

Creating Your Own Identity



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The Internal Auditors and individuals associated with the Pasadena Independent School District are not an authority on tax-related or accounting situations concerning Parent Organizations, Booster Clubs and Exempt Organization. Parent Organization, Booster Clubs, and Exempt Organizations should obtain competent independent counsel concerning tax and accounting-related circumstances.

State & Federal Regulatory Summary

The state and federal regulatory information included on this page does not include all laws or Rules that may apply to your particular situation. This information is provided by the District's Internal Auditor; however, the Internal Auditor is not an authority on specific accounting situations or tax-related issues concerning individual Booster Clubs. Therefore, Booster Clubs should obtain competent independent counsel, such as a Certified Public Accountant (CPA) or an attorney, to address accounting and tax matters related to their specific circumstances. The cost of these services would be the Booster Club's responsibility. In addition, the IRS and the Texas State Comptroller's Office may be contacted for questions related to your organization's specific situation.

State and federal regulatory agencies such as the Texas State Comptroller's Office, the Texas Secretary of State, and the Internal Revenue Service (IRS) also govern Booster Clubs. New and existing Booster Clubs must abide by the regulations and guidelines set by these agencies. Booster Clubs should also maintain a current level of knowledge regarding law changes that affect them.

The next section contains information related to state and federal regulations that is current as of the date this handbook was published. Internal Audit strives to keep the Booster Clubs aware of new changes; however, it is the Booster Club's responsibility to remain updated on any recent law changes.

In addition, the reference of this section of the *Guidelines* contains important and helpful information downloaded from the Texas Secretary of State, the Texas State Comptroller's Office, and the IRS. Please review this information in detail in addition to the next section for a more complete coverage of the various issues related to 501(c)(3) organizations and booster clubs in general.

Creating Your Own Identity Overview

The next three sections of the *Guidelines* provide detailed information related to applying for permits and exemptions you will need. As a supplement to these pages, the following short summary lists the necessary steps in the order in which they should be completed. Some blank forms and examples of completed forms and other information are included in these Guidelines to assist you in completing the steps.

1. Decide if your Booster Club will be an association or a corporation and prepare the necessary organizing document.

An association will prepare and sign an “Articles of Association” as an organizing document; however, this document **will not be filed** with the Texas Secretary of State. The date the final document is signed by at least two officers or board members is considered the beginning date of the organization.

A corporation will prepare and sign an “Articles of Incorporation” as an organizing document **to be filed** with the Texas Secretary of State. The date the Articles of Incorporation is filed by the state is considered the beginning date of the organization. You should receive a copy of your Articles of Incorporation from the Texas Secretary of State showing the state’s “filed” stamp and/or you will receive a Certificate of Filing.

Both the IRS and State of Texas require that each Booster Club have an organizing document to establish the official formation of the organization. You will submit this document along with the appropriate forms when applying for federal tax exemption as a public 501(c)(3) organization and when applying for state sales, use, and franchise tax exemptions.

Benefits of Incorporation:

- Formalize organization and provide standardized operating procedures through Articles of Incorporation and By-laws.
 - Helps shield the individuals governing and operating the nonprofit organization from liabilities incurred by the organization, unless the individuals are negligent in their duties.
2. If Association, skip to Step 4. If Corporation, go to Step 3.
 3. For a corporation, file for incorporation with the Texas Secretary of State before proceeding with Step 4.
 4. Apply for an Employer Identification Number (EIN) with the IRS.
 5. Apply for a Sales Tax Permit with the Texas State Comptroller’s Office.

6. Apply for federal tax-exemption as a **public 501(c)(3)** organization with the IRS.

Read “Top Ten Reasons for Delays in Processing Exempt Organization Applications” on the following page before you submit your application!!

7. Receive a Letter of Acknowledgement from the IRS indicating receipt of your application and payment.
8. May correspond with the IRS if your by-laws need to be modified or if the IRS needs additional information to complete your approval process.
9. Receive a Determination Letter (approximately 6 – 8 months later) stating you are a public 501(c)(3) tax-exempt organization.
10. Send a copy of the Determination Letter to the campus Booster designee.
11. Apply for a limited exemption from Texas sales, excise, and use tax with the Texas State Comptroller’s Office.
12. If you are incorporated, file for franchise tax-exemption with the Texas State Comptroller’s Office.
13. Put all of the documents related to these steps in a “Permanent File” in a safe place to be forwarded to the new officers each year.
14. **Pat yourself on the back for a job well done!!**

The Top Ten Reasons For Delays in Processing Exempt Organization Applications

10. Is there enough financial data?

Applications should include the income and expenses for the last three completed fiscal years, and a partial year for the year of application up to within 60 days of the application. If the organization has completed less than a full year, it should submit two years proposed budgets.

9. In what month does the annual accounting period end?

Applications should indicate the end of their fiscal year. It is a good idea to check for consistency. Does the fiscal year ending date stated on the application agree with the fiscal year ending date stated in the by-laws, on the financial statements, and on any prior returns filed?

8. Did you provide the required information on the principal officers and board of directors?

Applications should list the following information concerning the governing officials:

1. names,
2. addresses,
3. phone numbers,
4. titles and positions,
5. annual compensation.

7. Did you provide enough information on the activities to show us how your exempt purpose will be achieved?

Please don't restate your purpose, but explain the specific activities you will carry on to achieve that purpose. You should consider a "who, what, when, where and why" approach. You should explain past, present, and planned activities. If you haven't started an activity yet, develop your plans well enough that we can have a clear understanding of how it will operate.

#6. Did you complete all required schedules?

You should check the line items on the financial statements. Some lines require supporting schedules.

#5. Did you complete all required pages?

To make a determination, the information contained on the pages and schedules of Form 1023 and Form 1024 is necessary. On Form 1023, there are various schedules and pages that must be filled out for churches, schools, hospitals, private operating foundations, scholarships, supporting organizations, and child care organizations.

4. Did a principal officer sign page one of Form 1023 or Form 1024?

A principal officer such as the president, vice president, secretary, or treasurer should sign the application on page one. If anyone else signs the form, a completed Power of Attorney, Form 2848, should accompany the application.

3. Did you submit a copy of your by-laws?

You need to send a copy of the by-laws, code of regulations, or any other document that sets out the organization's rules of operation. If the organization has not adopted such rules, you need to check the box on page one of the application, Form 1023 or Form 1024.

2. Did you attach a complete copy of your organizing document and all amendments?

If the applicant is a corporation, this would be a copy of the articles of incorporation that shows it has been filed with and approved by the state. If the applicant is not incorporated, it should have a similar organizing document. This could be a constitution, articles of association, or by-laws. Whatever the document is called, it must at the minimum state: the legal name, the purposes, and the date of adoption. The document should be signed by at least two officers of the organization. A trust document must be signed by the trustees and show the date of formation.

1 reason for delays in processing exempt organization applications is . . .

INCORRECT OR NO USER FEE!

The payment required for a determination of exemption is \$400 or \$850. (See Form 8718, User Fee for Exempt Organization Determination Letter Request.) If your gross receipts are not expected to exceed \$10,000 annually, you can qualify for the lower user fee of \$400, but you must complete the Certification on Form 8718 in addition to sending the payment. The financial information sent with applications is checked to verify that the organization's gross receipts, activities, and user fee payment are consistent.

