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DISCLAIMER

This handbook is intended as a guide for PTAs in Illinois.

It is always appropriate to consult an attorney when legal issues arise or to retain the services of an accountant familiar with non-profit organizations when preparing tax forms.

FOREWARD

PTAs in Illinois are classified as tax-exempt 501 (c) (3) Public Charities under the Internal Revenue Code. The laws, rules and regulations covered in this workbook apply to all 501 (c) (3) organizations, which include PTAs at the local, council, region, and state levels.

This workbook has been developed to assist PTA leaders within the State of Illinois. It provides basic information to aid in understanding the requirements PTAs have as 501 (c) (3) associations as well as other helpful information to use regarding PTA money matters.
Local Units are governed by their bylaws and standing rules. Bylaws provide the rules on how the local unit will operate. Bylaws give a definition of the responsibilities and duties of officers. They may be somewhat general in nature or very specific, depending on the philosophy of a particular PTA. Bylaws may never be suspended.

Standing rules may outline practices and traditions as well as further define the roles of officers and chairmen. Some practices are better addressed in standing rules than in bylaws.

In addition, you may adopt board policies and procedures that help fulfill fiduciary responsibilities.

DUTIES OF OFFICERS

THE PRESIDENT is the elected representative of a legal entity (your PTA). As the elected representative, the president is the only person legally authorized to sign contracts, tax returns and all other legal documents. The president is a signatory on all financial accounts and as such may not serve as a member of the audit committee. The president works closely with the treasurer in maintaining the adopted budget, and should review bank statements and communications, expense vouchers, and other financial matters.

THE TREASURER is the elected custodian of the PTA's funds, financial records and official membership list. The treasurer should:

- Keep complete and accurate financial records
- Issue receipts for all monies received
- Deposit all money immediately in an institution approved by the executive board
- Use an expense voucher system and issue checks promptly
- Submit state and National membership dues portions as directed by the state bylaws
- Reconcile bank statements
- Provide a complete written financial statement at every board, general or executive committee meeting. Only the audit can verify the accuracy of the
financial records, so financial reports are never adopted at meetings but are "filed for audit."

- Be prepared to answer all questions promptly and have records available at meetings
- Prepare information necessary for audit
- Prepare information necessary for IRS reports, if required

The treasurer is a signatory on all financial accounts, and may not serve on the audit committee. There needs to be at least two (2) unrelated signatories on bank accounts. Best practice is to have to have three (3) people who are authorized as signatories. Your standing rules should record the names of authorized signatories on your accounts. These standing rules should be reviewed every year to make sure they remain up to date.

The Illinois PTA bylaws for local units mandate that the treasurer shall "be responsible for the remittance of the State and National portion of the dues paid by each member as directed in ARTICLE V-Membership and Dues of these bylaws."

**Never sign or issue a blank check.**

**IRS AUDIT**

In the event of an IRS audit, a PTA should be prepared to provide all records to document the PTA's activities for the period in question. If a professional helped to prepare the PTA reports, contact that person for assistance.

Do not assume that as a non-profit, tax-exempt association the IRS will not perform an audit. It could happen to you!

**UNRELATED BUSINESS INCOME TAX (UBIT)**

As a tax-exempt organization, PTA revenues are not subject to federal income tax if the revenue is related to the PTA's tax-exempt purpose (Educational - for members and the general public). Under certain circumstances, PTAs may be required to file Form 990-T, Exempt Organization Business Income Tax Return, and pay taxes on such gains.

A transaction or activity generally will be classified as yielding unrelated business income if it has the following three properties:
The activity is conducted on a regular basis.
The activity provides income (but does not necessarily produce a profit), and the PTA takes an active role in the generation of the income.
The activity is unrelated to the mission of the PTA. Fundraising, per se, is not a related activity even if all of the net revenue will be used to support PTA programs.

If the activity is conducted by the PTA (as opposed to "through the PTA"), and the labor is provided by the PTA and is solely volunteer, the income generally will be excluded from taxation, even if the above three properties exist.

The Internal Revenue Code contains a number of modifications, exclusions, and exceptions to unrelated business income. The following activities are specifically excluded from the definition of unrelated trade or business:

- **Volunteer Labor**: Any trade or business is excluded in which substantially all the work is performed for the organization without compensation. Some fundraising activities, such as volunteer operated bake sales, may meet this exception.
- **Convenience of Members**: Any trade or business is excluded that is carried on by an organization described in section 501(c)(3) or by a governmental college or university primarily for the convenience of its members, students, patients, officers, or employees. A typical example of this is a school cafeteria.
- **Selling Donated Merchandise**: Any trade or business is excluded that consists of selling merchandise, substantially all of which the organization received as gifts or contributions. Many thrift shop operations of exempt organizations would meet this exception.

If the PTA's unrelated activity starts to rival its related activity, so that the unrelated activity is perceived to be dominant, the PTA may no longer be considered as a charity supporting itself with some unrelated business income; it may instead, be viewed by the IRS as a business with some charitable activities. At that point, the PTA may lose its tax-exempt status.

For more information, visit the IRS Web site:
"Publication 598, Tax on Unrelated Business Income of Exempt Organizations."
The Internal Revenue Service requires that all non-profit, tax-exempt, 501(c)(3) organizations maintain a fiscal year. A fiscal year is any twelve (12) month period as specified in the PTA bylaws. This is an annual accounting period for keeping records and reporting income and expenses. Possible fiscal years are:

- **Calendar year** - A calendar tax year is 12 consecutive months beginning January 1 and ending December 31.
- **Fiscal year** - A fiscal tax year is 12 consecutive months ending on the last day of any month except December.

