller. For example, if a seller operates several drive-in and fast food restaurants, the operations of each location stand alone and are considered separately in determining if the sales of food products at each location meet the criteria of the 80-80 rule.

When two or more food-selling activities are conducted by the same person at the same location, the operations of all food related activities will be considered in determining if the sales of food products meet the criteria of the 80-80 rule. For example, if a seller operates a grocery store and a restaurant with no physical separation other than separate cash registers, the grocery store operations will be included in determining if the sales of food products meet the criteria of the 80-80 rule. When there is a physical separation where customers of one operation may not pass freely into the other operation, e.g., separate rooms with separate entrances but a common kitchen, each operation will be considered separately for purposes of this subdivision (c).

- (3) 80-80 RULE. Tax applies under this subdivision (c) only if the seller meets both of the following criteria:
- (A) More than 80 percent of the seller's gross receipts are from the sale of food products, and
  - (B) More than 80 percent of the seller's retail sales of food products are taxable as provided in subdivisions (a), (b), (e), and (f) of this regulation.

Sales of alcoholic beverages, carbonated beverages, or cold food to go not suitable for immediate consumption should not be included in this computation. Any seller meeting both of these criteria and claiming a deduction for the sale of cold food products in a form not suitable for consumption on the seller's premises must support the deduction by complete and detailed records of such sales made.

(d) **PLACES WHERE ADMISSION IS CHARGED.**

- (1) GENERAL. Tax applies to sales of food products when sold within, and for consumption within, a place the entrance to which is subject to an admission charge, during the period when the sales are made, except for national and state parks and monuments, and marinas, campgrounds, and recreational vehicle parks.
- (2) DEFINITIONS.
- (A) "Place" means an area the exterior boundaries of which are defined by walls, fences or otherwise in such a manner that the area readily can be recognized and distinguished from adjoining or surrounding property. Examples include buildings, fenced enclosures and areas delimited by posted signs.
  - (B) "Within a place" means inside the door, gate, turnstile, or other point at which the customer must pay an admission charge or present evidence, such as a ticket, that an admission charge has been paid. Adjacent to, or in close proximity to, a place is not within a place.
  - (C) "Admission charge" means any consideration required to be paid in money or otherwise for admittance to a place. "Admission charge" does not include:
    - 1. Membership dues in a club or other organization entitling the member to, among other things, entrance to a place maintained by the club or organization, such as a fenced area containing a club house, tennis courts, and a swimming pool. Where a guest is admitted to such a place only when accompanied by or vouched for by a member of the club or organization, any charge made to the guest for use of facilities in the place is not an admission charge.
    - 2. A charge for a student body card entitling the student to, among other things, entrance to a place, such as entrance to a school auditorium at which a dance is held.
    - 3. A charge for the use of facilities within a place to which no entrance charge is made to spectators. For example, green fees paid for the privilege of playing a golf course, a charge made to swimmers for the use of a pool within a place, or a charge made for the use of lanes in a public bowling place.
  - (D) "National and state parks and monuments" means those which are part of the National Park System or the State Park System. The phrase does not include parks

and monuments not within either of those systems, such as city, county, regional, district or private parks.

(3) **Presumption That Food Is Sold for Consumption Within a Place.**

When food products are sold within a place the entrance to which is subject to an admission charge, it will be presumed, in the absence of evidence to the contrary, that the food products are sold for consumption within the place. Obtaining and retaining evidence in support of the claimed tax exemption is the responsibility of the retailer. Such evidence may consist, for example, of proof that the sales were of canned jams, cake mixes, spices, cooking chocolate, or other items in a form in which it is unlikely that such items would be consumed within the place where sold.

(4) **Food Sold to Students.** The exemption otherwise granted by Section 6363 does not apply to sales of food products to students when sold within, and for consumption within, a place the entrance to which is subject to an admission charge, and such sales are subject to tax except as provided in (p) of this regulation. For example, when food products are sold by a student organization to students or to both students and nonstudents within a place the entrance to which is subject to an admission charge, such as a place where school athletic events are held, the sales to both students and nonstudents are taxable.

(e) **HOT PREPARED FOOD PRODUCTS.**

(1) **GENERAL.** Tax applies to all sales of hot prepared food products unless otherwise exempt. "Hot prepared food products" means those products, items, or components which have been prepared for sale in a heated condition and which are sold at any temperature which is higher than the air temperature of the room or place where they are sold. The mere heating of a food product constitutes preparation of a hot prepared food product, e.g., grilling a sandwich, dipping a sandwich bun in hot gravy, using infra-red lights, steam tables, etc. If the sale is intended to be of a hot food product, such sale is of a hot food product regardless of cooling which incidentally occurs. For example, the sale of a toasted sandwich intended to be in a heated condition when sold, such as a fried ham sandwich on toast, is a sale of a hot prepared food product even though it may have cooled due to delay. On the other hand, the sale of a toasted sandwich which is not intended to be in a heated condition when sold, such as a cold tuna sandwich on toast, is not a sale of a hot prepared food product. When a single price has been established for a combination of hot and cold food items, such as a meal or dinner which includes cold components or side items, tax applies to the entire established price regardless of itemization on the sales check. The inclusion of any hot food product in an otherwise cold combination of food products sold for a single established price, results in the tax applying to the entire established price, e.g., hot coffee served with a meal consisting of cold food products, when the coffee is included in the established price of the meal. If a single price for the combination of hot and cold food items is listed on a menu, wall sign or is otherwise advertised, a single price has been established. Except as otherwise provided in (b), (c), (d) or (f) of this regulation, or in Regulation 1574, tax does not apply to the sale for a separate price of bakery goods, beverages classed as food products, or cold or frozen food products. Hot bakery goods and hot beverages such as coffee are hot prepared food products but their sale for a separate price is exempt unless taxable as provided in (b), (c), (d) or (f) of this regulation, or in Regulation 1574. Tax does apply if a hot beverage and a bakery product or cold food product are sold as a combination for a single price. Hot soup, bouillon, or consommé is a hot prepared food product, which is not a beverage.



(2) **AIR CARRIERS ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.**

Tax does not apply to the sale, storage, use, or other consumption of hot prepared food products sold by caterers or other vendors to air carriers engaged in interstate or foreign commerce for consumption by passengers on such air carriers, nor to the sale, storage, use, or other consumption of hot prepared food products sold or served to passengers by air carriers engaged in interstate or foreign commerce for consumption by passengers on such air carriers. "Air carriers" are persons or firms in the business of transporting persons or property for hire or compensation, and include both common and contract carriers. "Passengers" do not include crew members. Any caterer or other vendor claiming the exemption must support it with an exemption certificate from the air carrier substantially in the form prescribed in Appendix A of this regulation.

- (f) **FOOD FOR CONSUMPTION AT FACILITIES PROVIDED BY THE RETAILER.** Tax applies to sales of sandwiches, ice cream, and other foods sold in a form for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

A passenger's seat aboard a train, or a spectator's seat at a game, show, or similar event is not a "chair" within the meaning of this regulation. Accordingly, except as otherwise provided in (c), (d), and (e) above, tax does not apply to the sale of cold sandwiches, ice cream, or other food products sold by vendors passing among the passengers or spectators where the food products are not "for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware provided by the retailer."

- (g) **TIPS AND SERVICE CHARGES.** No employer shall collect, take, or receive any gratuity or a part thereof, paid, given to, or left for an employee by a patron, or deduct any amount from wages due an employee on account of such gratuity, or require an employee to credit the amount, or any part thereof, of such gratuity against and as a part of the wages due the employee from the employer. (Labor Code section 351.) If this prohibition is violated, any amount of such gratuities received by the employer will be considered a part of the gross receipts of the employer and subject to the tax.

Amounts designated as service charges, added to the price of meals are a part of the selling price of the meals and, accordingly, must be included in the retailer's gross receipts subject to tax even though such service charges are made in lieu of tips and are paid over by the retailer to employees.

(h) **CATERERS.**

- (1) **DEFINITION.** The term "caterer" as used in this regulation means a person engaged in the business of serving meals, food, or drinks on the premises of the customer, or on premises supplied by the customer, including premises leased by the customer from a person other than the caterer, but does not include employees hired by the customer by the hour or day.
- (2) **SALES TO CATERERS.** A caterer generally is considered to be the consumer of tangible personal property normally used in the furnishing and serving of meals, food or drinks, except for separately stated charges by the caterer for the lease of tangible personal property or tangible personal property regarded as being sold with meals, food or drinks such as disposable plates, napkins, utensils, glasses, cups, stemware, place mats, trays, covers and toothpicks.

(3) SALES BY CATERERS.

(A) Caterer as Retailer. Tax applies to the entire charge made by caterers for serving meals, food, and drinks, inclusive of charges for food, the use of dishes, silverware, glasses, chairs, tables, etc., used in connection with serving meals, and for the labor of serving the meals, whether performed by the caterer, the caterer's employees or subcontractors. Tax applies to charges made by caterers for preparing and serving meals and drinks even though the food is not provided by the caterers. Tax applies to charges made by caterers for hot prepared food products as in (e) above whether or not served by the caterers. A caterer who separately states or itemizes charges for the lease of tangible personal property regardless of the use of the property will be deemed to be the lessor of such property. Tax applies in accordance with Regulation 1660 Leases of Tangible Personal Property – In General. Tax does not apply to charges made by caterers for the rental of dishes, silverware, glasses, etc., purchased by the caterer with tax paid on the purchase price if no food is provided or served by the caterers in connection with such rental.

(B) Caterers as Lessors of Property Unrelated to the Serving or Furnishing of Meals, Food, or Drinks by a Caterer.

1. When a caterer who is furnishing or serving meals, food, or drinks also rents or leases from a third party tangible personal property which the caterer does not use himself or herself and the property is not customarily provided or used within the catering industry in connection with the furnishing and serving of food or drinks, such as decorative props related solely to optional entertainment, special lighting for guest speakers, sound or video systems, dance floors, stages, etc., he or she is a lessor of such property. In such instance, tax applies to the lease in accordance with Regulation 1660.
2. When a person who in other instances is a caterer does not furnish or serve any meals, food, or drinks to a customer, but rents or leases from a third party tangible personal property such as dishes, linen, silverware and glasses, etc., for purposes of providing it to his or her customer, he or she is not acting as a caterer within the meaning of this regulation, but solely as a lessor of tangible personal property. In such instances tax applies to the lease in accordance with Regulation 1660.

(C) Caterers Planning, Designing and Coordinating Events.

1. Tax applies to charges by a caterer for event planning, design, coordination, and/or supervision if they are made in connection with the furnishing of meals, food, or drinks for the event. Tax does not apply to separately stated charges for services unrelated to the furnishing and serving of meals, food, or drinks, such as optional entertainment or any staff who do not directly participate in the preparation, furnishing, or serving of meals, food, or drinks, e.g., coat-check clerks, parking attendants, security guards, etc.
2. When a caterer sells meals, food, or drinks, and the serving of them, to other persons such as event planners, party coordinators, or fund-raisers, who buy and sell the same on their own account or for their own sake, it is a sale for resale for which the caterer may accept a resale certificate. However, a caterer may only claim the sale as a resale if the caterer obtains a resale certificate in compliance with Regulation 1668. A person is buying or selling for his or her own account, or own sake, when such person has his or her own contract with



a customer to sell the meals, food, or drinks to the customer, and is not merely acting on behalf of the caterer.

3. When a caterer sells meals, food or drinks and the serving of them to other persons who charge a fee for their service unrelated to the taxable sale, the separately stated fee is not subject to tax.

(D) Sales of Meals by Caterers to Social Clubs, Fraternal Organizations. Sales of meals to social clubs and fraternal organizations, as those terms are defined in subdivision (i) below, by caterers are sales for resale if such social clubs and fraternal organizations are the retailers of the meals subject to tax under subdivision (i) and give valid resale certificates therefore.

(E) Tips, Gratuities, or Service Charges. An optional tip or gratuity is not subject to tax. A mandatory tip, gratuity, or service charge is included in taxable gross receipts. A tip, gratuity, or service charge negotiated in advance of an event between the caterer and the customer is mandatory even though the amount or percentage is negotiated. A tip, gratuity, or service charge itemized on an invoice or billing by a caterer is not optional even if the invoice or billing itemizes with a notation such as “optional gratuity.” A gratuity is optional only if it is voluntarily added by the customer.

Examples of mandatory tips, gratuities, or service charges include:

“A 15% gratuity [or service charge] will be added to parties of 8 or more.”

“Suggested gratuity 15%,” itemized on the invoice or bill by the caterer.

Tips, gratuities, and service charges are further discussed in subdivision (g).

