

# Chapter 14

## Chapter 14 – Allowable and Questionable Expenses

Anything purchased by a district must be in compliance with the law and local board policy, and cannot be considered a gift of public funds. Because ASBs are part of the district, ASB organizations must follow the same laws and local policies, as well as ensure that the funds are spent appropriately. The principal/school administrator and ASB advisors are responsible for ensuring that ASB funds are used to purchase goods and services that promote the students' general welfare, morale and educational experiences. In general, ASB expenses that meet these criteria are allowable if they are directly linked to the students' benefit. With few exceptions (such as awards and scholarships, which are discussed later in this chapter), ASB expenditures will benefit a group of students rather than individuals. The expenditures must also be for goods and services other than those the school entity should provide from its own funding sources. Thus if the expenditure is the district's responsibility, or the district has paid for the expenditure in the past, or the ASB is being asked to pay for the item or service because of district budget cuts, it is probably not an allowable ASB expenditure. The district is responsible for the curriculum of the class or program; ASBs are supposed to pay for extras, meaning items in addition to the regular curriculum.

In high schools, middle schools and community colleges, the students should be the primary authority that decides how the ASB funds are spent. This helps ensure that the interests of the students are protected. In elementary schools, the students are often not involved in the decision-making and operations. Regardless of the school type, the principal/school administrator or designee is responsible for protecting the interests of the students and ensuring that the funds are spent for their benefit. Although the primary decision maker may vary depending on the type of ASB, the types of expenditures that should be made with ASB funds remain the same for all ASBs.

Questions often come up about whether an item is an appropriate use of ASB funds. In these instances, the principal/school administrator or the ASB advisor should contact the appropriate staff in the district business office for guidance.

### Examples of Allowable Purchases

Following are some examples of the many types of items generally considered allowable expenses from ASB funds. These examples include frequently questioned items; they do not include obviously appropriate ones, such as supplies for a student store, school photos, or a disc jockey or decorations for a school dance. These and similar expenditures that enhance students' educational experience and are directly linked to the students' benefit are other than what the school entity must provide from its general funding sources.

The following are examples of appropriate expenditures using ASB funds:

- Magazines and newspaper subscriptions for student use
- Playground equipment
- Library books
- Supplemental equipment for student use that is not normally provided by the school entity, such as telescopes and aquariums
- Field trips/excursions and outdoor education/science camps
- Extracurricular athletic costs, including costs for ticket sales, game officiating and security
- Costs for student social events
- Scholarships (under specific circumstances)
- Awards, if there is a district policy allowing them

- Substitute teacher, if the teacher's absence is due to an authorized ASB activity
- Indirect charges

## Examples of Prohibited Purchases

Expenditure of student funds for the following items is not usually allowable because they do not directly promote the general welfare, morale or educational experience of the students, or are considered a district responsibility, or do not benefit a group of students (with some exceptions), or are a gift of public funds:

- Salaries or supplies that are the responsibility of the district. Some examples are teachers' salaries and negotiated stipends, curriculum supplies, and office supplies and equipment. However, substitute teachers' pay may be allowed if they are substituting because of an ASB-related activity.
- Repair and maintenance of district-owned facilities and equipment. An exception might exist for equipment that the ASB donated to the district and for which the donation agreement includes a provision that the ASB will maintain the donation in the future, including paying for any repair, maintenance or replacement.
- Permanent buildings
- Articles for the personal use of district employees
- Expenses for staff meetings
- Expenses for faculty meetings
- Expenses for booster clubs, foundations, auxiliary organizations and other parent-teacher organizations
- Large awards, unless board policy states otherwise
- Gifts of any kind
- Employee appreciation gifts or meals
- Employee clothing/attire
- Donations to other organizations, except in special circumstances
- Donations to families or students in need
- Cash awards to anyone, because internal controls cannot be established and documented, unless a district's board policy allows such awards (FCMAT does not recommend this).

Because student body funds are to benefit students as a group and not individuals, awards and scholarships generally are discouraged but are allowable as discussed later in this chapter.

Questions often arise about the giving of gifts, which has a personal as opposed to public character. Contrary to what often occurs in the field, gifts are not allowable, even if the amount is small. Gift certificates are ordinarily characterized as gifts of public funds even when purchased for an event with a public purpose, because they confer a tangible private benefit on an individual. To avoid making a gift of public funds with gift certificates, ask merchants or individuals to donate gift certificates. Although some school administrators may feel that the school or district benefits from positive relationships established by sending gifts to students, parents, board members or others, the real public relations value is of primary benefit to the respective individual leaders involved, not to the school entity itself as an institution. If students want to give gifts, use private funds, not public funds.

Discussions regarding gifts often conclude that trivial or insignificant gifts are acceptable. However, given modern governmental accounting practices and regulations, conflict of interest law and criminal law, FCMAT's recommendation is that such expenditures of public funds or use of public funds in any amount

can never be considered trivial or insignificant. The law clearly regards the misappropriation of public funds as a criminal act, with no minimum monetary limit specified, so it is best to avoid gifts of any amount.