Any change in a fiscal year must be reported to the Internal Revenue Service and to the Illinois PTA. Once you have adopted your tax year, you may have to get IRS approval to change it. To get approval, you must file Form 1128, Application To Adopt, Change, or Retain a Tax Year (PDF). See the instructions for Form 1128 for exceptions.

For more information on Tax Years, visit IRS Web site: [www.irs.gov/businesses/small/article/0,,id=98673,00.html](http://www.irs.gov/businesses/small/article/0,,id=98673,00.html)

**PTA AS A CONTRACTOR OR EMPLOYER**

It is recommended that a local PTA unit not become an employer nor pay the salary of any individual. The Internal Revenue Service description of an employee is an individual who works on a continuous basis (one hour per day/one day per week). As an employer, the PTA would be required to have the W4 and W2s completed, and withhold and remit state and federal income taxes and social security quarterly.

**FORM 1099-MISC**

Any business or individual hired by the PTA for a specific project or service (artist in residence, program presenter) is considered to be under contract to the PTA. If this business or individual is unincorporated and receives $600.00 or more for this service in a calendar year, the PTA must issue a 1099-MISC form. The form may be found at [http://www.irs.gov/pub/irs-pdf/f1099msc.pdf](http://www.irs.gov/pub/irs-pdf/f1099msc.pdf). Form 1099-MISC is not required to be issued to corporations or to those paid less than $600.00 in a calendar year. Because of the potential of a substantial penalty, it is in a PTA's best interest to issue a 1099-MISC to anyone the PTA is not sure is operating as a corporation or included in the definition of a service provider.
FORM 1099-K

Beginning in January, 2012, payment settlement entities (PSEs)* are required by the Housing Assistance Tax Act of 2008 to report on Form 1099-K, instead of 1099-MISC. the following transactions:

- All payments made in settlement of payment card transactions (e.g., credit card);
- Payments in settlement of third party network transactions IF:
  - Gross payments to a participating payee exceed $20,000; AND
  - There are more than 200 transactions with the participating payee.

*A payment settlement entity is any person or organization that accepts credit or debit cards or third-party network transactions.


1099s are due to contractor workers by the end of January each year for the previous calendar year. 1099s must be sent to the IRS by the end of February for the previous calendar year.

FUNDRAISING

In order to operate, PTAs need funds. While it should not be the main focus of the association, money is needed by any organization. Keep in mind that any event that brings in money is a fundraising event. It does not matter to the Federal Government, if you make a profit or not. PTA funds should be raised by the members of a PTA for the purposes of meeting the PTA Mission and as defined in the local unit’s Budget. A PTA's real working capital lies in its members, not its treasury. When PTAs invest their human resources in programs, they create benefits for all children and youth with modest outlays of money.

Use of PTA Funds

Enrichment activities are an appropriate use of PTA Funds. Examples of appropriate use of PTA funds include: assemblies for children and youth, parent education programs, family-centered activities, field trips, general PTA needs, and regularly budgeted items. (Reflections, state and national PTA conventions, leadership training, etc.)
Donations of Materials and Equipment
If a PTA decides to donate an item to the school, this expenditure must have been approved by the general membership. Some school districts have specific policies and regulations concerning items donated. Check the PTA bylaws, guidelines, and standing rules to see if the PTA unit has specific procedures for donating an item. If a PTA is to donate an item to the school, the School Board must vote to accept the gift. The District is then responsible for maintenance of the item and any liability.

NOTE: If a PTA donates an item, that item becomes the property of the school district. At the discretion of the school district (without consulting the PTA) the school board may move the donated item to another school, may sell the donation, or may throw it away.

Children and Fundraising
The National PTA has a long-standing position of disapproval of any project that involves children in the collection of money. Recognizing that local PTA units have fundraising projects, the Illinois PTA believes that children should not be used in fundraising projects in any manner that would cause them to solicit funds or sell items, including candy and food items, door-to-door or to persons unknown to them. Fund-raisers that can properly involve children might include recreational activities (fun fairs, roller skating parties, cultural outings); in-school events (hot dog days, book fairs); or providing appropriate items for sale (tee shirts, jackets, school items imprinted with school name). PTAs must remember that children should never be involved in any activity that might place them in an unsafe situation.

Protecting PTA Tax-Exempt Status
A PTA's tax-exempt status is one of its most important assets. If that status is revoked, charges of negligence or mismanagement may be brought against the officers. Consequently, when considering a proposed activity, ask, “Will this activity adversely affect our tax-exempt status?” Strict compliance with all applicable federal, state, and local laws is extremely important to prevent even the most well-intentioned effort from becoming a serious problem for a PTA.

"Publication 557, Tax-Exempt Status for Your Organization”

The Illinois Department of Revenue Rules and Regulations allow two tax-exempt fundraisers that would otherwise be required to charge sales tax per year. Fundraising is defined as anything that brings money into the unit's treasury. The project does not have to earn a profit to be considered a fund raiser. Defining what constitutes an individual fund raiser often depends upon the interpretation of the individual governmental agent with whom you speak.

**Expectations**
When considering a fund raiser, what are your expectations?
What is your goal?
Does the goal reflect the PTA Mission?
Do we need a fundraiser to achieve the goal?

**Fundraising Options**
There are many ways to raise funds:

- **Dues**
  Don’t forget this easy way to increase your revenues by increasing your dues. You are already reaching out to these people so it is an easy way to raise extra dollars.

- **Donations**
  This requires some initial work to find names, addresses and/or phone numbers. Then it is just a matter of mailing out a letter of solicitation and waiting for a response. Your letter should include what the money will support. If it is supporting the operation of the PTA, talk about all of the good things your PTA has done. If it is for a specific cause, explain that and how it benefits the kids. Always say thank-you. This could be a quick note with the amount to act as their receipt. You don’t need to worry about too many legal issues. The donations are tax deductible so donors get double for their money; a chance to support a great association and a tax deduction!