- (4) PREMISES. GENERAL. Separately stated charges for the lease of premises on which meals, food, or drinks are served, are nontaxable leases of real property. Where a charge for leased premises is a guarantee against a minimum purchase of meals, food or drinks, the charge for the guarantee is gross receipts subject to tax. Where a person contracts to provide both premises and meals, food or drinks, the charge for the meals, food or drinks must be reasonable in order for the charge for the premises to be non taxable.
- (5) PRIVATE CHEFS. A private chef is generally not an employee of the customer, but an independent contractor who pays his or her own social security, and federal and state income taxes. Such a private chef, who prepares and serves meals, food and drinks in the home of his or her customer is a caterer under this regulation.
- (i) **SOCIAL CLUBS AND FRATERNAL ORGANIZATIONS.** “Social Clubs and Fraternal Organizations” as used herein include any corporation, partnership, association or group or combination acting as a unit, such as service clubs, lodges, and community, country, and athletic clubs.

The tax applies to receipts from the furnishing of meals, food, and drink by social clubs and fraternal organizations unless furnished: (1) exclusively to members; and also, (2) less frequently than once a week. Both these requirements must be met. If the club or organization furnishes meals, food or drink to nonmembers, all receipts from the furnishing of meals, food or drink are subject to tax whether furnished to members or nonmembers, including receipts on occasions when furnished exclusively to members. Meals, food or drink paid for by members are considered furnished to them even though consumed by guests who are not members.

(j) **STUDENT MEALS.**

(1) **DEFINITIONS.**

- (A) “FOOD PRODUCTS”. As used herein, the term “food products” as defined in Regulation 1602 (18 CCR 1602) includes food furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer or by a person with whom the retailer contracts to furnish, prepare or serve food to others.
- (B) “MEALS”. As used herein, the term “meals” includes both food and nonfood products, which are sold to students for an established single price at a time set aside for meals. If a single price for the combination of a nonfood product and a food product is listed on a menu or on a sign, a single price has been established. The term “meals” does not include nonfood products which are sold to students for a separate price and tax applies to the sales of such products. Examples of nonfood products are: carbonated beverages and beer. For the purpose of this regulation, products sold at a time designated as a “nutrition break”, “recess”, or similar break, will not be considered “meals”.

(2) **APPLICATION OF TAX.**

- (A) Sales by Schools, School Districts and Student Organizations. Sales of meals or food products for human consumption to students of a school by public or private schools, school districts, and student organizations, are exempt from tax, except as otherwise provided in (d)(4) above.
- (B) Sales by Parent-Teacher Associations. Tax does not apply to the sale of, or the storage, use or other consumption in this state of, meals and food products for human consumption furnished or served to the students of a school by parent-teacher associations. Parent-teacher associations qualifying under Regulation 1597 as consumers are not retailers of tangible personal property, which they sell. Accordingly, tax does apply to the sale to such associations of nonfood items such as carbonated beverages, containers, straws and napkins.
- (C) Sales by Blind Vendors. Tax does not apply to the sale of meals or food products for human consumption to students of a school by any blind person (as defined in section 19153 of the Welfare and Institutions Code) operating a restaurant or vending stand in an educational institution under article 5 of chapter 6 of part 2 of division 10 of the Welfare and Institutions Code, except as otherwise provided in (d)(4) above.
- (D) Sales by Caterers. The application of tax to sales by caterers in general is explained in subdivision (h) above. However, tax does not apply to the sale by caterers of meals or food products for human consumption to students of a school, if all the following criteria are met:
1. The premises used by the caterer to serve the lunches to the students are used by the school for other purposes, such as sporting events and other school activities, during the remainder of the day;
  2. The fixtures and equipment used by the caterer are owned and maintained by the school; and
  3. The students purchasing the meals cannot distinguish the caterer from the employees of the school.

(k) **EMPLOYEES' MEALS.**

- (1) **IN GENERAL.** Any employer or employee organization that is in the business of selling meals, e.g., a restaurant, hotel, club, or association, must include its receipts from the sales of meals to employees, along with its receipts from sales to other purchasers of meals, in the amount upon which it computes its sales tax liability. An employer or an employee organization selling meals only to employees becomes a retailer of meals and liable for sales tax upon its receipts from sales of meals if it sells meals to an average number of five or more employees during the calendar quarter.
- (2) **SPECIFIC CHARGE.** The tax applies only if a specific charge is made to employees for the meals. Tax does not apply to cash paid an employee in lieu of meals. A specific charge is made for meals if:
  - (A) Employee pays cash for meals consumed.
  - (B) Value of meals is deducted from employee's wages.
  - (C) Employee receives meals in lieu of cash to bring compensation up to legal minimum wage.
  - (D) Employee has the option to receive cash for meals not consumed.
- (3) **NO SPECIFIC CHARGE.** If an employer makes no specific charge for meals consumed by employees, the employer is the consumer of the food products and the non-food products, which are furnished to the employees as a part of the meals.

In the absence of any of the conditions under (k)(2) a specific charge is not made if:

- (A) A value is assigned to meals as a means of reporting the fair market value of employees' meals pursuant to state and federal laws or regulations or union contracts.
  - (B) Employees who do not consume available meals have no recourse on their employer for additional cash wages.
  - (C) Meals are generally available to employees, but the duties of certain employees exclude them from receiving the meals and are paid cash in lieu thereof.
- (4) **MEALS CREDITED TOWARD MINIMUM WAGE.** If an employee receives meals in lieu of cash to bring his or her compensation up to the legal minimum wage, the amount by which the minimum wage exceeds the amount otherwise paid to the employee is includable in the employer's taxable gross receipts up to the value of the meals credited toward the minimum wage.
    1. For example, if the minimum rate for an eight-hour day is \$46.00, and the employee received \$43.90 in cash, and a lunch is received which is credited toward the minimum wage in the maximum allowable amount of \$2.10, the employer has received gross receipts in the amount of \$2.10 for the lunch.
  - (5) **TAX REIMBURSEMENT.** If a separately stated amount for tax reimbursement is not added to the price of meals sold to employees for which a specific charge is made, the specific charge will be regarded as being a tax-included charge for the meals.

- (l) **RELIGIOUS ORGANIZATIONS.** Tax does not apply to the sale of, and the storage, use or other consumption in this state of, meals and food products for human consumption furnished or served by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in furnishing or serving the meals and food products is to obtain revenue for the functions and activities of the organization and the

revenue obtained from furnishing or serving the meals and food products is actually used in carrying on such functions and activities. For the purposes of this regulation, “religious organization” means any organization the property of which is exempt from taxation pursuant to subdivision (f) of section 3 of article XIII of the State Constitution.

- (m) **INSTITUTIONS.** Tax does not apply to the sale of, nor the storage, use, or other consumption in this state of, meals and food products for human consumption furnished or served to and consumed by patients or residents of an “institution” as defined in Regulation 1503. Tax, however, does apply to the sale of meals and food products by an institution to persons other than patients or residents of the institution.
- (n) **MEAL PROGRAMS FOR LOW-INCOME ELDERLY PERSONS.** Tax does not apply to the sale of, and the storage, use or other consumption in this state of, meals and food products for human consumption furnished or served to low-income elderly persons at or below cost by a nonprofit organization or governmental agency under a program funded by this state or the United States for such purposes.
- (o) **FOOD PRODUCTS, NONALCOHOLIC BEVERAGES AND OTHER TANGIBLE PERSONAL PROPERTY TRANSFERRED BY NONPROFIT YOUTH ORGANIZATIONS.** See Regulation 1597 for application of tax on food products, nonalcoholic beverages and other tangible personal property transferred by nonprofit youth organizations.
- (p) **NONPROFIT PARENT-TEACHER ASSOCIATIONS.** Nonprofit parent-teacher associations and equivalent organizations qualifying under Regulation 1597 are consumers and not retailers of tangible personal property, which they sell.
- (q) **MEALS AND FOOD PRODUCTS SERVED TO CONDOMINIUM RESIDENTS.** Tax does not apply to the sale of and the storage, use, or other consumption in this state of meals and food products for human consumption furnished to and consumed by persons 62 years of age or older residing in a condominium and who own equal shares in a common kitchen facility; provided, that the meals and food products are served to such persons on a regular basis.

This exemption is applicable only to sales of meals and food products for human consumption prepared and served at the common kitchen facility of the condominium. Tax applies to sales to persons less than 62 years of age.

- (r) **VETERAN’S ORGANIZATION.** Beginning April 1, 2004, tax does not apply to the sale of, and the storage, use or other consumption in this state of, meals and food products for human consumption furnished or served by any nonprofit veteran’s organization at a social or other gathering conducted by it or under its auspices, if the purpose in furnishing or serving the meals and food products is to obtain revenue for the functions and activities of the organization and the revenue obtained from furnishing or serving the meals and food products is actually used in carrying on those functions and activities.
- (s) **FOOD STAMP COUPONS.** Tax does not apply to tangible personal property, which is eligible to be purchased with federal food stamp coupons acquired pursuant to the Food Stamp Act of 1977 and so purchased. When payment is made in the form of both food stamps and cash, the amount of the food stamp coupons must be applied first to tangible personal property normally subject to the tax, e.g., nonalcoholic carbonated beverages. Retailers are prohibited from adding any amount designated as sales tax, use tax, or sales tax reimbursement to sales of tangible personal property purchased with food stamp coupons. (See paragraph (c) of Regulation 1602.5 for special reporting provisions by grocers.)

- (t) **HONOR SYSTEM SNACK SALES.** An “honor system snack sale” means a system where customers take snacks from a box or tray and pay by depositing money in a container provided by the seller. Snacks sold through such a system may be subject to tax depending upon where the sale takes place. Sales of such snacks are taxable when sold at or near a lunchroom, break room, or other facility that provides tables and chairs, and it is contemplated that the food sold will normally be consumed at such facilities. Honor system snack sales do not include hotel room mini-bars or snack baskets.



## California Constitution, Article 16, Public Finance

### Section Title and Content

#### § 6 Use of Public Funds

The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

Provided, further, that this section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State from joining with other such agencies in providing for the payment of workers' compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such publicly-owned nonprofit corporation or other public agency as may be authorized by the Legislature; and

Provided, further, that nothing contained in this Constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and

Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue.



## Sample Internal Control Reference Checklist

A “No” response to any of the following questions may indicate an internal control weakness. The district should perform a self-evaluation and investigate all potential weaknesses and ensure that controls are put into place so that the weakness will no longer result in internal control issues.

This checklist is divided by area; another checklist earlier in the manual is divided by job position for those with responsibility for ASB organizations.

### General Procedures

1. Has the district’s governing board adopted board policy and administrative regulations outlining rules and regulations by which the student body is governed and operated?
2. Does the district have a comprehensive ASB manual with detailed procedures?
3. If the district has a comprehensive manual, is it reviewed and updated at least annually if necessary? Does the update address the areas of concern or confusion identified in the previous year’s audit?
4. Is annual ASB training provided for all site and district-level employees who work with ASB activities?
5. Do members of the business office staff periodically (at least annually) visit each school site to provide support and to review the ASB procedures used at the site?
6. Do site employees and students know who to call in the district office if they have questions or concerns about ASB and are unable to get answers at the school site?
7. Has the business office taken immediate action to correct annual audit findings related to ASB activities? Are the school sites involved in developing action plans to ensure that the findings do not reoccur?
8. Are the forms, processes and systems for ASB operations standardized districtwide?
9. Is the software used for ASB finances adequate to meet the needs of the district and clubs? Are the financial reports and other items produced by the system user-friendly and informational?
10. Are all bank accounts reconciled within two weeks of receipt of the statement?
11. Is there a clear distinction between the student body’s income and expenditures and those of the district?
12. Do procedures ensure that trust funds will not be used to finance general student body activities?
13. Is prompt action taken to recover deficits in trust accounts?
14. Has the governing board established a policy for disposing of inactive student body organizations’ trust balances?
15. Is equipment adequately controlled and recorded?
16. Is the board’s designee an authorized signatory on all student body accounts?
17. Is a general ledger maintained?
18. Are minutes of the student body meetings maintained and adequate?
19. Are the minutes of each individual club reviewed by the general student council?
20. Do the minutes contain approval for fund-raising activities?

21. Are disbursements of student body funds specifically approved, item-by-item, and in the minutes?
22. Are the activities of the student body reflected in the minutes?
23. Does each recognized club have a constitution or charter on file with the ASB office?
24. Does the general student council have bylaws in place?
25. Are accounting controls for the clubs the same as those for the general ASB?
26. Are student store inventories reviewed periodically?
27. Are financial reports prepared regularly? Are they reviewed and included in the ASB minutes?

