

May 2023

Financial & Legal Guidelines

The purpose of this document is to provide PTO Co-Chairs, Treasurers and other Executive Board members with the essential information necessary to conduct their business within the rules and regulations set by the IRS, the Darien Public School district and the CDSP. Policies in the *Table of Contents* that have an **E** or **F** after the page number should be specifically shared with the Enrichment Chair or Fundraising Chair, respectively. Any questions related to this document can be directed to the CDSP Treasurer.



Council of Darien School Parents P.O. Box 2643, Darien, CT 06820

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Your PTO's Tax-Exempt Status

CDSP is a 501(c)(3) organization. 501(c)(3) is a section of the federal tax code that denotes tax-exempt organizations. An organization can become classified as a tax-exempt organization after they have applied to the IRS. Your PTO is exempt under a group exemption obtained by CDSP. Your PTO has never applied for (and therefore does not have) an independent 501(c)(3) status.

According to the IRS, there are three main requirements to maintain our tax-exempt status:

- Operate within the tax-exempt purpose
- Refrain from political activities
- File annual tax returns

If any of these requirements are not followed, the entire group's tax-exempt status is at risk. Therefore, following these guidelines will help ensure that CDSP and all of the PTOs maintain their tax-exempt status.

Charitable Purpose

CDSP's and each PTO's tax-exempt purpose is charitable as set out in its governing documents. **CDSP and PTO missions should reflect this purpose.** Furthermore, PTOs must make sure that money raised and expended is used to support your mission. Money should not be used to supplement the operating funds of the Darien Public Schools, but should be used for the enhancement of programs, extracurricular activities and community building activities.

According to CDSP by-laws, PTOs that do not follow CDSP policies may be removed from CDSP's group tax exemption and lose their tax-exempt status for non-compliance.

The way your organization is listed with the IRS in your EIN application is your official name. Be sure your bank account, contractual arrangements and by-laws or other governing documents conform.

Endorsements and Political Activity

Per CDSP's Endorsement Guidelines policy and the IRS, 501(c)(3), organizations cannot engage in any political campaign and cannot contribute to any candidate

campaigning for office. This includes supporting a Board of Education candidate. If you give time to one candidate, you must give equal time to all candidates. Political lobbying is allowed as long as the lobbying is not a substantial part of the PTO's activities. For example, CDSP/PTO budget speeches to the Board of Education, Board of Finance and Representative Town Meeting may be considered lobbying, but as they are not a substantial part of the group's combined activities, we are operating within our tax-exempt parameters.

Tax Filing Guidelines

Your PTO gets a group exemption (#8244) from CDSP. PTOs are required to file a 990EZ, 990 or 990-N (e-postcard) by the 15th day of the 5th month after the close of the fiscal year. For PTOs, that is November 15, since your fiscal year ends on June 30th. Per CDSP's Tax Policies, CDSP files a group tax return on behalf of all PTOs. Due to timing issues, CDSP typically files an extension postponing the due date to February 15th.

The tax return is coordinated by the CDSP treasurer. Each PTO must fill out a spreadsheet detailing all income and expenses on a gross basis for the fiscal year. This spreadsheet details all cash in and out of your PTO. It starts with the prior year bank balance and must end with the current year bank balance. Completion of the spreadsheet is typically requested by the end of September.

All of your expenses should fall within the mission of your PTO. Detailed functional expenses must support your description of program services. In addition, income and expenses must be reported as gross amounts. For example, if your PTO sells a yearbook, funds collected must be reported in the income section of the spreadsheet and expenditures to produce the yearbook must be reported in the expense section of the spreadsheet.

In addition to the spreadsheet, your PTO will also need to supply your fiscal year end bank statements, a list of any individual donations over \$5,000, a summary of any changes made to your mission, by-laws, or other governing documents, and a letter indicating your authorization to be included in the group return.

If the IRS determines that you are collecting money and not filing returns, your 501(c)(3) tax status will be invalidated and collections will be taxed and contributions to your organization will no longer be tax deductible. Because CDSP holds the group exemption (#8244) for all the PTOs in the Darien public schools, it is CDSP's responsibility to make sure that our taxes have been filed. If they haven't, the 501(c)(3) status of all of the PTOs could be in jeopardy. If CDSP's 501(c)(3) status were

invalidated, collections for all PTOs would be taxed and contributions would no longer be tax deductible. This consequence can be retroactive.

As outlined above, any PTO that does not conform to 501(c)(3) rules could jeopardize the non-profit status of all PTOs listed in the group tax exemption; CDSP can exclude an uncooperative PTO from its organization. This will also result in the loss of the PTO's non-profit status and PTO liability insurance for the uncooperative organization.