- **Events**
  Events such as a fun fair, holiday gift shop, comedy night, or dance can take a significant amount of time and volunteers. Such events may also involve working with one or more outside companies. Volunteers are needed to help the chairman with the planning and preparation, and many more are needed to set up and run the event and to clean up afterwards. These situations may raise more legal issues. Certain events may be covered by local ordinances that require a permit.
Contacts with outside companies should be reviewed carefully. Remember that only the president is allowed to sign contracts.

For events:
- Cross reference calendars so there are no conflicts
- Create a committee
- Publicity
- Plan safety measures
- Check insurance
- Evaluate and debrief

Since many people are involved:
- Always have two unrelated people working with the cash.
- Always have at least two unrelated people independently count the money.
- Always have the chairman or the Treasurer transport the money.
- Always deposit the money as quickly as possible directly to bank.
- Always use a deposit voucher system.

Silent Auction

A Silent Auction does not involve many legal issues. It can be in conjunction with other events. You need to request donations, which is easier if you have an adequate number of volunteers to solicit items. You’ll also need volunteers to organize the event.

Collections

This could be soup labels, box tops, cell phones, etc. The key to this project is encouraging your membership to participate in collecting items. You may want to try to assess the value of what you receive with the amount of effort. Collections do not involve many legal issues.

Selling

Remember: **NEVER use children to sell products.** This could be candy bars, ice cream, cookie dough, wrapping paper, etc. How much will you pay? How much will you charge? How will you reach people? Everyone is selling stuff. There’s a lot of competition! Read contracts carefully.

Sales are easy to analyze. You just need to look at profit ratio (revenue over expenses). When selling, you should consider your audience and how it aligns with your mission.
When selling, you need to consider sales tax. The State allows two sales tax exempt activities per year. You want to try to avoid paying sales tax at all. Ideally, the vendor you are using should pay the sales tax.

When doing sales, take into account the profit margin, price, frequency, and who will buy it and who is selling it.

Fundraising should never involve children in at-risk situations, nor should it pit children one against another. Incentive programs that appear to "reward" some students may penalize others. Incentive programs affect the profit margin in fundraising. Select vendors who are willing to eliminate the individual incentives and substitute cash or merchandise to the PTA unit. These kinds of changes should be negotiated in the contract with the vendor.

All PTA bylaws, whether national, state, council, or local, require the association to be noncommercial. This is an IRS requirement. The noncommercial policy means that the name "PTA," which is a registered service mark or the names of its officers shall not be used in conjunction with the commercial activities of other organizations, including but not limited to the promotion of their goods and services. This policy should be applied with judgment, discretion, and common sense, recognizing that it is not meant to prohibit all contact or cooperation with such groups.

Before embarking on any joint financial endeavor, all levels of PTA should consider whether the arrangement could be viewed as an endorsement of a product, company, or foundation. If so, the endeavor should be restructured to avoid any aspect of endorsement.

All levels of PTA are prohibited under federal law from engaging in substantial business activities that are unrelated to their tax-exempt purposes, which are legally defined as educational and charitable. Disregard of this prohibition could result in loss of tax-exempt status. Any net income that the IRS may deem as generated from unrelated business activities would be taxed as if it were a for-profit business. See previous section in this course book entitled UNRELATED BUSINESS INCOME TAX (UBIT).

Names of local unit presidents or members should not be released to any agency or organization (commercial or noncommercial), business, or foundation.
Material from such sources that has received approval for distribution by a PTA should be sent through PTA channels.

Your Region or District Director should be consulted for direction about distribution of materials believed to be of benefit to Illinois PTA members.

#### Commercial Co-Venturing

PTA POSITION: "The organization shall be noncommercial, nonsectarian and nonpartisan. The name of the organization or the names of any members in their official capacities shall not be used to endorse or promote a commercial concern or in connection with any partisan interest or for any purpose not appropriately related to promotion of the Objects of the organization."

A form of fundraising is "commercial co-venturing."

Commonly, a business will advertise a cooperative fundraising effort in which money is paid to the business for a product or service and a portion of that money is forwarded to a particular charitable cause. The amount is ultimately governed by how successful the business is in selling its product or service, and has little to do with the efforts of the PTA and its members. Examples will be stores or restaurants that donate a percentage of sales to a charity.

Promotion, sale, or marketing of the business' products or services by the PTA and its members could violate the PTA's noncommercial policy.

Before starting or continuing any joint financial endeavor, a PTA should consider whether the arrangement could be viewed as an endorsement of a product, company, or foundation. If so, the PTA should not participate unless the endeavor can be restructured to remove the aspect of endorsement or promotion. This can be done by ensuring that the PTA never makes statements encouraging patronizing a particular business. The PTA can thank the business for their support. Always gear the promotion of such an event as "the business is proud to support or partner with the PTA."

If care is not taken to remove any appearance of endorsement of a product, company or foundation, revenue received from such efforts may be characterized as taxable, unrelated business income.
A number of states regulate commercial co-venturing to protect consumers and charities alike, but it is often difficult to know what steps must be followed for a given activity to be permissible under state and local law.

**GAMES OF CHANCE**

(“Pay to Play”)

PTAs should carefully consider the laws, rules, and regulations before proceeding with games of chance. The funds raised from these activities may be subject to taxation and, in extreme circumstances, may cause the PTA involved to lose its tax-exempt status.