### **Cash Receipts / Fund Raisers**

1. Are all proposed fund-raising events approved by the governing board or its designee at the beginning of each school year? Is this list updated throughout the year?
2. Are fund-raising activities in accordance with those prescribed by the district and approved by the governing board/designee?
3. Are fund-raising activities approved by the school site administrator and by the general student council?
4. Do supervisory personnel exercise adequate control over student fund-raisers to ensure that the participants are following all district policies and exercising strong internal controls?
5. Is staff aware of the appropriate internal controls for cash receipts for each type of fund-raising event (i.e. prenumbered receipts, tickets, and tally sheets)?
6. Is an adequate stock of supplies for cash receipt control procedures—such as prenumbered tickets and prenumbered receipt books—kept in a safe, locked place?
7. Is control maintained over tickets, numbered forms and receipt books when not in use?
8. Are details about the number of items receipted and the unit price recorded on the receipt or other documentation used for cash receipts?
9. Are all cash receipts from student fund-raising activities turned in to the ASB bookkeeper immediately after the event whenever possible? Is the correct documentation turned in with the collected cash?
10. When individuals turn in cash to the ASB bookkeeper, is any type of acknowledgment signed for receipt of the money?
11. Are undeposited cash receipts kept in a safe?
12. Does the ASB bookkeeper record cash receipts promptly when received?
13. Are deposits to the bank made at least weekly?
14. Is a summary or detail of amounts making up the deposits retained for a sufficient audit trail?
15. Are shortages/overages handled as prescribed by established district policy?
16. Is control of associated student body card sales maintained, including the number of cards issued and the beginning and ending numbers of the cards sold?
17. Are commissions from vending machine sales received promptly when due?

18. Are the profit and loss statements for the student store reviewed periodically? Are prices adjusted when necessary based on analysis of item sales?
19. Are personal checks prohibited from being cashed from ASB funds?

### **Cash Disbursements / Expenditures**

1. Does the business office report the sales and use tax for the student store and other purchases on its sales tax report?
2. Does the business office issue 1099s for all independent contractors paid with ASB funds?
3. Are cash balances reconciled with bank balances monthly, and are detailed items listed on bank statements recorded in the ASB's books?
4. Are prenumbered checks used for cash disbursements?
5. Are voided checks retained?
6. Does the student council preapprove all expenditures?
7. Are controls established to ensure that expenditures do not exceed budgeted funds?
8. Are purchase orders used?
9. Do purchase orders have the required three signatures?
10. Are approved purchase orders, whether voided or not, retained in a file?
11. Are contractual obligations properly authorized by board designated signers? Are they kept within established limits?
12. Are the signatures of the advisor, student representative, and governing board representative obtained for each disbursement?
13. Do checks require double signatures? Are there backup signers on the account?
14. Are all disbursements supported by invoice and adequate receiving documentation?
15. Are all checks written to a specific payee, with no checks written to cash?
16. Are purchases of equipment recorded and maintained in an equipment account?
17. Are ASB funds spent to enhance the general welfare, morale and educational experience of the entire student body rather than just one or two students, individuals or a specific group?
18. Are disbursements from petty cash properly supported by vouchers or receipts?
19. Are the checkbook and the check stock stored in a locked file cabinet or safe?
20. Is there a process in place to determine whether a worker is an employee or an independent contractor?
21. Are all employees who perform work for the ASB paid through the district's payroll and then invoiced to ASB?
22. Is a W9 form obtained from each independent contractor/consultant before they begin working?

## **Financial Reporting**

1. Are all bank accounts reconciled monthly? Are they shared with the advisor, site administrator and district's business office?
2. Are profit and loss statements for the student store prepared and reviewed periodically by the general student council, school site administrator and district office?
3. Are monthly reports on the financial transactions of various trust and club accounts prepared and submitted to the advisors, school site administrator, general student council and district office?
4. Are periodic financial statements of budgeted and actual revenues and expenditures prepared and submitted to the district's business office? Are these reports included in the student council minutes?
5. Does the student council and each club adopt an annual budget?
6. Is each club's budget approved by the general student council?
7. Are the budgets for each club and for the general student council reviewed by the district's governing board or board designee?
8. Is there a policy in place that dictates how much carryover is allowed for individual clubs?
9. Is a balance sheet and statement of revenues and expenditures prepared at least at the end of the year?
10. Are all of the student organization's funds and annual financial reports audited annually by the district's independent auditor?

## Sample Board Policies

### Community Relations

#### Solicitation of Funds From and By Students

*Note: The following optional policy applies to solicitations of students on behalf of the school or charitable organizations. For policy regarding solicitation of funds from and by staff members in personal profit-making ventures, see BP 4135/4235/4335 – Soliciting and Selling. For policy regarding distribution of promotional materials to students and parents/guardians, see BP 1325 – Advertising and Promotion.*

The governing board recognizes that student participation in fund-raising activities for the schools and nonprofit, nonpartisan charitable organizations can help develop a sense of social responsibility in students, enhance the relationship between the school and community, and contribute to the improvement of the school program.

- (cf. 1325 – Advertising and Promotion)
- (cf. 4135/4235/4335 – Soliciting and Selling)
- (cf. 5022 – Student and Family Privacy Rights)
- (cf. 6142.4 – Learning through Community Service)

Whether solicitations are made on behalf of the school or on behalf of a charitable organization, students shall not be barred from an event or activity because they did not participate in fund-raising. Potential donors, including parents/guardians and members of the community, should not be unduly pressured to contribute to the school system or charitable organizations. Staff are expected to emphasize the fact that donations are always voluntary.

The superintendent or designee shall ensure that parents/guardians are informed of the purpose of fund-raisers.

#### Solicitations on Behalf of the School

*Note: Pursuant to Education Code 51521, prior written approval is required for sales or solicitations whenever any portion of the funds raised is to be applied to the costs of the fund-raiser or to the costs of merchandise sold, such as the sale of candy or wrapping paper. Such approval is not required if the total proceeds of a solicitation are to be delivered to the school without deductions for expenses.*

With the prior written approval of the superintendent or designee, official school-related organizations may organize fund-raising events involving students.

- (cf. 0420 – School Plans/Site Councils)
- (cf. 1230 – School-Connected Organizations)
- (cf. 1260 – Educational Foundation)
- (cf. 3290 – Gifts, Grants and Bequests)
- (cf. 3554 – Other Food Sales)

*Note: The following paragraph is optional.*

After the fund-raiser has been held, parents/guardians shall be informed how much money was raised and how it was spent.

#### Solicitations on Behalf of Charities

*Note: Nonprofit organizations and charities conducting fund-raising activities are subject to various state laws regarding those activities. For example, Business and Professions Code 17510.2 and 17510.3 specify that solicitations made by nonprofit community or educational organizations must comply with the state disclosure laws. Business and Professions Code 17510.3 requires volunteers over 18 years of age*

*to present potential donors or buyers with information, including the purpose of the solicitation and the address from which further information about revenues and administrative expenses may be obtained. In addition, Penal Code 320.5 provides that, prior to conducting a raffle, a nonprofit organization, unless specifically exempted, must first register with the attorney general's Registry of Charitable Organizations and file financial disclosure reports on each raffle event.*

When approved in advance by the superintendent or designee, nonprofit, nonpartisan organizations that are properly chartered or licensed by state or federal law may solicit students on school grounds during school hours and within one hour before school opens and one hour after school has closed. (Education Code 51520)

#### Legal References

*Education Code 51520 – Prohibited solicitations on school premises; 51521 – Unlawful solicitations of contribution or purchase of personal property for benefit of public school or student body; exception  
Business and Professions Code 17510-17510.95 – Charitable solicitations  
Penal Code 319-329 – Raffles  
Revenue and Tax Code 6361 – Sales tax exemption for certain sales  
Code of Regulations: Title 8 11706 Dangerous activities and occupations*

#### Management Resources

*CSBA Publications: Healthy Food Policy Resource Guide, 2003  
Attorney General Publications: Guide to Charitable Solicitation, 1999; Attorney General's Guide for Charities, 1988*

#### Web sites

*Office of the Attorney General: <http://caag.state.ca.us>*

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### **Advertising and Promotion**

*Note: The following optional policy addresses the distribution of commercial and noncommercial materials by the district as well as advertising in school-sponsored publications and on school property. The personal distribution of materials by students is addressed in BP/AR 5145.2 - Freedom of Speech/Expression.*

*Note: Boards should carefully consider whether they wish to establish a closed forum or a limited open forum regarding the distribution of materials at district schools. In a closed forum, advertising would not be accepted in school-sponsored publications and materials from non-school-sponsored groups would not be distributed on school grounds. For example, the school could not distribute flyers from the local Girl Scout troop or Little League, nor could ads be accepted from businesses in the school yearbook.*

*Note: A limited open forum is a type of nonpublic forum intentionally opened to certain groups or certain topics. In a limited open forum, school officials may impose reasonable restrictions on the distribution of materials or advertising and may selectively approve or disapprove materials or advertising as long as the decision is not arbitrary or capricious; restrictions must be viewpoint-neutral and reasonable in light of the purpose served by the forum (Lehman v. Shaker Heights, DiLoreto v. Downey Unified School District). In addition, districts may establish a limited open forum relative to student clubs, but a closed forum for advertising. See BP/AR 6145.5 - Student Organizations and Equal Access for language related to student clubs and the federal Equal Access Act.*

*Note: Option 1 is for use by districts that have established a closed forum. Option 2 and the remainder of the policy are for use by districts that have established a limited open forum. Districts may establish*

*different forums for different schools within the district (e.g., an elementary school may have a closed forum; a high school a limited open forum) and the following policy should be modified accordingly. It's important to note that when determining whether a district has established a closed forum or limited open forum, courts would look beyond the district's intent as stated in its policy and also look to the actual practice of school officials (Board of Education of the Westside Community Schools v. Mergens). Therefore, this policy should be applied in a consistent manner at each school. Because this is a complex and evolving area of law, it is strongly recommended that legal counsel be consulted prior to the adoption of policy in this area.*

#### **OPTION 1 – Closed Forum**

The governing board desires to limit student exposure to advertising and promotional materials. Therefore, in order to maintain a closed forum on school campuses, advertising shall not be accepted in school-sponsored publications. In addition, flyers and promotional materials from non school-sponsored groups shall not be distributed.

*Note: Districts that have created a closed forum must delete the remainder of this policy to ensure that their closed forum status is maintained.*

#### **OPTION 2: Limited Open Forum**

The governing board desires to promote positive relationships between schools and the community to enhance community support and involvement in district schools. The superintendent or designee may approve:

*Note: The district may select any or all of optional items 1-5 below to indicate the types of materials and/or advertising that it will allow.*

1. Distribution of noncommercial materials that publicize services, special events, public meetings or other items of interest to students or parents/guardians  
  
(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)  
(cf. 5145.2 - Freedom of Speech/Expression)  
(cf. 6145.5 - Student Organizations and Equal Access)  
(cf. 6162.8 - Research)
2. Distribution of promotional materials of a commercial nature to students or parents/guardians.  
  
(cf. 1700 - Relations Between Private Industry and the Schools)
3. Paid advertisements on school property, including but not limited to billboard advertisements
4. Paid advertisements in school-sponsored publications, yearbooks, announcements and other school communications.  
  
(cf. 1113 - District and School Web Sites)
5. Products and materials donated by commercial enterprises for use in the classroom, as long as they serve an educational purpose and do not unduly promote any commercial activity or products. Such materials may bear the name and/or logo of the donor.  
  
(cf. 3290 - Gifts, Grants and Bequests)  
(cf. 6161.11 - Supplementary Instructional Materials)

Prior to distribution or publication, the superintendent, site administrator or designee shall review and approve all advertising copy and promotional materials to ensure compliance with Board policy.



*Note: Generally, courts have upheld procedures that place reasonable time, place and manner restrictions on materials to be distributed, as long as the same restrictions were placed on all materials (Henry v. School Board of Colorado Springs). Districts might want to consider developing procedures that limit the time, place and manner of distributions, such as limiting distribution to before or after school hours or creating a central location for the distribution of all materials. Legal counsel should be consulted as appropriate.*

The superintendent, site administrator or designee may selectively approve or disapprove distribution of materials or publishing of copy based on the criteria listed below, but may not disapprove materials or copy in an arbitrary or capricious manner or in a way that discriminates against a particular viewpoint on a subject that would otherwise be allowed.

All materials to be distributed shall bear the name and contact information of the sponsoring entity.

*Note: Districts might also consider requiring sponsoring entities to include a disclaimer on all materials to be distributed. For example, a disclaimer might state, “this event is not school-sponsored or approved” or “opinions are not necessarily those of the school district or school personnel.” Districts wishing to include disclaimer language should consult legal counsel as appropriate.*

The use of promotional materials or advertisements does not imply district endorsement of any identified products or services. Schools are encouraged to include a disclaimer in school publications and yearbooks stating that the school does not endorse any advertised products or services.

