STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

July 22, 2016

Opinion No. 16-27

School Nutrition Associations and the Definition of "School Support Organization" in Tenn. Code Ann. § 49-2-603(4)(A).

Question

Do local school nutrition associations meet the definition of "school support organization" under Tenn. Code Ann. § 49-2-603(4)(A)?

Opinion

Based upon available information regarding the purposes and activities of local school nutrition associations, these organizations do not appear to qualify as "school support organizations." In the event, however, that a local school nutrition association were to solicit or accept moneys or other items of value in support of school activities, or engage in other school support activities encompassed by the Act, these organizations would place themselves within the purview of the Act, thus subjecting themselves to its requirements.

ANALYSIS

Tennessee Code Annotated § 49-2-603(4)(A) is part of the "School Support Organization Financial Accountability Act" ("the Act"), Tenn. Code Ann. § 49-2-601 through 612. The purpose of the Act is to ensure "that money raised by [school support organizations] is safeguarded by them and used to further the activities for which the money is raised" and "[t]o ensure the continued support of academic, arts, athletic and social programs, which help to educate the children of this state, while also ensuring fiscal accountability of school support organizations." Tenn. Code Ann. § 49-2-602. To accomplish this purpose, the Act imposes certain requirements and restrictions on organizations that collect money in support of school districts, schools, or school activities. See e.g., Tenn. Code Ann. § 49-2-604.

The Act defines "school support organization" to mean

> a booster club, foundation, parent teacher association, parent teacher organization, parent teacher support association, or any other nongovernmental organization or group of persons whose primary purpose is to support a school district, school, school club, or academic, arts, athletic or social activities related to a school, that collects or receives money, materials, property or securities from students, parents or members of the general public.

Tenn. Code Ann. § 49-2-603(4)(A).

School nutrition associations appear to be part of, or affiliated with, a national organization, the National School Nutrition Association.[1] In turn, each state, including Tennessee, has a State School Nutrition Association, which has affiliated chapters in many school districts and individual schools throughout Tennessee.[2] The Tennessee School Nutrition Association appears to be a professional organization for local school nutrition workers dedicated to, *inter alia*, promoting high standards for child nutrition and school community programs, as well as education and professional development for child nutrition workers.[3] The mission of local chapters appears to parallel that of the state organization.

Based on the materials available at the website of the Tennessee School Nutrition Association, its local affiliates would appear to fall within the first portion of the statutory definition of a "school support organization" as a "nongovernmental organization or group of persons whose primary purpose is to support a school district, school, school club, or academic, arts, athletic or social activities related to a school." That is, the local organization's mission of promoting high standards for school nutrition and advancing the education and professional development of school nutrition workers can be fairly characterized as supporting schools and/or school districts in the area of school nutrition.

The second clause of the statutory definition, however, limits the entities described in the first clause to those that also collect or receive "money, materials, property or securities from students, parents or members of the general public." The available materials do not indicate that Tennessee local school nutrition organizations engage in fundraising activities as part of their mission. Neither the state organization's website nor its bylaws refer to fundraising as one of the activities of local school nutrition organizations. Consequently, based upon the information available to us, it appears that these local school nutrition organizations do not meet the definition of "school support organization" set forth in Tenn. Code Ann. § 49-2-603(4)(A).

[1] The National School Nutrition Association website may be found at https://schoolnutrition.org/.

[2] The Tennessee School Nutrition Association maintains a website at http://www.tnsna.com/. The most recent edition of the "Tennessee School Nutrition Association Annual Handbook" (Volume 6 – 2012-2013) available at http://www.tnsna.com/tsna%202012.pdf, lists 38 Tennessee school districts as "Chapter Affiliates," and further lists "certified members" from 86 Tennessee school districts, as well as the Tennessee Department of Education. The Handbook lists 29 individuals as local chapter presidents.

[3] *See* Tennessee School Nutrition Association Bylaws, at http://www.tnsna.com/Bi-Laws.pdf.

But at the same time we note that there is nothing in the Tennessee School Nutrition Association Bylaws that prohibits fundraising by the local school nutrition organizations. And if a local school nutrition organization "collects or receives money, materials, property or securities from students, parents or members of the general public," that organization would thereby bring itself within the Act's definition of "school support organization" and would become subject to the requirements of the Act.

HERBERT H. SLATERY III
Attorney General and Reporter

ANDRÉE SOPHIA BLUMSTEIN
Solicitor General

Requested by:

The Honorable Justin P. Wilson
Comptroller of the Treasury
State Capitol
Nashville, TN 37243-9034