In addition, state and local law or school policy may prohibit raffles, bingo, casino nights, other games of chance and auctions. **If permitted, they may require special registration with state or local authorities.**

Raffles are strictly regulated at the federal, state, and local level. Conducting a raffle requires a special gaming license. The number of raffles conducted annually may be limited. There may be caps on the amount of the prizes offered and time limits on the campaign. A raffle could generate Unrelated Business Income for your organization. Depending on the amount and the value of the prizes offered, you could be required to withhold tax and/or issue a 1099-Misc (Miscellaneous Income) or a W-2G “Certain Gambling Winnings.” The price of the raffle ticket purchased does not constitute a charitable contribution and, therefore, cannot be deducted on a personal tax return. The U.S. Postal Service has stringent regulations about mailing literature related to raffles, especially into states that prohibit them. In the state of Illinois, no one under 18 may participate in a raffle in any way. Incentives, either purchased or donated, used to encourage the purchase of a PTA membership must be considered a raffle and follow the stated requirements for Games of Chance. If you have to “pay to play” it is a game of chance!

When establishing membership goals, incentives should be considered that would benefit all students, not individual students or small groups of students. An incentive that would benefit everyone is, however, an appropriate use of PTA funds.

Casino nights and Bingo also require the same cautions, since they have very specific legal requirements in Illinois.
Neither the National nor the Illinois PTA recommends gambling as a means to raise funds to accomplish your goals. However, should your organization choose one of these activities as a form of fundraising, be sure you KNOW the applicable local, state and federal requirements or laws.

Decide if the revenue generated will be worth the time and energy it takes to research, coordinate and carry off such a project.


CORPORATE SPONSORSHIPS

The National PTA defines corporate sponsorships as a commercial relationship, intended to look like the sponsor is a good will company, for the purpose of allowing the sponsor to have access to certain marketing assets of that property in exchange for a cash fee, budget relieving in-kind services, or other valuable barter.

In order for a sponsorship NOT to be subject to Unrelated Business Income, a sponsor endorses the PTA, the PTA DOES NOT ENDORSE THE SPONSOR. The IRS permits you to thank your sponsor in a variety of ways, including hanging a banner from the podium at a meeting or convention, hanging a banner in the hallway, taking an ad in a local paper, etc. However, you may not make qualitative judgments or ask people to buy the products or services of the sponsor.

The sponsor is permitted to advertise their relationship with you in the same ways you are—they may hang a banner, acknowledge their sponsorship in newspaper ads, including displaying your symbol or logo alongside theirs in the advertisement. Remember to use your symbol or logo, NOT the National PTA logo.

In seeking sponsorships, seek situations that are clear to the public that the outside agency is supporting the efforts of the PTA. Do not get involved in situations where the PTA appears to be making qualitative judgments about the products or services of the sponsor.
When developing a sponsorship contract, be sure you know:

- What do you want?
- What is for “sale”?
- What are you willing to do, or not do?
- What are the benefits to you? To the sponsor?
- Why are you seeking a sponsor?

**VENDORS**

If you are planning to use a vendor, be sure to check references. It is recommended that you network with other PTAs to find out what their experiences have been.

What should you know about a vendor?

1. Is there a time limit on the contract? What is the time period between placing orders and delivery? Is there a guarantee on the products?
2. Does the contract address sales tax requirements? Who is responsible for sales tax? Will the vendor recognize our tax-exempt status?
3. What is the return policy? How are the products returned? Who pays shipping and handling on returns? Is there a time limit on returns?
4. What are the terms of payment? Is there a discount for prompt payment? What special terms are the vendor promoting?
5. What is the return on your investment? Are the profits generated worth the time and effort involved in planning and executing the project? How will you receive your profit—in cash or in kind? What things could affect the profit margin?

**A GOOD RULE TO FOLLOW: IF IT SOUNDS TOO GOOD TO BE TRUE, IT PROBABLY IS!**
A PTA may be required to enter into a contract for products or services. When this occurs, the PTA agrees to comply with the terms and conditions of the contract and to pay the stated amount.

Before entering into a contract, the following points should be considered:

- Has the general membership approved the project?
- Does the president have the necessary authorization to negotiate and sign the contract?
- Are all terms and conditions of the contract understood and in writing?

The president of the PTA is responsible for the agreement. The contract should be in the name of the PTA organization, signed by the president with name and title, and a copy placed in the legal document file of the PTA.

Contracts signed by anyone other than the president with the authorization of the PTA shall not be considered valid.

**FUNDS EARNED IN EXCESS OF ANTICIPATED INCOME**

This may refer to two items:

The first is a line item for a specific dollar amount (also referred to as an "allocation toward next year's budget," etc.), which may or may not be required in your bylaws. If this is a line item in the PTA's approved budget, then at least the indicated dollar amount must be kept in the treasury and carried over to the next fiscal year.

The second interpretation may be "surplus funds." Monies earned beyond expectations, or funds not expended from a line item designation, are often referred to as surplus funds. It is advisable to leave these funds as "cash on hand" for the next fiscal year's budget. Remember, the executive committee or the board does not have the power to make this decision, but may only make recommendations to the association for adoption. Only the general membership may approve any proposed expenditures by adopting an amendment to the budget.
Fundraising should be to meet the needs of your goals, programs and projects. If you have exceeded your fundraising expectations, you may carry any or all of that forward to be used in the following year's budgeted line items, or to reduce the amount of fundraising necessary. During the year, if you know that you have raised more money than you need, consider canceling future fundraising projects.

**U.S. POSTAL REGULATIONS**

A PTA should exercise caution in using its non-profit bulk-mailing permit. It is the PTA's responsibility to ensure that only its own matter is mailed under its permit. Flyers, food co-op forms, fundraising information, and order forms for other fundraising events are prohibited from being mailed at non-profit bulk rates; they must be mailed at the profit bulk rate or first class rate. If a bulk-mailing permit belongs to a council, the permit may be used by those PTAs which are council members and listed on the application form. The return address must be that of the council. A PTA must never "loan out" its permit stamp nor "borrow" another organization's stamp.