### **Criteria for Approval**

The superintendent, site administrator or designee shall not accept for distribution any materials or advertisements that:

1. Are obscene, libelous or slanderous (Education Code 48907)
2. Incite students to commit unlawful acts, violate school rules or disrupt the orderly operation of the schools (Education Code 48907)

*Note: Optional item #3 below prohibits the distribution of political materials or political advertising except under certain circumstances. Pursuant to Education Code 7058, the board may conduct a political forum if it is made available to all sides on an equitable basis.*

3. Promote any particular political interest, candidate, party or ballot measure, unless such materials are being distributed at a forum in which candidates or advocates from all sides are presenting their views to the students during school hours or during events scheduled pursuant to the Civic Center Act

(cf. 1160 - Political Processes)

(cf. 1330 - Use of School Facilities)

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

*Note: The law is unclear as to whether districts can prohibit the distribution of materials or advertising of a religious nature when materials of a nonreligious nature are also distributed during school. Both the Ninth Circuit and Second District Court of Appeals, addressing different claims in DiLoreto v. Downey Unified School District, held that a California district’s refusal to post a paid religious advertisement featuring the Ten Commandments on an athletic field fence where commercial advertising was permitted did not violate the free speech rights of the proposed advertiser when it was clear that the district did not open the forum (the fence) to all expressive activity. Both courts concluded that, regardless of whether or not the advertisement violated the Establishment Clause of the U.S. or California Constitutions, the district had the right to regulate content as a nonpublic forum. Districts wishing to establish policy dealing with the distribution of religious materials should consult legal counsel.*



4. Discriminate against, attack or denigrate any group on account of any unlawful consideration  
(cf. 0410 - Nondiscrimination in District Programs and Activities)
5. Promote the use or sale of materials or services that are illegal or inconsistent with school objectives, including but not limited to materials or advertisements for tobacco, intoxicants, and movies or products unsuitable for children
6. Solicit funds or services for an organization, with the exception of solicitations authorized in Board policy  
(cf. 1321 - Solicitation of Funds from and by Students)
7. Distribute unsolicited merchandise for which an ensuing payment is requested

The superintendent or designee also may consider the educational value of the materials or advertisements, the age or maturity of students in the intended audience, and whether the materials or advertisements support the basic educational mission of the district, directly benefit the students or are of intrinsic value to the students or their parents/guardians.

(cf. 0000 - Vision)

Schools may establish additional criteria pertaining to the content of advertisements in school publications and yearbooks. Such criteria may limit advertisements to those that contain congratulatory or commemorative messages, curriculum-related content, advertisements for products or services of interest to students, non-controversial content, and/or other content deemed appropriate by the school publication staff and adviser in accordance with law and board policy.

#### Legal Reference

*Education Code 7050-7058 – Political activities of school officers and employees; 35160 – Authority of governing boards; 35160.1 – Broad authority of school districts; 35172 – Promotional activities; 38130-38138 – Civic Center Act; 48907 – Student exercise of free expression*  
*Business and Professions Code 25664 – Advertisements encouraging minors to drink*  
*U.S. Constitution: Amendment 1 – Freedom of speech and expression*  
*Court Cases: DiLoreto v. Downey Unified School District (1999) 196 F.3d 958; Yeo v. Town of Lexington, (1997) U.S. First Circuit Court of Appeals, No. 96-1623; Henry v. School Board of Colorado Springs, (D.Col. 1991) 760 F.Supp. 856; Bright v. Los Angeles Unified School District, (1976) 134 Cal. Rptr. 639, 556 P.2d 1090, 18 Cal. 3d 350; Lehman v. Shaker Heights, (1974) 418 U.S. 298*

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## **Business and Noninstructional Operations**

### **Student Activity Funds**

*Note: Education Code 48930 authorizes the Governing Board to establish regulations that govern the operation and management of student organizations. Education Code 48937 requires the Board to provide for the supervision of all funds raised by any student body organization or student organization using the name of the school.*

Student organizations may raise and spend money to promote the general welfare, morale and educational experiences of the students. Student funds shall finance worthwhile activities which go beyond those provided by the district. Minutes shall be kept of student organization meetings and shall properly reflect all financial activities.

(cf. 1321 - Solicitation of Funds from and by Students)  
(cf. 3554 - Other Food Sales)

Student funds shall be managed in accordance with sound business procedures designed to encourage the largest possible educational return to students without sacrificing the safety of funds or exposing students to undue responsibility or unnecessary routine.

With governing board approval, student funds shall be held or invested in one of the following ways:

1. Deposited or invested in a federally insured bank or savings and loan, or in a state or federally insured credit union. (Education Code 48933)
2. Invested in U.S. savings bonds or obligations. (Education Code 48933)
3. Loaned to other district student organizations or invested in district property improvements pursuant to Education Code 48936.

Student funds shall be disbursed according to procedures established by the student organization. All disbursements must be approved by a board-designated official, a student organization representative, and the certificated employee who is the student organization advisor. (Education Code 48933)

The site administrator or designee shall be responsible for the proper conduct of all student organization financial activities. The superintendent or designee shall periodically review the organizations' general financial structures and accounting procedures.

The board shall provide an annual audit of student accounts by a certified public accountant or licensed public accountant. Auditing cost shall be paid from district funds. (Education Code 41020)

(cf. 3400 - Management of District Assets/Accounts)

### Legal Reference

*Education Code 41020 – Requirement for annual audit; 48930-48938 – Student body organization 9/88*

### **Management of District Assets/Accounts**

The superintendent or designee shall establish and maintain accurate, efficient financial management systems to meet the district's fiscal obligations, produce useful information for financial reports, and safeguard the district's resources. He/she shall ensure that the district's accounting system provides ongoing internal controls and meets generally accepted accounting standards.

(cf. 3100 - Budget)  
(cf. 3300 - Expenditures/Expending Authority)  
(cf. 3312 - Contracts) (cf. 3460 - Financial Reports and Accountability)

### **Capital Assets**

*Note: In June 1999, the Governmental Accounting Standards Board (GASB), the national group responsible for establishing accounting and financial reporting standards for state and local governments, issued Statement #34, which modifies accounting and financial requirements to make financial reports more useful and easier to understand; see BP 3460 - Financial Reports and Accountability. Among the requirements of GASB 34 is that districts determine an appropriate capitalization threshold and begin identifying and valuating capital assets. The effective date of these requirements varies depending on the district's total annual revenues, but all districts will be subject to the requirements by 2003-04.*

*Note: The California Department of Education has recommended a capitalization threshold that includes a unit acquisition cost criterion of at least \$5,000, although a lower threshold may be necessary for small*

*districts. The following optional paragraph establishes a \$5,000 capitalization threshold consistent with the CDE's recommendation. The district should revise the following paragraph if it has established a different threshold.*

The governing board recognizes the importance of accurately identifying and valuing district assets in order to help ensure financial accountability and to minimize the risk of loss or misuse. District assets with a useful life of more than one year and an initial acquisition cost of \$5,000 or more shall be considered capital assets. The superintendent or designee shall determine the estimated useful life of each capital asset and shall calculate and report the estimated loss of value, or depreciation, during each accounting period for all capital assets. (cf. 3440 - Inventories)

### **Fraud Prevention and Investigation**

The board expects all employees, board members, consultants, vendors, contractors and other parties maintaining a business relationship with the district to act with integrity and due diligence in duties involving the district's fiscal resources.

The superintendent or designee shall be responsible for developing internal controls which aid in the prevention and detection of fraud, financial impropriety or irregularity within the district. Each member of the management team shall be alert for any indication of fraud, financial impropriety or irregularity within his/her area of responsibility.

An employee who suspects fraud, impropriety or irregularity shall immediately report those suspicions to his/her immediate supervisor and/or the Superintendent or designee. The superintendent or designee shall have primary responsibility for any necessary investigations, in coordination with legal counsel and other internal or external departments and agencies as appropriate.

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

### Legal Reference

*Education Code 14500-14508 – Financial and compliance audits; 35035 – Powers and duties of superintendent; 35250 – Duty to keep certain records and reports; 41010-41023 – Accounting regulations, budget controls and audits; 42600-42604 – Control of expenditures; 42647 – Drawing of warrants by district on county treasurer; form; reports, statements and other data  
Government Code 53995-53997 –Obligation of contract*

### Management Resources

*CSBA Publications: Maximizing School Board Leadership: Finance, 1996  
Governmental Accounting Standards Board Statement 34, Basic Financial Statements - and Management's Discussion and Analysis - For State and Local Governments, June 1999*

### Web sites

*Governmental Accounting Standards Board: <http://www.gasb.org>  
CDE, School Fiscal Services: <http://www.cde.ca.gov/fiscal>  
State Controller's Office: <http://www.sco.ca.gov>  
Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>  
School Services of California: <http://www.sscal.com>  
California Association of School Business Officials: <http://www.casbo.org>*

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## Other Food Sales

*Note:*

*The following policy addresses food and beverage sales outside of the district's food service/cafeteria program, including the use of vending machines and student stores as well as food sales on school premises by student and/or adult organizations.*

*Pursuant to 7 CFR 210.11 and 220.12, districts participating in the National School Lunch or School Breakfast programs are required to establish rules or regulations to control the sale of food in competition with the breakfast or lunch programs.*

*In addition, the Federal Child Nutrition and Women, Infants and Children (WIC) Reauthorization Act of 2004 (42 USC 1751 ) mandates that each district participating in the National School Lunch program (42 USC 1751-1769) or the Child Nutrition Act of 1966 (42 USC 1771-1791), including the School Breakfast program, adopt a districtwide wellness policy by the beginning of the school year after July 2006. See BP 5030 – Student Wellness for language fulfilling the student wellness mandate. For policy addressing sales by food service or cafeteria programs, see BP/AR 3550 – Food Service/Child Nutrition Program. \*\*\**

*Note:*

*Title 5 CCR 15500 and 15501 require the board to approve the sale of food items by student organizations. The board may delegate this authority to the superintendent or designee as provided in the following paragraph. Other conditions regarding the nutritional quality of foods and beverages, the number of items sold, and the preparation of the food must also be satisfied; see the accompanying administrative regulation. \*\*\**

The governing board believes that foods and beverages sold to students on school campuses during the school day should promote student health and reduce childhood obesity. Any food sales conducted outside the district's food service program shall meet nutritional standards specified in law, Board policy and administrative regulations and shall not reduce student participation in the district's food service program.

(cf. 5030 - Student Wellness)

The board authorizes the superintendent or designee to approve the sale of foods and beverages outside the district's food service program, including sales by student or adult organizations, sales through vending machines, and/or sales at secondary school student stores for fund-raising purposes.

(cf. 3550 - Food Service/Child Nutrition Program)  
(cf. 3551 - Food Service Operations/Cafeteria Fund)  
(cf. 3553 - Free and Reduced Price Meals)

Food sales are prohibited during school hours and within one hour before and after school hours, unless the organization is legally organized as a nonpartisan, charitable organization; the purpose of the solicitation is nonpartisan and charitable; and the solicitation has been approved in accordance with board policy. (Education Code 51520)

(cf. 1230 - School-Connected Organizations)  
(cf. 1321 - Solicitations of Funds from and by Students)

When vending machines are sponsored by the district or a student or adult organization, the superintendent or designee shall determine how and where vending machines may be placed at school sites, district offices or other school facilities.

(cf. 3312 - Contracts)

### Legal References

*Education Code 38085 – Sale of specified food items; 48931 – Authorization and sale of food; 49430-49436 – Pupil Nutrition, Health, and Achievement Act of 2001; 51520 – School premises; prohibited solicitations*

*Code of Regulations, TITLE 5 15500 – Food sales in elementary schools; 15501 – Sales in high schools and junior high schools*

*Health and Safety Code 113700-114455 – California Uniform Retail Food Facilities Law, including 114200-114245 – Vending machines*

*United States Code, Title 42 1751-1769h – National School Lunch Act, including: 1751 – Note Local wellness policy 1771-1791 Child nutrition*

*Code of Federal Regulations, Title 7 210.1-210.31 – National School Lunch Program; 220.1-220.21 – National School Breakfast Program*

### Management Resources

*CSBA Policy Briefs: The New Nutrition Standards: Implications for Student Wellness Policies, November 2005*

*CSBA Publications: Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. 2005*

*Centers for Disease Control Publications: School Health Index for Physical Activity and Healthy Eating: A Self-Assessment and Planning Guide for Elementary and Middle/High Schools, 2000*

*Fiscal Crisis and Management Assistance Team Publications: Associated Student Body Accounting Manual, Fraud Prevention Guide and Desk Reference, 2012*

*National Association of State Boards of Education Publications: Fit, Healthy and Ready to Learn, 2000*

*U.S. Department of Agriculture Publications: Team Nutrition, Food and Nutrition Services, Changing the Scene, Improving the School Nutrition Environment: A Guide to Local Action, 2000*

### Web Sites

*California School Boards Association: <http://www.csba.org>*

*California Association of School Business Officials: <http://www.casbo.org>*

*California Department of Education, Nutrition Services Division: <http://www.cde.ca.gov/ls/nu>*

*California Healthy Kids Resource Center: <http://www.californiahealthykids.org>*

*California Project LEAN (Leaders Encouraging Activity and Nutrition): <http://www.californiaprojectlean.org>*

*Dairy Council of California: <http://www.dairycouncilofca.org>*

*Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>*

*National Association of State Boards of Education (NASBE): <http://www.nasbe.org>*

*National School Boards Association: <http://www.nsba.org> U.S. Dept. of Agriculture, Food and Nutrition Information Center (FNIC): <http://www.nal.usda.gov/fnic>*

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## Sample Administrative Regulations

### Community Relations

#### **Solicitation of Funds From and By Students**

*Note: The following regulation is optional and should be revised to indicate district practice.*

The superintendent or designee shall approve all fund-raising activities at least 15 days before the activity. If the event involves a contract with a commercial vendor, the superintendent or designee shall review the contract.

