

# CHAPTER 2

## ACCOUNTING AND TAX ISSUES

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# SECTION I – A PERFORMANCE GUIDE

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## Treasurer Responsibilities

Responsibilities of the local association treasurer grow steadily as educators realize the advantages of adequate finances, planned budget, and appropriate Internal Revenue Service classification. **All treasurers should be certain their names and e-mail addresses are on file with the OEA Membership Department, so important notices will reach them promptly.** If you are a new treasurer or need to verify that you are the treasurer on file, you can e-mail inquiries to [membership@ohea.org](mailto:membership@ohea.org).

The local association treasurer is expected to:

- Receive all of the income of the local education association;
- Deposit all funds to the credit of the association;
- Pay such funds on orders signed by the treasurer and the president, unless otherwise provided;
- Keep an itemized record of all receipts and expenditures;
- Maintain records and file reports needed to maintain appropriate tax exempt status to the Internal Revenue Service;
- Make such reports as may be required by the local constitution and bylaws or by order of the president;
- Prepare monthly and annual financial reports for the local association, and present written treasurer reports at all executive committee/board of director meetings;
- Present for audit all necessary records to the proper persons;
- Assist the other officers in preparing the budget for the coming year; and
- Maintain Membership Records (or work with a membership chair/committee);
  - Set up membership enrollment procedures.
  - Be responsible for all money received.
  - Keep an accurate list of all paid members.
  - Submit member information changes and cancellations to OEA and the Employer Payroll Department in a timely manner.
  - Make timely payments of dues and return requested membership forms to OEA.
  - Verify accuracy of payroll deductions for dues by completing monthly reconciliation of all membership records.

## **SECTION II- BONDING REQUIREMENTS FOR EACH LOCAL ASSOCIATION**

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The National Education Association has provided, without cost or expense to the OEA, its affiliated district and local associations, and the student NEA affiliate, a \$1,400,000 blanket fidelity bond. The period of the bond is until cancelled and provides coverage for losses sustained in the policy period and those discovered within twelve months after cancellation of the policy.

This policy meets the statutory requirements of the Landrum-Griffin Act (as it applies to the bonding of persons who handle "union funds").

All claims or notices of loss under the policy must be given to OEA's Legal Department, 225 East Broad Street, P. O. Box 2550, Columbus, Ohio 43216, toll free number 800-282-1500 extension 3042, which is the NEA's designated contact person.

## SECTION III - PREVENTION OF EMBEZZLEMENTS

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Within the last several years, the OEA has become involved in resolving a number of situations where a treasurer of a local association has been discovered to have embezzled local association funds, including United Education Profession (UEP) dues. Embezzlement is within the crime of "theft" under Section 2913.02 of the Ohio Revised Code, and if the value of the property or services stolen is in excess of \$1,000.00, the violation is a felony, punishable by fine or imprisonment, or both. A plea of guilty to, or a conviction of, a theft offense can also lead to the revocation of a teaching certificate under Section 3319.31, Revised Code.

Since it is always better, and probably easier, to prevent embezzlement before it occurs rather than attempting to recover the funds after they have been spent, the following recommendations are submitted for consideration and adoption. These procedures also help insure that a treasurer's financial integrity remains unchallenged.

1. Institute the procedure at the financial institution where the association has its checking and savings accounts, and if applicable, time deposits (i.e., CD's), whereby it will require the signatures of two association officers (i.e., the treasurer and another designated officer) in order to write checks, deposit funds and withdraw funds from the association's accounts.

This will require the association to revise the bank resolution and the execution of new signature cards. This dual signature requirement will discourage most potential embezzlers, and will expose the embezzler to the additional criminal charge of "forgery" (also a felony punishable by fine or imprisonment, or both) if the other required signature is forged. In addition, if a financial institution honors a check or withdrawal request with a forged signature, then the financial institution is liable for the loss caused by the forgery.

2. Once the dual signature requirement is instituted, the authorized persons should be cautioned not to sign a check which is not fully completed (i.e., the name of the payee and the amount of the check are not filled in on the check prior to signature). An embezzler who has obtained the other authorized person's signature to a blank association check has a "blank check" to embezzle and when caught, may attempt to implicate the other authorized person in the embezzlement.
3. Withdrawals of "cash" from savings accounts and time deposits (i.e., CD's when they mature) must be discouraged. If it is necessary to withdraw money from a savings account or time deposit in order to pay an association expense, either use a bank cashier's check, a copy of which is provided to the officer requesting the check (called the remittee) and a copy of which is kept by the bank, or have the withdrawn amount simultaneously deposited into the association's checking account.
4. Establish a local audit committee composed of at least three persons. The treasurer and the other officer authorized to sign checks and withdraw funds must be excluded from membership on that committee. The rationale for this recommendation is that if the treasurer is in fact embezzling funds, the treasurer will attempt to influence/mislead the audit committee in order to conceal the embezzlement.
5. The local audit committee should audit the association's financial records annually and in addition, audit the financial records every time there is a change in the office of treasurer (i.e., due to election, resignation, retirement, change of employment). Annual audits should disclose embezzlements in the year of the occurrence, thereby lessening the impact of the embezzlement and minimizing the amount of the potential losses. Additional audits whenever there is a change of officers will also protect the newly elected officers from the misuse of funds by the former officers.

6. The audit committee should examine all cancelled checks in order to verify the payee and the amount of the checks against the entries in the check register. In addition, the audit committee should examine all monthly bank statements in order to verify the amounts which should have been deposited in the association checking account against the amounts actually deposited in the checking account. The examination of the monthly bank statements helps guard against the writing of unauthorized checks which are entered in the check register as "voided," helps guard against the use of unprinted counter-checks, and helps guard against "cash" withdrawals.
7. If the audit committee finds cancelled checks and/or monthly bank statements are missing, the audit committee should immediately contact the financial institution and obtain photocopies of the missing documents. Most banks charge a per copy charge for this service, but the expenditure is justified in order to prevent/discover an embezzlement.
8. The audit committee should examine the savings account passbook and all time deposits in order to verify current balances (as of the audit date) and to verify the ultimate use of all funds withdrawn from them. The association's copy of the cashier's checks or withdrawal slips and simultaneous checking account deposit slips will establish the ultimate use of the withdrawn funds.
9. If the association anticipates that its members will be collecting cash from any source (whether sales of items at athletic events, cash memberships, etc.), it should institute a dual (or triplicate) receipt procedure in order that a copy of the receipt for each amount of cash received from a member by the treasurer is filed with the audit committee. The receipt would be filed with the audit committee by the person transmitting the cash to the treasurer. This procedure will enable the audit committee to verify that the treasurer has deposited all cash received by the treasurer.
10. The treasurer's monthly reports to the association local executive committee/board of directors must be in writing, must be approved with the local executive committee/board of directors at each meeting, and should include a report as of the current balances and all transactions involving the savings accounts and time deposits, as well as the checking account. If embezzlement occurs and the cancelled checks, bank statements, etc., are destroyed, the monthly treasurer's reports may be of assistance in reconstructing the association's income and expenditures.

In addition to these recommendations which will significantly reduce, if not eliminate the possibility of embezzlement, there are certain signals which, if observed, should alert the audit committee to potential problems. Several of the more common signals are:

- Failure to transmit UEP dues according to the schedule in the dues transmittal contract;
- Failure to pay other association expenses as they occur;
- Failure of the treasurer to provide monthly, written treasurer's reports to the local executive committee/board of directors;
- Failure of the present treasurer to promptly turn over all association financial records to the successor treasurer;
- Failure of the treasurer to provide the audit committee with all cancelled checks and all monthly bank statements pertaining to the checking account, and written documentation (i.e., withdrawal slips, copies of cashier checks, etc.) pertaining to the activity of the savings account and time deposits; and
- Entries in the association's check register that are different from the payee and/or amount appearing on the cancelled check.

Although the existence of one or more of these signals does not establish embezzlement or prove guilt, the signal puts the audit committee on notice there might be a problem unless the treasurer provides a credible answer or explanation which, after investigation, is satisfactory to the audit committee. If the audit committee is not satisfied with the answer or explanation, or the investigation discloses other suspicious facts, then the audit committee should promptly contact the OEA Legal Department or the Assistant Executive Director of Business Services. Once embezzlement is discovered, time is of the essence because the NEA-provided bonding policy requires that the "Proof of Loss" be filed with the bonding company within four months of the discovery of the loss.

## SECTION IV - BUDGETING INFORMATION

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### How do I get started?

The next few pages will guide you through the budget implementation process and provide you sample budget worksheets and other financial recording worksheets along with rationale which can be used in developing your budget and financial statements. You are encouraged to institute as many of these processes as possible.

Manually keeping financial records can be cumbersome and you may find that automating your financial record keeping can lessen your time burden and increase the accuracy of your final results. Automation of financial record keeping can be achieved through the use of a computer. Creating electronic spreadsheets with the use of Excel or through the use of financial management software such as Quicken™ should be considered as an option as part of your overall financial record keeping process (Quicken™ can be purchased for around \$60).

Treasurer's training in record keeping procedures is a service provided by OEA. To schedule a time for group or individual training, contact the Secretary-Treasurer's office by calling OEA's toll free number, 1-800-282-1500 or (614) 227-3199.

The following is a summary of the overall financial process:

- **Create and implement an approved budget**
- **Create financial statements through the use of a ledger which summarizes cash receipts and cash disbursements:**
  - Cash Receipts
    - Funds received for dues and other local association fund raising activities.
  - Cash Disbursements
    - Expense/Payable Vouchers
    - Petty Cash Fund
    - Bank Charges
  - Cash Summary
    - Summarize current receipts less disbursements and add to beginning cash balance.
    - Summarize composition of cash balance.
      - Checking/Savings/Certificates of Deposit/Other Investments
- **Bank Reconciliation** – This will insure all receipts and disbursements have been recorded properly.
- **Audit** – Independent review of your work and your financial results. An audit can be performed by a CPA, accountant or an independent person such as a math teacher. An audit should include an opinion expressed by the auditor.



## **Budgeting Procedures**

### **What is *budgeting*?**

Budgeting is an orderly process used to define goals and objectives for the organization. Budgeting is planned spending. It is a method of establishing priorities for the allocation of available resources. A good budget, one that is realistically built and properly used, is important to the success of the local association program.

In planning the budget, first determine the type and extent of the program. Second, establish the cost of such a program. Third, consider the cost of the program in relation to the amount of money to be collected from dues payments.

### **What is a *budget*?**

It is a printed document that expresses goals and objectives in terms of dollars allocated to the local's achievement. It is a guideline for spending and should not be considered absolute or inflexible. It is based on estimates of receipts and expenditures, gathered from the best information available at that time. It is a combination of value judgements, choices and compromises. Often it reflects the limitations of a service rather than the ultimate need for that service. Combined with a financial report, it becomes a program evaluation tool.

A budget should not be considered either a minimum or a maximum spending commitment. It should be based on reasonable, attainable goals. There should be wide participation during its development, especially by those responsible for its implementation. It should be completed before the date it is to become effective.

If the definitions are dealt with too casually, there is a real danger that the budget will be ignored. It becomes easy to lean too heavily on the "flexibility" arguments. If it is a plan, a statement of goals and objectives and an expression of priorities, then it should be followed, unless changed by the appropriate governing body.

## **Budget Processes**

The steps and organizational set-up that follow are suggestions for your consideration. Evaluate them as they relate to your association and the needs of your members.

1. Select a budget committee. The members could include the Treasurer, President, and one or two "at-large" members of your association. Keep this committee fairly small, even if your association is large, since later steps in the budget process will involve the rest of your members.
2. Establish a timetable for the completion of the various stages of the development process. Work back from the date the budget must be adopted by your delegate body. The body authorized to adopt should be specified in your local constitution or bylaws (total membership, assembly, or executive committee/board of directors, etc.).

The following is a **sample calendar**:

June 8	School board notification of dues withholding
June 7	Membership meeting to adopt budget and dues
.....	
May 24	Recommended budget distributed and discussed with general membership by area representatives
May 17	Representative council reviews proposed budget and makes recommendation to membership
May 3	Proposed budget sent to representative council members by budget committee
.....	
April 3	Deadline for committees to have budget recommendations to the budget committee
.....	
March 30	Survey details given to committees by the budget committee
March 25	Surveys due back from area representatives
March 18	Surveys sent to membership
March 10	Membership survey completed by budget committee and prepared for distribution to membership
.....	
Feb. 15	Budget committee begins work on a new budget committee/board of directors, etc.).

3. Develop a method for determining the general desires and needs of your members. This may be best accomplished through a general membership meeting, building meetings, an every-member questionnaire, a small sample questionnaire, informal meetings, or a combination of some or all of these.
4. Compile the results of the survey conducted in number 3. Distribute the results to the appropriate officers and chairpersons of local committees. Request that these individuals develop programs that reflect the survey results and submit budget requests to the budget committee within the timetable established in number 2.
5. Compile the requests as submitted by the program committees. Categorize the requests under headings as suggested by the chart of accounts that your association uses.
6. Submit the compiled requests to the officers and executive board for consideration and evaluation. Projected income now becomes significant, as it relates to your association's ability to finance the proposed program. Establish a priority system, whereby some parts of the association program will be curtailed or removed. It is suggested that the president chair the budget committee and the evaluation session be conducted by the executive committee/ board of directors, since the recommended budget will be the president's responsibility to administer.
7. Take the recommended budget back to the local membership for information and reaction. If a local dues increase is necessary, this is the time to explain the programs that can be provided by the increase.
8. Following adoption of the budget, turn it over to the treasurer for adaptation of the local's bookkeeping system to conform to the budget format.

