

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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April 25, 1989

Ms. J--- T. S---
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--- --- Circle, --- Floor
--- ---, CA XXXXX

Dear Ms. S---:

This is in response to your letter of February 15, 1989 and supplemental material you furnished on April 7, 1989. You are requesting that the S--- F--- E--- Fund (Fund) be qualified as a parent-teacher association (PTA) equivalent organization under Revenue and Taxation Code section 6370.

Section 6370 requires that an organization in order to be considered equivalent must perform the same type of service for public and private schools as parent-teacher associations and must be authorized to operate within the school by the governing authority of the school. Certain conditions must be met before an organization qualifies. Those conditions which you quoted from State Board of Equalization Pamphlet No. 18, "Volunteer and NonProfit Fund Raising Organizations," published in March 1987 are unchanged in the updated April 1988 edition, a copy of which is enclosed for your information.

In order to determine whether a particular organization meets the prerequisites to qualify as a PTA equivalent, the organization must provide the same type of service. It is therefore helpful to compare the objectives and services offered by that organization with the objectives and services offered by the P.T.A. For this purpose, pertinent excerpts from the California P.T.A. Bylaws become relevant.

Article II, Section I, lists the objectives of the PTA as follows:

- "a. To promote the welfare of children and youth in home, school, church and community.
- "b. To raise the standards of home life.

- “c. To secure adequate laws for the care and protection of children and youth.
- “d. To bring into closer relation the home and school, that parents and teachers may cooperate intelligently in the education of children and youth.
- “e. To develop between educators and the general public such united efforts as will secure for all children and youth the highest advantages in physical, mental, social, and spiritual education.”

Article II, Section 2, indicates that the objectives will be promoted by the following:

“The objects of the National PTA and the California State PTA are promoted through an educational program directed towards parents, teachers, and the general public; are developed through conferences, committees, projects and programs; and are governed and qualified by the basic policies set forth in Article III.”

Insofar as is pertinent here, Article III provides:

“a. The organization shall be noncommercial, nonsectarian, and nonpartisan

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“d. The organization shall work with the schools to provide quality education for all children and youth and shall seek to participate in the decision-making process establishing school policy, recognizing that the legal responsibility to make decisions has been delegated by the people to boards of education.”

It is not necessary that an organization have identical objectives and provide all of the services outlined above in order to be considered equivalent. However, it should be a nonprofit organization which includes parents, students and teachers and has adopted objectives which coordinated promotion of educational programs or projects among parents, students, teachers, school authorities and the general public.

In your comprehensive letter of February 15, you provided copies of the Internal Revenue Service letter granting the Fund exempt status under section 501(c)(3), Internal Revenue Code, and a letter from the California Franchise Tax Board granting the Fund exempt status under section 23701d, Revenue and Taxation Code. Thus your nonprofit status has been established.

The composition of the Fund's Board of Directors includes parents of both public and private school children and other community members. The projects described in your letter and in the literature you provided include projects conducted by teachers and by parents.

Your "Catalog of P--- C--- by T---" describes each project and its availability to varied and diverse student groups and is indicative of the Fund's objectives to enhance the welfare of all students and develop better communications between parents and school authorities. The small grant projects appear to bring together parent participation, teacher involvement and community resources.

All of the Fund's grantmaking activities are specifically authorized by the S--- F--- Board of E--- and the U--- S--- D--- of S--- F---, and after review and approval by these two bodies, the authorities at the school where the project is to be implemented must also approve the project.

Article VII of the Articles of Incorporation is explicit in the Fund is not organized for profit and no "distribution of gains, profits or dividends" will go "to the members thereof". All property, assets, profits and net income of the Fund are irrevocably dedicated to its purposes.

Based upon the information submitted by you, the S--- F--- E--- Fund, as described, appears to qualify as an "equivalent organization" under Revenue and Taxation Code section 6370 since the organization meets the minimum requirements set forth above. Accordingly, the Fund is a consumer of, and not a retailer of, tangible personal property which it sells in connection with its fund-raising activities.

If you have any further questions regarding this opinion, please do not hesitate to contact us.

Very truly yours,

Gordon P. Adelman
Tax Counsel

GPA:sr

cc: Mr. E. L. Sorensen, Jr.