In order to minimize interruptions to the educational program, staff shall limit fund-raising activities to appropriate time periods designated by the site administrator.

(cf. 6116 -Classroom Interruptions)

No student shall be required to raise a specified amount of money in order to participate in an activity sponsored by a school-related organization.

(cf. 1230 - School-Related Organizations)

Students engaged in fund-raising activities on behalf of the school or for school-related projects are expected to be courteous and respectful towards all individuals and businesses.

#### **Door-to-Door Sales**

*Note: The following section is optional and should be deleted by districts that do not allow students to engage in door-to-door sales. Items #1-4 below detail the requirements for students participating in such sales as specified in 8 CCR 11706.*

Students under 16 years old may engage in door-to-door sales of newspaper or magazine subscriptions, candy, cookies, flowers or other merchandise only under the following conditions:

1. The students shall work in pairs, as a team, on the same or opposite side of the street. (8 CCR 11706)
2. The students shall be supervised by an adult, with one adult for every crew of 10 or fewer students. (8 CCR 11706)
3. The students must be within the sight or sound of their adult supervisor at least once every 15 minutes. (8 CCR 11706)
4. The students shall be returned to their respective homes or meeting places after each day's work. (8 CCR 11706)

*Note: Optional items #5-7 below should be revised to indicate district practice.*

5. The students shall not engage in door-to-door sales after dark.
6. The students shall not work outside of their immediate neighborhood.
7. Students in grades \_\_\_\_\_ shall not be involved in any door-to-door sales or solicitations.

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## Business and Noninstructional Operations

### Management of District Assets/Accounts

The district's accounting system shall fully comply with the definitions, instructions and procedures set forth in the California Department of Education School Accounting Manual (Education Code 41010).

The superintendent or designee shall ensure that funds are encumbered in the district accounting records immediately after an expenditure is committed for subsequent payment.

(cf. 3110 - Transfer of Funds)

### Fraud Prevention and Investigation

*Note: The following optional section may be revised to indicate district practice and definitions.*

Fraud, financial improprieties or irregularities include but are not limited to:

1. Forgery or unauthorized alteration of any document or account belonging to the district.
2. Forgery or unauthorized alteration of a check, bank draft or any other financial document.
3. Misappropriation of funds, securities, supplies or other assets.
4. Impropriety in the handling of money or reporting of financial transactions.
5. Profiteering as a result of insider knowledge of district information or activities.
6. Disclosing confidential and/or proprietary information to outside parties (cf. 4119.26/4219.26/4319.26 - Unauthorized Release of Confidential/Privileged Information).
7. Disclosing investment activities engaged in or contemplated by the district (cf. 3430 - Investing).
8. Accepting or seeking anything of material value from contractors, vendors or persons providing services or materials to the district.
9. Destroying, removing or inappropriately using records, furniture, fixtures or equipment.
10. Failing to provide financial records to authorized state or local entities.
11. Any other dishonest or fraudulent act.

The superintendent or designee shall investigate reports of fraudulent activity in a manner that protects the confidentiality of the parties and the facts. All employees involved in the investigation shall be advised to keep information about the investigation confidential.

If an investigation substantiates the occurrence of a fraudulent activity, the superintendent or designee shall issue a report to appropriate personnel and to the governing board. The final disposition of the matter and any decision to file a criminal complaint or refer the matter to the appropriate law enforcement and/or regulatory agency for independent investigation shall be made in consultation with legal counsel. The result of the investigation shall not be disclosed to or discussed with anyone other than those individuals with a legitimate need to know.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

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## Other Food Sales

*Note: The following administrative regulation applies to food sales through the district's food service program. For food sales outside the district's food service program (for instance, by student and adult organizations, through vending machines or at student stores) see BP/AR 3554 – Other Food Sales.*

### Nutritional Standards for Foods

*Note: The following paragraph is for use by districts that participate in the National School Lunch or School Breakfast program pursuant to 42 USC 1757 and 1773. If desired, such districts may choose to revise the following paragraph to apply at all district schools, even those that do not participate in the federal meal program(s).*

Schools participating in the National School Lunch Program or School Breakfast Program pursuant to 42 USC 1751-1769h and 1771-1791 shall meet the nutritional standards and the nutrient and calorie levels for students of each age or grade group, as required by 7 CFR 210.10 and 220.8. (42 USC 1758, 1773)

(cf. 3533 - Free and Reduced Price Meals)

*Note: The following paragraph is for use by all districts. The nutritional standards contained in Education Code 38085 were applicable until July 1, 2007, at which time they were replaced by the nutritional standards in Education Code 49431 and 49431.2, as amended and added by SB 12 (Ch. 235, Statutes of 2005).*

*Note: Districts that do not participate in the National School Lunch Program (42 USC 1751-1769) or the Child Nutrition Act of 1966 (42 USC 1771-1791), including the School Breakfast Program, may delete the reference to federally reimbursable meal programs in the following paragraph.*

(cf. 3554 - Other Food Sales)

(cf. 5030 - Student Wellness)

*Note: Items #1-4 below are for use by districts maintaining elementary schools. Education Code 49431, as amended by SB 12 (Ch. 235, Statutes of 2005), establishes nutritional standards for foods sold at elementary schools, effective July 1, 2007. Effective that date, these standards supersede the requirements of Education Code 38085.*

Beginning July 1, 2007, the only foods that may be sold to a student at an elementary school during the school day are full meals and individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, and legumes. An individually sold dairy or whole grain food item may be sold if it meets all of the following criteria: (Education Code 49431)

1. Not more than 35 percent of its total calories is from fat.
2. Not more than 10 percent of its total calories is from saturated fat.
3. Not more than 35 percent of its total weight is composed of sugar, including naturally occurring and added sugar.
4. Its total calories do not exceed 175.

*Note: Education Code 49431.2, as added by SB 12 (Ch. 235, Statutes of 2005), establishes standards which will supersede the requirements of Education Code 38085 effective July 1, 2007.*

Since July 1, 2007, foods sold to students in middle schools, junior high schools and high schools, except foods served as part of a federally reimbursable meal program, have been required to meet the following standards: (Education Code 49430, 49431.2)

1. Each entree item shall:
  - a. Not exceed 400 calories.
  - b. Contain no more than four grams of fat per 100 calories.
  - c. Be categorized as an entree item in the National School Lunch or School Breakfast program.
2. For each snack item that supplements a meal:
  - a. Not more than 35 percent of its total calories shall be from fat, excluding nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, vegetables that have not been deep fried, or legumes.
  - b. Not more than 10 percent of its total calories shall be from saturated fat, excluding eggs or cheese packaged for individual sale.
  - c. Not more than 35 percent of its total weight shall be composed of sugar, including naturally occurring and added sugar, excluding fruits or vegetables that have not been deep fried.
  - d. Its total calories shall not exceed 250.

*Note: The following optional paragraph reflects the purposes of the California Fresh Start Pilot Program and Education Code 49565-49565.8 as added to by SB 281 (Ch. 236, Statutes of 2005), but may also be used or adapted by districts that do not participate in the program. The program promotes the consumption of nutritious fruits and vegetables by school age children and provides reimbursement funds to encourage schools to provide K-12 students with fruits and vegetables that have not been deep fried.*

The district's food service program shall give priority to serving unprocessed foods and ingredients, and fresh fruits and vegetables that have not been deep fried.

### **Nutritional Standards for Beverages**

*Note: Education Code 49431.5, as amended by SB 965 (Ch. 237, Statutes of 2005), establishes nutritional standards for beverages for all grade levels.*

*Note: Items #1-4 below are for use by districts maintaining elementary schools.*

The only beverages that may be sold to elementary students, regardless of the time of day (Education Code 49431.5), are:

1. Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.
2. Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.
3. Drinking water with no added sweetener.
4. Milk that is 1% fat, 2% fat, or nonfat; soy milk; rice milk; or other similar nondairy milk.

*Note: Items #1-5 below are for use by districts that maintain middle schools or junior high schools.*

The only beverages that may be sold to middle school or junior high school students from one-half hour before the start of the school day until one-half hour after the end of the school day (Education Code 49431.5) are:

1. Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.
2. Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.
3. Drinking water with no added sweetener
4. Milk that is 1% fat, 2% fat, or nonfat; soy milk, rice milk, or other similar nondairy milk.
5. Electrolyte replacement beverages that contain no more than 42 grams of added sweetener per 20-ounce serving.

*Note: As amended by SB 965 (Ch. 237, Statutes of 2005), Education Code 49431.5 restricts the types of beverages that may be sold at high schools. These requirements were phased in beginning July 1, 2007 through July 1, 2009.*

Since July 1, 2009, all of the beverages sold to high school students from one-half hour before the start of the school day until one-half hour after the end of the school day have been required to meet the standards specified in items #1-5 above (Education Code 49431.5).

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# Chapter 25

## Chapter 25 – Frequently Asked Questions

Every day, someone in a student club, at a student council meeting, or in a school entity office has a question about ASB administration. Frequently, the question begins, “Can the ASB...” or “Why can’t the ASB...” The following frequently asked questions (FAQs) are intended to be a guide. We caution each person using these FAQs to check with the local district business staff and auditors to be certain that the answers provided complement the local district policy.

These and many other questions and answers are documented in FCMAT’s online help desk archive, which is available at [www.fcmat.org](http://www.fcmat.org).

### Fund-Raising Questions

- Q. Our business office has told the school sites to prepare a schedule of student body fund-raising events before the next school year so that it can ensure that the number of events is within the limits and so the board of education can approve the schedule in advance. This is a lot of extra work. Is this necessary?**
- A. Yes, this is necessary if requested by the board. Education Code section 48932 allows the governing board to authorize student body organizations to conduct fund-raising activities, so it is clear that the governing board has a responsibility to approve fund-raising events. The board must consider many issues prior to approving any events, such as student safety, whether the insurance company is comfortable with the event and whether the event is appropriate for the overall educational experience of the students. Board members may also have concerns about the number and type of fund-raising events and whether these events interfere with the normal conduct of the schools. The governing board should review and approve the ASB fund-raising events at the beginning of each school year, or designate another administrator to do so. If changes occur during the school year, those will need to be approved as well. Another method used in some districts is for the board to approve policies and administrative regulations that delineate allowable and prohibited fund-raising events, and then designate another individual to approve fund-raising events rather than requiring the information to be submitted to the board. However, it is the board’s decision which method of approval to use.
- Q. Why must I complete all this paperwork for a fund-raiser?**
- A. All fund-raisers must be properly documented to ensure internal controls, which are designed to protect all the people involved in the fund-raiser and the assets (money and goods); another reason is to provide an adequate audit trail.
- Q. What are the general guidelines that apply to student body funds?**
- A. Student body funds must be used to promote and finance a program of worthwhile activity for current students beyond those activities provided by the district.
- Q. Can the ASB rent out the school parking lot as a fund-raising activity?**
- A. Usually not. In most school entities, all revenue from the rental of district property is deposited into the district’s general fund because the property is owned by the district, not the students.
- Q. As a teacher, why can’t I do my own fund-raising for my own account at the school?**