Now that you know the ten most common pitfalls in the Exempt Organization application process, we hope you can avoid them. If your application is completed correctly initially, and sent with all required documents and schedules, there is a good chance your organization could be recognized as exempt with no further contact. If there is contact, the agent can address the technical issues the need to be resolved without taking up your time trying to just get a complete application.

ARTICLES OF ASSOCIATION

Silent Night Choir Booster Club

Articles of Association of the undersigned, a majority of whom are citizens of the United States, desiring to form a Non-Profit Corporation under the non-profit association do hereby certify:

ARTICLE I

The name of the Association is: Silent Night Choir Booster Club

ARTICLE II

The principal office of the Association is located in the city of Jingle Bells, TX
Street address:

Silent Night Choir Booster Club
PO Box 1225
Jingle Bells, TX 00025

ARTICLE III

The period of its duration is perpetual.

ARTICLE IV

The purpose of this Association is to assist the directors of the Silent Night Choir in reaching the choir program goals. It shall provide financial support to the choir as deemed necessary by the Choir Director and provide assistance for choir activities as requested by the Choir Director.

These purposes are exclusively charitable and educational with the meaning of section 501 (c)(3) of the Internal Revenue Code of 1986 as now in effect or as it may hereafter be amended. In furtherance of these purposes, the Association is authorized to receive property by gift or bequest and to invest and reinvest the same, and to apply the income and principle thereof as determined by the Board of directors and Choir Director exclusively for charitable and educational purposes, to engage in any and all lawful activities incidental thereto as restricted herein.

The Activities of the organization shall not conflict with the policies of the Pasadena Independent School District and shall be sanctioned by school officials.

ARTICLE V

The names and addresses of the persons who shall serve as directors of the Silent Night Choir Booster Club until their successors have been elected and qualified, are as follows:

Joe Soeuff	2010-11 President	1025 Snowlane, Pasadena, TX 77503
Fred Frosty	2010-11 Vice President	8857 Freezing Blvd., Pasadena, TX 77503
Sann Tababe	2010-11 Treasurer	5589 Reindeer Run, Pasadena, TX 77503
Ruddy Rednose	2010-11 Secretary	3978 Manger Way, Pasadena, TX 77503

ARTICLE VI

No part of the net earnings of the association shall inure to the benefit of or be distributable to its members, trustees, officers or other private persons, except that the association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article IV hereof. No substantial part of the activities of the association shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the association shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate of public office. Notwithstanding any other provision of these articles; the association shall not carry on any other activities not permitted to be carried on (a) by an association exempt from federal income tax under section 501 (c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by an association, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

ARTICLE VII

These Articles of Association may be amended from time to time as provided by the statute of the by-laws of the association; provided, however, that no amendment shall be made which would alter the purposes for which the association is organized as set forth in Article IV, or would cause any benefit to inure to any officer, director, incorporator, or member.

ARTICLE VIII

In the event of voluntary or involuntary dissolution of this association, the assets, after payment of just debts, shall be distributed exclusively for the purposes set out in Article IV and to organizations organized and operated exclusively for such purposes and which are exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended from time to time, or the corresponding provisions of any subsequent revenue law or laws. The distribution shall be made by the Board of Directors, or pursuant to court order. In no event, however, shall such distribution inure to any person who has a personal and private interest in the activities of the association.

IN WITNESS WHEREOF, for the purpose of forming this association under the laws of the State of Texas, we, the undersigned constituting the Executive Board of the Association, have executed these Articles of Association on the 26th day of August, 2010.

Joe Soeuff	2010-11 President	_____
Fred Frosty	2010-11 Vice President	_____
Sann Tababe	2010-11 Treasurer	_____
Ruddy Rednose	2010-11 Secretary	_____

**ARTICLES OF INCORPORATION
ABC HIGH SCHOOL BOOSTER CLUB**

FILED
In the Office of the
Secretary of State of Texas
Oct 25 2010

Corporations Section

The undersigned natural person over the age of eighteen (18), acting as an incorporator, adopt the following Articles of Incorporation of ABC High School Booster Club:

ARTICLE ONE, NAME

The name of the corporation is ABC HIGH SCHOOL BOOSTER CLUB.

ARTICLE TWO, NON-PROFIT CORPORATION

The corporation is a non-profit corporation. When it dissolves, all of its assets will be distributed to the State of Texas or an organization exempt from taxes under the Internal Revenue Code Section 501(c)(3) for one or more purposes exempt under the Texas franchise tax.

ARTICLE THREE, DURATION

The duration of the corporation is perpetual.

ARTICLE FOUR, PURPOSES

The purposes for organizing the Corporation are to perform charitable activities within the meaning of Internal Revenue Code Section 501(c)(3) in Texas Tax Code Section 11. 18(c).

ARTICLE FIVE, POWERS

Except as these Articles otherwise provide, the Corporation has all of the powers provided in the Texas Non-Profit Corporation Act. Moreover, the Corporation has all implied powers necessary and proper to carry out its express powers. The Corporation may reasonably compensate directors or officers for services rendered to or for the Corporation in furtherance of one or more of its purposes.

ARTICLE SIX, RESTRICTIONS AND REQUIREMENTS

The Corporation may not pay dividends or other corporate income to its directors or officers, or otherwise accrue distributable profits, or permit the realization of private gain. The Corporation may not take any action prohibited by the Texas Non-Profit Corporation Act.

The Corporation may not take any action that would be inconsistent with the requirements for a tax exemption under Internal Revenue Code Section 501(c)(3), and related regulations, rulings, and procedures. Nor may it take any action that would be inconsistent with the requirements for receiving tax deductible charitable contributions under Internal Revenue Code Section 170(c)(2) and any related regulations, rulings, and procedures. Regardless of any other provision in these Articles of Incorporation, or state law, the Corporation may not:

1. Engage in activities or use its assets in manners that do not further one or more exempt purposes as set forth in these Articles and defined by the Internal Code and related regulations, rulings, and procedures except to an insubstantial degree.
2. Serve a private interest other than one clearly incidental to an overriding public interest.
3. Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, except as provided by the Internal Revenue Code and related regulations, rulings and procedures.

*Texas Secretary
of State's stamp
of filing date*

4. Participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. The prohibited activities include publishing or distributing statements and any other direct or indirect campaign activities.
5. Have objectives characterizing it as an "action organization" as defined by the Internal Revenue Code and related regulations, rulings, and procedures.
6. Distribute its assets on dissolution other than for one or more exempt purposes. On dissolution, the Corporation's assets will be distributed to the state government for a public purpose, or to an organization exempt from taxes under Internal Revenue Code Section 501(c)(3) to be used to accomplish the general purposes for which the Corporation was organized.
7. Permit any part of the Corporation's net earnings to enure to the benefit of any private share holder or member of the Corporation or any private individual.
8. Carry on an unrelated trade or business, except as a secondary purpose related to the Corporation's primary, exempt purposes.

ARTICLE SEVEN, MEMBERSHIP

The Corporation will have one or more classes of members as provided in the By-laws.

ARTICLE EIGHT, REGISTERED OFFICE AND AGENT

The street address of the Corporation's initial registered office is 4548 Another Avenue, Pasadena, Harris County, Texas. The name of the initial registered agent at the office is John Black, 4548 Another Avenue, Pasadena, Harris County, Texas.