990s are public information and may be viewed by anyone upon request. The only information that may be confidential is a list of donors. Individual contributions over \$5,000 must be disclosed, but may be listed as anonymous.

1099s

In accordance with CDSP's Tax Policies, 1099s must be issued each year. The IRS requires that a 1099 be issued for any service vendor paid over \$600 in the calendar year, who is a partnership or individual. Corporations, limited liability companies and 501(c)(3) organizations are exempt. In order to process a 1099, vendors that were paid over \$600 must provide a W-9 (Request for Taxpayer Identification Number and Certification). The W-9 will provide the tax information needed to fill out the 1099. It is best to obtain the W-9 before the vendor's bill is paid. If you are not certain whether or not a vendor is an individual or partnership, request the W-9. 1099s are done on a calendar year basis, not our fiscal year. They must be mailed by January 31st of the following calendar year. In addition, IRS 1096s (Annual Summary and Transmittal of U.S. Information Returns) must be filed by January 31st, and state Form CT-1096s by February 28th by mail or March 31st electronically. These forms summarize all of the information sent to the vendors via the 1099s. CDSP Treasurer coordinates this effort with the tax accountant.

Sales Tax

In Connecticut, 501(c)(3) eleemosynary organizations (as our PTOs are categorized) are required to charge sales tax and file sales and use tax returns for items sold. There are two exemptions:

1. Any sales during five fundraising events of a day's duration per calendar year (regardless of sale price). A day's duration means either (1) any uninterrupted period of 24 hours or less, whether or not it spans more than one calendar day, or (2) any period or periods that begin and end within a single calendar day. If an event takes place over multiple days, each day is considered a separate fundraising

event. For example, a telethon that runs from 8am Monday to 6pm Friday would be considered five events.

2. Items sold for \$20 or less. The \$20 limit applies to each item, not the sum of goods purchased.

Sales that qualify under either of these two exemptions also may be purchased by the PTO free of sales tax. For example, if a PTO intends to sell t-shirts for \$20, the PTO may **purchase** the shirts from a supplier without paying sales tax, and may also **resell** the shirts without charging sales tax or filing any related tax returns.

If all sales qualify as exempt, no further action is needed by the PTO. If some sales are not exempt, then the PTO must complete Form REG-1, Business Taxes Registration Application on the Connecticut Department of Revenue Services website; the filing fee is \$100, and you only need to register once. Once an organization registers, it must continue to file sales and use tax returns, even if its tax liability is zero.

PTOs must collect 6.35% sales tax on non-exempt sales. The treasurer of each PTO must file sales and use tax returns quarterly, until it is determined that they can file annually because their annual tax liabilities are less than \$1,000.

If the PTO is registered with DRS as a retailer for collection of sales and use taxes, it may issue a resale certificate to purchase items for resale without payment of tax, when the PTO is selling those items tax exempt.

Note that the sales tax exemptions apply **only** to sales **by** a PTO. If payments are made directly to a third party seller, that seller must charge sales tax. In that situation, the PTO should not provide a certificate exempting such sales from tax. For example, if the PTO prepares a yearbook, but parents make payments directly to the yearbook printer, then the yearbook printer is responsible for charging sales tax.

Finally, a PTO may purchase items for use in its activities (as opposed to resale) free of sales tax. In that case, it is appropriate to provide a Certificate-119 to the seller.

If you have questions about the sales tax, please contact the CDSP Treasurer.

Budgets and Financial Statements

Your PTO's operating budget should allocate money to support your PTO's mission and should be developed with the input of your building Principal. It should list expenses that support the school's programs, enrich the educational experience of children and support the teachers. In furtherance of your PTO's mission, your PTO should be supporting the enhancement of programs, extracurricular activities and community building activities. The PTO should not be paying for curricular programs or supplies that are part of DPS' budget.

A budget lists the expected income and expenses of your PTO. A good budget presentation should include income and expenses from the previous year as well as projected income and expenses for the current year, if not completed. This will provide historical information to be used in setting the next budget. It should be approved by the PTO according to the PTO's by-laws or other governing documents.

A good profit and loss statement (P&L) shall include the budgeted and actual income and expenses from the current year. The P&L shall be presented at each executive board and regular PTO meeting. As a 501(c)(3) organization, some of our records are subject to public inspection. It is important to maintain transparency; reporting income and expenses and cash balances at executive board and regular meetings and posting on your PTO's website helps towards this end.