- A. State law prohibits any solicitation—sales or other requests for money—of students on school grounds except by district-controlled programs, such as the cafeteria, student groups or other board-approved groups. Teachers and other employees do not fall into these categories. In addition, a teacher’s fund-raising would be taxable income to that teacher, reportable to the Internal Revenue Service and Franchise Tax Board. Student body groups may participate in the district’s special income tax exempt status, but teachers may not.
- Q. We could make quite a bit of money for our elementary music club if we could sell popcorn and ice cream every Friday after school. Why does our principal keep nixing this idea?**
- A. Education Code Section 15500 is specific. You should meet with your principal and review the district’s board policies related to food sales by student groups. If your proposed sale is no sooner than 30 minutes after the school day is over, there is no state law that prohibits this activity. Education Code 15500 applies only to food sales conducted during the school day. Education Code 35182.5 requires such fund-raising to occur no sooner than 30 minutes after the end of the school day. However, there may be a board policy stating that the activity is not allowable. Boards are able to adopt policies that are stricter than the Education Code.
- Q. Our government club wants to take a trip to Washington, D.C. We have several fund-raisers planned and want to track each student’s fund-raising revenue to determine whether a particular student has raised enough to pay his or her way. Is this allowable?**
- A. No. Funds are raised to benefit the entire club or student group; they cannot be attributed to individual students. You cannot require students to participate in fund-raising, nor can you bar them from participating in an activity because they did not raise funds.
- Q. Are there any restrictions on after-school fund-raising in secondary schools?**
- A. If the fund-raising is done after the school day, meaning no sooner than one-half hour after school ends, the food laws are not in effect, so there are not any restrictions unless board policy limits what you do. You must also make sure that you are not breaking the law by holding activities such as raffles.
- Q. Is it legal to charge fines for overdue library books?**
- A. The California Code of Regulations Title 5, Section 16042 states in part, “a school district shall make no charge for the late return of library materials unless authorized to do so by the governing board of such district.” Thus, if the board has authorized late fees by enacting board policy, they are allowable. However, even if allowable, the fees would normally not belong to the ASB because the books were probably paid for by the general fund, not the ASB.
- Q. Secondary schools in our district have asked if they can sell school uniforms at the student stores as a fund-raiser. Do you see a problem with the student stores doing this?**
- A. Student stores are often seen as a fund-raising mechanism. Items with the school logo (i.e., hats, scarves and sweatshirts) are popular. By school uniform we assume you mean these types of garments with the school logo. Items sold at the store cannot be mandatory, such as mandatory physical education clothes. Education Code section 49066 states, “No grade of a pupil participating in a physical education class may be adversely affected due to the fact that the pupil does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the pupil,” such as lack of sufficient funds. The California Department of Education has stated the position that a school district may require students to purchase their own gym clothes of a district specified design and color so long as the design and color are of a type sold for general wear outside of school (i.e., blue shorts and a white top, which

can be purchased at stores like Wal-Mart, Target and/or Macy's). Once the required gym uniforms become specialized in terms of logos, school name or other similar characteristics not found on clothing for general use outside of school, they are considered school supplies and the district must provide the uniforms free of charge.

**Q.** I have a question about fund-raising. I always thought that it was a “where” question, not a “who” question. If students are raising funds for their booster club, I thought that their item had to be sold off campus; if they were selling for an ASB trust account, it could be sold both on campus and off campus. I have very recently heard that it depends on who is doing the selling. If parents are selling the item, that the money is boosters, but if the students are selling and handling the money, that it is ASB money. I’m confused. I couldn’t find a clear, concise answer that would clear the muddy water for me and my teacher advisors.

**A.** Education Code section 51520 states:

*51520. (a) During school hours, and within one hour before the time of opening and within one hour after the time of closing of school, pupils of the public school shall not be solicited on school premises by teachers or others to subscribe or contribute to the funds of, to become members of, or to work for, any organization not directly under the control of the school authorities, unless the organization is a nonpartisan, charitable organization organized for charitable purposes by an act of Congress or under the laws of the state, the purpose of the solicitation is nonpartisan and charitable, and the solicitation has been approved by the county board of education or by the governing board of the school district in which the school is located.*

So, based on Education Code, students can work at a boosters’ fund-raiser and the funds remain with boosters, if the fund-raiser is not during school hours (or within one hour before or after) or on school grounds during these times. Students can be involved in fund-raising for a booster club or other outside organization if it is not during the school day and it is clear that they are raising funds for another organization.

Per the above section, outside organizations can fund-raise on campus during the school day, but only if they are a nonprofit organization and have previous approval from the governing board. Some booster clubs do have nonprofit status, but many do not. Do not assume that any club that asks to sell on campus during the school day is an official nonprofit organization.

**Q.** The Class of 2008 would like to have a 50/50 fund-raiser. They would sell tickets for \$1.00 for one ticket and \$5.00 for six tickets. The tickets would say “Donation not Required” and they would hand out a lollipop with each sale. The winner would receive half of the total money collected. Would these procedures make this fund-raiser legal?

**A.** It is possible for private nonprofit groups, such as a parent group, education foundation or booster club (which do not include ASB or school entities), to conduct raffles as long as the organization is a tax-exempt nonprofit organization with an approved tax identification number, pursuant to Revenue and Taxation Code 23701d. The organization also must have been licensed to do business in California for at least one year, must register with the Attorney General’s Registry of Charitable Trusts and must receive written confirmation of the annual registration before holding the initial raffle. These nonprofit groups must register every 12 months and distribute at least 90% of the proceeds to beneficial or charitable purposes. They must submit an annual report with gross receipts, expenses, net profit and the charitable purpose for which they used the money. The raffle may not be conducted over the Internet. Adults must supervise the drawing, though students can sell tickets.

School entities, including student clubs, are not authorized to participate in raffles because (unlike the local PTA) they are not nonprofit organizations exempt from state tax as defined in the Franchise Tax Code. Rather, school entities are exempt from tax by virtue of being governmental entities of the State of California.



Many school groups print out tickets with the words “suggested donation” on them and call it a drawing rather than a raffle. This really doesn’t make it legal unless you are prepared to give anyone who asks for a ticket as many tickets as they want for free (no donation). Even if your district gives away tickets for free, you still run the risk if someone wants to challenge the issue because it is still legally a raffle. The only way to have a legal raffle is to work with an eligible nonprofit organization that has its own tax identification number, registers with the attorney general on an annual basis and disburses 90% of the proceeds to a charitable purpose.

In your specific question, in addition to the tickets stating “donation not required”, you are also giving a lollipop with each ticket. This is often done in the field, but the reality is that a lollipop costs a lot less than \$1, and it is clear that the real reason the tickets are purchased is for a 50/50 raffle, not the lollipop. If each ticket were 25 cents, then it would be more realistic to state that the purchaser is really purchasing a lollipop for 25 cents, and then there is a chance something else might be won as a “door prize,” but when that “door prize” is a 50/50 type it again looks like a raffle. A raffle can be defined as paying for a chance to win something of value.

It is best not to conduct anything that could be considered a raffle. Have an outside group do it to avoid any potential issues.

**Q. Our high school ASB held a silent auction. Would this be considered the same kind of event as a raffle?**

A. A silent auction is not the same as a raffle. A game of chance is defined as “paying for a chance to win” and is illegal for districts and ASBs to hold (although it could be legal for an outside parent organization if certain criteria are met). A raffle is a game of chance, a chance to win some item or prize if a specific raffle ticket is chosen.

A silent auction is not a game of chance because people are bidding amounts to purchase the item based on a perceived market value of an item. The highest bidder at the end of the bidding is the only person who pays money, so it is a purchase transaction. The bidders do not pay for a chance to win the item; they only purchase the item if they agreed to the highest price.

## Expenditure Questions

**Q. Why do I have to get approval for every purchase in advance?**

A. State law requires that all student body expenses (purchases) be preapproved. For an unorganized ASB, it’s the principal’s preapproval that is required; for organized ASBs it’s a student representative, the principal and the advisor. Good business practices also require this preapproval to ensure that the purchase is allowable and that sufficient funds are available.

**Q. What is the correct protocol to follow if the original invoice for supplies is lost?**

A. You should request a duplicate invoice from the vendor and mark it duplicate.

**Q. Is there a formal list of prohibited expenditures to guide ASB operations?**

A. No, there is no formal listing. We suggest you check your board policy to see if there are any local prohibitions.

**Q. Our class wants to set aside funds for a five year reunion. Is there a proper way to hold money for the activities of a class after it has graduated?**



- A. No. Funds for alumni groups are not allowed because of the overriding precept that the funds raised by students should be used on behalf of those students while at the school.

**Q. Can ASB funds pay for a new computer for the ASB secretary?**

- A. The “quick” answer is that it depends on how the computer for the ASB secretary was paid for in the past. If the computer was originally paid out of the district’s general funds and the ASB is now being asked to pick up the cost because of budget cuts, then our general response would be that this is not an allowable expenditure because the students are being asked to pick up an expenditure that has been the responsibility of the district in the past.

However, if the computer for the ASB secretary is a new expenditure or if it is being replaced not because it is broken but because it was determined something newer and/or better was needed to assist the ASB and its operations, and if the student body organization votes to pay for this expenditure and the students feel that the expenditures promote the general welfare, morale and/or educational experience of the students, it could be considered an allowable expenditure. If this is the case, board policy or other documentation should be updated so that it contains these types of expenditures for future reference.

**Q. Can an ASB pay for substitute teachers?**

- A. Generally, the ASB cannot pay for substitute teachers because this cost is the responsibility of the district, unless the substitute is required because the teacher is attending an activity organized and funded by the ASB.

**Q. If a school is conducting a fund-raiser to raise funds for the family of a deceased student, how should those funds be delivered to the family? Can the collected funds be deposited into the ASB account and then a check be written to the family?**

- A. Student groups should not donate funds to an individually needy student or use school equipment for a charity fund-raising drive. Those types of donations are not tax-deductible unless a legal foundation has been established for that student or family.

Donations to nonprofit organizations, students or families in need are generally not allowable because they are considered a gift of public funds, no matter how worthy the cause.

**Q. The district has asked our ASB to pay part of the school secretary’s salary because she does the accounting for us. Do we have to pay this cost?**

- A. Generally, the district is responsible for certain costs, including the supervision of student body funds (as noted in Education Code 48937). The student body funds are used to fund costs that promote the general welfare, morale, or educational experience of the students. If the ASB requests supplemental services, such as asking the school secretary to work at the games collecting funds for ticket sales, it would be appropriate to charge this cost to the ASB. However, basic accounting costs that the district has paid in the past should continue to be the responsibility of the district. ASBs should pay for supplementary services that benefit the students, not existing costs that the ASB has not paid for in the past.

**Q. Can our club make a donation to a charitable organization such as The Red Cross? We want to do something to support this charity.**

- A. Such donations are usually not allowable because they are considered a gift of public funds. If your student group wants to organize a fund-raiser to help a charity, they might consider holding a fund-raiser that

is clearly identified as supporting that charity, and ask that all proceeds be paid by checks made payable directly to the charity. These checks would then be delivered to the charity.

**Q. We hold several big athletic events each year and our ASB makes a substantial profit from these events. The vice principal insists that there be additional security at these events and sends the ASB the bill for the security. Is this legal?**

A. Like all ASB expenses, the security costs must be preapproved by the students, certificated advisor, and principal, and security may be a reasonable cost of such a fund-raising event. The vice principal should obtain an estimate of these costs to present to the students for preapproval. The school principal has the ultimate responsibility for events on campus. If school administrators believe that the event is unsafe without added security, they have the authority to discontinue the event if the ASB chooses not to pay for security.

**Q. One of our elementary schools wants to purchase classroom supplies with its extra-curricular funds. Is this okay?**

A. ASB organizations have tremendous flexibility and discretion about how they may use their funds. The principal and ASB advisors are responsible for ensuring that the funds are used to purchase goods and services that promote the general welfare, morale and educational experiences of the students. In general, ASB expenses that meet these criteria are allowable if they are directly linked to the students' benefit. The expenditures must be outside of what the school entity should provide from its own general funding sources.

In high schools and middle schools, the students are involved in making the decisions about how the ASB funds are spent. This helps ensure that the interests of the students are protected. In elementary schools, the students are often not involved in the decision making and operation. Regardless of the school type, the principal or designee is responsible for protecting the interests of the students and ensuring that the funds are spent for their benefit.

In the case of your specific question, since this is an unorganized ASB, the principal does have quite a bit of discretion regarding how the funds are to be used; however, classroom supplies are a district expense, not an appropriate ASB expense, unless the purchases are in addition to what the district provides. Thus ASB funds should not be used for the regular classroom supplies, but an ASB expenditure could be considered appropriate for supplemental class materials.

**Q. Our coach wants to attend a coaching conference and wants the ASB football club to pay for the conference, including hotel, airfare, and meals. Is this allowable?**

A. ASB funds must be spent to benefit the students. If several of the football players were attending the conference with the coach as the chaperone, this would be an allowable expense, provided the students preapprove the cost. However, if the coach attends the conference with no students, there is no direct benefit to the students and the cost would not be allowable.

**Q. Our students want to host a teacher appreciation lunch for all the teachers in the school. I understand ASB funds cannot be used to pay for faculty costs. Is there a way we can do this?**

A. The students cannot pay for this with funds from ASB accounts because it could be considered a gift of public funds. A 1978 legal opinion issued by the California attorney general concluded that a governing board is not authorized by Education Code section 44032 to provide for reimbursement to its employees of the cost of meals purchased for community leaders, including public officials, irrespective of whether such acts are deemed to be in the best interest of the school district. The attorney general concluded that the foregoing expenditures were not "actual and necessary" expenses within the meaning of Education Code section 44032 and thus could not be reimbursed. Absent special circumstance, it is unlikely that a court would

conclude that an expenditure for employee appreciation meals which do not qualify as awards would serve a “direct” and/or “substantial” public purpose.