ARTICLE NINE, MANAGING BODY OF CORPORATION

The management of the Corporation is vested in its Board of Directors and such committees that the Board may from time to time, establish. The by-laws provide the qualifications, manner of selection, duties, terms, and other matters relating to the Board of Directors. The initial Board of Directors will consist of three (3) persons:

NAMES ADDRESSES

Jane Doe	2334 Someplace Road Pasadena, TX 77503
Katy Smith	557 Imsolost Avenue Pasadena, TX 77503
Mike Crosoft	100000 Andstillgoing Road Pasadena, TX 77503

The number of directors may be increased or decreased by amending the By-laws. The number of directors may not be decreased to fewer than three.

ARTICLE TEN, LIMITATION ON LIABILITY OF DIRECTORS

A Director is not liable to the Corporation or members for monetary damages for an act or omission in the Director's capacity as Director except as otherwise provided by Texas statute.

ARTICLE ELEVEN, INDEMNIFICATION

The Corporation may indemnify a person who was, is, or is threatened to be made a named defendant or respondent in litigation or other proceedings because the person is or was a Director or other person related to the Corporation as provided by the provisions of the Texas Non-Profit Corporation Act governing indemnification.

As the By-laws provide, the Board of Directors may define the requirements and limitations for the Corporation to indemnify directors, officers or others related to the Corporation.

ARTICLE TWELVE, CONSTRUCTION

All references in these Articles to statutes, regulations, or other sources of legal authority refer to the authority cited or their successors, as they may be amended from time to time.

ARTICLE THIRTEEN, INCORPORATORS

The name and address of the incorporator is TU EXPENSIVE a licensed attorney in the State of Texas, 999 Richman Road, Pasadena, TX 77503.

ARTICLE FOURTEEN, ACTION BY WRITTEN CONSENT

Action may be taken by use of signed written consents by the number of members, directors, or committee members whose vote would be necessary to take action at a meeting at which all such persons entitled to vote were present and voted. Each written consent must bear the date of signature of each person signing it. A consent signed by fewer than all of the member, directors, or committee members is not effective to take the intended action unless consents, signed by the required number of persons, are delivered to the Corporation within sixty (60) days after the date of the earliest dated consent delivered to the Corporation. Delivery must be made by hand, or by certified or registered mail, return receipt requested. The delivery may be made to the Corporation's registered office, registered agent, principal place of business, transfer agent, registrar, exchange agent, or an officer or agent having custody of books in which the relevant proceedings are recorded. If delivery is made to the Corporation's principal place of business, the consent must be addressed to the president or principal executive officer.

The Corporation will give prompt notice of the action taken to persons who do not sign consents. If the action requires documents to be filed with the Secretary of State, the filed documents will state that the written consent procedures have been properly followed. A telegram, telex, cablegram, or similar transmission by a member, or director, or committee member, or photographic, facsimile, or similar reproduction of the signed writing is to be regarded as being signed by the member, director, or committee member.

Tu Expensive, Incorporator

THE STATE OF TEXAS
COUNTY OF HARRIS

I, a Notary Public for the state of Texas, do hereby certify that on October 31, 2010 personally appeared before me, TU EXPENSIVE , who being by me first duly sworn, declared that he is the person who signed the foregoing document as incorporator, and that the statements contained therein are true.

Notary Public in and for the State of Texas

YEE-HAW BOOSTER CLUB ASSOCIATION BY-LAWS

AMENDED: November 28, 2010

ARTICLE I - NAME

The name of this organization shall be the YEE-HAW BOOSTER CLUB.

ARTICLE II – OBJECTIVES

Sec. 1. This organization is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its members, trustees, officers, or other private persons, except that the organization shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the paragraph above. No substantial part of the activities of the organization shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the organization shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these by-laws, the organization shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from Federal Income tax under section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by an organization, contributions to which are deductible under section 170 (c) (2) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

Sec. 2. This organization is organized to support the activities of the drill team members. Upon the dissolution of the organization, the Executive Committee shall, after paying or making provision for the payment of all of the liabilities of the organization, dispose of all of the assets of the organization exclusively for the purposes of the organization in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization or organizations under section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law), as the Executive Committee shall determine. Any such assets not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the organization is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE III - MEMBERSHIP DUES

Membership becomes automatic upon payment of dues.

ARTICLE IV - OFFICERS AND THEIR ELECTION

Sec. 1. The Executive Board of this club shall consist of the following officers: President, 1st Vice-President, 2nd Vice-President, 3rd Vice-President, Secretary, Treasurer(s) and Parliamentarian.

Sec. 2. No person shall serve in the same office more than one consecutive year unless it is decided and voted upon to determine that it is the best interest of the club. Term of the office herein is defined as the period of May of current year until May of the following year at installation of Booster Club officers.

Sec. 3. Officers shall be elected by voice, unless there are nominations from the floor in which case the vote shall be by ballot. Nominations of officers shall be presented to the membership by a nomination committee at least one month prior to the election of the officers. The nomination committee shall consist of the club President as chairperson; the Yee-Haw Director; the Principal, at his or her discretion; and five other members appointed by the President. Two of the appointed members shall be from the Executive Committee and three from the membership at large, including one sophomore class representative, one junior class representative, and one senior class representative.

Sec. 4. These officers shall be elected annually in April and assume duty at the installation of officers at the May Booster Club meeting.

Sec. 5. Nominations from the floor may be made provided prior consent is obtained from the prospective nominee and these nominations are made at the time the nominating committee presents its slate to the membership.

Sec. 6. A vacancy occurring in an office shall be filled by a vote of the executive board.

Sec. 7. All officers are volunteers, and none are paid any compensation for services performed. As such, no officer shall incur any personal liability as a result of serving on this board.

ARTICLE V - DUTIES OF OFFICERS

Sec. 1. The President shall preside at all meetings of the club, Executive Board, and the Executive Committee and shall be a member ex-officio of all committees and shall perform other duties usually pertaining to the office.

Sec. 2. The 1st Vice-President shall act as aid to the President and shall perform duties of the President in the absence of that officer and serve as chairperson of membership and special events.

Sec. 3. The 2nd Vice-President shall be responsible for procuring chaperones for all football games, contest trips, or other events which take place.

Sec. 4. The 3rd Vice-President shall be responsible for organizing all fund raising projects.

Sec. 5. The Secretary shall keep a record of all meetings of the club and of the Executive Board meetings and shall conduct the general correspondence of the club.

Sec. 6. The Treasurer(s) shall be custodian of all Booster Club funds and all disbursements of these funds under guidelines listed below.

1. Expenditures in excess of budgeted amounts will not be expended without board approval.
2. Receipts must be presented to the Treasurer for reimbursement. No cash advances are allowed unless the item has already been budgeted for and funds are available.
3. The 3rd Vice-President (fund raising chairperson), the project chairperson, and the Treasurer shall be in charge of tabulating money at the end of each fundraiser. Duplicate receipts will be issued by the Treasurer with the Treasurer retaining the original and a copy given to the 3rd Vice-President.
4. The following signatures are to be maintained on the file at the financial institution in which the checking account is located:
 - a. President of the Booster Club; and
 - b. Treasurer(s) of the Booster Club.

All checks are to have these two (2) signatures.

5. The Treasurer will be required to keep current and accurate ledgers indicating all accounts payable. At the end of his/her term, the Booster Club shall have an organizational committee conduct an annual review of the organization's revenues/expenditures for the prior year. A copy of the report for the prior year will be submitted to the Principal's office and to the Internal Auditor by September 30th of each year.
6. A financial disposition of Booster Club funds shall be presented monthly, with a financial statement given at the May meeting.