Do not operate at a deficit. There is no legal requirement governing how much money a 501(c)(3) organization may carry over from year to year, however, our purpose is not to accumulate funds. CDSP encourages PTOs to hold no more than 1.5 times the yearly operating budget in reserve. Holding excessive reserves is unproductive and discourages parent contributions. CDSP recommends that organizations with excessive reserves work to reduce those reserves through reduced fundraising or CDSP and district-approved gifts.

CDSP's by-laws say that unbudgeted expenses up to 10% of the approved budget may be made with the approval of the Executive Board. All expenses more than 10% over the approved budget must have CDSP approval. CDSP's budget is simple, and the majority of the expenses are for completing the tax returns.

The PTOs' budgets are more complicated and require more oversight to manage them. It is suggested that PTOs hold their Committee Chairs accountable for their portion of the budget. At the beginning of the school year, each Committee Chair should be sent their budget, pending PTO approval (if necessary) and finalization of the number of students for that year. All related committee expenses should be approved by the

Committee Chair prior to reimbursement. For budget items not assigned to a specific committee, the related expenses should be approved by a Co-Chair. Any anticipated deviations from the approved budget should be brought to the Co-Chairs' and Executive Boards' attention as soon as possible. The Executive Board can then make reductions elsewhere or raise additional funds to rebalance the projected income and expenses. The approved budget should never be changed. For the elementary PTOs operating within the Spending Cap (see Spending Cap guidelines within this document), the projected expenses will need to be rebalanced if the anticipated overspend is not within the Spending Cap. It is also suggested that each Committee Chair be sent a mid-year update on their spending to ensure they are on track.

No PTO should have a credit card. It is bad financial practice. It is also not advised to open a credit line with a vendor or merchant. Debit cards are allowed as long as proper expense detail is maintained. In addition, PayPal, Square and other credit card processors are allowed as long as proper deposit detail is maintained. Venmo is not allowed.

Record Keeping

PTOs should track income and expenses using Quickbooks or similar financial tracking software.

All deposits and expenses must have backup. This may consist of receipts and other pertinent documentation. The IRS requires receipts for any expense over \$75, but it is good practice to require receipts for all expenses. Check request forms are also a good practice. Check requests and receipts should be filed together. PTOs must keep accurate records (receipts, current and past financial statements) to show they are properly using the funds that are being raised. They should be available for inspection at any time.

All tax returns and underlying documents should be saved for 7 years (electronic storage is recommended). All contracts and legal documents should be maintained indefinitely (in the original format if possible).

Electronic storage (e.g. Google Drive) of all other documents (Articles of Organization, IRS Determination Letter, By-laws, Policies, Audit Reports, Meeting Minutes, CDSP/PTO Slates, Financial Statements, Certificates of Insurance, etc.) is highly recommended.

Income Guidelines

Donations to Your PTO

Contributions made to 501(c)(3) organizations are tax-exempt. This is an incentive to encourage potential donors to give to these organizations, so tax-exempt status must be well guarded. Compliance with 501(c)(3) guidelines is required to maintain tax-exempt status.

Per CDSP's Donation Acknowledgement Letters Policy, any single contribution to your PTO of \$250 or more must be acknowledged by a written acknowledgement from your PTO to the donor in order for the donor to claim it on their tax return. The donor will use this letter to prove that the contribution is tax-deductible. The letter should include the name of your organization, date and amount of the contribution, state that you are a 501(c)(3) organization and (if accurate) that no goods or services were received in exchange for your contribution.

For "quid pro quo" contributions (contributions where the donor is getting something in return for their money), your PTO must specify what portion of the contribution is tax-deductible. The deductible portion is the excess of the contribution over the fair market value of the goods or services received. For example, if tickets to a PTO sponsored dinner are \$75, but the cost of the dinner is only \$30, the purchaser is eligible to deduct \$45. The information must be disclosed and can be printed on the ticket or the brochure/invite for the event.

Contributions to your PTO of a service (attorney services, performances, etc.) are not considered tax-deductible by the donor. Costs associated with the performance of the service may be deducted. Contributions of goods (gift certificates, auction items, etc.) are considered tax-deductible by the donor. However, it is up to the donor to determine the value of the item(s) donated. Therefore, your PTO's written acknowledgment of a donation of goods should not state a value for those goods.

Fundraising

Each fundraiser should have a stated goal – either specific (playground equipment) or general operating (for the general stated mission of the PTO). The anticipated income should be included when planning the yearly budget. Caution should be used when raising funds for a specific purpose. Funds raised for that purpose cannot be used for any other purpose. It does not necessarily have to be spent in the same year. It can be set up as a fund on your balance sheet for a specific use in the future. For example, if your PTO would like to add equipment to the school's playground in the amount of \$10,000, but you raise \$12,000 in a specific fundraiser, the additional \$2,000 cannot be used for operating expenses. It must be used towards playground equipment at some point.