## Donations

Donations to nonprofit organizations and students or families in need usually are not allowable because they are considered a gift of public funds, no matter how worthy the cause. ASB funds are legally considered public funds because they are raised through the district's tax identification number and under its nontaxable status. In general, fundraising that occurs on campus should be for the benefit of the ASB and not for other organizations. However, a student group may organize a fundraiser to support an outside organization such as a charity as long as the fundraising event is clearly identified as raising funds to donate to that charity. All donations should be in the form of checks made payable to the charity and should be picked up by or delivered directly to the charity so that funds are not deposited into the ASB account. If it is not possible to have the checks made directly to the outside organization, open a trust account within the ASB specifically for these donations (with district governing board approval), then write a check to the organization and close the account when the fundraiser is over. It is crucial to ensure that the district's governing board (not its designee) approves this fundraiser and that all paperwork associated with the fundraiser clearly documents that the only funds donated to the outside organization were those raised for that specific purpose. No funds from other clubs, inactive accounts, or fundraisers not approved by the governing board should be donated to outside organizations.

Another viable option is to work with a parent group that has its own tax identification number and sufficient internal controls and ask them to operate the fundraiser because groups such as this are not subject to the rules regarding gifts of public funds.

Many schools, especially elementary schools, like to hold what is often called a penny drive, during which students put collected pennies or other coins in jars and the money is then given to a designated charity. These are allowable but should be limited in their frequency, and the coin jars must be kept secure. Rather than depositing coins directly into the ASB account, ask the bank to count and issue the money directly to the charity, or use a coin counting machine. If the funds will be deposited into the ASB account, ensure that the governing board has approved the fundraiser. This is because if the governing board has determined that a specific expenditure will benefit the education of students by approving it, they have justified the expenditure as serving a public purpose and thus the expenditure is not considered a gift of public funds in the eyes of most courts.

The normal rules regarding prior approval apply to donation disbursements: as with all ASB expenditures, the approval should be documented using the expenditure approval form signed by the student representative, advisor and principal/school administrator, and noted in the club meeting minutes.

Under no circumstance should student groups donate funds to an individual needy student or family, or use school equipment for a charity fundraising drive. Those donations are not tax-deductible unless a legal foundation has been established for that student or family.

The issue of a gift of public funds arises when a check is written from ASB and given or donated to another organization. This is why a food or car drive is allowable: rather than money from the ASB being used for the charity, students bring food from home to donate to the charity.

## Scholarships

As discussed in Chapter 8, the student council may accept scholarships and trusts from outside donors (individuals or organizations) with the approval of the governing board or authorized designee. The acceptance should be made in writing and should clearly describe all the conditions the donor is requesting. These funds should be accounted for separately in a trust account within ASB and used specifically for scholarships. If the donor does not establish criteria for award of the scholarship, the principal/school administrator should work with a committee that includes at least one student representative to determine

the criteria for the scholarship. A donor may not donate toward a specific student's scholarship. If a donor wishes to fund a specific student's higher education, the donor should transact directly with the student; such donations are not tax-deductible.

Scholarships paid from student body fundraisers rather than from outside donations are normally not allowable because they do not benefit a group of students. School district governing boards may sometimes approve fundraisers specifically to raise scholarship funds, or may approve a club whose sole purpose is to raise scholarship funds. If governing board approval has been received, a separate trust account should be opened within the ASB specifically for these donations, with board approval, and then closed after the scholarship(s) are paid. It is critical to ensure that the board approves this fundraising and to clearly document that the only funds raised for scholarships are those that were fundraised and paid out for that specific purpose. No funds from other clubs or accounts should be used for scholarships.

If scholarships are to be allowed, the district should set guidelines regarding how many will be allowed annually. There should be established selection criteria for all scholarships. Cash awards are not allowed; rather, scholarship checks should be made payable to an institution of higher learning or a college bookstore, to be used toward tuition or books and supplies.

The normal rules regarding prior approval also apply to scholarship disbursements: as is the case with all ASB expenditures, the approval should be documented on the expenditure approval form by the signatures of the student representative, advisor and principal/school administrator, and noted in the club meeting minutes.

## Awards

Education Code section 44015 authorizes school districts to make awards to employees for exceptional contributions and to students for excellence. If items are intended as some form of employee or student award, it also requires the governing board to adopt rules and regulations concerning such awards. Such awards shall not exceed \$200 unless a larger award is expressly approved by the governing board. Awards to community members, parents or volunteers are not considered authorized because they are not included as allowable in the Education Code.

To award to employees for exceptional contribution, the governing board of a school district must find that the employee did one or more of the following:

- Proposed procedures or ideas that thereafter are adopted and effectuated, and that resulted in eliminating or reducing district expenditures or improving operations.
- Performed special acts or special services in the public interest.
- By their superior accomplishments, made exceptional contributions to the efficiency, economy, or other improvement in the operations of the school district.

Because this manual's subject is ASB, FCMAT recommends that ASB funds be used for awards to pupils for excellence, if approved and in accordance with board policy. Awards to employees for exceptional contributions are best made from district funds because the intent is that ASB funds are to be used for students.