## Budget Implementation

1. Establish categories of income and expenditures applicable to your needs. EXHIBIT A (Budget Worksheet – Detail) lists suggested allocations or categories of items of income and expenditures under major accounts. Omit items not applicable and add items as required.
2. Summarize your expected income and expenditure items. EXHIBIT B presents a Budget Summary example.
3. Make necessary adjustments to income and expenditures to achieve a balanced budget.
4. The major accounts may well be designated by an account number. Such coding will serve to simplify references made to the specific account.

**Note: The budget worksheets, included as EXHIBITS in this manual, should not be considered as OEA recommended expenditures, priorities, or dues levels. They are merely examples.**

Remember, the key use of a budget is to establish a spending plan for the year. Actual income and expenses should be monitored against the budget and significant fluctuations should be analyzed.

The Budget Detail Worksheet is available at [www.ohca.org](http://www.ohca.org). Select “Resources”, select “Secretary-Treasurer’s Office”, select “Document Library” for a list of this and other helpful forms.

**Exhibit A - Budget Worksheet - Detail**

**LOCAL:** \_\_\_\_\_

**BUDGET WORKSHEET**

**September 1, 20XX to August 31, 20XX**

<b>INCOME</b>	Actual/Anticipated (Current Year)	Anticipated (Next Year)
_____	(Year-to-date actual results annualized)	
<b>DUES:</b>		
Local Dues _____ members at \$ _____	_____	_____
Total - Dues	_____	_____
<b>OTHER INCOME:</b>		
Interest on Savings Account	_____	_____
Assessments	_____	_____
Donations - Financial Assistance	_____	_____
Miscellaneous	_____	_____
Total - Other Income	_____	_____
<b>TOTAL INCOME</b>	_____	_____
<b>EXPENDITURES</b>		
<b>INTERNAL/EXTERNAL COMMUNICATIONS</b>		
Committee meetings	_____	_____
Newsletter	_____	_____
Travel/meals	_____	_____
Training	_____	_____
New member orientation	_____	_____
Promotion materials	_____	_____
Other	_____	_____
<b>Total - Internal/External Communications</b>	_____	_____
<b>OFFICE EXPENSES</b>		
Telephone	_____	_____
Supplies	_____	_____
Postage	_____	_____
Equipment - Purchase/Rental	_____	_____
Office Rent	_____	_____
Flower Fund	_____	_____
Other	_____	_____
<b>Total - Office Expenses</b>	_____	_____
<b>GIFTS AND AWARDS</b>		
Retirement Gifts	_____	_____
Recognition Gifts, Flowers, Cards	_____	_____
Contributions	_____	_____
Other	_____	_____
<b>Total - Gifts and Awards</b>	_____	_____

**LOCAL:** \_\_\_\_\_

**BUDGET WORKSHEET (continued)**  
**September 1, 20XX to August 31, 20XX**

<b>EXPENDITURES</b>	Actual/Anticipated (Current Year)	Anticipated (Next Year)
	(Year-to-date actual results annualized)	
<b>GOVERNANCE EXPENSES/COMMITTEES</b>		
<b>Executive Committee/Board of Directors/Association Representatives</b>		
OEA-NEA Representative Assemblies	_____	_____
OEA Leadership Academy	_____	_____
Conferences/Workshops	_____	_____
Other	_____	_____
<b>Sub-Total</b>	_____	_____
<b>Professional Rights &amp; Responsibilities</b>		
Committee Meetings	_____	_____
Travel/Meals	_____	_____
Training	_____	_____
Materials	_____	_____
Other	_____	_____
<b>Sub-Total</b>	_____	_____
<b>Instruction and Professional Development</b>		
Committee Meetings	_____	_____
Travel/Meals	_____	_____
Training	_____	_____
Materials	_____	_____
Other	_____	_____
<b>Sub-Total</b>	_____	_____
<b>Social Activities</b>		
Committee Meetings	_____	_____
Travel/Meals	_____	_____
Training	_____	_____
Materials	_____	_____
Other	_____	_____
<b>Sub-Total</b>	_____	_____
<b>Total – Governance Expenses/Committees</b>	_____	_____
<b>COLLECTIVE BARGAINING</b>		
Committee Meetings	_____	_____
Negotiation Sessions	_____	_____
Travel/Meals	_____	_____
Training	_____	_____
Materials	_____	_____
Other	_____	_____
<b>Total – Collective Bargaining</b>	_____	_____

**GRIEVANCE/CONTRACT ENFORCEMENT**

Committee Meetings	_____	_____
Arbitration Expenses	_____	_____
Travel/Meals	_____	_____
Training	_____	_____
Materials	_____	_____
Other	_____	_____
<b>Total – Grievance/Contract Enforcement</b>	_____	_____

**POLITICAL AWARDS**

Committee Meetings	_____	_____
Campaign Expenses	_____	_____
Travel/Meals	_____	_____
Training	_____	_____
Materials	_____	_____
Other	_____	_____
<b>Total – Political Action</b>	_____	_____

**CONTINGENCY FUND**

_____	_____
-------	-------

**TOTAL EXPENDITURES**

_____	_____
-------	-------

---

**TOTAL INCOME**

_____	_____
-------	-------

**TOTAL EXPENDITURES**

_____	_____
-------	-------

**NET INCOME:**

(Total Income Less Total Expenditures)

_____	_____
-------	-------

**Exhibit B - Budget Worksheet - Summary**

**LOCAL:** \_\_\_\_\_

**BUDGET WORKSHEET - SUMMARY**  
**September 1, 20XX to August 31, 20XX**

**Fiscal Year  
20XX  
BUDGET**

**INCOME**

Dues

\_\_\_\_\_

Other Income

\_\_\_\_\_

**TOTAL INCOME**

\_\_\_\_\_

**EXPENDITURES**

Internal/External communications

\_\_\_\_\_

Office expenses

\_\_\_\_\_

Gifts and awards (not to include scholarships)

\_\_\_\_\_

Governance expenses/Committees

\_\_\_\_\_

Collective Bargaining

\_\_\_\_\_

Grievance/Contract enforcement

\_\_\_\_\_

Political action

\_\_\_\_\_

Miscellaneous

\_\_\_\_\_

Contingency fund

\_\_\_\_\_

**TOTAL EXPENDITURES**

\_\_\_\_\_

**NET INCOME:**

(Total Income Less Total Expenditures)

\_\_\_\_\_

## **Sample Budget Rationale (Supportive Information to the Budget)**

Below is an example of supportive information, which should be provided with the budget. This will help those reviewing the budget to understand the detail used in developing the budget.

### **GENERAL GUIDELINES**

- All officers and committee members' expenses are to be reimbursed for actual and necessary expenses incurred in performing official association functions.
- Mileage reimbursement shall be the current IRS reimbursement rate per actual mile driven on association business.
- Expense vouchers shall be submitted to the treasurer, when any member requests reimbursement for association expenses. There is an example of an expense voucher within this section.
- Itemized Receipts are to be attached to the voucher for all hotel expenses and meals exceeding per day guidelines.

### **RECEIPTS**

Membership dues income is in anticipation of 300 members paying \$25.00 to the local association. Other sources of revenue include interest on checking or savings accounts, social activities, and gifts.

### **EXPENDITURES**

#### **Internal/External Communications**

- Newsletter paper - masthead paper for nine issues, September through June
- Public Relations Committee:
  - Committee member travel expenses
  - Distribution of booklet to community [How to Help Your Child Learn](#)
  - New teacher breakfast anticipated at \$4 each with approximately 25 people attending
  - Printing costs of local membership promotion brochure - \$60
  - Local radio spots - minimal costs for public service announcements \$25
  - Other
- Pre-printed OEA PR materials - \$125

#### **Office Expenses**

- Costs for stationery, postage, envelopes, stamps, etc. - \$100 (not directly related to any other activity, i.e., governance, collective bargaining, contract enforcement, etc.)
- Equipment - purchase of computer \$500
- Maintenance contract for servicing computer - \$50
- Long distance telephone calls \$45
- Flower fund - cards to members/families for birthdays, illness, deaths, etc. \$200

#### **Gifts and Awards**

- Retirement gifts to five teachers and school support personnel - \$250
- Purchase of NEA- R annual retired membership for retirees (first year only) - \$25



### **Governance Expenses/Committees**

- Executive Committee/Board of Directors:
  - Eight meetings anticipated at \$50 per meeting
  - Supplies and postage
  - Miscellaneous
- Conferences, Conventions:
  - Leadership academy - three representatives
  - OEA representative assembly - five delegates
  - NEA representative assembly - two delegates
  - District representative assembly - ten delegates
  - Special workshops - one per officer
- Officer's Expenses:
  - Reimbursement of travel expenses
  - Dues reimbursement for president
  - Other distributions - \$200 stipend for all officers other than president
- Retirement Dinner:
  - Facility rental
  - Catering costs
  - Retirement gifts

### **Collective Bargaining Expenses**

- Negotiations Committee:
  - Supplies
  - Meals/travel expenses
  - Reference materials
  - Other
- Collective Bargaining training workshop expenses (mileage)
- Printing costs - collective bargaining agreement (50% reimbursed by school board)

### **Grievance/Contract Enforcement**

- Committee member travel expenses
- Deductible portion for five grievances to arbitration
- Expenses relating to grievance defense

### **Political Action**

- Legislative Committee Expenses:
  - Expenses incurred in covering cost of meetings with legislators
  - Mileage to Columbus for member lobby days - five participants
- Contributions to passing school levy campaigns or school board candidates

### **Miscellaneous**

- Audit fee to review year-end financial statements
- Annual pizza party:
  - Facility rental
  - Disc jockey fees
  - Catering costs
  - Gag awards for outstanding performances
- Transfers made between savings and checking accounts

### **Contingency Fund**

- 1% of revenues set aside for emergency purposes (all distributions must be approved by executive committee/board of directors)

## **SECTION V - Record Keeping Procedures**

---

The following pages will outline various record keeping items which should be monitored. The general information and samples are for reference only.

### **Association Scholarship Information**

If your association is granting scholarships, be aware of the following:

1. Funds raised specifically to fund scholarships should not be commingled with other funds and should be kept in a separate bank account.
2. If you hold a fundraising activity to raise money for scholarships, be aware of the following:
  - Payments made to your association are not tax deductible. A statement must be in writing stating that payments made at the event are not deductible by patrons as charitable contributions.
  - Some fundraising activities can result in taxable income to your association if the activity takes place on a regular basis. For example, a golf outing or formal dinner event taking place once a year would not be on a regular basis, but an event that occurs once a week may be considered to be on a regular basis. Please contact Kristy Spires at [spiresk@ohea.org](mailto:spiresk@ohea.org) if you have any questions about whether an event would be considered taxable. We can ask our CPA for clarification.
3. A scholarship is not taxable to the recipient as long as he or she is a candidate for a degree at an educational institution with regular faculty, a regular curriculum and with regularly enrolled students. The funds can be used for qualified tuition and fees at such an institution. Room and board and other normal living expenses are not eligible. OEA suggests you pay the institution directly, however if you don't, it needs to be clearly stated to the recipient that the funds are to be used for educational purposes.
4. There should be an application for the scholarship. The process for determining the winner should not discriminate based on race, gender or religious affiliation. The process for determining the winner(s) should be documented in writing.
5. If your annual scholarships exceed \$5,000, please contact Kristy Spires at [spiresk@ohea.org](mailto:spiresk@ohea.org).
6. If you have any other questions about your scholarship activities, please contact Kristy Spires at [spiresk@ohea.org](mailto:spiresk@ohea.org).

### **Fundraising at the Local Level**

Local Education Associations (LEAs) are established under the IRS guidelines for non-profit organizations. LEAs are categorized by the IRS as tax exempt labor unions or member associations, under IRS section 501 (c) (5) or IRS section 501 (c) (6). What this means is that, in exchange for operating in accordance with the association's allowable activities and complying with the applicable reporting requirements, under the association's nonprofit status the association does not have to pay taxes on most revenue.

LEAs who engage in fundraising must do so with the understanding that there are IRS financial reporting and compliance requirements.

- Any proceeds received by the LEA are reportable for 990 purposes. Most LEAs fall under the \$50,000 gross proceed threshold, requiring postcard filing with the IRS. Fundraising activities may increase gross proceeds, requiring enhanced 990 reporting.
- Donations made to the LEA are NOT considered a charitable contribution to the donor. This must be explicitly stated in any ask for donations. Only donations to 501(c)3 organizations are considered for tax purposes as a charitable contribution.
- Any grants or awards given directly to individuals from fundraising have income implications for the individual and tax reporting requirements for the LEA.

#### Recommendations to LEAs:

- Before beginning any fundraising project, insure the proper LEA board/executive committee approvals are complete and recorded in LEA minutes. Notify membership of the fundraiser.
- Require physical check donations for recordkeeping purposes. Cash creates opportunity for errors in recordkeeping and the potential for fraud.
- Account for the donations separately from the general fund/dues receipts. This does not require a separate bank account, particularly if the fundraiser is not recurring in nature and/or large in scope.
- Depending on the intended recipient of the funds collected, consider the following:
  - If the recipient is a charity, such as a food pantry, cancer society, or other 501(c)3 organization, ask donors to make checks payable to the charity. When the fundraising is complete, make the donation to the charity from the LEA on behalf of the donors. This will keep gross proceeds from being affected for the LEA and provide a charitable contribution for the donor.
  - If the fundraiser is to offer financial support to educators or support staff, consider purchasing the needed supplies with the funds and distribute the supplies. This will avoid writing checks to individuals and thereby reduce reporting requirements for the LEA and income considerations for recipients.
  - Scholarships provided from fundraising activities must be awarded based on LEA approved guidelines. Please reference the previous section for additional scholarship information.