Authorization to mail at the special bulk rates is a privilege reserved by law to qualified non-profit organizations. The special rates may not be used to send matter on behalf of, or produced for, an unqualified organization.

One area of concern is allowing the permit to be used in a cooperative mailing with for-profit businesses. Cooperative mailings are designed to serve the uses of, or benefit, a party other than the authorized non-profit permit holder. Cooperative mailing may be made at the special bulk rates only when all of the cooperating parties are authorized to mail at the special bulk rate.

Some factors that are used to determine whether a mailing is eligible for the special rates include:

- Who devised, designed, and paid for the mail piece?
- Who paid the postage on the mailing, either directly or indirectly?
- How are the profits and revenues divided?
- What risks are entailed, and are they shared?
- Who makes managerial decisions concerning the content of the mailing or the enterprise it supports?
- What are the intentions and interests of the participants?
All materials mailed at the special bulk rates must identify the authorized permit holder. The name and return address of the authorized permit holder must appear on a prominent location on the material being mailed. When a PTA is planning a mailing, and is not sure about its eligibility for the special rates, it should submit a sample, as well as a copy of the contract between the parties, to the appropriate district division manager of business mail entry, whose name and phone number can be provided by the local post office.

There are civil and criminal penalties for the submission of a false, fictitious or fraudulent statement in connection with special rate mailing.

The 1993 Treasury - Postal Appropriation Bill states that Third Class mail containing advertising that is not substantially related to the mission of the non-profit organization is not eligible to be mailed at the non-profit rate. If the advertising content of the PTA publication exceeds 10%, the special bulk rate cannot be used for the entire publication, and the post office may require the PTA to pay the full commercial rates for the advertising portion.

COPYRIGHTS

The Federal Copyright Act of 1976 became effective in 1978 and protects the rights of creators of literary and artistic works. The Copyright Act of 1976 protects original works including literary, musical, and dramatic creations as well as pantomimes and choreographic works; pictorial, graphic, and sculptural works; sound recordings; certain compilations; derivative works; and others. The duration of a copyright for works created after January 1978 would be the lifetime of the author plus 50 years.

Normally only the individual who violates the federal copyright statute by infringing on someone else's copyright is liable for such infringement. However, as PTAs have access to school copiers, vicarious liability may depend on whether the principal or school personnel had the right and ability to control the infringing activities.

A person who violates the federal copyright law may be sued by the aggrieved copyright owner not only for lost profits but also for statutory damages of up to $50,000 plus attorneys' fees. Although the normal remedy for copyright infringement is a civil law suit, the Copyright Act of 1976 also provides criminal sanctions if such infringement is willful.
A PTA is entitled to duplicate all materials produced by the Illinois PTA and most materials from the National PTA, including PTA brochures and materials and from PTA kits. To reprint articles in OUR CHILDREN, permission may be requested through the editor. It is advisable to clearly state the source of the material.

The Copyright Act of 1976 does not require copyright registration as a prerequisite to copyright protection. However, the same law prohibits an author from bringing suit against an infringer unless and until the work is properly registered. Nonetheless, the copyright does, in fact, exist without registration. Once the work is published, the copyright must be registered within 5 years and the copyright notice "(©)" affixed or the work becomes public domain.

To prevent copyright problems, written permission to reprint should be secured from a publisher before reprinting an article, cartoon or column. Then, along with the reprint, include the statement “Reprinted with permission from...” If written permission to reprint is not possible, consideration should be given to excerpting from the material instead of reprinting it entirely. In that case, a PTA should be sure to cite the source of the material by saying “Excerpted from....”

Simply stating "Borrowed" will not fulfill requirements of the copyright laws. The "Guidelines for Off-the-Air Recording of Broadcasting Programming for Educational Purposes," ratified in 1981, allows videotape recording from non-educational television broadcasts only if the recording is retained for a maximum of forty-five (45) days and shown no more than twice during the first ten (10) days. After forty-five (45) days it must be erased or destroyed. Videotapes of educational television broadcasts may be shown by a non-profit educational institution for a period of seven (7) days from the date of broadcast but must be erased or destroyed thereafter.

NOTE: Individuals may record programs strictly for purpose of viewing a program after it has been broadcast.

**AMERICANS WITH DISABILITIES ACT (ADA)**

The Americans with Disabilities Act was signed into law on July 26, 1990. The date of compliance for businesses and organizations was January 26, 1992. There are three parts to the definition of people with disabilities established in the ADA:

- Anyone with physical or mental impairment that substantially limits a major life function;
Anyone who has a record of an impairment; or

Anyone regarded as having an impairment.

Title I of ADA applies to employee selection, and terms and conditions of employment. As of July 26, 1994, the regulations apply to employers with fifteen (15) or more employees. Employers are expected to have their place of employment in readiness for disabled persons.

Under Title III - Public Accommodation, a place of public accommodation is prohibited from denying, on the basis of disability, full and equal enjoyment of its goods, services, facilities, or privileges. Places of public accommodation include hotels, convention centers, restaurants, museums, and theaters. It is important that when PTAs are entering into hotel and convention center agreements that the contract allocates and specifically obligates the party who is granting rental space to be fully responsible for compliance with ADA regulations. For example, the hotel or convention center may be responsible for structural accommodations such as curb cuts and accessible bathrooms.

Under the law, PTA is required to provide reasonable accommodation that is easily accomplished and able to be carried out without much difficulty or expense. Reasonable accommodation may include courtesy seating in a front row, providing written handouts to supplement a discussion, and/or providing qualified readers or interpreters for individuals having a hearing or sight impairment. A PTA unit would not be required to make reasonable accommodation that would cause "undue hardship" on the PTA unit. However, it has been proven through the courts that undue hardship means that it must be almost impossible to comply with the statute.

