

WASBO ASB PROCEDURES MANUAL	FUNDRAISING	REVISED 11/06
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General Fund Fundraising

History- On February 19, 2003, the Attorney General's Office issued AGO 2003 No. 1, which stated that RCW 28A.320.015 authorizes school districts to undertake fundraising activities where the activity in question is related to the educational purposes served by the school district.

Guidelines:

1. There must be a school board policy

Prior to general fund fundraising, school board must adopt policies outlining the scope and nature of fundraising to be allowed. All fundraising activities allowed by the policy must either relate to an educational activity or promote the effective, efficient, and safe management of the district. It is recommended that districts develop a listing of allowable General Fund fundraising activities.

2. Must relate the fundraising activity

Districts must show a link between the fundraising activity and some specific district educational activity. It is recommended that the link to the educational activity be outlined on the fundraiser request form.

3. Clearly state that it's General Fund fundraising

The purpose of the fundraiser must be clearly identified as being a fundraiser for the General Fund. All advertising should clearly indicate what the intended purpose of the proceeds are for, and appropriate accounting records be maintained to properly account for each fundraising activity.

4. Fundraising activities should not be combined

Districts should clearly identify whether fundraising activities are: General Fund fundraising; Associated Student Body fundraising; or Charitable, nonassociated student body fundraising. "Joint" fundraising activities (i.e. ASB and general fund) are NOT recommended.

5. It is NOT private money

Moneys raised from general fund fundraising activities are public moneys, and as such must be spent appropriately.



CHRISTINE D. GREGOIRE ATTORNEY GENERAL OF WASHINGTON

SCHOOL DISTRICTS – EDUCATION – Authority of school districts to undertake various fundraising activities.

School districts have relatively broad authority to undertake fundraising activities where the activity in question is related to the statutory purposes of the district and the district can show that the activity is either expressly authorized by law or fairly implied from the legal powers and duties of school districts.

February 19, 2003

The Honorable Terry Bergeson
Superintendent of Public Instruction
P. O. Box 47200
Olympia, Washington 98504-7200

**Cite As:
AGO 2003 No. 1**

Dear Dr. Bergeson:

By letter previously acknowledged, you requested our opinion on a question we have rephrased for clarity as follows:

Does RCW 28A.320.015 authorize a school district (assuming compliance with its procedural requirements) to adopt and administer a policy authorizing the district to engage in fundraising activities, including (1) soliciting gifts and donations; (2) entering into interlocal agreements with other governments which generate additional funds for school district activities; and/or (3) operating various enterprises consisting of the sale of goods or services to generate revenue for the district?

BRIEF ANSWER

We answer your question in the qualified affirmative. As a general matter, a school district may engage in fundraising activities under the authority granted by RCW 28A.320.015, where the activity in question is related to the educational purposes served by the school district. These activities might take a variety of forms and might be based on a variety of types of legal authority. We decline to attempt to define the precise limits of the authority granted by RCW 28A.320.015.

ANALYSIS

As described in the information you submitted along with your question, a number of school districts are interested in engaging in various fundraising activities or are already doing so. [1] Questions have arisen concerning the extent to which districts have sufficient statutory authority to engage in these fundraising activities. In referring this matter to us for an opinion, you ask us to consider especially RCW 28A.320.015(1), a statute which reads as follows:

The board of directors of each school district may exercise the following:

(a) the broad discretionary power to determine and adopt written policies not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that the board determines will:

(i) Promote the education of kindergarten through twelfth grade students in the public schools; or

(ii) Promote the effective, efficient, or safe management and operation of the school district;

(b) Such powers as are expressly authorized by law; and

(c) Such powers as are necessarily or fairly implied in the powers expressly authorized by law.

We note, initially, that parts (b) and (c) of this subsection restate and affirm language consistently used by the courts to describe the powers of a school district. *Tunstall v. Bergeson*, 141 Wn.2d 201, 5 P.3d 691 (2000); *Noe v. Edmonds Sch. Dist. 15*, 83 Wn.2d 97, 515 P.2d 977 (1973). Accord AGO 1989 No. 5. Like other municipal and quasi-municipal corporations, school districts need either express or implied statutory authority to engage in a particular activity.

If parts (b) and (c) restate the case law, part (a) of RCW 28A.320.015 must have been intended to grant additional authority to schools districts beyond that which they had previously enjoyed. Courts accord meaning, if possible, to every word in an ordinance or statute. *State v. Lundquist*, 60 Wn.2d 397, 374 P.2d 246 (1962); *Group Health Coop. v. King Cy. Med. Soc'y*, 39 Wn.2d 586, 237 P.2d 737 (1952).

Furthermore, you have provided us with legislative history indicating that the Legislature intended to grant additional powers in adopting RCW 28A.320.015. This statute originated as Laws of 1992, ch. 141, § 301. This chapter was a broad "education reform" bill (SSB 5953) which included a number of provisions about education. Sections 101 through 104 revised the standards and requirements for the teaching profession. Sections 201 through 203 created a new commission for student learning and defined its powers and duties. Sections 401 through 403 revised high school graduation requirements. Sections 501 through 506 revised the basic education laws in several ways. Section 301, the statute under examination here, was grouped with two other statutes revising school board powers. Laws of 1992, ch. 141, §§ 301, 302, 303.

The 1992 legislation was a broad "educational reform" act, and the Legislature evidently intended that school districts have broader local authority, either so they could better handle the additional responsibilities imposed by Laws of 1992, ch. 141 itself or so they would have more flexibility in performing the general duties assigned to school districts. For instance, the 1992 Final Legislative Report on SSB 5953 (which became Laws of 1992, ch. 141), contains the following language about section 301, which became RCW 28A.320.015:

School boards are given broad discretionary power to adopt policies (that are not in conflict with other laws) that provide for the development and implementation of programs and practices that benefit the education of citizens and promote the effective, efficient, or safe maintenance and operation of school district programs, activities, services, or practices.