## General Purpose Checking Account

The general purpose checking account is used to pay the bills/invoices of a local association. This checking account is increased by deposits and interest earned and decreased by written checks and service charges. The treasurer should remember the following when writing checks:

1. Checks should be written only when bills/invoices have been approved.
2. Checks should be pre-numbered. Every check should be accounted for in order. Voided checks should be defaced by writing VOID across the checks and filed in order.
3. Before writing a check, the check stub should be filled out.
4. After writing a check, the bill/invoice should be marked paid and attached to the voucher so that it is not paid a second time by mistake. If vouchers are not used, the actual invoice should be marked with approval signatures, check number, and date of payment.

A local association, in order to open a checking account at a financial institution, must first obtain an employer identification number (E.I.N.) from the Internal Revenue Service. This can be obtained by filing Form SS-4, Application for Employer Identification Number which is available at [www.irs.gov](http://www.irs.gov).

## Banking Industry Requirements

In their continuous effort to enhance security measures and fraud prevention, the banking industry has implemented additional regulations. These regulations have increased or changed some of the requirements necessary to open a bank account as well as change names, addresses, signatures, etc. on a current bank account.

Your bank may now request "Articles of Incorporation or Organization" as well as the registration information from the State of Ohio's Secretary of State office. This creates a problem for most local associations as most are not incorporated and have never filed Articles with the Secretary of State. To be able to provide the bank with a state registration there is a process available for our unincorporated local associations.

### Process through which an unincorporated organization can register with the Secretary of State:

- Go to the Secretary of State website and search for "Form 580" and complete the requested information.
- "Form 580" requires the naming of a designated "Statutory Agent". OEA recommends this individual be the Local Association President.
- "Form 580" requires a \$25.00 fee to be paid upon submitting the information.
- Upon completion of this form the local association will receive a registration number which can then be provided to the banking institution.
- Your bank may also require the proof of your local association tax status. The local should be prepared to provide a copy of their most recent Form 990 filing/confirmation and/or their tax determination letter from the IRS.
- Some banks are also requiring meeting minutes which reflect the names of new bank signers as well as the completion of additional documents for that individual bank. Therefore, it is recommended the local association representatives be prepared to be at the bank location long enough to complete these additional documents. It is also highly recommended the prior signers be in attendance when changing names on the account if possible.

## Cash Receipts

All cash received should be deposited intact with deposit slips and other documentation (remittance advice, dues listings, cash enrollment forms, etc.) supporting the cash entry made in the ledger.

Sound accounting procedures prohibit a cash withdrawal being made from a deposit. All disbursements should be in the form of a check (i.e., from checking account, bank or cashiers check, etc.) with proper documentation supporting each withdrawal.

Cash receipts can come from the following sources:

- **Dues** (national, state, district, and local)- local association revenues received from members. On the financial statement or any IRS forms, only local dues should be reported as revenue. Do not report receipts for national, state, and district dues as a revenue source, since the local is simply forwarding these dues to the OEA Membership Department. Under accrual accounting procedures, these receipts are considered liabilities and should not be reflected on the financial statement as income under current operations.

*Never commingle membership dues money with money from the OEA/NEA Fund for Children and Public Education (FCPE) and scholarship funds. Dues money can only be deposited in the association's checking or savings account. FCPE money must be a separate check made payable*

*to OEA Fund for Children and Public Education and forwarded directly to OEA Business Services Division. Ohio and federal laws and regulations are very strict concerning the collection of OEA/NEA Fund for Children and Public Education money. For further explanations, refer to Chapter 3, OEA Fund for Children and Public Education Procedures in this handbook.*

- **Assessments** - on occasion, the local association will assess members to meet unexpected obligations. It is important that the treasurer issue a receipt or maintain a list of those people assessed.
- **Interest income** - the placement of "idle cash" (cash not necessary to meet current obligations) in a savings account may earn interest income. Any interest earned on a saving or checking account must agree with amounts recorded by the bank in the savings passbook or regular checking account bank statement.
- **Various reimbursements of expenditures** - OEA or other vendors may reimburse (partially or in total) the local association for an expenditure the local has made. A reimbursement of expenditure is more properly reflected in the ledger as a deposit in the expenditure which was originally charged.

For example, your local association paid \$214 to print the newly negotiated collective bargaining agreement. On the ledger sheet, this payment is recorded as a Collective Bargaining expense. The local employer reimbursed the local association \$114. The preferable way to record this reimbursement is to net it against the original expenditure. A negative \$114 is reflected in the Collective Bargaining expense account. By recording the receipt as a negative to the original expenditure, the ledger sheet reflects that the printing cost to the local association is \$100 (\$214 less \$114).

- **Income from special committees or programs** - local associations may conduct professional and/or social activities which generates income. It is important that all cash received from these activities be deposited intact. That is, if 100 tickets to a dinner were sold at \$10 per ticket, \$1,000 should be deposited intact. No expenses should be paid out of receipts. Expenses should be paid by check, upon receipt of approved bills/invoices. A receipt should be issued for all activity monies. The program chairperson should provide the treasurer with a breakdown of dinner receipts, etc.
- **Donations or financial assistance** - on occasion, the association will receive financial assistance from OEA and other organizations to defer unexpected or unusually large obligations involving the legal and professional rights of members. A receipt should be issued to the party making the donation.
- **Grants** – The most common source of grants received for local associations is from OEA through the Affiliate Grant Program. Grants may also be received from NEA or any other source for which the local elects to apply. Once approved, the grants funds are generally earmarked for a specific purpose or goal, by agreement with the grant provider.
- **Miscellaneous** - any miscellaneous sources of cash receipts should be recorded in the ledger. Since the nature of miscellaneous cash receipts is not self-explanatory, an explanation is necessary.

## **Cash Disbursements**

A treasurer should only write a check for an approved bill/voucher. When the treasurer receives a bill/ voucher and processes it for payment, the check number, approval signatures, and date of payment should be recorded on the face of the bill/voucher. The marking on the original document indicates it has been paid, thereby preventing duplicate payments from happening in the future. Payments should only be made from the original document, not a copy or from a statement. Following this procedure avoids the possibility of duplicate payments.

All checks written are recorded in ascending numerical order in the ledger. The date the check was written, the payee, brief explanation of what the payment is for, total amount of the check, and expense categorization are needed to complete the ledger sheet.

### **Examples of Disbursements**

#### **Internal / External Communications**

- Local's newsletter to members
- Public relations projects, either locally designed or pre-printed PR materials (i.e. Back to School, Teachers Touch Lives, Friend of Education, success cards, "thank you" note paper, etc.)

#### **Office Expenses**

- Paper, postage, and other office supplies not directly related to any other activity (i.e. governance, collective bargaining, contract enforcement, etc.)

#### **Gifts and Awards**

- Retirement gifts

#### **Governance Expenses / Committees**

- Expenses (mileage, food, supplies, etc.) associated with the following:
  - Executive Committee/Board of Directors
  - Subcommittees of the Executive Committee/Board of Directors
  - Representative Assemblies (national, state, and district)
- Officer's expenses
  - Reimbursement of travel
  - Dues and other distributions
- Retirement dinners for membership

#### **Collective Bargaining**

- Negotiation team expenses
- Collective Bargaining training workshop expenses
- Printing expenses – collective bargaining agreement

#### **Grievance / Contract Enforcement**

- \$325 deductible – local's share of legal services plan
- Expenses relating to grievance defense

**Political Action**

- Contributions to passing school levy campaigns and to political candidates (state and local; not federal)

**Contingency**

- Unexpected financial obligations

**Expense Vouchers**

Payments to individuals reimbursing them for expenses incurred should be processed via the use of a standard form. An example recommended form is attached as Exhibit C for use. This recommended form can be modified for use based on the local's needs.

All expenses should be clearly identified on the expense voucher form. All expenditures with the exception of mileage should be accompanied with an itemized receipt. The expense voucher form should be signed and dated by the individual requesting reimbursement.

The treasurer should review the expense voucher form for appropriateness of expenditure and documentation of expenditure via itemized receipts. The treasurer should sign the form and note the expense category the expenditures are charged to and document the check number and issue date of the reimbursement check. These expense vouchers should be maintained by the treasurer just as vendor invoices, etc.

If the treasurer is the individual seeking reimbursement, the treasurer should complete the form and attach appropriate documentation. The form should then be submitted to the president for review and approval of expenditures, prior to the treasurer reimbursing him/herself.

An example form is included as Exhibit D.

The Expense voucher is available at [www.ohea.org](http://www.ohea.org). Select "Resources", select "Secretary-Treasurer's Office", select "Document Library" for a list of this and other helpful forms.







## Payables Voucher

Exhibit E is an example payables voucher form. This form can be used to summarize the key information for payment of third party vendor expenses. This form should be used in the same manner as the expense voucher which includes identifying:

- To whom the check is written.
- The dollar amount of the expenditure.
- The rationale for the expenditure.
- The account the expenditure is charged.
- The approval of the expenditure.
- The date the check was written for the payment of the expenditure.
- The check number for the payment of the expenditure.

A copy of the vendor bill/invoice is attached to the payables voucher.

Many treasurers do not use this payables form, but simply write the pertinent information directly on the vendor invoice. This is also an acceptable method. The key is that a vendor invoice is maintained on file and from that invoice a treasurer can easily track where the expenditure was charged and when and what check number paid the expenditure.

The Payables voucher is available at [www.ohca.org](http://www.ohca.org). Select "Resources", select "Secretary-Treasurer's Office", select "Document Library" for a list of this and other helpful forms.

**Exhibit E - Example Payables Voucher**

**Payables Voucher**

Vendor: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Address: \_\_\_\_\_ Invoice Attached: \_\_\_\_\_

\_\_\_\_\_ Date Vendor Paid: \_\_\_\_\_

\_\_\_\_\_ Check Number: \_\_\_\_\_

Line No.	Account Number	Description (purpose of expense)	Amount
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
<b>TOTAL \$</b>			

**Please initial that the support documents have been verified for mathematical accuracy.**

Prepared By: \_\_\_\_\_ Date: \_\_\_\_\_

Treasurer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

President's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Operating a Petty Cash Fund

In many instances, treasurers will receive requests for small bills (under \$5). It is not practical to write a check for these amounts, so small bills are paid from a petty cash fund. A petty cash fund is a small amount of cash (\$20 to \$30) kept to meet small payments.

A petty cash fund is set up by:

- A payables voucher is written and approved for the amount of the petty cash fund.
- A check is written to the treasurer as custodian of the petty cash fund. For example, Mary Jones, Custodian.
- The petty cash check is cashed and the cash is put in a secure place.
- As small bills/invoices (\$1 to \$2) are received, a petty cash voucher (Exhibit F) is completed. Petty cash vouchers are placed with the petty cash.
- Once the petty cash is spent, the receipts are attached to a payables voucher and the process is repeated. The reimbursement for the receipts is recorded to the proper account. For example, if the receipts total \$20, \$8 may have been for office expenses and \$12 may have been for gifts. When the check is cut to replenish the petty cash fund, these two accounts would reflect the \$8 and \$12 expense.

**Note: At any time, the cash remaining plus the petty cash vouchers, must total the amount of the petty cash fund.**

The Petty Cash voucher is available at [www.ohea.org](http://www.ohea.org). Select "Resources", select "Secretary-Treasurer's Office", select "Document Library" for a list of this and other helpful forms.

### Exhibit F - Example Petty Cash Voucher

PETTY CASH VOUCHER	
No. _____	Date _____
Paid To/Received From _____	Amount _____
For _____	
Charge Account No. _____	Received By _____

## Bank Service Charge

There are certain banks that charge a service charge. These service charges are normally shown as "SC" items on your bank statement. A bank service charge is recorded in the ledger in the same way as other expenditures. The only difference between the bank service charge and other expenditures is that there will be no check written.

## Bank Reconciliation

The local treasurer will receive a bank statement once a month. For various reasons, the balance on the bank statement may not agree with the ledger sheet or check book balance. Monthly, bank reconciliation should be prepared to verify that these two independent sets of records are in agreement. The following items usually account for the difference between the bank statement balance and the ledger sheet or check book balance: (i) outstanding checks; (ii) deposits in transit; (iii) bank service charges; and (iv) errors by the bank and/or the local association treasurer.

Exhibit G is a common bank reconciliation form and can be used as follows:

1. Complete the heading with the applicable month and year.
2. Enter the appropriate balances onto Exhibit G.
3. Compare the deposits listed on your bank statement with your deposits listed on the ledger sheet or check book. Any deposits listed on your ledger sheet that the bank has not recorded should be shown as a Deposit in Transit on the left side of Exhibit G. Any deposits you may not have recorded on your ledger sheet should be shown as a "Plus: Corrections" on the right side of Exhibit G.
4. Compare the "Paid or Cancelled" checks returned with the bank statement, with entries on the bank statement and entries on the ledger sheet. Any differences must be recorded as a correction on the right side of Exhibit G.
5. Checks that have been written but have not cleared the bank by the end of the month are called "outstanding checks". Compare the ledger sheet listing of checks you have written with the cancelled checks from the bank. Any checks written which are not returned are "outstanding" and should be listed on the left side of Exhibit G.
6. Determine the amount of service charge deducted by the bank and not deducted on the ledger sheet. The service charge is normally identified with a "SC" and should be deducted on the right side of Exhibit G under "Less Service Charges & Collections."
7. Total the two sides of the bank reconciliation. The totals should agree.

*Note: Each of the "Plus: Corrections" and the "Less Service Charges and Corrections" must also be recorded in the ledger and check book.*

**Financial Management Software like Quicken™ offers the ability to electronically reconcile bank accounts and allows you to print detail and summary reconciliation reports.**

The Bank Reconciliation form is available at [www.ohea.org](http://www.ohea.org). Select "Resources", select "Secretary-Treasurer's Office", select "Document Library" for a list of this and other helpful forms.