Stipulate any anticipated needs as much as possible in the lease with a convention center or hotel. If these specifics are not included in the lease when a suit is filed, the court may consider "natural allocations" when hearing the case. Although both parties will be brought to court if a problem arises, the lease can be the basis for the PTA to counter sue the place it leased.

Some organizations own old buildings that were donated or acquired at bargain rates. These buildings should be barrier free and this will mean making renovations to entrances, modifying some of the kitchen and bathroom areas and making other changes to allow for wheelchair access. Some changes can be done reasonably without undue economic hardship, such as installing ramps and widening doorways. Changes may also be required to accommodate those with sight and hearing impairments.
The most important thing is to make a good faith effort and begin making changes as soon as possible. One of the easiest and most effective ways to do this is to consult with local disability groups for suggestions.


**RECORDS RETENTION SCHEDULE**

It is very important that certain records be retained. The PTA should consider a records retention policy. Listed are items that should be reviewed on a periodic basis and kept in a safe place.

**Permanent**

- Articles of Incorporation and annual reports filed with the Secretary of State
- Annual Audit Reports
- Bylaws, including amendments and Standing Rules
- Checks (cancelled) for important payments, i.e., taxes, special contracts (checks should be filed with the papers pertaining to the transaction)
- Contracts and leases still in effect
- Corporation reports filed with the secretary of state
- Correspondence (legal)
- Equipment owned by the PTA
- Insurance records, accident reports, claims, policies, certificates
- Journals
- Minute books of association and committees
- PTA Charter
- Record retention policy
- Standing rules (current)
- Tax-exempt status documents:
  - Application for tax exemption
  - Letter of determination (recognition) of status from both Federal and State
  - Group tax exemption documents
  - Letter assigning IRS employee identification number (EIN)
  - Form 990/990EZ and Schedule A, as filed with IRS Form
  - Form 990-N (e-Postcard)
- State tax information returns, as filed
- 990-T, if applicable, for unrelated business income
- Correspondence with IRS
- Other information returns filed with the government
- Charitable Solicitation Registration, if applicable
- Trademark registrations

**Ten Years**

- Financial statements (year-end) and budget
- Grant Award letters of agreement

**Seven Years**

- Accident reports and claims (settled cases)
- Accounts payable records
- Cash receipt records
- Checks (cancelled); except for those checks listed under records kept permanently
- Contracts and leases (expired)
- Inventories (products and materials)
- Invoices
- Purchase orders
- Sales records
- Vouchers for payments to vendors and to officers and members, which includes allowances for reimbursements for expenses

**Three Years**

- Correspondence (general)
- Employee records (post-termination), if applicable
- Employment applications, if applicable
- Insurance Policies and Certificates (expired)
- Petty cash vouchers

**One Year**

- Bank reconciliations
- Correspondence with customers or vendors
- Duplicate deposit slips
PTAs may propose, support, or oppose legislation needed to achieve our Mission and Purposes, provided that those efforts do not exceed the limitations placed upon such organizations under the federal tax laws.

The National PTA Legislative Program, as well as the Illinois PTA Statements of Position, Legislation Platform, Resolutions, and certain legislative positions have been established by member delegates at convention. Statements of Policy and continuing positions have been established by state board of managers' actions. All of these provide PTAs with the association’s positions to be used when speaking on behalf of the welfare of children and youth. Every PTA should be a part of the united effort within the state and across the nation on behalf of children and youth.

PTAs are encouraged to study the issues before their school boards, city/county governing bodies, and the state and federal legislatures. The National and state levels of PTA regularly provide information on critical issues. It is proper to phone, write letters, e mail, and visit those in positions to affect policies and legislation. All PTAs are encouraged to participate in any state legislative events.

**Federal Laws and Regulations**

Because PTAs are tax-exempt under Internal Revenue Code Section 501(c) (3), they may not devote more than an insubstantial part of their activities (generally interpreted as not exceeding five percent of gross income using the "insubstantial" rule) to influence legislation. Each PTA should keep records of activities as well as monies spent to influence legislation, so that they can be reported should that be required. All PTAs in Illinois, in return for receiving tax-exempt status, must abide by certain rules and regulations in order to not lose their tax-exempt status.
LOBBYING UNDER THE “INSUBSTANTIAL” RULE

No PTA may support or oppose any candidate for any public office, including candidates for "non-partisan" positions such as a school board or (in Chicago) a local school council.

Unless an individual PTA has chosen to abide by the "(h) election" rule, it is operating under what is commonly referred to as the "Insubstantial" rule, which is generally interpreted to mean that no PTA may devote more than an insubstantial part of its activities (generally interpreted as not exceeding 5 percent of gross income) to influence legislation.

To stay within the permissible limits placed on it by its tax-exempt status, every PTA should be aware that the larger part of its legislative activities should focus on studying, analyzing and reporting on passed, pending, or needed legislation, so that PTA members will be knowledgeable when exercising their individual or association rights.

Activities Included in Lobbying Expenses

PTAs have the right to lobby government bodies directly to influence legislation or indirectly by gathering public support for its positions. However, the time and cost of both these activities must be counted toward the "insubstantial effort." It is therefore very important to keep accurate records of funds and time spent on all legislative activities.

Considered Lobbying (counts toward insubstantial amount)

- Informing others, not members, or telling people, members included, to write supporting its position. (Including Calls to Action).
- Putting a request for members or others to write or call their legislators in a PTA newsletter makes the cost of that proportion of the newsletter a part of the "insubstantial" amount.

