

Ivy Academia Entrepreneurial Charter  
School

K-12<sup>th</sup> Grade

Parent Group Handbook

*“Educating our next generation of entrepreneurs.”*



**IVY ACADEMIA**  
K-12 ENTREPRENEURIAL CHARTER SCHOOL

## **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.

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.

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.

## **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 trust accounts in schools:

- Class groups, such as the Freshman Class, or the Class of 2010.
- Scholarships and memorials.
- Clubs.

All clubs must be formed as outlined in the ASB constitution and board requirements. Each club must have a purpose and hold regular meetings, and have a constitution that outlines policies and rules. 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 student club and trust accounts are part of the general ASB, so if a club becomes inactive, the funds should be transferred to the general ASB, unless there are 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

**Ivy Academia Entrepreneurial Charter School  
iPLG**

**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):

## 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.

# 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 a Parent Group 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 periodic training 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 AS B 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 AS B organization.
Education Code § 48934	Allows AS B 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 AS B funds. Allows the governing board to use the school district staff for ongoing audits of AS B 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 AS B 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 Penal Code sections apply to K-12 LEAs and to community colleges:

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

## 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. 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. However, the district's tax identification number is not needed for them 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. Several new laws took effect in July 2004, and more became effective in July 2007, creating even stricter standards. 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.

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).

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 school wide 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.

## 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 AP B: SP -01-04, Title 7, Code of Federal	

Regulations, Parts 210 and 215

The US DA 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 Effective July 2009**

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	Middle & High School
<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 not more than one food item per day, 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 Food &amp; Beverage Requirements</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>Noncompliant food and beverages may be sold only if:</p> <ul style="list-style-type: none"> <li>• The sale takes place off campus</li> </ul> <p><b>or</b></p> <ul style="list-style-type: none"> <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 Food &amp; Beverage Requirements</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>Noncompliant food and beverages may be sold only if:</p> <ul style="list-style-type: none"> <li>• The sale takes place off campus</li> </ul> <p><b>or</b></p> <ul style="list-style-type: none"> <li>• The sale takes place at least ½ hour after the school day</li> </ul> <p><b>or</b></p> <ul style="list-style-type: none"> <li>• The sale takes place at a school-sponsored event after the school day.</li> </ul>

**Food and Beverage Requirements for Student Sales Effective July 2009**

Law	Elementary	Middle & Secondary
-----	------------	--------------------

<p><b>Food Items</b> CA Senate Bill 12 Escutia (Amends Section 49431 of Ed Code) Effective July 2007</p>	<p><u>Restricts food sold</u> to pupils during the school day to: Full Meals <b>or:</b> A la carte items* (individual portion sizes) of nuts/seeds, eggs, cheese, fruit, and non-fried vegetables. Dairy and grain products* (e.g., yogurt, ice cream, muffins granola bars) may be sold a la carte, if: Not more than 175 calories per item and a maximum of: 35% of calories from fat* 10% of calories from saturated fat. 35% of weight from sugar* (excepting fruits and vegetables) <i>*Sugar means all free mono- and disaccharides, such as glucose, fructose, lactose and sucrose.</i></p>	<p>Restricts all a la carte food sales during the school day (including food service, student sales and vending machines) to the following: Snacks are limited to a maximum of: 250 calories per item. 35% of calories from fat (excepting nuts, nut butters, seeds, eggs, single-serving cheese, fruit, &amp; nonfried vegetables). 10% of calories from saturated fat (except! eggs, and single-serving cheese). 35% of weight from sugar* (excepting fruits and vegetables). <i>*Sugar means all free mono- and disaccharides, such as glucose, fructose, lactose and sucrose.</i> <b>Entrees</b> (except those sold as part of a government lunch or breakfast) are limited to: Maximum of 400 calories. 4 grams of fat per 100 calories (36% fat). Must be categorized as an entrée in the National School Lunch or breakfast program.</p>	
<p><b>Law</b></p>	<p><b>Elementary</b></p>	<p><b>Middle</b></p>	<p><b>High</b></p>
<p><b>Beverages</b> CA Senate Bill 677 (Effective Jan 2006) CA Childhood Obesity Prevention Act of 2003 CA Senate Bill 965 CA Ed Code 49431 (Effective July 2007)</p>	<p><b>Elementary Schools</b> <b>Effective January 2006</b> 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). Noncompliant beverages may be sold only if: sold by students and sold at least 1/2 hour after school day or sold off campus.</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). Noncompliant beverages may be sold only if: At a school sponsored event after school or sold at least 1/2 hour before or after school. Restrictions apply to all sales, including vending machines</p>	<p>No carbonated beverages, but no other restrictions. <b>Effective July 2007</b> Same restrictions as Middle Schools (minimum of 50% compliance required). <b>Effective July 2009</b> 100% compliance with the same standards as middle schools. Restrictions apply to all sales, including vending machines and student stores.</p>

		and student stores.	
--	--	---------------------	--

The California Department of Education maintains a comprehensive Web site 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 Web site is <http://www.cde.ca.gov/ls/nu/sn/mgmb.asp>.

### 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 unique 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.

## Information Summary, Document Checklist and Questions

### Organization

First year: July 1, 20XX - June 30, 20XX  
 School Name: \_\_\_\_\_  
 Principal: \_\_\_\_\_  
 ASB Bookkeeper: \_\_\_\_\_  
 ASB Advisor: \_\_\_\_\_  
 ASB Approved by Board of Education Date \_\_\_\_\_

**Yes**                      **No**

ASB consultation & bylaws?

Trust account charter & constitution - all trust accounts?

Fund raising activities agree with district policy?

**Financial & Accounting**

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

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

Approved annual budget?