Sec. 7. The Parliamentarian will insure that all meetings are conducted according to Robert's Rules of Order.

ARTICLE VI – MEETINGS

Sec. 1. A regular meeting of the Booster Club shall be held on the second Tuesday night of each school month unless otherwise provided by the club or the Executive Board with a seven-day notice.

Sec. 2. Fifty percent (50%) of the voting membership of the Booster Club, one of whom shall be authorized to open and preside over the meeting, shall constitute a quorum.

ARTICLE VII - EXECUTIVE COMMITTEE

The Executive Committee shall consist of the officers of the club and the Yee-Haw Director. Its duties shall be to transact necessary business between club meetings and such other business as may be referred to it by the club; to approve the plans of work of the standing committee chairpersons; and to present reports at the regular meetings. Special meetings of the Executive Committee may be called by the President or by a majority of the committee's members.

ARTICLE VIII - STANDING COMMITTEES

There shall be such standing committees created by the Executive Committee as may be required to promote the objectives and purposes of the club. The chairpersons of the standing committees shall be appointed or selected by the newly elected Executive Board. Their term of office shall be for one year.

Standing Committees

Scholarship	Mother/Daughter socials	Luncheon
Father/Daughters	Parent socials	Photo Historian
Sunshine (Thank You's)	Props	Costumes/Sewing

Standing Committees (continued)

Publicity	Telephone	Formal	P.A.C.E.	Spring Show
Banquet	Fundraising (ie.: Car Wash, Jazz Camp, Candy Sales, Christmas Wrap, Etc)			

ARTICLE IX - PARLIAMENTARY AUTHORITY

All meetings shall be governed by Robert's Rules of Order in cases where they are applicable and are not inconsistent with these by-laws.

The Booster Club has no authority to direct the Director, an employee of Totally Country High School, in any of her duties. The schedule of contest, rules of participation, method of earning letters, awards offices and all other criteria dealing with interschool programs are under the jurisdiction of the Director and the school administration.

ARTICLE X – AMENDMENTS

These by-laws may be amended at any regular meeting of the organization by two-thirds vote of the designated quorum, provided notice of proposed amendment shall be given at the previous regular meeting.

ARTICLE XI - STANDING RULES

Flowers or memorials shall be sent in case of death of a Yee-Haw member or immediate family member (mother, father, sister, brother). Cards are to be sent in all other instances.

All Booster Club projects must support the philosophy of the school administration.

ARTICLE XII – VOTING

Membership in the Yee-Haw Booster Club is by family with one vote per family.

ARTICLE XIII – AWARDS

Attendance awards shall be given only to the daughters of members who have missed no more than one (1) meeting during the year.

ARTICLE XIV –ACADEMIC

An academic scholarship will be given to needy or deserving Yee-Haws as the funds are available. The scholarship recipient(s) will be decided by the Totally Country Scholarship Committee. The amount to be awarded shall be determined by the Executive Board when creating the annual budget.

ARTICLE XV – FUNDRAISING

Sec. 1. All sales campaigns must be cleared through the Yee-Haw Director and the Totally Country Principal.

Sec. 2. All funds raised shall be for the purpose of supporting drill team activities by providing funds to cover costumes, uniforms, leotards, shoes, props, contest fees, contest travel expenses, refreshments, scholarships, or other necessary items required for participation on drill team and not being provided for drill team members by the high school or school district. Social events will be incidental to the purpose of fund raising activities, and drill team members are required to pay for participation in connection with same. Committee chairpersons, board members, and drill team director shall decide on the amount due from drill team members in connection with a social event.

ARTICLE XVI - RETURN CHECK POLICY

Sec. 1. If more than one insufficient funds check is presented to the Booster Club by the same party, no further checks will be accepted, only cashier's check or money order.

Sec. 2. The party issuing an insufficient funds check must reimburse the Booster Club for the amount of the check plus any applicable fees within thirty (30) days of notification of insufficient funds.

BY-LAWS

XYZ HIGH SCHOOL BOOSTER CLUB, INC.

ARTICLE I

1.1 Name. The name of this corporation is XYZ HIGH SCHOOL BOOSTER CLUB, INC. ("Corporation")

ARTICLE 11

2.1 Purposes. The Corporation is organized exclusively for educational and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Code"). The purpose or purposes for which the Corporation is organized are:

- a. To sponsor and promote a chemical free prom night for graduating seniors of XYZ High School;
- b. To educate high school students and the public about the benefits to themselves and others of a chemical free celebration of prom night;
- c. To solicit and disburse funds to be used to support the above purposes.

ARTICLE III

3.1 Principal Office. The principal office of the Corporation shall be located in Pasadena, Harris County, Texas.

3.2 Registered Office and Registered Agent. The Corporation shall have and contiguously maintain in the State of Texas a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be identical with the principal office of the Corporation, and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE IV

4.1 Administration. The Purposes of the Corporation shall be carried out through conferences, committees and projects. The Corporation shall not seek to direct the administrative activities of the school or to control their policies.

4.2 Non-Commercial. The Corporation shall be non-commercial, non-sectarian and nonpartisan. No commercial enterprise or any candidates shall be endorsed by it. The name of the Corporation or its officers in their official capacities shall not be used in any connection with a commercial concern or with any partisan interest or for any purpose other than the regular work of the Corporation.

ARTICLE V

5.1 Membership. The Corporation will have no members. The Corporation may, nevertheless, use the term "Members" to designate those persons having such privileges and status as the Board of Directors may determine. Such "Members" shall have no voting or other legal or equitable rights in the Corporation.

ARTICLE VI

6.1 General Powers. The affairs of the Corporation shall be managed by its Board of Directors.

6.2 Number and Qualifications. The Board of Directors shall consist of the individuals who hold the offices of President, Vice President, Treasurer and Secretary of the Corporation. Membership in the Board of Directors shall be held exclusively and indefinitely by the individuals holding such offices. The initial Members of the Board of Directors are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Joe Smith	222 Some Road, Pasadena, TX 77503
Jane Doe	724 Aroad Avenue, Pasadena, TX 77503
John Black	345 Another Avenue, Pasadena, TX 77503
Mary Smith	889 Deadend Road, Pasadena, TX 77503

6.3 Duties. The duties of the Board of Directors shall be to transact necessary business.

6.4 Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the directors are present at the meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

6.5 Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these by-laws.

6.6 Resolutions. No resolutions may be adopted except by the Board of Directors.

6.7 Informal Action by Directors. Any action required by law to be taken at a meeting of the Board of Directors, or any action which may be taken at a meeting of the Board of Directors, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the directors.

ARTICLE VII OFFICERS

7.1 Officers. The officers of the Corporation shall be a President, Vice President, Secretary and Treasurer. Officers shall take office at the first regular meeting and serve for a term of one year or until their successors are installed.

7.2 Designation of Officers. The officers of the Corporation shall be elected annually at the first regular meeting. Each officer shall hold office until his successor shall have been duly elected and shall have been qualified, or until his death, or until he shall resign or shall have been removed in the manner hereinafter provided.

7.3 Vacancies. Vacancies occurring during the term of office shall be filled by the Board of Directors.

7.4 President. The President shall be the principal executive officer of the Corporation and shall in general supervise and control all of the business and affairs of the Corporation. He or she shall preside at all meetings of the Corporation, the Board of Directors, and shall be exofficio member of all committees. He or she may sign, with the Secretary or any other proper officer of the Corporation authorized by the Board of Directors, any contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-laws or by statute to some other officer or agent of the Corporation; and in general he or she shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

7.6 Vice President. In the absence of the President or in the event of his or her inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall be the Chairman of the Fundraising Committee.