Activities Not Included in Lobbying Expenses

Activities such as gathering, analyzing, and sharing information about legislation with its members or by invitation with government agencies; reporting state and National PTA
positions to its PTA members; and adopting and reporting local PTA statements about legislation or policies are considered educational and do not fall within the limitations on "insubstantial efforts."

**Not Considered Lobbying (not part of insubstantial amount)**

- A PTA informing its members of legislative issues and positions critical to the goals of the organization.
- A PTA doing research and conducting nonpartisan analysis on legislation, including stating the organization's positions.
- Inviting legislators or their staff to visit or learn about the organization's program and to hear how a piece of legislation would affect its concerns.
- Attending a workshop on how to lobby.
- Responding to official requests by legislative bodies for information, or to provide testimony on the organization's position.

**Recording Organizational Expenditures and Volunteer Time**

Since 501 (c) (3) organizations must follow IRS requirements for lobbying, it is important to keep records of legislative activities so that should they need to be reported the PTA will have an accurate record. (For example, if the PTA is required to file a Form 990 or 990EZ, and Schedule A, there is a place to report legislative activities.)

**LOBBYING UNDER THE “(H) ELECTIVE TEST” RULE**

PTAs may elect to have their lobbying activities governed by Section 501(h) of the Internal Revenue Code. This allows a PTA to spend more than an "insubstantial" amount on lobbying, while requiring very careful record keeping.

Under the elective test, established by filling out a one page IRS form, an organization's attempts to influence legislation are deemed to be insubstantial if its annual level of "lobbying expenditures” does not exceed stated ceilings for both total and grass roots lobbying activities. Grass roots lobbying is defined as any attempt to influence legislation by affecting the opinions of the general public.
Overall, legislative activity includes grass roots lobbying and, with broad exceptions, any attempt to influence legislation by communicating directly with any government official or employee who may participate in the formulation or passage of legislation. The ceilings are determined over a four-year averaged period, and is based on the organization's overall "exempt purpose expenditures" during the same period. In any event, no matter how large the organization's total budget may be, its total lobbying expenditures may not exceed $1 million in any year, of which $250,000 may be for grass roots lobbying.

**SCHOOL TAX REFERENDA**

The Illinois PTA Statement of Policy on School Tax Referenda makes it clear that it is appropriate for a PTA to "enthusiastically support and actively work for a school tax referendum" authorizing a local real estate tax rate increase when it is necessary. The Illinois PTA would certainly direct any PTA that is considering supporting a referendum to be sure that the decision is made BY A VOTE OF THE MEMBERSHIP AT A MEETING OPEN TO ALL MEMBERS OF THE PTA.

As stated above, every PTA is a 501 (c) (3) tax-exempt organization, authorized by a group exemption granted to the Illinois PTA by the Internal Revenue Service. Therefore, legislative activity must be limited to an "insubstantial" level, commonly defined to be NO MORE THAN 5% of the PTA's total gross income, for ALL legislative activity for the entire fiscal year. It is particularly important to consider this when joining in a coalition or when asked to contribute money to promote a referendum.

When a PTA decides to join in any group, which works or is formed to pass a referendum, state laws govern this activity. When all the activity is in an "area encompassing no more than one county," it is considered to be a "LOCAL Political Committee," and must follow the laws governing those committees. Any such group that works for or against any such question of public policy in "an area greater than one county," is called a "STATE Political Committee" and must follow the laws governing those committees.

It is crucial that any PTA joining in a referendum campaign check the Illinois State Board of Elections Web site [www.elections.il.gov](http://www.elections.il.gov) for important information, including the following publications.

- A Guide for Fundraisers
- A Guide to Campaign Disclosure
COALITIONS

A coalition is an alliance among groups which band together to deal with a concern or accomplish a goal more effectively than any one organization can alone. Coalitions are often temporary and dissolve once their purpose has ended.

It is appropriate for a PTA to join or form a coalition. However, it must always be remembered that any coalition to which a PTA belongs must never support or oppose any candidate for public office.

PTAs often form, or are asked to join, a coalition to work on a school district-wide campaign to pass a referendum to increase the local property tax that supports the district's schools.

PTA units may, with a vote of their membership, support or join with other groups in supporting (or opposing) any question of public policy to be submitted to the electors of an area. This includes school tax referenda or legislative proposals such as constitutional amendments. These are issues NOT candidates for public office.

Any PTA considering joining a coalition should always be sure to get the permission to do so by a vote of its general membership. It is absolutely crucial that any PTA be sure that it and/or a coalition formed to get a referendum passed know what the laws are that govern such activity.

REMEMBER:
In the State of Illinois, any such group (whether it is an individual PTA or a group/coalition) that works for or against any such question of public policy within a county is called a LOCAL Political Committee. Any such group that works for or against any such question of public policy of an area greater than one county (e.g. a school district that lies within two or more counties) is called a STATE Political Committee. Political Committees MUST follow the state laws governing them.

Federal rules for tax-exempt organizations such as the PTA state that they may not devote more than an "insubstantial" part of their activities (generally interpreted as not exceeding 5% of their gross income) to influence legislation.

Local Political committees who receive or expend over $1,000 must report these campaign contributions and expenditures to the State Board of Elections.
A committee that will not accept or expend more than $1,000 in a 12-month period on behalf of, or in opposition to, a question of public policy that is submitted to the electors of an area encompassing no more than one county (Local Political Committee), is not required to file.

State Political Committees must follow the same rules, except the money they can receive or expend is $3,000.

Even though such a committee may not expect to accept or expend more than the amount allowed, the State Board of Elections recommends that it keep accurate and detailed records of all contributions received and all expenditures made.

IN-KIND CONTRIBUTIONS must be counted toward the dollar thresholds.