## Ledger Activity

A ledger is used to record each financial transaction and summarize the transactions. Each cash receipt and cash disbursement is recorded in a ledger. A ledger worksheet (computer or manual) can be used to track activity in one account (checking, savings, or other investment accounts) or a combination of all accounts. The choice is up to the individual treasurer's preference. If you have a lot of transactions, you may want to create a chart of accounts, so the total of each account can be easily summarized. A typical example of numbers used for a chart of accounts follows:

- 100 series – Assets
- 200 series – Liabilities
- 300 series – Equity
- 400 series – Revenue
- 500 series – Expenses

The typical ledger design will allow the treasurer to use the ledger to take the next step to prepare financial statements using the year-to-date totals from the ledger.

## Ledger Example

ABC Education Association								
Itemized Receipts & Expenditures								
Fiscal Year Ended August 31, 2014								
Date	Check Number	Account	Account Description	Transaction Description/ Payee	Payment Amount	Deposit Amount	Reconciled to Bank	Balance
09/01/13		101	Cash	Beginning Balance - Cash			X	1,200.00
09/05/13		401	Dues-OEA	Membership Dues; OEA		1,000.00	X	2,200.00
09/09/13		402	Dues-ABC	Membership Dues; ABC		300.00	X	2,500.00
09/10/13		403	Fund Raisers	Donations - Bake Sale		350.00	X	2,850.00
09/10/13		506	Travel	Reimbursement from OEA-Travel Expense		50.00	X	2,900.00
09/11/13	2585	505	Meals	Local Meeting; All in Good Taste	51.00		X	2,849.00
09/13/13	2586	401	Dues-OEA	Dues: Ohio Education Association	1,000.00		X	1,849.00
9/14/13 - 8/31/14		500-520	Various	Various expense accounts to itemize	2,550.30	3,065.00	X	2,363.70
Summary of Activity					3,601.30	4,765.00		
		101	Cash	Ending Balance - Cash				2,363.70

**Exhibit H - Financial Statement**

The Financial Statement is available at [www.ohea.org](http://www.ohea.org). Select "Resources", select "Secretary-Treasurer's Office", select "Document Library" for a list of this and other helpful forms.

**LOCAL:** \_\_\_\_\_

**FINANCIAL STATEMENT  
September 1, 20XX to August 31, 20XX**

<b>INCOME</b>	BUDGET	ACTUAL
Cash Received	_____	_____
Checks Received	_____	_____
Net Receipts	_____	_____
<b>DISBURSEMENTS</b>		
Governance Expenses / Committees	_____	_____
Collective Bargaining	_____	_____
Grievance / Contract Enforcement	_____	_____
Internal / External Communications	_____	_____
Office Expenses	_____	_____
Gifts and Awards	_____	_____
Political Action	_____	_____
Miscellaneous	_____	_____
Contingency Fund	_____	_____
Dues to OEA	_____	_____
<b>TOTAL DISBURSEMENTS</b>	_____	_____
<b>EXCESS RECEIPTS OVER DISBURSEMENTS</b>	_____	_____
Add: Cash Balance, Beginning	_____	_____
Cash Balance, Ending	_____	_____
<b>COMPOSITION OF BALANCE</b>		
Checking	_____	_____
Savings	_____	_____
Other	_____	_____
<b>TOTAL</b>	_____	_____



**Exhibit I - Financial Statement (Completed)**

**LOCAL:** \_\_\_\_\_

**BUDGET WORKSHEET - SUMMARY**  
**September 1, 20XX to August 31, 20XX**

<b>INCOME</b>	<b>BUDGET</b>	<b>ACTUAL</b>
Cash Received	<u>5,000.00</u>	<u>3,163.00</u>
Checks Received	<u>0.00</u>	<u>(2,800.00)</u>
Net Receipts	<u>5,000.00</u>	<u>363.00</u>
<b>DISBURSEMENTS</b>		
Governance Expenses / Committees	<u>750.00</u>	<u>163.25</u>
Collective Bargaining	<u>1,500.00</u>	<u>1,350.00</u>
Grievance / Contract Enforcement	<u>1,250.00</u>	<u>500.00</u>
Internal / External Communications	<u>600.00</u>	<u>400.00</u>
Office Expenses	<u>150.00</u>	<u>75.00</u>
Gifts and Awards	<u>300.00</u>	<u>0.00</u>
Political Action	<u>200.00</u>	<u>0.00</u>
Miscellaneous	<u>0.00</u>	<u>0.00</u>
Contingency Fund	<u>250.00</u>	<u>0.00</u>
Dues payable to OEA	<u>0.00</u>	<u>0.00</u>
<b>TOTAL DISBURSEMENTS</b>	<u>5,000.00</u>	<u>2,488.25</u>
<b>EXCESS RECEIPTS OVER DISBURSEMENTS</b>	<u>0.00</u>	<u>(2,125.25)</u>
Add: Cash Balance, Beginning	<u>0.00</u>	<u>5,202.13</u>
Cash Balance, Ending	<u>0.00</u>	<u>3,076.88</u>
<b>COMPOSITION OF BALANCE</b>		
Checking	<u>0.00</u>	<u>3,076.88</u>
Savings	<u>0.00</u>	<u>0.00</u>
Other	<u>0.00</u>	<u>0.00</u>
<b>TOTAL</b>	<u>0.00</u>	<u>3,076.88</u>

## Suggested Audit Procedure

The following is an adaptation of an audit procedure modeled by the document “Conducting Audits in Small Unions: A Guide for Trustees to a 10-Step Audit” published by the US Department of Labor.

As an elected leader in your local, you play a key role in making sure that your local’s funds and other assets are properly accounted for and used solely for the benefit of your local and its members. Few tasks could be more critical to the well-being of any organization.

The specific responsibilities for conducting an audit may be outlined in your local’s constitution and bylaws. However, your primary task as a local treasurer and fiduciary is to insure that all local resources (money/ assets) are used for legitimate union purposes as authorized by your membership in accordance with your constitution and bylaws. In addition, you should insure that your local is properly submitting dues to OEA and is complying with sound practices for financial reporting and recordkeeping. During the audit process you will bear the primary responsibility for communicating with whomever is conducting the audit whether it is a local committee of members or a CPA/Accounting Firm.

The audit committee should follow the following steps to prepare to conduct your local audit:

**Determine responsibilities** – consult the constitution and bylaws of the local to determine what is required and the committee should agree upon roles beforehand

**Insure cooperation of local officers** – the committee should meet with the officers of the local to seek cooperation and support, find out in what form the local’s records exist (Excel, Quicken, written ledger, etc.), determine whether equipment such as a computer or copier is needed and to decide where to conduct the audit.

**Gather materials and request records** – as local treasurer it is likely you will hold most of the records necessary for the committee to conduct an audit. Additionally, the audit committee may require confirmations or reports from OEA as part of their review. Your task will be to assist the committee in creating a list of financial records needed for your 6 -step audit and to provide this to the committee. Otherwise, certain records such as membership meeting minutes may not be available when needed.

Financial records cannot be examined efficiently without some explanation of how they tie together. Your job as treasurer will be to provide context for the audit committee as needed.

**Schedule the audit** – the committee should determine the timeline for the audit and prepare a schedule that includes benchmark due dates for various tasks to be completed. Consider within the schedule specific meeting times required and whether these meetings can be virtual or in person to conduct the audit.

**Audit Objectives** - 6-step audit, summarized below, has four primary objectives:

- To insure that your local’s funds and other assets are properly accounted for and used solely for the benefit of your local and its members.
- To confirm that your local, through the executive board, is transparent to its members through appropriate and accurate financial reporting and recordkeeping.
- To determine whether the internal financial controls of your local are adequate or need to be improved.
- To ascertain whether your local is complying with the financial best practices and procedures recommended within this manual.

## 6-Step Audit Procedure

1. Trace cancelled checks to the bank statements and disbursements journal.
  - a. Select at least two months in your audit period. Your selection of months may be made for a variety of reasons, including an unusually large number of checks written during a specific month or payments for nonroutine items such as convention expenses or a local-sponsored picnic. If your local doesn't have a lot of transactions it may be appropriate to examine the entire fiscal year.
  - b. Obtain the bank statements and all the corresponding cancelled checks for the period you have selected. Arrange the cancelled checks in numerical order. Keep the cancelled checks together with the bank statements on which they appear. If the bank doesn't return cancelled checks, you can examine the online copies for the audit period.
  - c. Locate the cancelled checks for each of the entries on the bank statements. Place a check mark, in pencil, on the bank statements for each cancelled check. Again, you may use the online bank portal to view copies of cancelled checks.
  - d. Compare the amounts on each cancelled check with the corresponding entries on the bank statements. Make sure that the amounts on the cancelled checks are the same as on the bank statements. Watch for amounts which may have been changed after the checks were returned from the bank.
  - e. Compare the information on these checks with the corresponding entries in your local's disbursements journal (ledger or check register). Make sure that the payee, the amount, the date, and the purpose on each cancelled check are properly recorded in the journal. Look for any discrepancies between the journal entries and the checks. Examine the endorsements, making sure they match the payees on the front of the checks. Insure that the checks required, and officers executed a dual signature.
2. Scan the disbursements journal and record unusual entries.
  - a. Review the disbursements journal for the entire audit period. Look at the type and frequency of your local's disbursements. You will probably see recurring payments for dues and officer stipends and expenses. Approval for these disbursements should be found in the adopted association budget, constitution and bylaws or the membership meeting minutes. Make a list of any entries which appear to be questionable or out of the ordinary, such as:
    - i. checks for unusually large amounts
    - ii. checks for unusual purposes
    - iii. large checks to unfamiliar payees
    - iv. checks payable to cash
    - v. checks where no purpose is recorded
    - vi. checks written out of sequence
    - vii. duplicate payments for salaries or expenses to the same individual
  - b. Review the supporting bills, vouchers, invoices, and membership meeting minutes for all the checks you have listed. Determine whether they were for legitimate union purposes and whether they were properly authorized.
  - c. Reconcile total disbursements entered in your local's disbursements records for the audit period with the total charges shown on your local's bank statements for the audit period. This will further verify the accuracy of the entries recorded in your local's disbursements records.

3. Trace employer dues payroll deductions to the receipts journal and bank statements.
  - a. Gather all your local's payroll dues receipts records for the entire period including checkoff statements from your employer.
  - b. Compare, for each month in your audit period, the amounts posted on all the payroll dues deduction statements with the corresponding entries in the local's receipts journal. Look for any discrepancies.
  - c. Compare the members listed on the payroll deductions report with the member roster provided by OEA to insure all members have been recorded for accurate billing purposes.
  - d. Compare dues payment made to OEA from payroll deduction to the statements received from OEA. There may be timing differences between the payment to OEA date and the statement. Verify OEA has recorded for the local all dues the local has recorded as paid.
4. Confirm that receipts from all other sources have been properly recorded and deposited.
  - a. Review the receipts journal for the entire audit period. Look for the type and frequency of non-dues money coming into your local, such as proceeds from:
    - i. the sale of promotional items such as t-shirts
    - ii. interest or dividends earned on your local's bank accounts
    - iii. local-sponsored raffles
    - iv. donations to the local scholarship fund
    - v. OEA grant reimbursements
5. Identify all liquid asset bank accounts, verify their ending balances, and review withdrawals/transfers.
  - a. Make a list of the name, location, type of account, and account number for each of your local's bank accounts.
  - b. Determine what happened to the proceeds from any local accounts closed during the audit period.
  - c. Determine whether the initial deposit into any accounts opened during the audit period can be traced from one of the local's other bank accounts.
  - d. Prepare a liquid assets list which shows the ending balances for each of your local's bank accounts.
  - e. Determine that all withdrawals from your local's savings, money market, or certificate of deposit accounts during the audit period were used for legitimate union purposes as approved by your membership
  - f. Make an inventory of gift cards held by the local including card value and date of purchase.
6. Inventory fixed assets.
  - a. Determine if your local prepared an inventory of fixed assets prior to your audit period and, if so, verify the existence of all items on the list. This could be laptop computers, office equipment etc.

**Reporting Findings** You local's members probably want to know what the general financial condition of your organization is, whether your audit disclosed any problems and, if so, how they were resolved.

You may want to review the sample audit report below which can be modified to better suit your situation.

Completion of the 6-step audit allows you to make some broad statements about the financial books and records of your local. For example, if no significant problems for the audit period were uncovered, you can say your audit indicates:

- The local's disbursements were accurately reflected in the records and made for legitimate purposes.
- The local's receipts were accurately reflected in the records and deposited to your local's bank accounts.
- The local's payment of dues to OEA were properly credited.
- The local's assets were properly accounted for.
- The local appears to be using good internal financial controls to safeguard its assets.
- The local appears to be complying with the financial practices and procedures of your parent body.

The committee should make a list of any internal financial control weaknesses (for example, officers signing blank checks) or "problem areas" (for example, late or incomplete payment of dues to OEA, failure to timely reconcile membership records, failure to record receipts and disbursements on voucher forms, etc.) and recommendations for improvements.

Below is an example of a completed audit report that can be used as a model for your local.