7.7 Treasurer. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board of Directors shall determine. He or she shall have charge and custody of and be responsible for all funds and securities of the Corporation; deposit all such moneys in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected in accordance with these By-laws; and in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors. The Treasurer shall present a statement of account at every meeting of the Corporation and at other times when requested by the Board of Directors and shall make a report at the Spring and Fall meetings. The Treasurer's books shall be subject to an audit annually by a committee of three members appointed by the President at the spring meeting. The Treasurer's books shall be closed by July 31 of the fiscal year (end of the fiscal year).

7.8 Secretary. The Secretary shall keep the minutes of the meetings of the members of the Board of Directors in one or more books provided for that purpose; give all notices in accordance with the provisions of these By-laws or as required by law; be custodian of the corporate records; keep a register of the address of each member which shall be furnished to the Secretary by each member; and, in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

ARTICLE VIII CONTRACTS, CHECKS, DEPOSITS AND FUNDS

8.1 Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these By-laws, to enter into contract or execute and deliver any instrument in name of and on behalf of the Corporation. Such authority may be general or confined to specific instances. All expenditures must be approved by the Board of Directors before they are made.

8.2 Checks and Drafts. All Checks, drafts, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as provided in these by-laws or as from time to time determined by the Board of Directors.

8.3 Deposits. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

8.4 Gifts. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation.

8.5 Special Provision. At the close of the fiscal year in 2011, the Corporation shall remit \$500 to next year's Project Prom. In all succeeding years, at the close of the fiscal year, the Corporation shall remit \$ 1,000 for use for the succeeding Project Prom.

ARTICLE IX MISCELLANEOUS

9.1 Books and Records. The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors, and shall keep at the registered or principal office a record giving the names and addresses of the members entitled to vote. All books and records of the Corporation may be inspected by any member or his or her agent or attorney for any proper purpose at any reasonable time.

9.2 Fiscal Year. The fiscal year of the Corporation shall begin on the first day of August and end on the last day in July.

ARTICLE X AMENDMENTS

10.1 Amendments. These By-laws may be amended at any regular or special meeting of the Board of Directors by a two-thirds vote of the members present and voting, following notices of the proposed amendment at a previous regular or special meeting of the Board of Directors.

**ARTICLE XI
RULES OF ORDER**

11.1 Rules of Order. Except as provided in these by-laws, the rules contained in Robert's Rules of Order Newly Revised shall govern the Corporation operation.

Adopted

IN WITNESS WHEREOF, we have hereunto set our hands this day and year shown below.

Dated: ____/____/____

Joe Smith

Dated: ____/____/____

Jane Doe

Dated: ____/____/____

Mary Smith

CONFLICTS OF INTEREST POLICY

Article I Purpose

The purpose of the conflict of interest policy is to protect this tax-exempt organization's (Organization) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Organization or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Article II Definitions

1. **Interested Person**

Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

2. **Financial Interest**

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- a. An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,
- b. A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

Article III Procedures

1. **Duty to Disclose**

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, s/he shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

- a. An interested person may make a presentation at the governing board or committee meeting, but after the presentation, s/he shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
- b. The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

- a. If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV
Records of Proceedings

The minutes of the governing board and all committees with board delegated powers shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Article V
Compensation

- a. A voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI
Annual Statements

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- a. Has received a copy of the conflicts of interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and
- d. Understands the Organization is charitable and in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Article VII
Periodic Reviews

To ensure the Organization operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining,
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

Article VIII
Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

State Regulatory Information

This section has been prepared to provide general, not specific or all-inclusive, information to Booster Clubs regarding state tax regulations. Steps have been documented to aid a Booster Club in abiding by the regulations; however, these steps are only general guidelines and do **not** ensure that a Booster Club will remain in compliance with all state tax regulations.

Each Booster Club should strive to remain in good standing with all state agencies. **Therefore, each Booster Club is responsible for obtaining its own competent independent counsel on accounting and tax matters related to its specific circumstances.** This counsel may include a Certified Public Accountant (CPA) or an attorney. The cost of these services would be the Booster Club's responsibility.

General State Regulatory Information

Booster Club officers are solely responsible for ensuring that their Booster Club is in compliance with all state regulations. Therefore, the District, including any District employee, is not responsible for a Booster Club not being in good standing with all state agencies. However, the District has provided the following information that includes detailed steps Booster Clubs should take to comply with state tax regulations.

This information is organized as follows:

- Obtaining an Employer Identification Number
- Obtaining a Texas Sales Tax Permit
- Qualifying for Exemption from Texas Limited Sales, Excise, and Use Tax
- Booster Clubs with the Limited Exemption
- Booster Clubs with No Exemption
- "Tax-exempt" Organizations
- Reporting Requirements
- Franchise Tax
- Change in Address
- Further Questions

Obtaining an Employer Identification Number

To sell any taxable items within the State of Texas, a company, organization, or person must apply for a Sales Tax Permit. Before obtaining a Sales Tax Permit, a Booster Club must **first** obtain an Employer Identification Number (EIN) from the Internal Revenue Service (IRS) to establish its identity as an organization. ***(See the Federal Regulatory Information for these instructions.)***

Obtaining a Texas Sales Tax Permit

Booster Clubs should obtain a Texas Sales Tax Permit if you intend to sell goods or taxable services in Texas. The sale of goods **does include** fund-raisers, such as catalog sales, candy sales, and sales of other items. In addition, some Booster Clubs sell services that may be taxable. Booster Clubs may obtain a Texas Sales Tax Permit by submitting the completed applications to the Texas State Comptroller's Office.

Note: A blank Texas Application for Sales Tax Permit is included in the section "Forms Available to Use" for your convenience.

A Texas Sales Tax Permit will be issued to the Booster Club along with a Sales Tax Permit Number. The Texas Sales Tax Permit Number has 11 digits and begins with a 1, 2, or 3. The permit numbers beginning with a "1" are based on an entity's EIN. Those permit numbers beginning with a "2" are based on a person's social security number. The permit numbers beginning with a "3" are assigned by the Texas State Comptroller's Office.

IMPORTANT
Booster Clubs cannot use the District's Sales Tax Permit Number.

Qualifying for Exemption from Texas Limited Sales, Excise, and Use Tax

The Texas limited sales, excise, and use tax exemption allows approved organizations an exemption from sales tax when purchasing items to further the organization's exempt purpose. Therefore, this limited exemption allows the approved Booster Club to make sales tax-exempt purchases of items intended for resale for a fund-raiser. **This exemption process is separate and in addition to applying for federal tax-exemption from the IRS.**

Only those Booster Clubs that have obtained tax-exempt status from the IRS may apply for the state exemption from Texas limited sales, excise, and use tax.

IMPORTANT
If the IRS considers a Booster Club a **taxable organization**, the Booster Club **CANNOT** receive an exemption from the Texas limited sales, excise, and use tax.