In-kind contributions are defined as anything of value, other than cash, donated to a political committee. However, there are certain things, which do not have to be reported as in-kind contributions such as:

- any un-reimbursed payments for travel made by an individual who volunteer services, not to exceed $150 in 12 months;
- information in a regular publication of a membership organization (PTA);
- any news story, commentary, endorsement, or editorial;
- the occasional use of real property for conveying information.

It is not difficult to be sure that any PTA, coalition, or group working on an issue of public policy that will be presented to the electorate follows the rules, but it is everyone's responsibility to see that the rules are followed.

CANDIDATES FOR PUBLIC OFFICE

PTAs can, and are encouraged to, express their positions on issues that affect the welfare of children and youth. However, PTAs can NEVER, under any circumstances, support or oppose candidates for public office. It does not matter whether the candidates are part of a political party or not, a candidate for public office means ANY
candidate for ANY public office, including a position for a school board (or local school council in Chicago) or city, state, or national office.

This is not only because Federal regulations for 501(c)(3) organizations and PTA bylaws forbid such activity, but because it is a good policy for maintaining a working relationship with school boards and governing bodies regardless of who won or lost the last election. PTAs must always keep in mind the potential of the PTA for important, long range, constructive contributions to public education and the welfare and safety of children and youth.

Not only shall PTAs never endorse candidates for public office, they shall never permit the name of the PTA to be used as an endorsement.

PTAs may not provide financial or other campaign support, including volunteers, facilities, or mailing lists for candidates, nor may a PTA distribute directly or indirectly any campaign literature.

The Federal Internal Revenue Code is clear on this issue. The United States Department of the Treasury Internal Revenue Service Publication 557- Tax Exempt Status for Your Organization, http://www.irs.gov/pub/irs-pdf/p557.pdf, Chapter II, page 7, states, "Note: Section 501(c)(3) organizations are precluded from, and suffer loss of exemption for, engaging in any political campaign on behalf of, or in opposition to, any candidate for public office."

**CANDIDATE FORUMS**

A PTA can sponsor a candidate forum, which can take the form of a debate, lecture, panel, or forum, at which the candidates for a public office are given an opportunity to present themselves and their positions on issues to an audience. This allows the audience to gather information about the candidates and be better informed voters. Every candidate for a particular office must be invited, although the forum can be held even if all the invited candidates do not attend.

Throughout the year, a PTA should regularly inform its membership and legislators of PTA positions on issues. During a forum, the PTA may not indicate its views on the issues being discussed, comment on candidates, responses, or in any way indicate bias for or against particular candidates. PTA members can, however, ask questions on issues for which the PTA has positions, allowing those present at the forum to hear the candidate's responses. This will enable PTA members to make an informed decision on the candidates.
The sponsoring PTA may provide information on when and where elections are being held, and should encourage all eligible voters to exercise their right and responsibility to vote. PTAs may also distribute responses to questionnaires that candidates responded to regarding their positions on issues, but care must be taken to be sure that the questionnaire itself is not biased.

PTAs may also sponsor nonpartisan voter registration drives to be sure that all eligible voters are indeed registered to vote.

**PTA MEMBERS RUNNING FOR PUBLIC OFFICE**

Neither the law nor PTA bylaws prohibit members as individuals from exercising their civic responsibilities in personal and partisan ways, even running for office themselves. However, PTA officers and those members who are likely to be recognized by their constituency as being active PTA spokesmen or leaders, and who choose to enter the political or legislative arenas in their private (non-PTA) capacities, are STRONGLY URGED to avoid even the appearance that those activities have, in any way, the endorsement, approval, or support of the PTA.

Members who choose to seek public office may not request or receive PTA endorsement at any time, but may list their PTA service as part of their qualifications, indicating it is listed for identification purposes only.

Because of the absolute prohibition on political campaign activity by PTAs, great care should be taken to ensure that no misunderstanding arises that individuals are acting as representatives of any PTA. Any PTA officer or member seeking public office should not associate his or her candidacy with PTA. Further, if a PTA official speaks at a campaign rally supporting a particular candidate (including himself or herself), he or she should not be introduced in his or her official PTA capacity.

Neither federal regulations nor National PTA policy prohibits PTA officers and other leaders from serving on commissions or other boards active in areas of concern to the PTA if such membership is not designed to support partisan interests.
IRS ASSISTANCE

Internal Revenue Service: www.irs.gov

www.stayexempt.irs.gov
Stay Exempt is an IRS microsite created especially for 501(c) (3) organizations! Whether you are new to the world of tax exempt organizations, an old hand at managing them, or a tax professional who works with them, you will find something of interest here. Feel free to explore the site – the educational resources here are many and varied.

Newcomers to the world of exempt organizations might want to start with the Virtual Workshop tab. It leads to a set of five interactive lessons covering tax basics for 501(c) (3) organizations. You can learn and test yourself on the IRS rules and regulations that managers and volunteers of tax-exempt organizations need to know.

Once you have the basics covered, browse the EO Mini-Courses, which cover many additional exempt organizations tax topics. Whether you want to apply for tax-exempt status, deduct charitable contributions, or fill out Form 990, Return of Organizations Exempt from Income Tax, find out how here.

For the latest IRS news on tax policies and services affecting exempt organizations, check out the links under News and Information. Quick Links help you navigate to our most popular pages, both here and on IRS.gov.

StayExempt is brought to you by IRS Tax Exempt and Government Entities, Exempt Organizations. We know how hard you work to achieve your association’s mission. We hope StayExempt makes complying with federal tax rules easier, so you can continue to focus on your important work.

Publication 557 – Tax-Exempt Status for Your organization

ILLINOIS STATE ASSISTANCE

Attorney General’s Office: www.illinoisattorneygeneral.gov

Secretary of State’s Office: www.cyberdriveillinois.com

Department of Revenue: www.revenue.state.il.us