



How to create an education foundation

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This fact sheet is designed to address the most frequently asked questions about education foundations. The information is of a general nature. Readers should seek the advice of legal counsel with specific legal problems or questions.

What is an education foundation?

An education foundation is a fund for the receipt and distribution of charitable funds given to the district by individuals, families, groups, organizations and businesses. It is a source of revenue that can be used to enhance the financial resources available to your district. The organized approach of an education foundation can assist districts in soliciting private contributions in the crowded and competitive market of private charity. Donations, gifts and bequests made to an education foundation might be used to supplement existing programs, provide new and innovative ventures or even to establish a scholarship fund. Donated funds could also be used to reward excellence in administrative management, professional development or student achievement.

How is an education foundation organized?

A foundation can be structured in a variety of ways. An education foundation can be a fund administered entirely under the auspices of a school district. However, a more favorable structure is that of a legally incorporated, nonprofit entity that is separate from a school district. This structure enables donors to seek maximum tax benefits from their donations, gifts and bequests and it protects the assets of the foundation from being considered district assets.

Foundation gifts considered school assets might be impacted by changes in school finance formulas or be exposed to demands of collective bargaining. Investment options may also be limited. As a separate, nonprofit organization, the foundation is free from any short-term policy or political considerations the board of education may be forced to address.

Formation of a nonprofit corporation in Ohio requires incorporation under state law. Articles of incorporation and a code of regulations can be developed with the help of legal counsel. It is advisable to seek tax-exempt status in the form of letters of exemption from federal and state tax agencies in order to assure donors that their respective donations, gifts and bequests will be tax-deductible to the extent allowable by law.

Some school districts choose to structure an education foundation under an existing community foundation. The advantages to such an approach include the savings in time and expense associated with seeking independent nonprofit corporate status, as well as the security of operating under an established management system.

How should a school district go about organizing an education foundation?

Assuming sufficient interest on the part of the board of education, school administration and community, the administration should develop a list of prominent and interested citizens to serve on a planning committee. The planning committee will then develop and present a set of ground rules to the board of education.

Who should govern the foundation?

The foundation should be organized under the control of a board of trustees.

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The trustees could be appointed by the board of education or elected by the foundation membership at large. It is advisable to have school board representation on the foundation board of trustees to ensure that the foundation (although separate and distinct from the board of education) will work closely with the board in addressing the school district's needs.

The board of trustees should appoint an executive director. The director might be an employee of the district who could serve in a coordination role and provide access to the district's administrative resources. Members of the foundation board of trustees should also be prominent members of the community who are willing to take an active role in fundraising, fund management and consideration of program expenditures.

How is the foundation income disbursed?

There should be a determination of priorities regarding the purpose(s) of the fund. Ohio Revised Code Section (RC) 3315.40 restricts the purposes of an education foundation to "... operating or capital costs of any existing or new and innovative program designed to enhance or promote education within the district or service center, including scholarships for students or teachers." Income to the foundation is disbursed under the direction of the board of trustees in accordance with the objectives of the foundation and the best interests of the school district.

It is wise to establish at the outset which persons are authorized access to the foundation funds to minimize the possibility of embezzlement. Moreover, some foundation boards of trustees have established advisory committees composed of volunteer community members to provide legal assistance, investment advice, public relations expertise and fund development.

How are donations, gifts and bequests made to the foundation?

A foundation may permit any person, group of persons or organization to give any sum, large or small, either during the lifetime of the donor or under the provisions of a will or trust after the death of the donor, for the stated purpose(s) of the foundation. Any unencumbered donation, gift or bequest to a school district under RC 3313.36 can be deposited in the foundation fund. Subject to the foundation's approval, donors may be permitted to specify ways in which gifts may be used. In addition, donors may be permitted to authorize use of both principal and income or to request that only the income of the gift be used. A gift may be given in the form of a remembrance and pooled with similar gifts for the same purpose.

May the board of education provide funds to the foundation?

Yes. RC 3315.40 is the enabling statute that allows a city, exempted village, local, JVSD or educational service center (ESC) to establish an education foundation. Boards other than an ESC may, by a majority vote, annually donate up to .5% of the total appropriations of the school district as estimated by the board at the time the resolution was adopted or as set forth in the annual appropriation measure as most recently amended or supplemented. The governing board of an ESC may pay into the education foundation up to .5% of the funds received by the ESC from the state. As noted above, the district also can deposit any donation, gift or bequest that is either given to the district without any restrictions or specifically made to the education foundation.

Monies in a fund governed by the board (as opposed to a fund established as a separate entity) may be expended only by a resolution adopted by a majority of the board and only for the purposes outlined above in RC 3315.40.