However, if a parent group is willing to purchase the food for a teacher appreciation lunch, the students could serve the food and act as the hosts. This way, there is no gift of public funds, yet the students are able to participate with the outside parent group’s financial assistance.

**Q. Our Ski Club takes an annual trip to Heavenly Valley to ski. Last year, we voted to pay for the graduating ski club members to join us on the trip this year. Is this okay?**

A. No. You cannot use ASB funds to pay for students who have already graduated because they are no longer part of the student body. This would be a gift of public funds.

**Q. Our high school principal asks our student council to set aside \$500 every year in a “Principal’s Discretionary Account” for him to make certain expenditures. We don’t know what these funds are used for. Is the allowable?**

A. No. This is not allowable because it would not be a legal use of ASB funds. The ASB funds are to benefit the students, and expenditures must be preapproved by the students as well as by the ASB advisor and the principal.

**Q. An advisor purchased choir dresses without having the expenditure preapproved, and there was not enough money in the club account to cover the cost. Can we leave the bill unpaid since the advisor didn’t have approval via a purchase order to buy the dresses? Our district office has said that the advisor needs to be personally responsible for the entire cost.**

A. Because the advisor did not receive preapproval prior to purchasing the dresses, your district office’s mandate that the advisor be personally responsible for the entire cost is allowed. The vendor will need to be notified of who is responsible for the expenditure because they may begin sending delinquent notices to the district for nonpayment and the district does not want to get a negative credit rating because the advisor did not follow the proper approval procedure. If the vendor is used often by the district, this would be a good opportunity to explain that they should not sell items to the district or district staff without a district or ASB purchase order.

**Q. Can ASB pay chaperones who are also staff members?**

A. Paying chaperones at ASB events is an allowable ASB expenditure if the proper approval is given, because this supports the educational experience and is not an obligation of the district. If these chaperones are existing district staff members, they will need to be paid through the district’s payroll system, then the district will need to invoice the ASB for their chaperone time. District staff cannot be paid both through the payroll system and via the vendor payment system as a consultant; if they did they would receive both a 1099 and a W-2 from the same employer, which is a red flag to the IRS.

**Q. Our middle school’s PE Club wants to buy uniforms for different sports. They don’t want students to take them home, but wear and leave at school and then when new year comes around give the uniforms to new students. Can they do that? Or once they give a uniform, does it belong to a student and not the school?**

A. What the middle school is proposing is a great idea and is definitely allowable. The California Constitution provides for a free school system, which has been interpreted to mean that whenever a curriculum or extra-curricular program is adopted, all supplies, both necessary and supplemental, must be provided free of charge by the district. This includes uniforms for athletics. When the PE Club buys the uniforms, they are

making it possible for all students to have an opportunity to participate in sports, regardless of whether they are able to afford the uniform. Because the uniforms are not being purchased by the student, they definitely belong to the school/club, so they may be returned and used again next year by new students.

## Accounting Questions

- Q. Is the ASB required to have reserve funds similar to those required for the school district?**
- A. Although no such reserve is required by law, it is a good business practice to maintain a reserve of at least 5% of annual expenditures.
- Q. We have often found that we need additional supplies during our fund-raising events. Can the student council authorize, in advance, someone to take some of the cash proceeds collected and purchase the things we need the day of our fund-raiser?**
- A. No. All cash collected must remain intact for the audit trail. However, the student council may authorize someone to purchase items and then be reimbursed afterwards through the ASB purchasing process.
- Q. Can commissions be paid to district employees or students on any ASB contracts, such as those for class photos or vending machines?**
- A. No. All revenue from ASB fund-raising activities must be deposited into the ASB accounts. Individual students and district employees should not profit monetarily from the ASB. This could be perceived as a conflict of interest.
- Q. Our ASB has approved the purchase of sweatshirts with our school logo from a company in Pennsylvania. The bill came and there was no sales tax charged. Do we add California sales tax when we pay the invoice to the vendor?**
- A. No. You do not pay the tax to the supplier on this out of state purchase if not included on the invoice. However, when the sweatshirts are sold, sales tax at the current California rate, by jurisdiction, must be added to the sales price. The tax collected must be paid to the California State Board of Equalization. The district business office and/or the district auditor can provide additional guidelines.
- Q. Our elementary school has a small ASB operation. Can we keep our accounting records on an electronic spreadsheet such as Excel or Quattro Pro?**
- A. Yes. A good business practice is for the district to define and support the software standards for ASB management, providing options tailored to the size or volume of the individual school operations. If you use a spreadsheet application at your school site, remember to back up your documents regularly.
- Q. Our auditors wrote us up because one of our clubs overspent its account. The district says the ASB is responsible for this deficit. Why did we get written up and who is responsible for the deficit?**
- A. Good business practices dictate that no club or group is ever allowed to deficit spend. In addition, state law requires that all expenses be preapproved. Part of the preapproval process should include checking that the club has sufficient funds. If one club deficit spends, the other groups or the general student council/ leadership class are forced to cover that deficit if the district does not, even though the other groups have not approved such an expense.

- Q. The auditors recommended that we complete an equipment inventory list for our high school ASB. What do they mean?**
- A. Many ASB groups have purchased equipment that must be inventoried. State law requires that inventory records be maintained for all equipment that costs more than \$500 and lasts longer than one year. Inventory records must include the equipment's cost, date of acquisition, location, description, name and identification number. Examples of such equipment include a computer, a sound system such as is used at dances and athletic events, digital or video cameras and yearbook printing equipment. The inventory records should be kept in a permanent file.

## Policy Questions

- Q. What are the general guidelines that apply to student body funds?**
- A. Student body funds must be used to promote and finance a program of worthwhile activities for current students, beyond those activities provided by the district.
- Q. Would you please tell me how to get our ASB organization into a nonprofit status?**
- A. The ASB is part of the school district, so it uses the district's tax identification number and is a nonprofit organization just as the district is. No additional steps are needed. Contact your district's business office to obtain the necessary information.
- Q. Can there be a limit to the number of students in a club, and can there be criteria to get into that club?**
- A. Organized ASBs normally have individual clubs under the primary student body organization, each with its own focus and organizational requirements. To become a recognized part of the student body organization, a club must be composed entirely of currently enrolled students. ASB clubs should be open to all students interested in participating in the clubs' activities, and a club should not limit the number of students who may participate.

Although clubs should be organized to support students' interests, be careful of establishing requirements or criteria that may appear to be discriminatory. Schools encounter several types of issues related to the First Amendment/Free Exercise/Establishment Clause. Different statutes and case law apply to different school/religion issues. Additionally, different circumstances can cause variations in the way the pertinent statutory and case law is applied. FCMAT cannot give legal advice but can provide some general guidance regarding student clubs.

The Equal Access Act (20 USC 4071-4074) and Civic Center Act (Education Code 38130-38138) require public high schools to treat all student clubs equally regardless of the religious, political, philosophical or other orientation of the clubs. This means that to the extent a school is open to student clubs, it must be open to all student-led and -run clubs, including religious ones.

A student club with a religious orientation has the same rights, and must follow the same rules, as any other student club. The school may establish time, place and manner regulations applicable to club meetings, provided that the restrictions are uniform and nondiscriminatory. For example, if other student clubs may meet at any time during non-curricular hours but may not interfere with classroom instruction, the same rule applies to religious clubs.

Student clubs must be student-initiated, student-sponsored, and student-led, and student participation must be wholly voluntary. Additionally, the school has the legal authority to monitor student clubs by attending meetings; ensuring compliance with school rules, including adherence to nondiscrimination policies;



maintaining order and discipline; protecting the well-being of students and staff; and prohibiting club meetings that materially and substantially interfere with the orderly conduct of educational activities within the school.

In addition, ASB organizations cannot charge dues or fees to join groups or activities, or charge for membership to participate in activities supported by ASB funds.

**Q. Can we withhold a diploma for a student whose parents have a nonsufficient funds check on file in the ASB office for merchandise sold? If so, can you tell me the legal citation?**

A. A review of the Education Code indicates that a diploma can be legally withheld for the following reasons:

- A pupil has willfully cut, defaced or otherwise injured personal property belonging to a school district or private school
- A pupil has not returned school property loaned to them, even upon demand of an employee of the district or private school who is authorized to demand such return

Once a student has been afforded their due process rights, his or her grades, diploma and transcripts can be withheld for the damage until the pupil or the pupil's parent or guardian has paid for the damages or has completed voluntary work that the school district or private school has provided in lieu of monetary payment.

The applicable Education Code sections are 48904 and 48904.3.

Because these are the only two reasons and sections found in the Education Code that state when withholding a diploma is allowable, FCMAT does not believe that a diploma can be withheld because of a nonsufficient funds check.

**Q. The teachers at our school have a "Sunshine Club." Can they deposit their money into our ASB bank account for safekeeping?**

A. No. Because the ASB is operating under the district's tax exempt status, non-ASB deposits into the ASB bank account are not allowed.

**Q. For unorganized student body, can we give gift cards to parents who chaperoned students at camp?**

A. In FCMAT's opinion, giving gift cards purchased by the district to anyone, regardless of the amount or reason, constitutes a gift of public funds and is not allowable. Consider having the cards donated by local vendors when there is a suitable reason to use gift cards. In these cases, the gift card could be used to thank someone for their help. However, gift cards should not be used to pay someone for services because it is not legal, and there are tax implications when such payments are made. If the gift card is considered an award, awards can be given only under certain circumstances to students and staff, and only if allowed by a board policy. For these reasons, FCMAT recommends not giving gift cards to parents.

**Q. Are tips for food delivery an allowable ASB expense?**

A. Many county offices and school districts reimburse for tips when reimbursing actual (not per diem) meal costs. One rationale used is that tips are not considered gratuities or gifts; rather, they are considered compensation for services. This is consistent with IRS regulations that impute tip income to servers who report no tip income. Some jurisdictions even permit tip income to replace the minimum wage requirement. IRS regulations also require withholding of federal income taxes on estimated tips. These facts support the concept of tips as compensation rather than gifts.

When considering the approval of tips, the amount should be reasonable. Most districts approve tips up to a certain percentage and/or in specific circumstances. The reason districts are careful about what is defined as reasonable is because districts must be careful not to violate provisions regarding gifts of public funds. If board policy allows tips to be paid, the normal protocol for ASB expenditure approval continues to apply.

It is good practice for district boards to pass policy regarding this type of expenditure so that employees are aware of what is appropriate. As an example, the policy could allow reimbursement for tips of 15-20% on meals or food deliveries. Some district's boards may have already considered this issue, so FCMAT recommends that you begin by reviewing your district's board policy.

**Q. Can the senior class set aside funds for their five-year class reunion?**

A. No. Education Code section 48930 states that the purpose of ASB is to conduct activities on behalf of the students. Once the students graduate, they are no longer considered district students.

**Q. If there is a new club and they would like to do a fund-raiser but they have no money to purchase the product(s) they want to sell, how do they purchase the products?**

A. Your question is a clear example of why board policy, ASB constitutions and bylaws are important. These documents should be the place to guide people on many ASB-related issues such as this.

There must be a realization that clubs need money to make money, and this needs to be addressed for new clubs. Many ASBs set aside money for new clubs with the expectation it will be repaid. This involves some risk. Some ASBs will not front money like this; instead, they have the rule that the new club will have to get donations to front the money. It's a policy decision that needs to be discussed.

Ongoing clubs should have some money left at year end to begin the next year. It's not practical to spend every cent, knowing some will be needed to support fund-raisers. While excessive carryover should not exist, there should be some left as seed money.

Many graduating senior classes leave their remaining ASB funds to incoming freshmen to start their clubs. This could be a policy decision.

**Q. Our sites have disregarded our warnings about student body compliance, stating that if they comply their programs will be under-funded, resulting in their closure. Please tell me the extent of trouble we could face if we don't comply.**

A. The district's governing board is ultimately responsible for everything that happens in the district, including the activities of the student organizations. Under Education Code section 48930, the governing board has the authority to approve the formation of a student body organization within the district. This means that governing boards are not required to allow student body organizations within the district. Many districts have chosen to stop student fund-raising and organizations districtwide or at specific school sites as a last resort because of continuous and severe out-of-compliance issues, including fraud.