**Completed Audit Report**  
**Anytown Education Association**  
**Period: 9/1/19 - 8/31/20**

On 2/3/20 the undersigned members completed an examination of the books and records and certify that to the best of our knowledge the information in this report is true and correct:

Primary Findings

1. Disbursements were accurately reflected in the union's records and issued for legitimate purposes.
2. Receipts were accurately reflected in the union's records and deposited to the union's bank accounts.
3. Assets (cash and equipment) were properly accounted for.
4. The union appears to have sound financial records with the following exceptions:
  - a. Payroll dues deduction statements from the district for the period were not initially available. Copies were obtained from the employer and the Treasurer has promised to retain future copies received.
  - b. The bank statement and cancelled checks for October 2019 were not available. Copies were obtained from the bank and placed with other records.
  - c. Original bills for the retirement dinner were not retained. The Treasurer said he will tell the committee chairman to keep and turn over all retirement dinner bills next year.
5. The union appears to be using good internal financial controls with the following exception:
  - a. The President has been pre-signing checks. He has agreed to sign them only after they have been fully completed.
6. The union appears to be complying with the financial practices and procedures of our parent body with the following exceptions:
  - a. Dues transmittal payments to OEA were usually submitted 1-2 months late. The Treasurer has promised to submit them on time in the future.
  - b. We have not been using all the forms (receipts, vouchers, journals) required by our parent body. New forms have been ordered and will be used in the future.

Financial Condition Statement

Cash Balance (Last Audit Report) \$5,004.29  
Plus: Total Receipts \$8,125.25  
Less: Total Disbursements \$7,740.93  
Cash Balance (This Audit Report) \$5,388.61  
Members at End of Period 201

Attachments 1. Fixed Assets Inventory 2. Ending Bank Balance Reconciliation Worksheet

Signatures

John Smith 2/8/20  
Mary Brown 2/8/20  
Edna Miller 2/8/20

This audit procedure was adopted for use by OEA locals from the document "Conducting Audits in Small Unions: A Guide for Trustees to a 10-Step Audit" published by the Office of Labor Management Standards (OLMS) of the US Department of Labor. The document may be found here: [https://www.dol.gov/olms/regs/compliance/comp\\_pubs/smallunions\\_2017.pdf](https://www.dol.gov/olms/regs/compliance/comp_pubs/smallunions_2017.pdf) and may provide some additional insight for your audit committee. Bear in mind that steps 7-10 are to insure compliance with the Labor-Management Reporting and Disclosure Act of 1959 which does not cover local school district unions so you should use the guidance accordingly.

### **Some Additional Helpful Information**

Audits by independent accountants are necessary and/or desirable for the following reasons:

1. Periodic audits may disclose careless accounting practices or procedures, which can be improved, so as to minimize the potential of financial loss due to negligence, inattention, or oversight;
2. The association members and creditors need reliable financial information examined by an independent, objective source;
3. Annual audits (accompanied by bonds) protect the members and affiliate organizations whose dues are collected by the local association from potential loss due to illegal acts of an association's fiscal officer; and
4. Annual audits may identify losses of association monies and the time such loss occurred. Consequently, the annual audit, as of the end of a fiscal officer's term, protects the newly elected fiscal officer from the potential liability for losses incurred during the predecessors' terms of office even though not discovered until a later date.

Although an audit performed by certified public accountants would be ideal, the membership of an association, and the budget of an association, may only justify an annual audit by a public accountant, a bookkeeping service, or an audit committee composed of other association officers-members.

### **How to Find a Certified Public Accountant (CPA)**

- Go to the CPA directory website ([www.cpadirectory.com](http://www.cpadirectory.com)).
- Click on the "Need Help Finding a CPA" link located on the left side of the page.
- Complete the form, including that your organization is a Non-Profit/Labor Organization, and then submit.
- You will then be contacted with up to three recommended CPAs. This website is recommended by the Ohio Society of CPAs.

### **Audit Tips**

- Locals should participate in an annual audit.
- Locals should establish an audit committee that is comprised of members of the local.
- Suggestions for an auditor include a community CPA, retired CPA, or an accountant who would volunteer. Many locals can't afford an outside auditor and an audit can be performed by any independent person. An example would be a math teacher.
- Regardless of who performs the audit, the auditor should express an opinion about the financial statements that were audited.
- The audit opinion should be unqualified or a "clean" opinion of the financial statements. The

local should be looking for an audit that expresses the local's financial records were prepared in accordance with best financial practices within generally accepted accounting principles and the financial reports present fairly the financial position of the local association.

- The overall idea is to review all the financial information with an eye towards the detail.
  - Review all expenditures for reasonableness. Are the amounts and payees reasonable based upon your knowledge of the work the person is doing?
  - Are there dual signatures on checks?
  - Are bank reconciliations performed in a timely manner?
  - Look for Cash withdrawals, as there normally shouldn't be any.
  - Review the Revenue for reasonableness. Multiply the number of members in the organization by the local dues amount to obtain a rough idea as to the amount of expected income. It might vary slightly if a member joins or retires.
- Is there reconciliation between the members the local has on its records, the payroll list from your employer and the list of members from OEA?

These are just a few tips. The main idea of an audit is to review the detail to insure that it makes sense.

## **Internal Control Questions**

Below are internal control questions a local treasurer should ask and expect from a trained auditor.

- Are prior internal control questionnaires available?
- Have recommendations of prior reports on internal controls been implemented?
- Is there a complete and current chart of accounts, listing all accounts and their respective account numbers available?
- Is there an approved budget by the Executive Committee?
- Have changes to the budget been authorized by the Executive Committee and recorded in meeting minutes?
- Are financial statements submitted to the Executive Committee regularly and in sufficient detail to inform the reader as to the nature of various items of income and disbursements?
- Do the financial statements compare the actual results to the approved budget?
- Is there regular reporting of all other funds and activities, including designated or restricted funds to the Executive Committee?
- Are there stated policies and procedures regarding the handling of cash and other receipts to protect from loss and to insure all receipts are deposited and recorded properly?
- Are disbursement vouchers submitted with proper original vendor's receipt?



- Do all checks for disbursements have dual signatures?
- Are bank reconciliations prepared within 30 days and reviewed by a second person?
- Are personnel files maintained to include:
  - Authorizations of pay rates and effective dates?
  - Internal Revenue Service Form W-4?
  - Department of Justice Form I-9?
  - State Withholding Forms?
- Is there a written record of hours worked and approved for payroll processed?
- Are payroll tax returns filed on a timely basis?
- Are all employees receiving an annual Form W-2?
- Are computer files backed up at least monthly and are the backup files maintained off premises?

## SECTION VI - Records Retention

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### Retention Requirements from Various Sources

There are many records retention periods you are required to monitor. A few guidelines are listed below in order to help you. In addition, a suggested list of retention periods for various records is included.

#### U.S. Government Retention Requirements

The following retention requirements refer to those issued under the Internal Revenue Code of 1954, which were in effect as of January 1, 1980, and the United States Code of Federal Regulations (CFR).

##### Income Tax - General

Any person or entity subject to, or required to file a return of information with respect to income shall keep such permanent books of account of records, including inventories, as are sufficient to establish the amount of gross income deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

##### Income Tax - Exempt Organizations

In addition to the books and records required by the above "Income Tax - General" paragraph with respect to the tax imposed on unrelated business income, every organization exempt from tax under section 501 (c) of the Code, which includes sections 501 (c)(5) and 501 (c)(6), shall keep such permanent books of account or records as are sufficient to show specifically the items of gross income, receipts, and disbursement, and other required information.

##### Tax - Exempt Organizations - General

The general "materiality" rule applies to keep records and books of account pertaining to information including items of gross income, receipt, disbursements, and contributions and gifts received, and to keep other pertinent information which will enable the district director to inquire into the organization's exempt status. An organization claiming an exception from the filing of an information return must maintain adequate records to substantiate such claim. (26 CFR 1.6001-1, 1.6033-1, 1.6033-2)

##### Materiality Rule

The Internal Revenue Service, in fear that they might forget something, has imposed a general requirement that has become known as the "Materiality Rule" to cover everything that is not assigned a specific retention period. The general requirement as stated in 26 CFR 1.6001-1 is that records must be kept "so long as the contents thereof may become material in the administration of an internal revenue law."

Some books and records of a business may be "material" for tax purposes, so long as the business remains in existence, and there may be reasons other than the Federal tax consequences to the individual taxpayer for retaining certain records for an indefinite period.

To be more precise, we can break records into two categories as follows:

1. Records of property subject to gain or loss treatment.
2. Records of supporting items of income, deductions, and credits.

**Records of property** for which a basis must be determined to compute gain or loss upon disposition (and depreciation, amortization, or depletion allowed or allowable) must be retained until a taxable disposition is made. Thus, if property is given a substitute basis, i.e., the basis it had in the hands of the prior owner adjusted as required by the Code or regulations, all records pertaining to that property must be retained. After a taxable disposition, the specific and/or general record retention rules as listed elsewhere will apply.

**Records of income, deductions, and credits** (including gains and losses) appearing on a return should be kept, at a minimum, until the statute of limitations for the return expires, 26 CFR 301.6501 (c)-1).

It should be pointed out that failure to retain records for a sufficient length of time could result, for example, in the assessment of additional tax because of disallowance of deductions or a downward adjustment of the basis used in determining gain or loss on the disposition of property.

## Record Retention Schedule

The following schedule lists some suggested retention periods for use by local associations.

RECORD	RETENTION PERIOD
Accident reports and claims (settled cases) . . . . .	7 yrs.
Accounts payable ledgers and schedules. . . . .	7 yrs.
Accounts receivable ledgers and schedules. . . . .	7 yrs.
Audit Reports - (external) . . . . .	Permanently
Audit Reports - (internal) . . . . .	Permanently
Ballots of Election . . . . .	1 yr.
Bank statements and reconciliations. . . . .	7 yrs.
Cash books . . . . .	Permanently
Charts of accounts . . . . .	Permanently
Checks - cancelled (except as noted below). . . . .	7 yrs.
Checks - cancelled for important payments . . . . . i.e., taxes, purchases or property, special contracts, etc. (checks should be filed with the papers pertaining to the underlying transaction)	Permanently
Contracts and leases (expired) . . . . .	7 yrs.
Correspondence (routine) with customers or vendors . . . . .	2 yrs.
Correspondence (general) . . . . .	3 yrs.
Correspondence (legal and important matters only). . . . .	Permanently
Deeds, mortgages, and bills of sale. . . . .	Permanently
Depreciation schedules . . . . .	Permanently
Duplicate deposit slips. . . . .	2 yr.
Employee personnel records (after termination). . . . .	Permanently
Employment applications . . . . .	3 yrs.
Employment tax records . . . . . (withheld income taxes, FICA, unemployment, etc.)	7 yrs.

## Record Retention Schedule cont.

RECORD	RETENTION PERIOD
Expense analysis and expense distribution schedules . . . . .	7 yrs.
Financial statements (end of year) . . . . .	Permanently
General ledgers (and end of year trial balances). . . . .	Permanently
Insurance policies (expired) . . . . .	3 yrs.
Insurance records, current accident. . . . . reports, claims, policies, etc.	Permanently
Internal reports (miscellaneous) . . . . .	3 yrs.
Invoices to customers . . . . .	7 yrs.
Invoices and receipts from vendors. . . . .	7 yrs.
Minute books of directors, . . . . . including by-law and charter	Permanently
Membership, rosters and lists . . . . .	7 yrs.
Notes receivable ledgers and schedules . . . . .	7 yrs.
OEA Billing Statements . . . . .	3 yrs.
Payroll records for dues deductions, . . . . . summaries, including payments to pensioners.	7 yrs.
Petty cash vouchers . . . . .	7 yrs.
Property appraisals by outside appraisers . . . . .	Permanently
Property records - including costs, . . . . . depreciation reserves, end of year trial balances, depreciation schedules, blueprints and plans	Permanently
Purchase orders . . . . .	7 yrs.
Subsidiary ledgers. . . . .	7 yrs.
Tax returns and worksheets, revenue . . . . . agents' reports and other documents relating to determination of income tax liability	Permanently
Time sheets/Activity reports . . . . .	7 yrs.
Voucher register and schedules. . . . .	7 yrs.
Vouchers for payments to vendors, . . . . . employees, etc. (includes allowances and reimbursement of employees, officers, etc., for travel expenses)	7 yrs.

## SECTION VII – TAX ISSUES

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This section will guide you through various tax issues and provide you information that will be helpful in understanding both the filings to establish a local association and the ongoing tax filing requirements.

Please note the Internal Revenue Service Taxpayer First Act, enacted July 1, 2019, requires all tax exempt organizations to electronically file their information returns and related forms. Currently all 990N e-postcard filers must file online at the IRS website. Forms 990 and 990-PF filers with tax years ending July 31, 2020 and later must be filed electronically. Short form 990-EZ filers with tax years ending July 31, 2021 and later must be filed electronically.

The following is a summary of the typical filings for a local association:

### **Initial Filings (Refer to [www.irs.gov](http://www.irs.gov) for current forms and instructions)**

- |           |   |
|-----------|---|
| Form SS-4 | Application for Employer Identification Number<br>(This number is required to open a bank account)                                      |
| Form 1024 | Application for Recognition of Exemption<br>(Exemption from federal income taxes. Form 1024 can be filed at the same time as form SS-4) |
| Form 8718 | User Fee for Exempt Organization Determination Letter Request<br>(File with Form 1024)  |

### **Annual Filings (Refer to [www.irs.gov](http://www.irs.gov) for current forms and instructions)**

- |             |   |
|-------------|---|
| Form 990    | Return of Organization Exempt from Income Tax<br>(Required when gross receipts are \$200,000 or greater for tax year 2010 - fiscal year 2010-2011 and thereafter, and total assets are equal to or greater than \$500,000.)   |
| Form 990-EZ | Short Form - Return of Organization Exempt from Income Tax<br>(Short version of Form 990 used when gross receipts are between \$50,000 and \$200,000 for tax year 2010 - fiscal year 2010-2011 and thereafter, and total assets are less than \$500,000)              |
| Form 990-N  | Annual Electronic Filing Requirement for Small Exempt Organizations<br>(Required when gross receipts are \$50,000 or less for tax year 2010 - fiscal year 2010-2011 and thereafter. Electronic filing only. An EIN and tax exempt status is required prior to filing) |

### **Other Filings (Example included on later page of this section)**

- |             |  |
|-------------|--|
| Form 8822-B | Change of Address<br>(Form to change address generally used by new Treasurers) |
|-------------|--|

### **Form SS-4 Application for Employer Identification Number**

An Employer Identification Number (EIN) is required to open a bank account and is required for various filings with the IRS including the filing of Form 990-N. If you do not know your association's EIN and your

association has a bank account, check with your bank, as they will have an EIN on file for the bank account. Please note that a social security number (SSN) should not be used as an EIN. An EIN follows the sequence of 12-3456789 compared to a SSN which follows the sequence of 123-45-6789. If your association's EIN appears to be a SSN, you should file for a proper EIN. The completed Form SS-4 should be mailed prior to, or at the same time, as the Form 1024 - Application for Recognition of Exemption along with Form 8718 User Fee for Exempt Organization Determination Letter Request.