Booster Clubs may request exemption from the Texas limited sales, excise, and use tax by submitting the following to the Texas State Comptroller's Office:

1. Cover letter with the organization's name, mailing address, and Sales Tax Permit Number. Specifically request an exemption from "sales and use tax." Include the name and daytime phone number of the organization's contact person in case the Texas State Comptroller's Office has any questions.
2. Written statement detailing the nature of the activities conducted or to be conducted.
3. Copy of the by-laws.
4. Copy of the Articles of Incorporation, if the Booster Club is incorporated.
5. Copy of the Determination Letter from the IRS granting the Booster Club tax-exempt status.

6. Copy of the Booster Club's constitution or any applicable trust agreement.

The Texas State Comptroller's Office may require a Booster Club to furnish additional information including, but not limited to, documentation showing:

1. all services performed by the organization and
2. all income, assets, and liabilities of the organization.

Note: No fee is required to apply for this exemption. In addition, exemption from franchise tax may be requested within this letter.

The information should be mailed to:

Exempt Organizations
PO Box 13528
Austin, TX 78711

IMPORTANT

Do not use "Texas State Comptroller's Office" in this address, per their instructions, due to the mail routing system. Please use the address as listed above.

After a review of the information, the Texas State Comptroller's Office will notify the Booster Club in writing if the organization qualifies for the exemption. This review process may take about 2 to 3 weeks.

IMPORTANT

If a Booster Club loses its federal tax-exempt status, the IRS notifies the Texas State Comptroller's Office. Upon notification, the Texas State Comptroller's Office will immediately revoke the exemption from the Texas limited sales, excise, and use tax. **Therefore, all subsequent purchases by the Booster Club would be taxable.** In addition, the Booster Club must notify its vendors of the loss of exempt status concerning the Texas limited sales, excise, and use tax.

Booster Clubs with the Limited Exemption

The exemption from the Texas limited sales, excise, and use tax (limited exemption) allows the approved Booster Clubs to make tax-exempt purchases of items intended for resale for a fundraiser. The Booster Club must present the vendor with a Texas Resale Certificate in order to purchase the items for resale tax-free. In addition, the certificate must state the Booster Club's Sales Tax Permit Number to be valid. Booster Clubs may request the Texas Resale Certificate from the Texas State Comptroller's Office.

The Booster Clubs with the limited exemption are entitled to two (2) "one-day, tax-free" sales or auctions per calendar year. A fund-raiser qualifies for the "one-day, tax-free" sale/auction if all items are to be delivered on one day. Each "one-day" sale/auction may not exceed 24 consecutive hours.

Remember: You must be granted the limited exemption first to be entitled to the two (2) "one-day, tax-free" sales or auctions per calendar year.

Sales of items such as T-shirts, candles, cups, etc. are subject to sales tax when sold on days other than the two (2) "one-day, tax-free" sale/auction days.

Booster Clubs with No Exemption

Booster Clubs that are taxable organizations or Booster Clubs that have not received approval for the limited exemption from the Texas State Comptroller's Office must pay sales tax on all applicable purchases and must collect sales taxes on all taxable items sold.

Booster Clubs that do not have an exemption are not entitled to any "one-day, tax-free" sales/auctions.

"Tax-exempt" Organizations

Some organizations may be extended a "tax-exempt" status by the Texas State Comptroller's Office. The organizations receiving this status may buy, lease, or rent taxable items without paying sales and use tax if those items are necessary to their function as a tax-exempt organization.

Historically, the Texas State Comptroller's Office has not extended "tax-exempt" status to Booster Clubs.

Reporting Requirements

The Texas State Comptroller's Office requires that Booster Clubs file at least one sales tax report per calendar year. The frequency of filing the sales tax report is determined by the Texas State Comptroller's Office. The amount of anticipated sales tax payments affects the frequency of reporting as follows:

- If projected yearly sales tax payments are \$1,000 or less, sales tax reports are filed annually.
- If projected yearly sales tax payments are more than \$1,000, sales tax reports are usually filed quarterly.

Since sales tax payments may vary from year to year, the frequency of reporting can also change. The Texas State Comptroller's Office will generally communicate changes in filing requirements to the Booster Clubs in writing. In addition, the Texas State Comptroller's Office will generally mail the required reporting form and information to organizations that have obtained a Sales Tax Permit.

Franchise Tax

The franchise tax serves as Texas' primary business tax. The tax is levied on corporations, including bank corporations, and limited liability companies that are chartered in Texas for the privilege of doing business in Texas. Non-corporate organizations, such as partnerships, associations, and proprietorships are excluded from the tax. Therefore, if a Booster Club is incorporated, they are subject to franchise tax.

However, Booster Clubs that have received their Determination Letter from the IRS granting 501(c)(3) tax exemption may also request exemption from the Texas franchise tax through the Texas State Comptroller's Office.

Although a nonprofit corporation that is exempt from federal income tax under Internal Revenue Code 501(c)(3) is exempt from franchise tax, the exemption is **not automatically granted**. Booster Clubs must write to the Texas State Comptroller's Office requesting franchise tax exemption by submitting the following:

1. Cover letter with the organization's name, mailing address, and Sales Tax Permit Number. Specifically request an exemption from "franchise tax." Include the name and daytime phone number of the organization's contact person in case the Texas State Comptroller's Office has any questions.
2. Written statement detailing the nature of the activities conducted or to be conducted.
3. Copy of the by-laws.
4. Copy of the Articles of Incorporation, if the Booster Club is incorporated.
5. Copy of the Determination Letter from the IRS granting the Booster Club tax-exempt status.
6. Copy of the Booster Club's constitution or any applicable trust agreement.

The Texas State Comptroller's Office may require a Booster Club to furnish additional information including, but not limited to, documentation showing

1. All services performed by the organization and
2. All income, assets, and liabilities of the organization.

Note: **No fee is required to apply for this exemption. In addition, exemption from sales and use tax can be requested within the same letter.**

The information should be mailed to:

Exempt Organizations
PO Box 13528
Austin, TX 78711

IMPORTANT

Do not use "Texas State Comptroller's Office" in this address, per their instructions, due to the mail routing system. Please use the address as listed above.

Change in Address

If the mailing address for the Booster Club changes, immediately notify the Texas State Comptroller's Office. Failure to do so may result in important correspondence being lost. To avoid frequent mailing address changes, the Texas State Comptroller's Office recommends that each Booster Club obtain its own post office box (PO Box) or private mailing box (PMB) to be used for official Booster Club mail. In addition, the post office box address and keys can be given easily to the new officers at the beginning of each new year.

Further Questions

If you have additional questions regarding the information discussed above, you may contact:

Texas State Comptroller's Office

Houston Office	713-266-4063
Austin Office	1-800-252-5555 (toll-free)
Exempt Organizations Department	1-800-531-5441 ext. 34142

Website addresses

Texas State Comptroller's Office	<u>www.window.state.tx.us</u>
Sales Tax Information	<u>www.window.state.tx.us/taxinfo/salestax.html</u>

Federal Regulatory Information

This section has been prepared to provide general, not specific or all-inclusive, information to Booster Clubs regarding federal tax regulations. Steps have been documented to aid a Booster Club in abiding by the regulations; however, these steps are only general guidelines and do **not** ensure that a Booster Club will remain in compliance with all federal tax regulations.

Each Booster Club should strive to remain in good standing with all federal agencies, including the Internal Revenue Service (IRS). **Therefore, each Booster Club is responsible for obtaining its own competent independent counsel on accounting and tax matters related to its specific circumstances.** This counsel may include a Certified Public Accountant (CPA) or an attorney. The cost of these services would be the Booster Club's responsibility.

