

# **SCHOOL FUNDRAISING FOUNDATIONS**

## ***SUMMARY***

Schools in San Diego County are facing financial crisis as funding is cut repeatedly. Parents and concerned groups look for ways to raise money to help the schools they support. Some parent groups have created fundraising foundations for their schools. Many of these foundations have applied to the Internal Revenue Service (IRS) for and have received a nonprofit 501(c)(3) tax ID number and status. This status allows a donor to deduct from their income tax the amount contributed to the nonprofit foundation. Some foundations do not have this status but still solicit donations. In response to a citizen complaint that a particular school foundation, within the San Diego Unified School District was identified as a nonprofit organization on its website but had not in fact established nonprofit status under 501(c)(3) the 2011/2012 San Diego County Grand Jury decided to investigate.

## ***INTRODUCTION***

The Grand Jury received a citizen complaint about a particular school foundation in the San Diego Unified School district that was incorrectly identifying itself as a nonprofit 501(c)(3) organization. The complaint noted that the school principal was attending foundation meetings and participating in its voting process.

## ***PROCEDURE***

The Grand Jury reviewed the school website, the foundation website, School District Policy, and interviewed both school and foundation officials. The school website had a link to the fundraising foundation. The foundation website stated that the foundation was a nonprofit organization but did not display a tax ID number. School officials believed they were not responsible for the school fundraising foundation's activities. Foundation staff assumed they had joined a legally established nonprofit organization with an approved IRS designation. The Grand Jury investigation found that the foundation had previously applied for nonprofit status from the IRS but that all necessary paperwork had not been completed and accordingly, the application had not yet been approved.

## ***DISCUSSION***

To become a nonprofit, a foundation must make application to the IRS for this status. Upon approval, a tax ID number is issued. When someone makes a donation to that foundation, they can note the tax ID number and amount donated on their income tax form as a deduction. The IRS will not accept the deduction without the tax ID number present.

The San Diego Unified School District has a *Request for Approval of Fundraising Activity by a Non-District Organization* form available under its Administrative Procedure 9325. This form is to be filled out by both the foundation and the school principal. The form notes that under Administrative Procedure 9325, the organization must:

1. Be nonpartisan,
2. Be charitable as defined by Internal Revenue Code Section 501(c)(3),
3. Conduct activity in compliance with Administrative Procedure 9325, and
4. Agree to the division of funds as specified in the *Request for Approval*.

The principal must:

1. Agree to the division of funds as specified,
2. Notify parents of the fundraising groups recognized by the school,
3. Notify parents well in advance of specific school fundraising events and provide all details of the events,
4. Notify parents of their right to “opt” their child out of participating in any fundraising event,
5. Notify teachers of all fundraising events for the school year,
6. Provide a signed copy of the Request for Approval form to anyone requesting it,
7. Maintain an official file at the school for at least one school year, which includes parent notification, a copy of the signed Request for Approval form, and any other related documents.

Administrative Procedure 9325 states that a nonprofit organization (e.g., PTA, PTSA, foundation, association, booster club) exists and operates independently of the district.<sup>1</sup> The Procedure also states that a nonprofit that solicits or raises funds on behalf of the district must provide a copy of the fundraising activity’s income and expense reports to the San Diego County Board of Education, and grant the Board the right to audit their financial records at any time either by district audit personnel or by an outside auditor.<sup>2</sup> Fund-raising activities held at a school for the benefit, in whole or in part, of that school or any organization directly under the control of school authorities, must be sponsored by an organization directly under the control of school authorities.<sup>3</sup>

School Principals are required to meet with the foundation president, officers, and advisors at the beginning of each school year. The principal is further required to obtain a copy of the organization’s determination letter or certificate of nonprofit status pursuant to IRS Code Section 501.<sup>4</sup>

The school officials interviewed were unaware of the school districts’ procedures set forth in Administrative Procedure 9325 because of newness in the job. Foundation

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<sup>1</sup> Administrative Procedure 9325, San Diego Unified School District, § C.2.c.

<sup>2</sup> Administrative Procedure 9325, San Diego Unified School District, § C.3.c.

<sup>3</sup> Administrative Procedure 9325, San Diego Unified School District, § C.3.j.

<sup>4</sup> Administrative Procedure 9325, San Diego Unified School District, § D.1

officials interviewed were unaware that they did not have a nonprofit status because they were also new to the foundation and assumed that everything needed was in place.

### ***FACTS AND FINDINGS***

***Fact:*** The Foundation did not have the required nonprofit status.

**Finding 01:** Foundation officials did not follow up at the beginning of their term to make sure that all requirements necessary to establish nonprofit status had been met.

***Fact:*** The San Diego Unified School District has a well-defined policy regarding nonprofit organizations.

***Fact:*** School officials interviewed were unaware of district policy on nonprofit organizations and their responsibilities.

***Fact:*** School officials interviewed stated that they believed they were not responsible for foundation activities.

***Fact:*** School officials began making corrections to comply with District Procedure 9325 soon after the Grand Jury began its inquiry.

**Finding 02:** School District officials have not uniformly verified compliance with procedures regarding fundraising.

### ***RECOMMENDATIONS***

**The 2011/2012 San Diego County Grand Jury recommends that the San Diego Unified School District:**

**12-25:           Review and audit the schools in its jurisdiction at least once per school year to ensure compliance with IRS regulations regarding nonprofit fundraising.**

### ***REQUIREMENTS AND INSTRUCTIONS***

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
  - (1) The recommendation has been implemented, with a summary regarding the implemented action.
  - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
  - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
  - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
San Diego Unified School District	12-25	8/1/12