If your organization needs an employer identification number quickly (for example, you need to open a bank account) an authorized director or officer of the organization (or a representative of the organization for whom the organization has filed a Form 2848, Power of Attorney, with the Internal Revenue Service) may secure an EIN over the telephone by calling the Internal Revenue Service's Tele-TIN number at (800) 829-4933 between the hours of 7:30 a.m. and 5:30 p.m. The Form SS-4 should be completed prior to calling the Tele-TIN number. An Internal Revenue Service representative will take the information from the Form SS-4 over the phone to establish the organization's account and assign an EIN. Write the number assigned on the upper right corner of the Form SS-4, sign and date the form, and retain a copy for your records. The Internal Revenue Service may request that you mail or fax the signed Form SS-4 (including the Form 2848 Power of Attorney, if applicable) within 24 hours to the Tele-TIN Unit at the service center address provided by the representative.

### **Form 1024 Application for Recognition of Exemption/Form 8718 User Fee for Exempt Organization**

This filing allows the association to be exempt from federal income taxes. This may have already occurred in your organization. Your organization would have received a Determination Letter from the IRS, if they have previously filed. If you cannot locate a copy, you can go to [www.irs.gov](http://www.irs.gov) and search for "Business Master File" to determine if your organization has tax exempt status. Click on the State of Ohio in the map. This will bring up a large Excel file and you can search to see if your organization is listed. To request a copy of your Determination Letter, write a letter to the IRS, provide your Employer Identification Number and mail it to: P.O. Box 2508, Cincinnati, OH 45201. The IRS collects various other data in this file that can also be verified and updated, i.e. Address, Treasurer, etc. The IRS can be contacted at 1-877-829-5500 with any questions. Tax exempt status with the IRS is required prior to the filing of electronic Form 990-N.

There is no presumption that a district or local association is exempt from federal income taxes, and if a district or local association has not been granted tax-exempt status under Section 501(c) of the Internal Revenue Code, **the IRS could take the position that the local association is a tax paying entity which is required to file annual income tax returns (Form 1120) and to pay income taxes on the excess of local dues over the local association's "ordinary and necessary business expenses"**. If the IRS were to take this position, it would assess the local association for penalties for failure to file annual tax returns and also assess interest and penalties on the unpaid taxes. **In order to avoid assessments for failure to file tax returns and for unpaid taxes, interest, and penalties, all districts and local associations that have not yet been granted tax-exempt status are strongly urged to immediately file for tax-exempt status.**

### **Form 8718 User Fee for Exempt Organization Determination Letter Request**

A one-time filing fee of \$600.00 is required to be included with Form 1024 Application for Recognition of Exemption on Form 8718 User Fee for Exempt Organization Determination Letter Request.

## **Form 990 and Form 990 EZ (Short Form) Return of Organization Exempt from Income Taxes**

If you normally have annual receipts (excluding OEA, NEA, UniServ and District dues) *greater than \$50,000* you should be filing an electronic form, Form 990 or Form 990-EZ. Form 990-EZ is the short version of Form 990 and can be used when gross receipts are less than \$200,000 and total assets are less than \$500,000.

Even though tax exempt status has been applied for and granted, tax exempt organizations have annual reporting and/or notice requirements under the federal tax law and regulations. The 990 return must be filed by the fifteenth day of the fifth month after the end of the fiscal year, which means, for local associations on a September 1 to August 31 fiscal year, the return due date is **January 15** annually. A copy of each return must be made available for public inspection during normal business hours for a period of three (3) years from the date of the filing of the return.

Under sections 6652 (c) (1) (A) of the Internal Revenue Code, substantial penalties may be applied in the event of a failure to file the required Form 990 information returns. The penalty prescribed is \$20.00 per day to a maximum of \$10,000 or 5% of the gross receipts of the organization for the year. The failure to file a Form 990 for each fiscal year constitutes a separate offense.

“Gross receipts” as used in Reg. Section 1.6033-2(g)(1)(iii) are defined in Reg. Section 1.6033-2(g)(4) as:

“...gross amount received by the organization during its annual accounting period from all sources . . . Thus ‘gross receipts’ includes, but is not limited to . . . (ii) the gross amount received as dues or assessments from members . . . ”

Although it may be arguable that the “unified dues” of the United Education Profession (UEP) collected by the local associations constitute “gross receipts” of the tax exempt local associations, the better practice which is now supported by private letter rulings to other state affiliates, would be to **consider only the local association’s dues** as stated in the local association’s constitution or bylaws when determining the gross receipts of \$50,000 threshold. Support for this conclusion to exclude NEA, OEA, and district dues in a local association’s 990 return is also found in the IRS instructions for the Form 990 which describes situations where “one organization collects funds merely as an agent for another.” The remainder of the UEP dues is being reported by the NEA, the OEA, and the district association on their respective 990 filings.

The Internal Revenue Service applies an averaging test to determine if an organization’s gross receipts are normally not in excess of \$50,000. For organizations which have been in existence for three years or longer, which is the case for virtually all of the OEA’s affiliates, the organization’s gross receipts for the organization’s fiscal year just ended and the prior two fiscal years are averaged in order to determine the type of Form 990 that must be completed and filed.

The alternative to applying for tax exempt status and annually filing Form 990 is to file annual ordinary corporate tax returns (Form 1120 due by the fifteenth day of the third month after the end of the fiscal year) and pay the tax shown to be due.

## **Form 990-N Annual Electronic Filing Requirement for Small Exempt Organizations (e-Postcard)**

If you normally have annual receipts (excluding OEA, NEA, UniServ and District dues) less than \$50,000 you must electronically file Form 990-N, Electronic Notice (e-Postcard).

Details of the Form 990-N Electronic Notice (e-Postcard):

1. The e-Postcard is due every year by the 15th day of the fifth month after the close of the tax year. This information can be typically filed as early as September of the current year. For example: If your local's year end is August 31 the return must be electronically filed by January 15.
2. The e-Postcard is filed electronically by answering fewer than 10 questions in an on-line form. The form must be completed and filed electronically and is free of charge. There is no paper form.
3. Organizations that fail to meet the annual filing requirement for Form 990-N Electronic Notice for three consecutive years will lose their tax-exempt status. Organizations that fail to obtain and maintain tax exempt status will be subject to paying ordinary corporate income taxes.

Information needed to file Form 990-N (e-Postcard):

- The organization's Legal Name.
- Any other names the organization uses.
- Organization's mailing address. (Typically the Treasurer's home address unless the local has an office address.)
- Organization's website address (if you have one).
- Organization's employer identification number (EIN).
- Name and address of a principal officer. (Typically the local President's home address.)
- Organization's annual tax year.
- Confirmation that the organization's annual gross receipts are still normally \$50,000 or less.
- If applicable, a statement that your organization has terminated or is terminating.

## **Reinstatement of Tax Exempt Status Due to Automatic Revocation**

Organizations whose tax-exempt status was automatically revoked because they did not file required 990 series returns or notices for three consecutive years can apply for reinstatement of their tax-exempt status. In Revenue Procedure 2014-11, the IRS explains the four procedures an organization may use to apply for reinstatement.



## **Streamlined Retroactive Reinstatement**

Organizations that were eligible to file 990-EZ or 990-N (ePostcard) for the three years that caused their revocation may have their tax-exempt status retroactively reinstated to the date of revocation if they:

- Have not previously had their tax-exempt status automatically revoked.
- Complete and submit Form 1023 or Form 1024 with the appropriate user fee not later than 15 months after the later of the date of the organization's Revocation Letter (CP-120A) or the date the organization appeared on the Revocation List on the IRS website.

These organizations should write on the top of the Form 1023 or Form 1024, "Revenue Procedure 2014-11, Streamlined Retroactive Reinstatement," and mail the application and user fee to:

Internal Revenue Service  
P.O. Box 12192  
Covington, KY 41012-0192

In addition, the Service will not impose the Section 6652(c) penalty for failure to file annual returns for the three consecutive taxable years that caused the organization to be revoked if the organization is retroactively reinstated under this procedure and files properly completed and executed paper Forms 990-EZ for all such taxable years. (For any year for which the organization was eligible to file a Form 990-N, the organization is not required to file a prior year Form 990-N or Form 990-EZ to avoid penalties.) The organization should write "Retroactive Reinstatement" on the Forms 990-EZ and mail them to:

Department of the Treasury  
Internal Revenue Service  
Ogden, UT 84201-0027

## **Retroactive Reinstatement Process (Within 15 Months)**

Organizations that cannot use the Streamlined Retroactive Reinstatement Process (such as those that were required to file Form 990 or Form 990-PF for any of the three years that caused revocation or those that were previously auto-revoked) may have their tax-exempt status retroactively reinstated to the date of revocation if they:

- Complete and submit Form 1023 or Form 1024 with the appropriate user fee not later than 15 months after the later of the date on the organization's revocation letter (CP-120A) or the date the organization appeared on the Revocation List on the IRS website.
- Include with the application a statement establishing that the organization had reasonable cause for its failure to file a required annual return for at least one of the three consecutive years in which it failed to file.
- Include with the application a statement confirming that it has filed required returns for those three years and for any other taxable years after such period and before the post-mark date of the application for which required returns were due and not filed.

- File properly completed and executed paper annual returns for the three consecutive years that caused the revocation and any following years. The organization should write “Retroactive Reinstatement” on these returns and mail them to:

Department of the Treasury  
Internal Revenue Service Center  
Ogden, UT 84201-0027

These organizations should write on the top of the Form 1023 or Form 1024, “Revenue Procedure 2014-11, Retroactive Reinstatement,” and mail the application and user fee to:

Internal Revenue Service  
P.O. Box 12192  
Covington, KY 41012-0192

In addition, the Service will not impose the Section 6652(c) penalty for failure to file annual returns for the three consecutive taxable years that caused the organization to be revoked if the organization is retroactively reinstated under this procedure.

### **Retroactive Reinstatement (After 15 Months)**

Organizations that apply for reinstatement more than 15 months after the later of the date on the organization’s revocation letter (CP-120A) or the date the organization appeared on the Revocation List on the IRS website may have their tax-exempt status retroactively reinstated to the date of revocation if they:

- Satisfy all of the requirements described under the “Retroactive Reinstatement (Within 15 Months)” procedure EXCEPT that the reasonable cause statement the organization includes with its application must establish reasonable cause for its failure to file a required annual return for all three consecutive years in which it failed to file.

In addition, the Service will not impose the Section 6652(c) penalty for failure to file annual returns for the three consecutive taxable years that caused the organization to be revoked if the organization is retroactively reinstated under this procedure.

### **Post-Mark Date Reinstatement**

Organizations may apply for reinstatement effective from the post-mark date of their application if they: Complete and submit Form 1023 or Form 1024 with the appropriate user fee.

These organizations should write on the top of the Form 1023 or Form 1024, “Revenue Procedure 2014-11, Reinstatement Post-Mark Date,” and mail the application and user fee to:

Internal Revenue Service  
P.O. Box 12192  
Covington, KY 41012-0192

## **What's a Reasonable Cause Statement?**

A reasonable cause statement establishes that an organization exercised ordinary business care and prudence in determining and attempting to comply with its annual reporting requirement. The statement should have a detailed description of all the facts and circumstances about why the organization failed to file, how it discovered the failure, and the steps it has taken or will take to avoid or mitigate future failures. For a detailed explanation see Section 8 of Revenue Procedure 2014-11.

## **Pending Reinstatement Applications and Previously Granted Applications**

The reinstatement processes above apply to pending reinstatement applications to the extent they benefit an organization's ability to be retroactively reinstated.

For organizations that have been previously reinstated from the post-mark date but would have satisfied the streamlined retroactive reinstatement process requirements, they will be retroactively reinstated with no further action. They should keep their reinstatement determination letters and a copy of Revenue Procedure 2014-11.

For organizations that have been previously reinstated from the post-mark date but would have satisfied either the retroactive reinstatement within 15 months process requirements or the retroactive reinstatement after 15 months process requirements, they may reapply under Revenue Procedure 2014-11 on or before May 2, 2014. See Section 10 of Revenue Procedure 2014-11 for details.

## **Avoid Being Automatically Revoked Again - File Annual Returns**

An organization can be automatically revoked again if it fails to file required returns for three consecutive years beginning with the year in which the IRS approves the application for reinstatement. Organizations seeking reinstatement of tax-exempt status after a subsequent revocation are not eligible to use the Streamlined Retroactive Reinstatement Process.

# Form 8822-B Change of Address for Businesses

This form is typically used by a new local treasurer at the beginning of their term to notify the Internal Revenue Service of a change of mailing address. The form should be completed and sent via certified mail to the IRS to insure that the information in the IRS database is current. This form can be obtained online at [IRS.gov](http://IRS.gov).