*Financial Statements*

Submitted monthly to district office?

Provided monthly to each club/trust?

*Bank Statements*

Reconciled monthly?

Reviewed & approved?

**Yes**      **No**

*Suspense/ Clearing Accounts*

Reconciled monthly?

All transactions are properly approved?

*Annual Budget*

Prepared?

Approved?

Budget vs. actual results compared?

**Minutes**

Minutes are prepared for every meeting?

*Minutes Authorize*

Fund-raising?

Purchases?

Establishment of clubs?

---

---

**Sales and Purchases**

Fund-raising cash boxes checked in/out?

Starting/ending cash reconciled?

*Revenue projection for fund raising activities and other events*

Approved?

Completed?

Signed off?

*Ticket control, dance, etc.*

Approved?

Completed?

Signed off?

**Yes**      **No**

*Student store inventory*

Inventory performed regularly?

---

*Purchases*

Purchase order prepared?

Purchase order pre-approved?

Received goods reconciled?

W-9 received and signed prior to payments sent?

**Year End**

*Electronic Backup*

Accounting program data?

Spreadsheets and other electronic data?

Backup copy documented and stored safely?

*Listings Printed*

Accounts receivable?

Accounts payable?

Student store inventory?

## Associated Student Body

### Balance Sheet As of May 31, 2002

<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, 2002</b>	<b><u>5,875</u></b>
		<b>Total Liabilities and Fund Balance</b>	<b><u>\$10,875</u></b>

## Associated Student Body

### Balance Sheet As of May 31, 2002

<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, 2002</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.

Ivy Academia Entrepreneurial Charter School  
**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 (circle one)            Yes            No

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

Signature, Title and Date

Site Administrator or Designee Recommendation (circle one)    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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Ivy Academia Entrepreneurial Charter School  
**Request for Fund-Raiser Approval**



**IVY ACADEMIA**  
K-12 ENTREPRENEURIAL CHARTER SCHOOL

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 or No

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

ASB purchase order required? Yes or 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 (circle one)    Yes                  No

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

Site Administrator or Designee Recommendation (circle one)    Yes                  No

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

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

Presented to district office on: \_\_\_\_\_  
Signature, Title and Date

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

Disapproved/reason for disapproval: \_\_\_\_\_

Ivy Academia Entrepreneurial Charter School  
(Name of Club)



**IVY ACADEMIA**  
K-12 ENTREPRENEURIAL CHARTER SCHOOL

**Fund-Raising Budget versus Actual Statement**

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

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







**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: \_\_\_\_\_  
Signature, Title and Date



## 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.



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

Signature, Title and Date



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

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

Ivy Academia Entrepreneurial Charter School  
**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	\$			

Note		ASB Bookkeeper	
Confirm that total "cash & coin" receipts equals total amount of all cash.	(D)		Initial
Confirm that all check receipts agree to attached receipts.	(E)		Initial

Confirm that all check payees individually agree to attached receipts.			Initial
Confirm that all receipt numbers are sequential, with none missing.			Initial

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

Signature of person counting the cash: \_\_\_\_\_  
Signature and Date

Signature of person 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

## **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 and probably one of the first guides to consider. 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.

## **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.

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 fundraising 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.

## **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. It should also be understood that 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.

Many districts prohibit student organizations from owning equipment or long-term assets of any kind.

## **Risk Management and Insurance Options**

A district's insurance policies cover 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)
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.

To: Sample USD, Chief Business Official or Designee

From: e 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: \_\_\_\_\_

## **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 fundraising 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.
2. The ASB bookkeeper may pay for a purchase with ASB funds only if the purchase has been approved in advance by the student council/club and the item(s) have actually been received.
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. For ASB petty cash, have the student council approve an amount and replenish with checks to a designated person.

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.

### **Fraud Alert**

When funds collected during the event are allowed to be used to allegedly purchase materials during the event, fraudsters 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**

AS B purchases are allowed only for expenditures that are authorized and approved in advance. Using the trusting nature of many involved in ASB business, fraudsters will submit personal receipts for reimbursement from student funds. Trusting bookkeepers, advisors and other 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.

### **Internal Controls for Unorganized AS Bs**

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. Then, before the funds are spent, teachers then should submit 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 only prepare an ASB check for payment from ASB funds for those items that have been approved in advance by the site administrator or designee.

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. For example, if a teacher places an order 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 ordering goods for the various clubs. 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:

- i. The first copy is retained by the club requesting the goods.
- ii. 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
- iii. The third copy is sent to the vendor.

iv. 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:

- i. 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.
- ii. The name and address of the vendor, if known.
- iii. The quantity of goods, including a description and the cost. The requestor should also estimate the sales tax and shipping charges.
- iv. 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.

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. 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 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**

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.

### **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.

### **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 Sale 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.

## **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.

## **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.

## **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:

1. Complete and file an application to form a booster club.
2. Submit for approval annually a copy of the application and an updated plan of activities.
3. Submit a copy of the organization's adopted constitution and bylaws with the application.
4. Ensure that renewal applications include the following:
  - a. 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.
  - b. A budget for the upcoming year.
  - c. 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 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.
  - 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.
  - District wide 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.

## **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.

Chapter 20 – booster clubs, foundations, auxiliary organizations  
And other parent-teacher associations **189**

## **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 have permitted 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.

#### **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.

### **Chain of Fundraising and Activity Approval**

#### **Fundraising Procedures:**

1. Decide on Activity
2. Get approval from Committee Chair or Faculty Advisor
3. Complete Fundraising Form with all required information and signatures
4. Submit Fundraising Form to Community Liaison at the Business Office
5. If approved, submit list of advertising calendar and information