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Mesa Public Schools

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# Memorandum

To: Officers of School Support Organizations  
From: Tom Pickrell, MPS General Counsel  
Date: July 17, 2008  
Re: MPS Indemnification of School Support Organizations

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The Mesa Public Schools (MPS) Governing Board recently amended its policy BHE regarding indemnification of officers and members of school support organizations (SSOs). Previously, MPS had no formal policy regarding indemnification of its school support organizations. With this change to policy BHE, the SSOs of MPS schools now have an opportunity to receive indemnification in the event that a claim is made against them in connection with an accident that arises from an SSO activity.

The purpose of this memo is to explain what steps SSOs must accomplish for their officers and members to be eligible for indemnification. Please review this memo carefully. It is the responsibility of the SSO and its officers—not the school or its principal—to take the steps necessary to qualify for the indemnification that is offered under MPS Policy BHE.

## **1. What is indemnification?**

Indemnification is similar to insurance. When a company agrees to indemnify a person, the indemnification is a legally enforceable agreement to defend and reimburse the person if a legal claim is made against the person that arises from a defined activity.

## **2. What is a “school support organization” or SSO?**

A “school support organization” or “SSO” is an organization, formed for the benefit of a school, that has been approved by and is in good standing with MPS. An SSO may be a parent-teacher organization or a booster club.

## **3. What steps must be taken for the SSO to be approved by the district?**

The SSO must submit to the school principal the following documents: (i) the SSO’s application for Governing Board approval, (ii) a copy of the SSO’s current bylaws, and (iii) the SSO’s current financial statement, signed by the SSO’s president and treasurer.

The school principal will review the documents, sign the application, and submit them to the district’s Internal Auditor for approval by the Governing Board. All documents must be complete before the application for approval will be submitted to the Governing Board.

#### **4. Who must complete the application?**

The SSO's officers must complete and sign the application. Completion and submission of the required documents is the responsibility of the SSO and its officers.

#### **5. What is required to remain in good standing with the district?**

Once approved, the SSO must keep its information up-to-date for the remainder of the school year, and its officers must comply with the SSO's bylaws and other organizational rules. SSOs must apply for Governing Board approval each year by submitting a new application, current financial statement, and current organization bylaws. An SSO that fails to update its information or comply with its bylaws will lose its good standing.

#### **6. Can an SSO decline to submit an application for approval?**

Yes. An SSO can operate as a school-related organization, if approved by the school principal, even though it has not applied for Governing Board approval. However, the officers and members will not be covered by the indemnification of Policy BHE.

#### **7. What claims are included and excluded from the indemnification?**

Under policy BHE, the district will indemnify an SSO officer or member for a loss that arises from an accident, error, or omission that is caused by the officer or member when the officer or member acted on behalf of the SSO and the SSO was engaged in an activity performed for the benefit of the school. The indemnification does not apply to any claim resulting from the ownership, maintenance, use, operation, loading, or unloading of any motor vehicle that is not owned or leased by the district. Likewise, the indemnification does not apply to any loss suffered by the SSO itself as a result of the negligence or intentional misconduct of an officer or member.

Policy BHE also identifies the following exclusions:

- (i) The actions of the officer or member were a knowing criminal violation.
- (ii) The actions of the officer or members were dishonest or fraudulent
- (iii) The actions of the officer or member were taken in bad faith with intentional disregard for existing laws or district policies and regulations.
- (iv) The actions of the officer or member were taken for personal profit to which the person was not legally entitled.

The foregoing is only a summary of the scope of the indemnification. Policy BHE—including the terms, conditions, and limitations of the indemnification—can be reviewed at [www.mpsaz.org/policies/MPSPolicy.pdf](http://www.mpsaz.org/policies/MPSPolicy.pdf).

**8. What should officers or members of an SSO do if they believe they may need to be indemnified by the district?**

An officer or member must promptly advise the MPS Director of Employee Benefits and Risk Management in writing, giving all known details, including (i) the specific act or omission alleged; (ii) the injury or damage which may result from such act or omission; (iii) the circumstances by which the officer or member first became aware of the act or omission; and (iv) the names, addresses, and telephone numbers of all persons who may have knowledge of relevant information.

The officer or member must also preserve and send to the district all documents and other forms of evidence and cooperate with the district's defense of the claim. The claim reporting process is described in detail in Policy BHE.

**Enclosures:**

- Application for Governing Board Approval of School Support Organization
- Sample SSO Financial Statement
- SSO Guidelines for Operation and Financial Responsibility (from MPS Internal Auditor)
- Guidelines for Fundraising in Mesa Public Schools (from MPS Internal Auditor)