Final Legislative Report, 52nd Leg., Reg. Sess. (1992), at 105. In addition, the notes of committee hearings indicate that school district advocates and the Superintendent of Public Instruction supported the increased flexibility for school districts which they saw contained in the language eventually enacted

[2]
as RCW 28B.320.015.

We do not need to decide here precisely what powers school districts may exercise under RCW 28A.320.015 that they could not previously exercise. We will consider the question only as it relates to school district fundraising practices. Because there are a number of different ways school districts could raise funds, this subject alone provides the opportunity for a fairly extensive analysis of school district authority. For analytical purposes, we break fundraising proposals into three categories: 1) solicitation of gifts and donations, 2) intergovernmental contracts, and 3) “enterprise” activities designed to raise revenue for a district.

A. Solicitation of gifts and donations.

One obvious way for a school district to obtain private funds is to ask for them. Solicitation could take a number of forms, ranging from a line or two in the school newsletter to an aggressive program similar to those used by colleges and universities. As to this activity, your question is whether RCW 28A.320.015 would allow a school to adopt a policy providing for certain types of gift solicitation, based on a finding either that (1) the activity would promote the education of district students, (2) the activity would promote the effective, efficient, and safe management of the district, or (3) the power to conduct the activity is necessarily or fairly implied from some express school district power.

In this connection, we note first that school districts have authority to accept, receive, and administer “for scholarship and student aid purposes” gifts, grants, conveyances, devises, and bequests of personal or real property, in trust or otherwise, and to sell, lease, rent, or exchange and invest or expend the proceeds, rents, profits and income from such gifts. RCW 28A.320.030. The question is whether the authority to accept and use gifts implies the authority to solicit them for scholarship and student aid purposes.

In AGO 1993 No. 18, an opinion addressing several questions about fund-raising by state-supported colleges and universities, we approached this issue with some caution. We did conclude in that opinion that colleges and universities had authority to solicit private gifts and donations for two reasons: (1) they had express statutory authority to accept donations; and (2) colleges and universities, including publicly-owned institutions, have a long history and tradition of seeking private donations to supplement their other sources of funding. Therefore, we concluded that colleges and universities had the power to solicit donations for the general benefit of the institution. AGO 1993 No. 18, at 5.

We cannot apply quite the same analysis to the question of solicitation of donations by school districts. While schools have (like colleges) the authority to accept donations, we are unaware of any parallel history in which school districts have commonly relied on private gifts and donations for a significant portion of their operations. Our impression is that the practice of donating money or property to school districts has been occasional or sporadic and not (as with colleges) a common practice. However, we do think that the express authority for school districts to accept and manage donations “for scholarship and student aid purposes” fairly implies the authority to solicit donations for those specific purposes. Since RCW 28A.320.015(1)(c) authorizes activities which are necessarily or *fairly* implied for express grants, this statute at least bolsters any pre-existing authority based directly on RCW

[3]
28A.320.030 as to scholarship and student aid solicitations.

The next question is whether RCW 28A.320.015 provides a basis for additional authority—such as the authority to solicit donations for school district purposes beyond “scholarship and student aid”.

This statute, as noted above, grants “broad discretionary power” for school districts to adopt policies promoting education or promoting the effective, efficient, and safe operation of the district. To the extent a district adopts a policy relating the solicitation of donations to one of the purposes specified in RCW 28A.320.015(1)(a), this statute provides supplemental authority. However, we caution that the statute requires a district to show a link between the activity engaged in and some specific district purposes encompassed in the statutory language.

Accordingly, we conclude that school districts do have authority to engage in the solicitation of donations from private sources where the activity is related to the purpose and objects of the district, as set forth either in RCW 28A.320.030 or in RCW 28A.320.015(1)(a) (or in some other specific statute granting authority to districts) and is reasonably related to the pursuit of such objects.

B. Performance of interlocal service agreements with other governmental entities.

In connection with your opinion request, we were provided with a list of sample school district fundraising activities. Some of them involve entering into cooperative agreements with other school districts or other governmental entities, with an intent to raise funds for the school district. Here are two examples from the list:

1. Several school districts would enter into a cooperative printing agreement to reduce printing costs for individual districts and make more efficient use of staff and equipment.
2. A school district would enter into a agreement with a city whereby the district’s transportation shop would perform maintenance on city vehicles as well as district vehicles, thereby promoting efficient use of resources and providing the district with an additional source of funds.

We note that while these and similar ideas might either save money or provide additional revenue to a district, intergovernmental agreements are not classic “fundraising” arrangements. They do not produce revenue from the private sector but produce it from dealings with other units of government. Furthermore, the Interlocal Cooperation Act, RCW 39.34, permits a broad array of intergovernmental agreements for all local governments in Washington, including school districts. Both of the examples given would fall well within the activities authorized by this law. In this case, the authority does not arise from RCW 28A.320.015 but from whatever statute authorizes the underlying activity (owning and maintaining vehicles, printing documents) coupled with the authority granted by RCW 39.34 to act jointly or cooperatively.

Accordingly, we conclude that the school districts have authority to generate revenue through intergovernmental agreements, assuming that the agreement is of a nature permitted by RCW 39.34 or [4] by some other statute.

C. Selling goods or services to the general public.

The materials submitted with the opinion request listed a number of fundraising ideas that amount to various “enterprises” in which school district personnel or students will sell goods or provide [5] service to the general public, charging fees which will be used for various district purposes. The materials include the following examples:

- I. Selling plants grown by the horticulture students, glass art made by art students, or picnic tables made by wood shop students.