The board may appoint a committee of administrators to direct the fund and to make recommendations for the use of the fund. Committee members may not receive any compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of their official duties (RC 3315.40). Once the fund has been established, the board may appoint a tax-exempt, nonprofit foundation to serve as trustee of a trust created for the investment of money in the fund. Additional amounts may be added to the trust principal from the education foundation. The net income of the trust is to be paid into the fund. The board may provide for the payment of a reasonable fee from the trust income or otherwise to the trustee in compensation for services rendered. Other restrictions on the trust may be found in RC 3315.41.

What about restrictions upon the size of donation, gift or bequest?

A foundation certainly can accept a donation, gift or bequest of any size. Some foundations have chosen to require a certain minimum donation for those funds established for a special purpose.

May donations, gifts or bequests other than cash be made?

Yes. Gifts may take the form of life insurance, stocks, bonds, personal property or real estate. The donor's attorney, financial advisor or insurance representative can provide guidance in these instances, since other tax savings may be realized when gifts take a form other than cash.

Which Ohio school districts have functioning education foundations?

The following districts are reported to have functioning education foundations. The list is not exhaustive, and you may find that there are other school districts in your area that have established education foundations.

Athens City
Avon Local (Lorain)
Bay Village City
Bellefontaine City
Benton Carroll Salem Local (Ottawa)
Berlin-Milan Local (Erie)
Bexley City
Botkins Local (Shelby)
Buckeye JVSD
Buckeye Local (Medina)
Canton City
Canton Local (Stark)
Chardon Local (Geauga)
Clearview Local (Lorain)
Conneaut Area City
Cuyahoga Falls City
East Muskingum Local (Muskingum)
Elida Local (Allen)
Euclid City
Fairview Park City
Firelands Local (Lorain)
Fremont City
Four County Career Center
Genoa Area Local (Ottawa)
Granville EV
Green Local (Scioto)
Groveport Madison Local (Franklin)
Hicksville EV
Indian Creek Local (Jefferson)
Indian Hill EV
Jefferson Local (Madison)
Kenston Local (Geauga)
Keystone Local (Lorain)
Lakewood City
Liberty Center Local (Henry)
London City
Lorain City
Lorain County JVSD
Madeira City
Madison Local (Lake)
Marion City
Mason City
Mayfield City
Maumee City
Medina City
Mentor EV
Miami Valley Career Tech Center
Miamisburg City
Milford EV
Milton-Union EV

North Canton City
North Ridgeville City
Northwestern Local (Wayne)
Oak Hills Local (Lucas)
Oakwood City
Oregon City
Painesville City Local (Lake)
Pandora-Gilboa Local (Putnam)
Perrysburg EV
Pettisville Local (Fulton)
Plain Local (Stark)
Poland Local (Mahoning)
Salem City
Sandusky City
Shaker Heights City
Spencerville Local (Allen)
Strongsville City
Struthers City
Sugarcreek Local (Greene)
Swanton Local (Fulton)
Tecumseh Local (Clark)
United Local (Columbiana)
Upper Arlington City
Upper Valley JVSD
Vermilion Local (Erie)
Wellington EV
West Carrollton City
West Geauga Local (Geauga)
West Muskingum Local (Muskingum)
Westlake City
Willoughby-Eastlake City
Wilmington City
Woodridge Local (Summit)
Worthington City
Yellow Springs EV

Can a district be ineligible to organize an education foundation?

Yes. There are two scenarios under which a district cannot establish an education foundation (RC 3315.42):

(1) A school district that has received funds for a project under RC Chapter 3318 (school facilities), if the purchase price to be paid by the board for the state's interest in the project has not been paid.

Because the statute has not been revised, it appears that Ohio School Facilities Commission construction projects for which the local share has not yet been paid continues to bar a school district from establishing an educational foundation.

(2) A school district that has an outstanding loan under the emergency school assistance loan provisions (RC 3313.483) or from the lottery profits education fund (RC 3317.62, 3317.64). This emergency school assistance loan program is a defunct borrowing program discontinued in 1998.

Conclusion

Recognizing that the establishment of an education foundation offers great advantages to a school district, boards of education are encouraged to consider the following factors in determining whether to pursue such course of action:

- evaluation of school district needs and goals, as well as community interest in the project;
- establishment of a planning committee;
- ranking of proposed uses for funds collected;
- mechanisms for assuring some control over the education foundation by the board of education;
- procedures for incorporation and establishment of nonprofit status;
- procedures for selection of board of trustees;
- establishment of rules and restrictions regarding donations;
- appointment of an advisory committee;
- consultation with legal counsel about the effects and tax implications of different ways of structuring the foundation.

In assessing the feasibility and advisability of establishing an education foundation, a school district may want to keep in mind one more factor. An education foundation is an activity that can help build public confidence in education. Although the process demands time, talent and commitment, the potential benefits to a district may be well worth the effort.