**Please note new address for Form 8822-B:** Department of the Treasury Internal Revenue Service Center Kansas City, MO 64999

Form <b>8822-B</b> (Rev. February 2018) Department of the Treasury Internal Revenue Service	<b>Change of Address or Responsible Party — Business</b> ▶ Please type or print. ▶ See instructions on back. ▶ Do not attach this form to your return. ▶ Go to <a href="http://www.irs.gov/Form8822B">www.irs.gov/Form8822B</a> for the latest information.	OMB No. 1545-1163
Before you begin: If you are also changing your home address, use Form 8822 to report that change.		
If you are a tax-exempt organization (see instructions), check here <input type="checkbox"/>		
Check <b>all</b> boxes this change affects:		
1 <input type="checkbox"/> Employment, excise, income, and other business returns (Forms 720, 940, 941, 990, 1041, 1065, 1120, etc.)		
2 <input type="checkbox"/> Employee plan returns (Forms 5500, 5500-EZ, etc.)		
3 <input type="checkbox"/> Business location		
<b>4a Business name</b>		<b>4b Employer identification number</b>
<b>5 Old mailing address</b> (no., street, room or suite no., city or town, state, and ZIP code). If a P.O. box, see instructions. If foreign address, also complete spaces below, see instructions.		
Foreign country name	Foreign province/county	Foreign postal code
<b>6 New mailing address</b> (no., street, room or suite no., city or town, state, and ZIP code). If a P.O. box, see instructions. If foreign address, also complete spaces below, see instructions.		
Foreign country name	Foreign province/county	Foreign postal code
<b>7 New business location</b> (no., street, room or suite no., city or town, state, and ZIP code). If a foreign address, also complete spaces below, see instructions.		
Foreign country name	Foreign province/county	Foreign postal code
<b>8 New responsible party's name</b>		
<b>9 New responsible party's SSN, ITIN, or EIN</b>		
<b>10 Signature</b> Daytime telephone number of person to contact (optional) ▶ _____		
<b>Sign Here</b>	Signature of owner, officer, or representative _____ Title _____	Date _____
<b>Where To File</b> Send this form to the address shown here that applies to you.		
<b>IF your old business address was in . . .</b>	<b>THEN use this address . . .</b>	
Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	Internal Revenue Service Cincinnati, OH 45999-0023	
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, any place outside the United States	Internal Revenue Service Ogden, UT 84201-0023	
For Privacy Act and Paperwork Reduction Act Notice, see back of form.		
Cat. No. 57465H		Form <b>8822-B</b> (Rev. 2-2018)

# Form 8822-B Change of Address for Businesses cont.

## Future Developments

Information about any future developments affecting Form 8822-B (such as legislation enacted after we release it) will be posted at [www.irs.gov/Form8822B](http://www.irs.gov/Form8822B).

## Purpose of Form

Use Form 8822-B to notify the Internal Revenue Service if you changed your business mailing address, your business location, or the identity of your responsible party. Also, any entities that change their address or identity of their responsible party must file Form 8822-B, whether or not they are engaged in a trade or business. If you are a representative signing for the taxpayer, attach to Form 8822-B a copy of your power of attorney. Generally, it takes 4 to 6 weeks to process your address or responsible party change.

**Changing both home and business addresses?** Use Form 8822 to change your home address.

## Tax-Exempt Organizations

Check the box if you are a tax-exempt organization. See Pub. 557, Tax-Exempt Status for Your Organization, for details.

## Addresses

Be sure to include any apartment, room, or suite number in the space provided.

### P.O. Box

Enter your box number instead of your street address only if your post office does not deliver mail to your street address.

### Foreign Address

Follow the country's practice for entering the postal code. Please do not abbreviate the country name.

### "In Care of" Address

If you receive your mail in care of a third party (such as an accountant or attorney), enter "C/O" followed by the third party's name and street address or P.O. box.

## Responsible Party

Any entity with an EIN is required to report a change in its "responsible party" on lines 8 and 9 within 60 days of the change. See Regulations section 301.6109-1(d)(2)(ii). See Form SS-4, Application for Employer Identification Number, and its instructions, for guidance about who can be a "responsible party" for line 8 and which identification number to enter for line 9.

## Signature

An officer, owner, general partner or LLC member manager, plan administrator, fiduciary, or an authorized representative must sign. An officer is the president, vice president, treasurer, chief accounting officer, etc.



*If you are a representative signing on behalf of the taxpayer, you must attach to Form 8822-B a copy of your power of attorney. To do this, you can use Form 2848. The Internal Revenue Service will not complete an address or responsible party change from an "unauthorized" third party.*

**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. Our legal right to ask for information is Internal Revenue Code sections 6001 and 6011, which require you to file a statement with us for any tax for which you are liable. Section 6109 requires that you provide your identifying number on what you file. This is so we know who you are, and can process your form and other papers.

Generally, tax returns and return information are confidential, as required by section 6103. However, we may give the information to the Department of Justice and to other federal agencies, as provided by law. We may give it to cities,

states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

If you are an entity with an EIN and your responsible party has changed, use of this form is mandatory. Otherwise, use of this form is voluntary. You will not be subject to penalties for failure to file this form. However, if you fail to provide the IRS with your current mailing address or the identity of your responsible party, you may not receive a notice of deficiency or a notice of demand for tax. Despite the failure to receive such notices, penalties and interest will continue to accrue on any tax deficiencies.

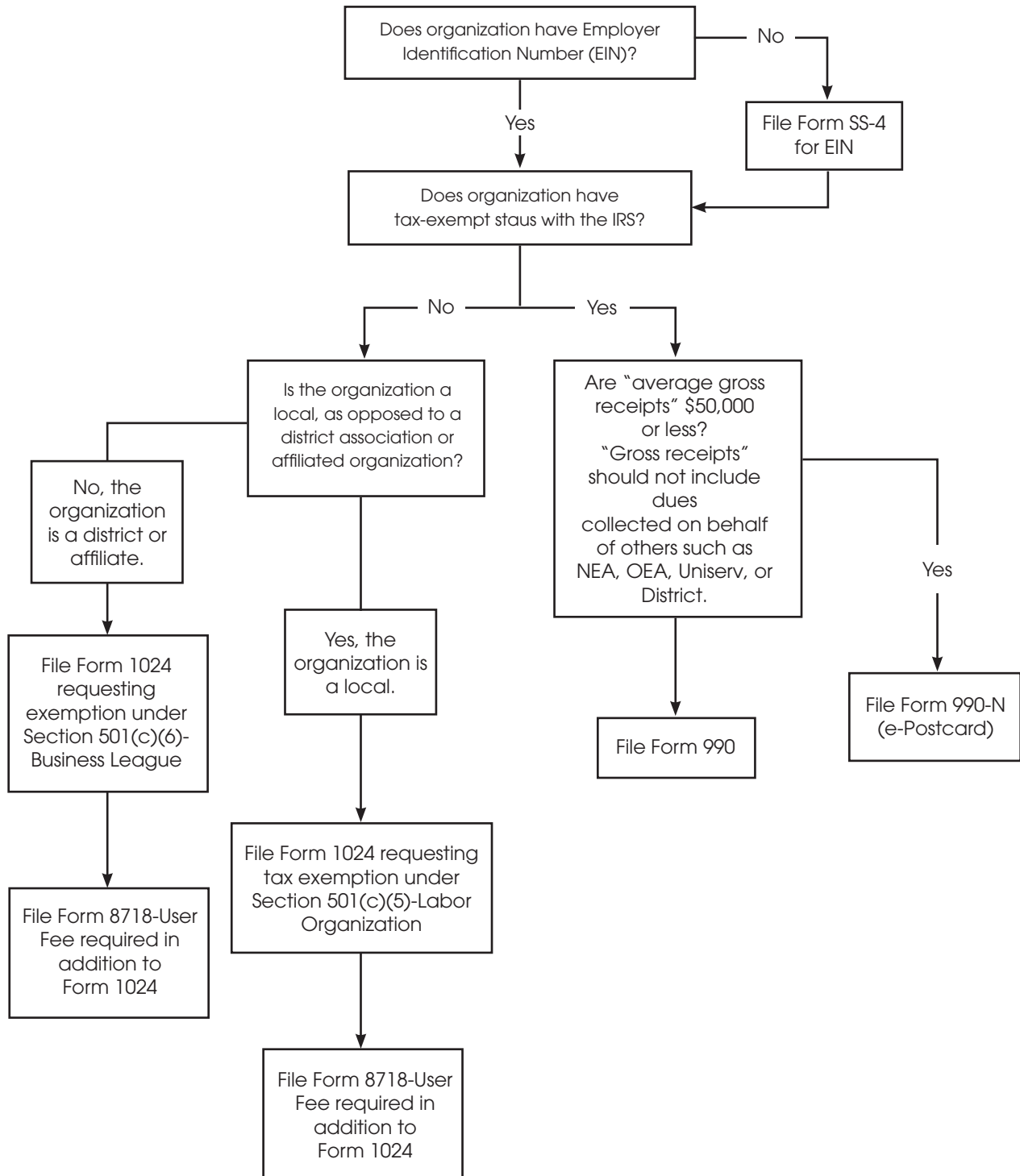
You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is 18 minutes.

**Comments.** You can send us comments from [www.irs.gov/FormComments](http://www.irs.gov/FormComments). Or you can write to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Don't send the form to this office.**



## Flowchart—Employer Identification Number and Tax Exempt Status



## **SECTION VIII – ASSOCIATION’S TAX WITHHOLDING AND PAYROLL TAX OBLIGATIONS**

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Tax withholding is an area that has received a lot of attention in recent years related to the proper procedure that local associations should follow to comply with IRS, state and local regulations. The past practice has been for many locals to either ignore their tax withholding obligations or to issue a Form 1099-MISC in lieu of proper payroll processing and tax withholdings. In recent years, the Pennsylvania Education Association has had locals audited by the IRS and state auditors. The results of those audits and research support the position of the OEA that payments to employees by local associations should be done through processing payroll with all statutory tax withholdings, including issuing an annual Form W-2.

**The OEA has adopted the position that not processing payroll/compensation including statutory tax withholdings within tax authority regulations is inadvisable.**

**Consider providing expense reimbursements such as cell phone business use in lieu of providing taxable compensation to officers.**

Options available to local associations who provide compensation to employees are the following:

1. Bargain a Teacher Professional Organization (TPO) provision to assist in dealing with tax obligations.
2. Hire a local CPA to process payroll/compensation and to file an annual Form W-2 for each employee.
3. Process payroll using Intuit™. This is an internet based payroll service that costs about \$47 monthly to process payroll for four employees. It provides paychecks or direct deposits along with electronic tax filings and electronic Form W-2 filings.  
**For more information go to <http://payroll.intuit.com>**
4. Manually create paychecks and submit tax filings using the information and guidelines provided by federal, state and local taxing authorities. An example is using the form and instructions for the Federal Form 941, Employer’s Quarterly Federal Tax Return to create paychecks including preparing and submitting filings. Below is a list of all applicable tax obligations for a local association with employee compensation.

**Irrespective of an association’s federal income tax status, an association with one or more employees (including officers, secretaries, and custodians) who are paid wages or salaries (by whatever name called, e.g., stipends, honorariums, etc.) for services rendered or to be rendered is subject to the following:**

(1) **Federal Income Tax Withholding, 26 U.S. Code**

The employer is required to obtain a Form W-4 from each employee at the time of employment. The number of withholding allowances claimed when applied to the tax withholding tables determines the amount to be withheld. The Form W-4 can also be used to claim exemption from withholding if the employee had no income tax liability for the past year and anticipates none for the current year. Exemption on this basis is claimed annually by a new Form W-4 and expires on February 16 of the following year.

(2) **Ohio Income Tax Withholding, Chapter 5747, Revised Code**

The employer is required to obtain a Form IT-4 from each employee at the time of employment. The employer is required to withhold the Ohio income tax from each employee who earns \$300 or more in any calendar quarter. The amount to be withheld depends upon the number of withholding allowances claimed. Exemption from withholding on the basis of past and anticipated income tax liability is not presently available under Ohio law.

(3) **School District Tax**

Certain school districts require employers to withhold school district taxes from employees. Consult the Ohio School District Authority for withhold requirements.

(4) **Local Income Tax Withholding**

The employer is, in almost all instances, obligated to withhold municipal income taxes from wages earned in a taxing municipality, even though the employee does not reside in a taxing municipality. Consult local ordinances for withholding requirements since the tax may vary.

(5) **Social Security Taxes (FICA)**

The employer is required to withhold the employee's share of social security and Medicare tax from wage payments and to pay the employer's share of social security taxes. The employee combined social security and Medicare tax rate is currently 7.65%. The employer combined social security and Medicare tax rate is currently 7.65%. There is a ceiling on the amount of any single individual's wages subject to the tax (known as the "taxable wage base"). The social security portion is 6.2% for employees and 6.2% for employers and is assessed on wages up to \$137,700 in 2020. The Medicare portion (1.45%) is assessed on all wages.

(6) **Federal Unemployment Compensation Tax (FUTA)**

An employer is subject to the tax if it:

- (a) Paid wages of \$1,500.00 or more in any calendar quarter, or
- (b) In each of twenty different calendar weeks, had at least one individual as an employee for some part of each day.

The employer is required to pay the federal tax upon the first \$7,000.00 of wages paid to any employee in a year. The current FUTA tax rate is 6.0%, but it is subject to a credit of up to 5.4% for unemployment taxes paid to a state. Thus, the effective rate is .6% or \$42 annually per employee.