General Federal Regulatory Information

Booster Club officers are solely responsible for ensuring that their Booster Club is in compliance with all federal regulations. Therefore, the District, including any District employee, is not responsible for a Booster Club not being in good standing with all federal agencies. However, the District has provided the following information that includes detailed steps Booster Clubs should take to comply with federal tax regulations.

This information is organized as follows:

- Obtaining an Employer Identification Number
- Why Do I Want To Be Tax-exempt?
- Why Do I Want To Be a Public 501(c)(3)?
- Becoming a Public 501(c)(3) Tax-exempt Organization
- Applying for Public 501(c)(3) Tax-exempt Status
- Obtaining Tax-exemption through National Affiliation
- Advance Ruling Period (Temporary Tax-exempt Status)
- Filing Requirements for Tax-exempt Organizations
- Taxable Organizations
- Change in Address
- Further Questions

Obtaining an Employer Identification Number

The IRS requires that **all organizations** obtain a unique Employer Identification Number (EIN) for identifying itself as a unique entity. The IRS prohibits Booster Clubs from using their central organization's EIN; therefore, **Booster Clubs should not use the District's EIN.**

IMPORTANT

An organization is **not** automatically considered tax-exempt by acquiring an EIN. All organizations must first apply for an EIN to be recognized as a unique entity and then apply for tax-exempt status. Likewise, the mere fact that an entity is organized as a non-profit organization does **not** indicate that it is exempt from federal tax. "Nonprofit" is a state law concept and is **not** recognized by the IRS.

1. Completing IRS Form SS-4 (Application for Employer Identification Number) and
2. Either: mailing it to the IRS (4 to 5 week wait),
faxing it to 512-460-8000 (5 day response),
calling the IRS at 512-460-7843 (immediate assignment),
or online at <http://www.irs.gov/businesses/small/article/0,,id=102767,00.html>.

Note: No fee is required for obtaining an EIN.

After receiving your EIN, you may use it to then open a bank account and obtain a State Sales Tax Permit. **Booster Clubs should not use an individual's social security number to conduct the business of the organization.**

Copies of the completed SS-4 form and the IRS response documenting the assigned EIN number should be kept in the Booster Club's permanent records from year to year.

Why Do I Want To Be Tax-exempt?

The IRS Tax Code provides for special treatment of certain organizations identified as "tax-exempt." Some benefits to becoming tax-exempt as a public 501(c)(3) organization include:

1. Taxes are not paid to the IRS for revenues raised,
2. Contributions to certain tax-exempt organizations [501(c)(3)] are tax-deductible by the contributor, and
3. Tax-exempt organizations are not required to file an information return (Form 990) unless the organization's annual gross receipts exceed \$25,000.

However, the following are restrictions placed on tax-exempt organizations that Booster Clubs **must follow** to receive tax-exempt status and to retain that status:

- **Tax-exempt organizations must benefit a group as a whole instead of benefiting individual members of a group.** Since Booster Clubs usually assist student groups, all members of the student group sponsored are to be treated equally and receive the same opportunity to benefit from the Booster Club's assistance. Therefore, one student cannot receive a greater benefit than another unless the criteria for financial need discussed below is met.

In some instances, individuals may not be able to afford to pay the amount owed to participate in a particular event. The IRS has indicated that a group or club may establish criteria that could be used to determine if a person is in financial need. If the criteria are met, the group or club could provide the necessary funds to allow the individual to participate. The criteria should be established in writing prior to a particular situation arising. In addition, the criteria should be used consistently for all people, and the criteria should not change every year.

- **Tax-exempt organizations cannot use individual accounts.** "Individual accounts" are those accounts used by a Booster Club to credit *an individual* with revenues raised. The Booster Clubs would use these accounts to benefit *the individual* by offsetting *that individual's expenses* with the amount credited to *that individual* from the revenues raised.

Please note that individual accounts do not refer to bank accounts.

The purpose of a tax-exempt organization is to benefit an entity as a whole instead of benefiting individuals. Therefore, the use of individual accounts could result in denial of the application for tax-exempt status by the IRS or the loss of existing tax-exempt status. In addition, the individual benefits received by people would result in taxable income to them.

- **Tax-exempt organizations cannot require a person to participate in fund-raising activities.** Normally, Booster Clubs raise funds for a student group through the efforts of the Booster Club members; however, sometimes the students of the group being assisted participate in the fund-raising activities. A Booster Club cannot require its members or the students in the related student group to participate in a fund-raiser. Furthermore, members of the student group who do not participate in fund-raising activities would receive the same opportunity to benefit as those members of the student group who participated.
- **Tax-exempt organizations cannot require that a certain amount be raised or sold per person.** For example, a Booster Club cannot require that each Booster Club member or student of the assisted group sell \$20 worth of candy or sell 10 candy bars in a fund-raiser.

The following is an illustration of the above concepts:

A dance team is attending a summer dance camp that costs \$2,000 for its 10 members (\$200 each). The Dance Team Booster Club decides to have a catalog fund-raiser to help defray some of the cost of the summer dance camp. The catalog sale generates a total of \$200 of revenue. Of the 10 total members of the dance team, only 2 participate in the catalog sale that generates the \$200, which is deposited into the Dance Team Booster Club's bank account.

*Since revenues from the catalog sale were to be used to defray some of the dance camp expense, the tax-exempt Dance Team Booster Club must give all 10 dance team members an equal opportunity to benefit from the catalog sale, even though only 2 members participated. This means that **each member's cost** would be reduced by \$20 ($\$200 / 10$ members). Therefore, each member's cost for attending the summer camp would be \$180 ($\200 cost - $\$20$ fund-raiser benefit).*

Why Do I Want To Be a Public 501(c)(3)?

When applying for tax-exempt status with the IRS, Booster Clubs should apply for the **public 501(c)(3) tax-exemption**. This type of exemption means that the organization is tax-exempt; the majority of its income is from the public; and all donations, subject to certain individual restrictions, are deductible on the contributor's tax return. In addition, 501(c)(3) organizations are eligible for state tax benefits (***See the State Regulatory Information***) and reduced postal rates.

The IRS has several other tax-exempt categories; however, the 501(c)(3) status is the **ONLY** category that allows any donations to be deductible on the contributor's tax return. All other categories allow for tax-exemption, but do not allow for deductible donations under any circumstances.

With a 501(c)(3) tax-exempt status, an organization may be public or private. A private 501(c)(3) organization has additional requirements and constraints that a public 501(c)(3) organization does not have.

Therefore, all Booster Clubs should apply for tax-exempt status as a public 501(c)(3) organization.

Becoming a Public 501(c)(3) Tax-exempt Organization

Tax-exempt status is not automatic once an EIN has been issued; **organizations must apply for tax-exempt status**. According to the IRS, an organization is either a taxable organization or a tax-exempt organization. Furthermore, organizations may **not** represent themselves as tax-exempt until they have obtained notification from the IRS stating they are a tax-exempt entity.

According to Board Policy GE (Local), **all Booster Clubs should seek tax-exempt status with the IRS as a public 501(c)(3) organization**. The Booster Club officers should take the necessary steps to ensure they follow the regulations regarding that type of entity.