Thus, if a governing board adopts rules and regulations before any awards are made, a district or ASB can recognize superior accomplishments of any employee or student within the guidelines and provisions contained in the applicable district policies, rules and/or regulations. In the absence of applicable policies, rules and/or regulations, no district official can make the award and no one can legitimately purchase the award.

Life transition events such as birthdays, weddings, funerals, holidays and other similar circumstances can happen to anyone and so cannot be considered superior accomplishments, or merit an award.

Awards are often signified by letters of commendation, board resolutions, trophies, certificates, plaques, medals, badges, pins and the like. They may also be in the form of a gift certificate or a scholarship, within the statutory monetary limits, if the governing board has approved such items as allowable awards and if IRS reporting requirements are followed. The board may also approve an expenditure for flowers or candy as part of an award, which is appropriate only if the school district's board policy on awards complies with the Education Code and IRS regulations. FCMAT recommends that the district's board policy allowing awards specify what is considered an allowable award.

Mugs, cards and similar items given to promote goodwill or positive relations between either the district and its employees or between staff and students are not considered awards. The expenditure of public funds to promote positive employer-employee and/or staff-student relations does not serve a direct and/or substantial public purpose, so would likely violate the gift of public funds provisions contained in the California Constitution.

IRS Publication 15b provides guidance to employers regarding how to report awards (tangible personal property) given to an employee as an award for either length of service or safety achievements. Publication 525 provides guidance to employees regarding how to report awards received.

Generally, cash or cash-equivalent awards to employees must be reported as taxable income. If the award is provided in the form of goods or services, the fair market value of the award is reportable. Tangible personal property awards (other than cash, gift certificates, other cash equivalents or certain intangible property) for certain service or safety achievements are excludable up to certain amounts. Refer to the IRS publications for more information on the topic of employee awards and reporting of the awards for tax purposes.

### Employee Appreciation Meals

A 1978 legal opinion issued by the California attorney general concluded that a governing board is not authorized by Education Code section 44032 to provide for the reimbursement to its employees for the cost of meals purchased for community leaders, including public officials, regardless of whether such acts are deemed to be in the best interest of the school district. The attorney general concluded that the foregoing expenditures were not "actual and necessary" expenses within the meaning of Education Code section 44032 and thus could not be reimbursed. Absent special circumstance, it is unlikely that a court would conclude that an expenditure for employee appreciation meals, which do not qualify as awards, would serve a direct and/or substantial public purpose. The same rule applies for employee appreciation gifts because they also do not serve a direct and/or substantial purpose, and do not qualify as awards.

### Employee Clothing/Attire

There is no specific statute or case authorizing the expenditure of public funds for items such as employee jackets, sweatshirts or T-shirts, because these items benefit an individual and could be considered a gift of public funds. The only possible exceptions might arise when the clothing or equipment is necessary or required for the employee (e.g. athletic coach, club advisor) to perform his or her duties in that capacity, or where the clothing or equipment is properly given as an award under Education Code section 44015. However, FCMAT does not believe that it is appropriate to charge employee expenditures or awards to ASB funds and recommends that they be charged to district funds because the intent is that ASB funds be used for students.

### Indirect Charges

The question sometimes arises concerning whether a district may charge ASB funds an indirect cost rate as it does with certain local, state and federal programs. Indirect costs include services that support but are not directly attributable to ASB, such as insurance, utilities, management and supplies. Although it is allowable to charge the ASB an indirect charge, this should be discussed with the schools so that they can plan for that expenditure and understand what that charge pays for. Ensure that the board policy regarding ASB includes this information. As with all ASB expenditures, any such charge would need to be approved in advance.

## Good Business Practices

Because the distinction between allowable and prohibited expenses can be confusing, what guidelines or practices should an ASB consider? As with many business situations, the use of common sense is important. The ASB can also ask the rhetorical question, “If this situation were to be published on the front page of the local newspaper, would the same action still be recommended?”

Questions to ask when deciding whether or not an expense would be allowable include the following:

- Will the expenditure be used to promote the general welfare, morale and educational experience of the students?
- Have the students agreed to the expenditure before it occurs?
- Is this expenditure a responsibility of the district?
- Has the ASB or the district paid for this in the past?
- Is the ASB being asked to pay for this because the district is making a budget cut?
- Is this something the district should provide, or is it an extra that the students want?
- Who will use the item?
- Will a group of students benefit?

Here is more specific advice on recommended good business practices.

The district should:

- Establish board policy or administrative regulations with guidelines regarding allowable and prohibited expenditures.
- Establish board policy or administrative regulations regarding procedures to follow if questionable expenditures arise.
- Conduct regular reviews and updates of governing board policies and administrative regulations on this and all ASB matters.
- Include a statement in the ASB constitution setting parameters for determining the appropriateness of expenditures.
- Assign an employee position in the district’s business office to provide assistance when questions arise.
- Provide annual training on expenditure guidelines, sponsored by the business office, for all staff members and students with ASB management responsibilities.