(7) **Ohio Unemployment Compensation Tax, Chapter 4141, Revised Code**

The employer is subject to the Ohio unemployment compensation tax if:

- (a) The employer paid wages of \$1,500 or more to employees in a covered employment in any calendar quarter within either the current year or the preceding year, or;
- (b) The employer had at least one employee in covered employment for some portion of a day in each of 20 different weeks within either the current or the preceding year, or;
- (c) The employer had been subject to the Federal Unemployment Act in either the current or preceding calendar year.

A portion of this tax paid can be claimed as a credit against the FUTA liability.

**NOTE – The exclusion from coverage for “non-profit organizations” with less than four employees from the definition of “employer” (Section 4141.01(A)(1)(a), Revised Code) is only applicable to organizations exempt from federal income taxes under Section 501(C)(3) as “educational institutions.” OEA and its affiliates are exempt under Section 501(C)(5), labor organizations, or Section 501(C)(6), business leagues.**

(8) **Workers’ Compensation Tax, Chapter 4123, Revised Code**

The employer is subject to the Ohio Workers’ Compensation tax if it has one or more employees who earn \$160 in a calendar quarter. “Casual workers” who earn less than \$160.00 in a calendar quarter are not considered employees.

**NOTE – The term “casual worker” has been generally interpreted to mean a temporary employee who performs services which are not in the employer’s usual trade or business. An association’s officer or secretary would be performing work in the association’s usual trade or business. An association will find it advantageous to not claim “casual worker” status for its employees because Section 4123.74 and Section 4123.741, Revised Code, immunize the employer and fellow employees from suits by a worker who is covered by workers’ compensation and injured while acting in the scope of employment.**

(9) **Form W-2 Wage and Tax Statement**

Employers must file Form W-2 for wages paid to each employee from whom: Income, Social Security, or Medicare tax was withheld or Income tax would have been withheld if the employee had claimed no more than one withholding allowance or had not claimed exemption from withholding on Form W-4, Employee’s Withholding Allowance Certificate. The IRS operates a centralized customer service site to answer questions about reporting on Forms W-2, W-3, 1099, and other information returns. If you have questions about these forms, call 1-866-455-7438 (toll free), Monday through Friday, 8:30 a.m. to 4:30 p.m. Eastern time.

Consult with appropriate authorities to obtain current wage withholding tables, payroll tax rates, and taxable wage bases, since these calculations may and do vary from tax to tax and from year to year. You should also determine the appropriate tax deposit dates (both employee withholding and employer payroll taxes) as these may vary based on the amount due or being withheld.

## Teacher Professional Organization (TPO)

STRS rules permit members who are paid for service to the TPO (also known as collective bargaining organizations or unions) to make contributions on the earnings to STRS. (total earnings are limited to 250 days at the contractual daily rate) Locals who utilize a TPO provision benefit by paying the member using the school district payroll processes in place and simply reimburse the school district one amount for all the compensation, taxes and retirement obligations processed by the school district. The TPO provision also provides for the member to pay into STRS instead of Social Security. (OPERS does not permit TPOs for their members.)

To create a TPO provision, the local association must bargain the provision into the current collective bargaining agreement (CBA) at its **expiration** or through a Memorandum of Understanding (MOU), if the TPO agreement is negotiated during the term of an existing CBA. A MOU negotiated during the term of the CBA can be used to establish the language to be incorporated in the successor CBA or included as an Appendix when the successor CBA is renegotiated.

Requirements to create and use a TPO:

The local association collective bargaining agreement must contain a TPO provision and specify the following between the employer and the TPO (local):

1. Compensation will be paid for TPO service.
2. The name of the individual(s) or title of the position(s) to be paid.
3. The rate of pay or amount of the payment.
4. The number of days or time periods for which the individual will be paid.

The employer must comply with the collectively bargained agreement related to the TPO compensation and remit contributions to STRS with payroll reports as if the compensation is regular wages. Employers are required to:

1. Submit a copy of the collectively bargained agreement to STRS. Each time the agreement is renegotiated, the employer needs to send STRS an updated copy.
2. Include contribution amounts in the payroll reports and remit contributions on earnings for TPO service along with contributions on regular teaching earnings.
3. Include contribution amounts in the Annual Report to STRS.
4. Submit a TPO Contribution Certification form the day the Annual Report is submitted. For larger schools a signed certification form with a spreadsheet attached that provides the necessary information is acceptable.

Sample Collectively Bargained Contract Language for a TPO Provision:

Upon written request of the Local Association/TPO (TPO) to the Board, the following TPO officers, not to exceed four (4) in number, shall be reassigned without pay, except as hereinafter recited, for the purpose to conduct TPO business. (Note: TPO compensation can be for non-release time work depending on the specifics of your local contract.) The written request for reassignment shall include the number of hours/days per school year. The assigned officers will be paid on an hourly basis based on the daily contract rate for actual teaching. The amount of hours for TPO compensation will be communicated in writing to the

Board by the TPO and the Board will perform all administration within applicable laws and regulations (including STRS regulations and reporting) related to the TPO compensation including payment no later than one month after such communication of the amount of compensation due to the TPO officers. The TPO will comply with completing all applicable forms and documents requested of the Board. The TPO shall reimburse the Board for TPO compensation no later than two weeks prior to the pay date of the TPO compensation. The TPO reimbursement shall include salary and all applicable benefits of such officers, retirement contributions paid on their behalf and any other expenses related to salary and fringe benefits. The reimbursement by the TPO shall include a 2% (this percentage is bargainable) processing fee of the gross compensation amount processed.

1. President
2. Vice President
3. Treasurer
4. Secretary

Visit the STRS website for a summary of Contributions on Earnings for TPO Service at [https://www.strsoh.org/employer/\\_pdfs/fact\\_sheets/50-997B.pdf](https://www.strsoh.org/employer/_pdfs/fact_sheets/50-997B.pdf) .

The TPO Contribution Certification form that school districts must file with their Annual Report can be found at [https://www.strsoh.org/employer/\\_pdfs/forms/other/50-996B-fill.pdf](https://www.strsoh.org/employer/_pdfs/forms/other/50-996B-fill.pdf) .

Contact your Labor Relations Consultant for specific questions about TPOs including TPO provisions related to complying with other language in your local collective bargaining agreement.

## SECTION IX - INCORPORATION

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Presently, most local education associations affiliated with the Ohio Education Association are unincorporated associations. However, a number of the larger affiliated local associations, the Ohio Education Association and the National Education Association are incorporated as non-profit corporations. **In October 1979, the OEA Board of Directors adopted the position that incorporation of local associations was inadvisable.**

The principal attributes of a corporation are said to be continuous succession during the period prescribed for its existence despite changes in the individuals who compose it, a name by which it may contract and sue and be sued, and the ability to act as a unit in all matters within the scope of the natural persons who compose it. (12 O. Jurisprudence 2d, p. 47, Corporations, Section 3). Some of these attributes, namely, the ability to have a name by which it may contract and sue and be sued and a continuous succession during the period prescribed for its existence are also common to well-established unincorporated associations. See Revised Code Chapter 1745.

Local education associations should consider the following factors in selecting the form of organization:

1. The need to protect individuals from the liabilities of the organization;
2. The degree of centralized management needed for the enterprise;
3. The relative security of the existence of the entity, e.g. the ability to contract for the acquisition of assets, goods, and services, and to provide security for repayment of loans;
4. The costs of forming and maintaining each type of organization; and,
5. The formalities required of operation as a corporation.

The principal advantage of a corporation is the limited liability of its shareholders, which in the case of non-profit corporations is the limited liability of its members, and trustees, for the wrongful acts of its officers, agents, or employees whether based upon contract or tort. However, this generally recognized limited liability will not insulate a member from the consequences of the members' personal wrongful conduct. For example, the corporation veil will not immunize a member from liability on account of the member's negligence or on account of the member violating a back-to-work issued by a court with which the member has been served.

Unincorporated associations can also contract or sue or be sued as an entity under the name by which it is commonly known and called. This has eliminated the necessity of naming individual members of the association in such actions or transactions. There is still some greater potential for individual members of an unincorporated association to be joined in lawsuits involving the activities of unincorporated association to be joined in lawsuits involving the activities of unincorporated associations, than is the case where a corporation is involved. This difference, however, may be insignificant because the member will not be held personally liable unless the suit against them individually is successful. Also, OEA maintains insurance, which indemnifies the actions of its state and local officers and employees when they are involved in activities within the scope of their association duties. See Revised Code Chapter 1745, and **Miazga v. International Union of Operating Engineers, AFL-CIO**, (1965) 2 Ohio St. 3d 49. Further, many causes of action which can be brought against the union must be brought by virtue of the association's standing as an exclusive representative, subject to the remedial and jurisdictional limitations established in Revised Code Chapter 4117.

Thus, individual members of an unincorporated association now enjoy limited liability similar to that enjoyed by shareholders of corporations, the members' individual property is not subject to the satisfaction of judgments against the corporation or unincorporated association unless they are joined in the lawsuit as parties proven to have committed an act of wrongful conduct.

The next factor to be considered is that of centralized management. However, in the case of membership organizations where the leadership is periodically elected by the membership pursuant to the provisions of the constitution and bylaws, the factor of centralized management is diminished regardless of whether or not the local affiliated association is incorporated. In addition, the unincorporated association does have the power to contract in its own name and on behalf of its members pursuant to Revised Code Section 1745.01 and the contract of employment is enforceable against the association as an entity. See **March v. General Grievance Committee (1965) 1 Ohio St. 3d 165.**

The third listed factor to be considered in choosing a form or organization, the security of the existence of the entity, also used to be a prime consideration. Now, however, even unincorporated associations may contract for the acquisition of assets, goods and services, and its assets are subject to judgment for payment. It must be recognized, however, that a lending institution may be more inclined to lend money to a corporation than to an unincorporated association; and if a loan is made to an unincorporated association, the institution may attempt to require the officer signing the note to become individually liable for repayment of the debt.

The fourth factor in consideration of the formation of the organization is the cost, including legal fees. The affiliated local associations are presently organized and any organizational costs have been incurred. If a local association were to consider converting to a corporate status, it would incur, in addition to the necessary legal fees, an initial filing fee payable to the Secretary of State in the amount of \$125 (Revised Code Section 1211.16), and perhaps periodic filing fees for filing change of statutory agent, a statement of continuing existence, reinstatement of corporate articles after cancellation and/or amendments to corporate articles. These services are not covered by the OEA/NEA Legal Services Plans.

The fifth listed and final factor to be considered is the legal requirement that the corporation adhere to the formalities prescribed by Revised Code Chapter 1702 and other pertinent laws. The statutory formalities in Revised Code Chapter 1702, range from the selection of a corporate name to the adopting and amending of the Articles of Incorporation or Code of Regulations so that both the content and procedure comply with the law (Revised Code Sections 1702.04, 1702.11, and 1702.38), to the maintenance of a membership book containing the name and address of every member and the date of admission (Revised Code Section 1702.13), the number of, selection of, and removal of trustees and their power to act without a meeting (Revised Code Sections 1702.25, 1702.26, 1702.27), to the detailed provisions relating to merger or consolidation with other corporations (Revised Code Sections 1702.41 through 1702.46), and to voluntary and involuntary dissolution (Revised Code Sections 1702.47 through 1702.52), to name a few. In addition, every non-profit corporation, which does not file a Statement of Continued Existence every five years after the initial incorporation, is subject to having its corporate franchise cancelled by the Secretary of State pursuant to Revised Code Section 1702.59. If this should occur, however, an application for reinstatement can be filed with the Ohio Secretary of State to automatically reactivate the corporation. At the time of the filing of the application, the payment of a fee must be made.

**Revised Code Sections 1745.10 through 1745.12:**

**1745.10 Liabilities.**

A debt, obligation, or other liability of an unincorporated nonprofit association, whether arising in contract, tort, or otherwise, is solely the debt, obligation, or other liability of the association and does not become the debt, obligation, or other liability of a member or manager solely because the member acts as a member or the manager acts as a manager. A person's status as a member or a manager of an unincorporated nonprofit association does not prevent or restrict any law other than this chapter from imposing liability on the person or association because of the person's conduct.

Added by 129th General Assembly File No.79, HB 267, §1, eff. 5/22/2012.

**1745.11 Assertion and defense of claims.**

An unincorporated nonprofit association has the capacity to sue and be sued in its own name. A member or a manager of an unincorporated nonprofit association may assert a claim that the member or manager has against the association. An unincorporated nonprofit association may assert a claim that it has against a member or a manager of the association.

Added by 129th General Assembly File No.79, HB 267, §1, eff. 5/22/2012.

**1745.12 Assets subject to judgment, execution and other process.**

All assets, property, funds, and rights or interests, at law or in equity, of any unincorporated nonprofit association shall be subject to judgment, execution, and other process. A money judgment against an unincorporated nonprofit association shall be enforced only against the association as an entity and shall not be enforceable against the property of any manager or member of the association.

Added by 129th General Assembly File No.79, HB 267, §1, eff. 5/22/2012.

## **Tips from OEA Secretary/Treasurer OEA/NEA Fund for Children & Public Education (FCPE)**



Want to know what a local can spend political money on?  
See Types of Expenditures in this chapter.



Required to file campaign finance reports? Go to  
<http://www.sos.state.oh.us/SOS/CampaignFinance.aspx>  
for more information.



Remember, locals should have an annual FCPE drive! For  
information on how to run an FCPE Drive and/or helpful data  
to help plan your drive, please contact OEA Government  
Relations.



Don't commingle (put in the same account) FCPE contributions  
and local association funds.



FCPE cash contributions should not be sent by mail. Convert  
cash into a money order before mailing.



A single cash contribution cannot exceed \$100 per election.  
Additional contributions from the individual should be in the  
form of a check or credit card.



Members may make one-time and recurring contributions  
online by going to <https://www.ohea.org/Donate>.