**Q. Our secondary schools offer classes for band, choir, orchestra and drama. These groups often raise money for activities during and outside the regular school day. Because these are classes versus clubs, should the funds raised be run through ASB accounts, or should they run through the district's regular financial system?**

A. To become a recognized part of the student body organization, a club, like a student organization, must be composed entirely of students currently enrolled at the site. These clubs, also known as trust accounts for financial purposes, must have the approval of the student council and the principal, at the board's direction. All aspects of a student organization must be included in one of its trust accounts. All clubs should follow

regulations in the ASB constitution related to the formation of school clubs. Any group of students may apply for permission to form a club by submitting a proposed charter of constitution to the ASB, or by submitting an application as discussed above. The general ASB constitution should state what needs to occur.

There are generally three types of trust accounts in schools:

- Class groups, such as the freshman class, or the class of 2013
- Scholarships and memorials
- Clubs

All clubs must have a purpose and hold regular meetings. They must be formed as outlined in the ASB constitution and board requirements. Each club should also have a purpose and a constitution that outlines policies and rules. Bylaws should also be in place outlining specific operational parameters. Education Code section 48933 requires that the club supervisor or sponsor be a certificated employee. All clubs operate under the same regulations as the ASB organization.

If the band, choir, orchestra and drama classes are holding fund-raisers, it sounds like an ASB club. However, the above requirements — such as having a constitution, receiving approval from the student council, including only currently enrolled students, etc. — must be met.

**Q. Our secondary schools offer extracurricular sports. FCMAT’s ASB Accounting Manual indicates that these activities are considered clubs. These clubs don’t have officers or formal meetings, and financial decisions are made by the coaches. Is this appropriate or should the students in these athletic clubs play more of a role?**

A. The students must play more of a role. The whole idea of ASB is to get students involved. In secondary schools, the students are to make the decisions and the adults are to assist, so they need to have officers, formal meetings and be making the financial decisions. The adults need to co-sign preauthorization of expenditures, just as the students do. However, this is the students’ money, not the adults’.

Many athletic clubs are not run correctly. If the adults want to make the decisions, then these fund-raising events and revenue belong in a parent or booster club. If the funds are to remain in ASB, all of the rules must be followed, including rules regarding how the club is formed and who needs to make decisions. This will include having a certificated club advisor, formal meetings, meeting minutes, an approved constitution, an annual budget, and approval of expenditures in advance by the appropriate individuals (student representative, ASB advisor, and a board designee, which is usually the principal).

**Q. When an elementary school closes, what should be done with the funds in the ASB account? Should they be disbursed somehow or should the account just sit until a future date when the school might reopen?**

A. To be consistent with the intent of Education Code section 48930, funds raised by an ASB class or club should be spent by and for the benefit of the students who raised the funds. However, despite the best planning to spend available balances there are circumstances in which funds remain unspent, such as a class graduating, a school grade level reconfiguration or a school closure.

FCMAT first recommends consulting school board policy to determine if it provides guidance for unspent funds and school closures; absent such a policy, FCMAT recommends allocating the funds to the ASBs of the schools the students will attend in proportion to the number of students transferred, and specifically to those clubs or activities that generated the funds at the closed school.



In the best case, the above distribution would be approved by the ASB and the school site administrator before the school is closed. If the ASB officers and/or the site administrator cannot be gathered for one final meeting, the school board should approve the distribution.

If no school board policy exists, FCMAT recommends adopting a policy to provide guidance for these circumstances in the future.

## Operational Questions

**Q. I have told our high schools, which are selling the discount ASB cards that allow students to attend events at a lesser charge, that they cannot require a student to purchase one of these cards in order to receive their varsity or JV letter from ASB-sponsored activities such as sports, band, etc. Am I correct in my statement?**

A. Yes. You are correct in saying that ASB organizations cannot charge dues or fees to join groups or activities, or charge for membership to participate in activities supported by ASB funds. There are actually very few times that it is legal to charge fees, and those exceptions are only authorized because they are specifically listed in the law. The situation you describe is not one of the exceptions.

It is legal to charge students for lost or destroyed materials, so if a student loses their original ASB card, the student can be charged for a replacement card. But the first ASB card must be free. The discount cards which are sold to allow students to attend events at a lesser charge are different and separate from an ASB card and are thus allowable. However, as stated above, requiring the purchase of such a card for participation in activities supported by ASB funds is not allowed.

**Q. Why can't I open my own bank account for my student group?**

A. It is illegal for any district bank account to be opened unless it meets specific criteria and is board-approved. Bank accounts using the district's tax identification number would only be opened when working with the district's business office.

**Q. For how long are we required to retain ASB records?**

A. Like any business, the ASB organization must maintain accurate records. The records are the history of what occurred during the year. Although the annual audit is usually completed within six months of the close of the school year, other groups and individuals may have questions about the ASB organization a year or more after the school year has ended.

### *Good Business Practice for Record Retention*

The business office should have a complete list of which documents need to be maintained and for how long. A variety of legal and procedural requirements, established in statute or locally by each LEA, affect the retention of records. If the business office does not have specific guidelines, it is a good practice to maintain all of the ASB information for at least four years from the date of the audit, unless the information is considered a permanent record. Permanent records should never be destroyed. The site administrator at each school should ensure that students have a safe place to store permanent ASB records indefinitely and non-permanent records until the end of the four-year period.

Following is a sample record retention guideline:

### *Retention Guidelines for Student Body Records -- Record Retention Period*

- ASB constitution, bylaws and charters — Permanent

- Equipment inventory — Permanent
- Club and council minutes — Four years
- Budgets — Four years
- Invoices and approval documents — Four years
- Bank statements, deposit slips, cancelled checks and other banking records — Four years
- Financial statements and other accounting records — Four years

As of January 1, 2000, Education Code section 35254 was amended to permit retention of permanent records in electronic formats as an alternative to microfilming or photographing the original documents. The original of any records may be destroyed once they have been copied via photographic, microfilm or electronic methods, except that no original record that is basic to any required audit shall be destroyed prior to the second July 1st succeeding the completion of the audit.

**Q. Why did the district auditors write us up for holding a raffle last year? We raised over \$2,000 raffling a television. This was one of our best money makers.**

A. A raffle is considered a lottery and lotteries are not allowed in school districts (or student groups) under the Penal Code. The law allows private nonprofit groups, such as parent-teacher associations and book clubs, to hold raffles if they follow specific procedures.

**Q. Our elementary school has only two fund-raisers a year. Must we prepare a budget?**

A. Generally speaking, no, unless this is a requirement of your local board policy. There is no law that requires an elementary school ASB to prepare a budget. However, if there are quite a few fund-raising events, best practices suggest that a budget be used as a planning guide.

**Q. Can an ASB charge a nominal non-sufficient funds (NSF) check fee to the person who wrote the bad check.**

A. There are no hard and fast rules regarding the charging of NSF fees; each district handles these items differently. Some add a charge to the NSF fee and others simply ask for reimbursement of the fee. There are other districts who, in addition to the fee, do not allow the check writer to provide payment by check for a preselected span of time. FCMAT suggests consulting with your district's business office before determining if a fee is to be charged, because the ASB and the business office should have consistent policies regarding such fees. There may also be notification requirements — e.g., posting signs regarding the consequences of passing a check without sufficient funds.

However, if the bank has not assessed the ASB fees for these checks, FCMAT's opinion is that neither the district nor the ASB should either.

**Q. Can a district charge for general wear and tear of athletic uniforms?**

A. The issue of allowable fees is confusing and difficult to administer. For this reason, FCMAT recommends seeking guidance from legal counsel before imposing any fees or deposits because it is the district's legal counsel who will support the district in the event of any challenges.

With that caveat, FCMAT recommends keeping in mind the following information:

The California Constitution provides for a free school system. Since 1874, the California Supreme Court has interpreted this to mean that students are entitled to be educated at the public's expense. Any fees charged for educational activities would clearly be in violation of this free school system guarantee,

including fees for textbooks, materials and/or supplies. Title 5, California Code of Regulations, section 350, states:

A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law.

The State Board of Education has also stated that no fees are to be charged except where specifically authorized by law. This understanding is based on Article IX, Section 5 of the California constitution. The attorney general's office has also made it clear in many of its opinions that school districts cannot levy fees as a condition of participation in any class, whether the class is elective or compulsory. Prohibited fees include security deposits for locks, lockers, books, class apparatus, musical instruments, uniforms, or other equipment.

In addition, because school districts are required to furnish necessary supplies, they are also responsible for regular upkeep and maintenance of those supplies. Attempts to impose an unconditional obligation on pupils to maintain and repair school district equipment are too broad. However, a student may be charged for damage of personal property loaned to a pupil when he or she willfully cuts, defaces, or otherwise injures the property as a result of misconduct. This law allows the district to impose requirements for proper care and use, and consequent liability for mishandling, but not liability for damage from normal wear and tear, or from an intervening cause or a third party.

Consequently, FCMAT does not recommend a fee for wear and tear on any uniforms; however, the district could require that the uniforms be returned clean and in good condition. If they were damaged or dirty, the district could require that the costs to clean and/or repair the uniforms be borne by the parents, as is the case with lost or damaged books.

- Q. We have just hired a new bookkeeper for our middle school ASB. Where can we find a training class for her?**
- A. FCMAT provides on-site or district training around the state for a district's business office, site administrators, ASB bookkeepers and ASB advisors. Other professional organizations such as the California Association of School Business Officials (CASBO), school district audit firms and independent consultants also provide similar training sessions.
- Q. Why do we need a teacher to be our club advisor? Why can't our classified walk-on coach or a volunteer parent be the club advisor?**
- A. Education Code section 48933(b) describes "the certificated employee who is the designated advisor" and requires that the club advisor be a certificated employee of the district. The advisor doesn't have to be a teacher, but could be another certificated employee. A classified employee or properly screened volunteer may be an assistant advisor to a certificated employee.
- Q. May ASBs accept payment by credit card for services to ASB or for donations?**
- A. Whether or not credit cards are allowed to be used in any way for payment to the ASB depends on the district's policy and procedures in this area. Credit cards are more and more common, and often ASB is asked if they can accept credit cards when payments are being made for a variety of things. The answer to this question depends on whether or not district board policy allows the use of credit cards as payment (revenue). If the district does, then it would follow that, unless policy states otherwise, the ASB can accept them as well.
- Q. Is the student body required to bid large contracts like a school district does? What about a yearbook contract – does that have to go to bid?**

A. Yes, the student body must follow the same procurement (purchasing) laws that school districts follow. Large purchases may require a formal bid process. Certain types of contracts are exempt from bidding requirements, such as contracts for professional services. The student body should contact the district's purchasing manager to verify whether their larger contracts must follow the bid process.

**Q. Our school charges a variety of fees at the beginning of the year for items including, but not limited to, band uniforms and art and woodshop supplies. Our business office personnel told us to stop charging the fees and to never penalize students for not paying them (i.e. no admittance to the dance or the year-end Magic Mountain trip). Can they do this?**

A. Yes, they can and should do this. The California Constitution provides for a free school system. Since 1874, the California Supreme Court has interpreted this to mean that students are entitled to be educated at the public's expense. Title 5, California Code of Regulations, section 350, specifically states:

A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law.

The State Board of Education has also reiterated that no fees are to be charged except where specifically authorized by law. This understanding is based on the authority in Article IX, Section 5 of the California Constitution. The attorney general has also made it clear in many opinions that school districts cannot levy fees as a condition for participation in any class, whether elective or compulsory. Such prohibited fees include security deposits for locks, lockers, books, class apparatus, musical instruments, uniforms or other equipment. Clearly, students may not be charged fees for participation in either curricular or extracurricular activities. Whenever a particular curriculum or extracurricular program is adopted, all supplies, both necessary and supplemental, must be provided free of charge by the district.

Without question, the fee for the band uniform is not allowable.

The fee for the woodshop supplies is also not allowable if charged at the beginning of the school year. However, Education Code section 17551 allows (but does not require) the district to charge for the actual cost of the materials used to make a project at the end of the school year if the student wishes to take the item home. This practice means that all students receive the same amount of materials and are able to make the same projects during the school year. At the end of the year students may take the items home for free or, if the governing board has authorized sales of the projects via board policy, it is allowable to charge a fee for the actual cost of the materials used. Thus if board policy is in place, the projects can be sold to a student at a price that does not exceed the direct cost of the materials. This Education Code section applies to classes such as woodshop or sewing where an item is taken home by the students, but not when the items remain at school. It also does not apply to food in home economic classes, which is eaten as part of the coursework.

If this materials fee is charged after the fact, the money would belong to the district, not the ASB, because the district purchased the materials in the first place.

**Q. Is it OK for athletic groups to charge members fees for transportation, uniforms, etc.?**

A. No. These are not appropriate fees. The California Constitution provides for a free school system. Since 1874, the California Supreme Court has interpreted this to mean that students are entitled to be educated at the public's expense. Title 5, California Code of Regulations, section 350, specifically states:

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The only transportation fees allowed by the Education Code have to do with home-to-school transportation and transportation to summer employment (which most school districts don't provide).