Applying for Public 501(c)(3) Tax-exempt Status

1. Complete IRS Package 1023 (Application for Recognition of Exemption) seeking tax-exempt status as a **public 501(c)(3)** organization.
2. Complete IRS Form 8718 (User Fee for Tax-exempt Organization Determination Letter Request) and pay the required fee of \$400 or \$850.
3. Mail Package 1023, Form 8718, and a check for the filing fee to:
Internal Revenue Service
PO Box 192
Covington, KY 41012-0192

The filing fee is \$400 if your annual gross receipts averaged **no more than \$10,000** during the last 4 years or if you are a new organization that does not anticipate annual gross receipts exceeding \$10,000 during your first 4 years.

The filing fee is \$850 if your annual gross receipts averaged **more than \$10,000** during the last 4 years or if you are a new organization that anticipates annual gross receipts exceeding \$10,000 during your first 4 years.

Annual gross receipts: The total amount of revenue collected by an organization during its reporting year from any source. Sources may include, but are not limited to, membership fees, donations, fund-raising revenues, amounts collected for the payment of expenses (e.g., uniforms, trips), and any other amounts received.

To determine annual gross receipts:

- **Add** all deposits made to the Booster Club's bank account(s),
- **Add** cash on hand that was not deposited by the end of its reporting year,
- **Less** transfers from one bank account to another, and
- **Add** expenses paid with money collected that was not deposited in the Booster Club's bank account(s).

When completing the IRS Package 1023, Booster Clubs will establish their fiscal year-end (*also known as the accounting period year-end or official year-end*). Once this date is established, the IRS does not easily allow an organization to change it. Changes are usually only allowed for extreme circumstances. The date established will determine when the Booster Club has to file their informational return (Form 990) to the IRS. The return is due 4 ½ months after the end of a fiscal year (*the 15th day of the 5th month after the organization's accounting period ends*).

When considering a fiscal year-end date, you may wish to align your year-end with the school's year-end date of August 31. This way, the financial activity of the Club can relate easily to a given school year. Second, the current officers can prepare the annual Financial Report and have it audited before the new school year begins. Third, the Club's Form 990 would not be due to the IRS until November 15; therefore, the new officers would have time to prepare it after beginning the new school year.

The IRS approval process for tax-exempt status usually takes several months.

The IRS will send the organization an Acknowledgement of Your Request letter that indicates your application and fee were received and are being processed.

Upon approval by the IRS of the tax-exempt status, the organization will receive a Determination Letter stating that the organization is considered to be tax-exempt as of a certain date. Only then can the organization represent itself as a federally tax-exempt organization.

Likewise, donations to the organization are only deductible on the contributor's tax return as of the effective date on the Determination Letter received by the Booster Club granting **501(c)(3)** tax-exempt status and within set guidelines that apply to 501(c)(3) organizations.

Therefore, if the Booster Club receives tax exemption under any other code [i.e., 501(c)(4), 501(c)(7)], donations received are **not deductible on the contributor's tax return**. Furthermore, Booster Clubs should clearly state in all advertisements that donations to the organization are "**not tax-deductible**" so that a contributor is not misled and does not incur penalties levied by the IRS for taking the deduction erroneously.

If the IRS does not grant tax-exempt status, the organization will receive a Letter of Denial stating the organization is not considered tax-exempt.

Send a copy of the Acknowledgement of Your Request and a copy of the Determination Letter to the Campus Designee when each is received.

Obtaining Tax-Exemption through National Affiliation

Some organizations may become affiliated with a national organization that has already received tax-exempt status as a public 501(c)(3) organization from the IRS (e.g., PTAs). The national organization may have a Group Exemption Number (GEN) assigned to it by the IRS. The GEN may be used by local affiliates to avoid having to file their own Form 1023.

Each local affiliate, however, must obtain an Employer Identification Number (EIN).

Advance Ruling Period
(Temporary Tax-Exempt Status)

Some Booster Clubs may receive a temporary approval of tax-exempt status as a public 501(c)(3) organization for sixty (60) months known as an “advance ruling period.” The temporary status is usually granted for newly-formed Booster Clubs and is stated in the Determination Letter as “Advance Ruling Period Begins/Advance Ruling Period Ends.”

The 60-month grace period is considered a trial period by the IRS to determine if granting the **public 501(c)(3)** status is appropriate for a particular organization. Ninety days prior to the end of the 60 months, IRS Form 8734 (Support Schedule for Advanced Ruling Period) is required to be submitted by the Booster Club to maintain the **501(c)(3) tax-exempt status as a public organization**.

Failure to submit this form results in the organization automatically being reclassified as a private foundation, which has additional requirements and constraints that a public organization does not have. Some of these requirements and constraints include the reduced deduction of donations by a donor, the payment of excise taxes, and the annual filing of IRS Form 990-PF (Return of Private Foundation).

The IRS usually sends a notice to these organizations prior to their expiration date to remind them to submit the Form 8734; however, Booster Clubs should not rely on the IRS. Instead, the Booster Clubs should monitor their own temporary status expiration date.

After the IRS reviews the Form 8734 information, the IRS may grant a permanent public tax-exempt status to the organization. The tax-exempt status would remain in effect as long as all regulations concerning public tax-exempt organizations are followed.

Filing Requirements for Tax-exempt Organizations

The IRS requires that either Form 990 (Return of Organization Exempt from Income Tax) or Form 990-EZ (Short Form of Return of Organization Exempt from Income Tax) **be filed annually** for public organizations recognized as tax-exempt with gross receipts of more than \$25,000. ***(See definition of “annual gross receipts” in this section.)***

Contact the IRS at 1-800-829-3676 to order forms.

The return is due by the 15th day of the 5th month after the accounting period ends (due 4½ months after the Booster Club’s official or fiscal year-end). Please refer to your Determination Letter for confirmation of your accounting period year-end.

Booster Clubs must use Form 990-N if:

Gross receipts are less than \$25,000.

Booster Clubs must use Form 990-EZ if:

1. Gross receipts are more than \$25,000 but less than \$100,000 **AND**
2. Total assets are less than \$250,000 at year-end.

Booster Clubs must use Form 990 if:

1. Gross receipts are \$100,000 or more **OR**
2. Total assets are \$250,000 or more at year-end.

Taxable Organizations

If a Booster Club has not obtained tax-exempt status from the IRS, that Booster Club is a taxable entity. Taxable organizations operate under different guidelines than tax-exempt organizations and are required to submit Form 1120 (U.S. Corporation Tax Return) annually. Form 1120 must be filed each year no matter the amount of the gross receipts.

Since the District Booster Clubs should be public 501(c)(3) organizations, the IRS guidelines concerning taxable organizations are not included in this handbook. Taxable organizations should obtain their own competent independent counsel, such as a CPA, on accounting and tax matters related to their specific circumstances. The cost of the counsel would be the Booster Club's responsibility.

Change in Address

Immediately notify the IRS if the Booster Club's mailing address changes. Failure to do so may result in important correspondence being lost. To avoid frequent mailing address changes, the IRS recommends that each Booster Club obtain its own post office box (PO Box) or private mailing box (PMB) to be used for official Booster Club mail. In addition, this address and box keys can be given easily to the new officers at the beginning of each new year.

Further Questions

If you have additional questions regarding the information discussed above, you may contact:

Internal Revenue Service

Main Number	1-800-829-1040 (toll-free)
Tax-exempt Organizations	1-877-829-5500 (toll-free)
Tax Forms & Publications	1-800-829-3676 (toll-free)

Website addresses

IRS Home Page	www.irs.gov
Tax-exempt Information	www.irs.gov/prod/bus_info/eo/index.html
Tax Forms & Publications	www.irs.gov/prod/forms_pubs/index.html

