



REBECCA OTTO  
STATE AUDITOR

# STATE OF MINNESOTA

## OFFICE OF THE STATE AUDITOR

SUITE 500  
525 PARK STREET  
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)  
(651) 296-4755 (Fax)  
[state.auditor@osa.state.mn.us](mailto:state.auditor@osa.state.mn.us) (E-mail)  
1-800-627-3529 (Relay Service)

### Statement of Position Outside Organizations Supporting Schools

As school districts face financial pressures, many turn to education foundations, booster clubs, parent-teacher organizations and similar entities as a source of additional support and resources. These outside nonprofit organizations are generally set up as separate, privately-operated, community-based, nonprofit charitable organizations. Their goals often include raising money to provide programs or equipment that might otherwise be unavailable to the schools, scholarships to students and/or teacher recognition programs. These nonprofit organizations are created by concerned community members, not by school districts. In fact, Minnesota law prohibits school districts from creating nonprofit corporations, unless explicitly authorized to do so by law.<sup>1</sup>

The organizations must follow state and federal laws governing nonprofit organizations. For example, nonprofit corporations must have articles of incorporation and must file incorporation papers with the Office of the Minnesota Secretary of State. In addition, registration papers may need to be filed with the Office of the Minnesota Attorney General, appropriate tax documents must be filed, and auditing procedures should be established. Those interested in forming a nonprofit organization to support a school or school district are encouraged to consult with an attorney knowledgeable in this area.

Persons holding official positions as officers or employees in both the school district and non-profit organizations should be aware of potential issues of legal compliance. School board members are prohibited from having a personal financial interests in district contracts.<sup>2</sup> For non-contractual situations, the Minnesota courts have developed rules for dealing with common law conflicts of interest generally involving disclosure and abstention. The determination of whether these statutes or rules apply to a given situation is fact-based. The school district attorney should be consulted for general guidance and as particular situations arise. The school district may wish to develop its own conflict of interest policy to supplement these statutory and common law rules. Such a policy could aid officers and employees in maintaining the separate legal identities of the district and the non-profit organization.

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<sup>1</sup> See Minn. Stat. § 465.717, subd. 1.

<sup>2</sup> Minn. Stat. §§ 471.87 and 123B.52, subd. 5 (Exceptions are found in Minn. Stat. § 471.88.).

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This Statement of Position is not legal advice and is subject to revision.

The school board should not attempt to control the outside nonprofit organization. The school district should not maintain or control the nonprofit organization's funds.<sup>3</sup> Instead, the nonprofit organization should maintain and control its own financial accounts, using its own tax identification number.

The nonprofit organization is independent of the school district and the school district lacks the authority to fundraise for the benefit of the nonprofit organization. The school district also lacks the authority to give gifts to or fund these nonprofit organizations. A school district, however, may contract with a nonprofit organization to provide services, if appropriate, as it would with any other vendor. Any district funds paid to the nonprofit organization must be related to the value of the services provided to the school district.

Generally, no problems are presented when outside organizations raise funds and provide those funds to school districts. Minnesota law permits school boards to accept gifts and grants.<sup>4</sup> We recommend that school boards develop written gift acceptance policies that accommodate potential donations from outside organizations. If the gifts come with restrictions, the school board should carefully evaluate whether the restrictions are acceptable to the district and in-line with district priorities. Any restrictions on the use of the gift should be clearly documented in the school board meeting minutes when the gift is accepted. Once the funds or equipment are accepted by the school district, they become district property.

Outside nonprofit organizations may conduct fund-raising activities and solicit donations in order to provide gifts to schools. If a school district has policies restricting when fund-raising activities may be conducted in the name of a school or a school district, the limitations would apply to fund-raising by all outside organizations.

Chapter 14 of the Minnesota Department of Education's Uniform Financial Accounting and Reporting Standards (UFARS) provides additional guidelines for working successfully with external groups. For example, to allow school districts to discuss how funds donated to the school district will be handled, Chapter 14 suggests that the names of officers of outside organizations be submitted to the school district at the beginning of each school year.

Private funds raised by outside nonprofit organizations can support activities and projects that may not be able to receive support through the regular district budget. However, to manage these relationships successfully, we recommend that school districts establish clear policies and procedures to govern their relationships with these outside organizations.

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<sup>3</sup> See also 2014 UFARS Manual, Chapter 14, pp. 5-6 and 24 (May 2014), available on the Minnesota Department of Education's website, <http://education.state.mn.us>. As stated in Chapter 14, funds raised by other organizations, such as booster clubs or PTAs, must be maintained separately from school district funds.

<sup>4</sup> See Minn. Stat. §§ 123B.02, subd. 6 (A school board may receive gifts for the benefit of the district.) and 465.03 (Acceptance must be by resolution adopted by a two-thirds majority of the governing body, expressing the terms of the gift in full.).