Fundraising by the PTO should be done using the PTO's tax identification number (EIN number), with the PTO's approval of how the money is to be used. The money should be used to support the budget and the mission of the PTO.

Raffles must be Permitted. The Police station facilitates this process.

Expense Guidelines

Donations Made By Your PTO

A PTO should be careful when making charitable contributions. Like all PTO expenditures, PTO donations to a charity must be in furtherance of the mission. A contribution to another school's PTO is allowed, assuming it is in furtherance of the donating PTO's mission. A PTO can solicit contributions for any charity as long as it is disclosed that the money raised is going to a charity. If students/teachers raise money for a charity and the PTO writes the check, the PTO must detail the amount raised, from whom, and confirm that all of the money raised was donated.

The PTO should not make significant donations from their own funds to people in need. In furtherance of your PTO's mission, PTOs can make some contributions to families in need as long as they are educational in nature. However, the PTO must evaluate the amount of the contribution in light of IRS guidance as the IRS is wary of charitable organizations providing "private benefits" to people close to the organization.

Dues

Per CDSP's Dues and Donations Policy, PTOs pay dues to CDSP each fall. This amount is set by CDSP members the previous spring based on the approved budget. The bulk of the budget expense pays for the group tax return and 1099s.

Facilities Fees for After School & Conference Week Programs

Contracts with vendors for after school, conference week and other similar programs where the vendor is making a profit will be subject to district approval and executed by the district. In addition, these vendors will be required to pay a facilities fee to the district. The PTOs may not negotiate contracts with these vendors.

Insurance

CDSP and the PTOs are insured by AIM. AIM policy types include General Liability, Accident (complements GL), Bonding, Property Coverage and Officer's Liability. Per CDSP's Insurance Requirements policy, all PTOs must carry General Liability insurance (\$1M limit, option of \$2M) and Non-Profit Professional Liability (Officer's Liability). CDSP must carry Officer's Liability. Additional coverage, including Media Liability Insurance and Terrorism Insurance, is at the discretion of the PTOs.

Bonding requires annual audit and monthly bank reconciliations by a non-check-signer with an appropriate background.

All PTO Chairs and Treasurers should review the **Insurance Guide** provided by AIM, which summarizes coverage and which events are excluded from coverage (such as motorized rides). The Insurance Guide, along with additional insurance information, can be found at the following web address:

<https://www.aim-companies.com/public/events/index.html>. Copies of the guide are also available from the CDSP Treasurer.

Certificates of Insurance

All vendors or concessionaires hired by the PTO to provide services either at the school or off-site (including each assembly, enrichment program, picnic/carnival vendor, food or alcohol vendor, etc) must provide a Certificate of Insurance. To comply with district guidelines, the special items section of the Certificate of Insurance should have the

following language for additional insureds:

“The Town of Darien, Parks & Recreation, Darien Board of Education, the Council of Darien School Parents, the [Insert School PTO], [Insert Name of School] and their respective officials, officers, employees, agents, volunteers, Boards & Commissions shall be named as Additional Insured, on a primary and noncontributory basis on the General Liability, Excess Liability and Umbrella policies. Coverage shall include contractual liability and Broad Form Property Damage. A waiver of subrogation in favor of the certificate holder is included on all policies. Policies to include notification to the certificate holder in the event of cancellation or non-renewal. Policies will not exclude coverage for sexual abuse or molestation or for athletic participants.”

All certificates must be received prior to the event, and copies should be provided to Rich Rudl at the district office in sufficient time for his review. Please consult with the district as to whether the vendor/concessionaire/service provider must also sign a Hold Harmless Agreement.

There are different types of insurance that the vendor must carry including: (1) Workers Compensation & Employers' Liability; and (2) General Liability. As determined by the PTO Chair and the district, other insurance may also be required including accident coverage and excess medical, and automobile liability. Certificates should be requested for BOTH workers comp and general liability; these can sometimes be found on the same certificate if they are held with the same insurance carrier or on 2 separate certificates if they use different carriers.

Please have the district review the Certificate of Insurance to ensure the vendor has a sufficient amount of insurance and that the certificate has been filled out correctly, including policy expiration, dates for event coverage, cancellation terms, and waivers of subrogation.

Prior to executing any contracts, the PTO shall provide copies of the contract for the district to review in order to ensure, among other things, that the vendor agrees to hold the district, the PTO and CDSP harmless from any liability. A sample hold harmless agreement is provided in the AIM Insurance Guide. The PTO should confirm with the district if a separate endorsement is needed from the insurer to verify the additional insureds. Certificates of Insurance may not be enough to contractually bind the insurer. The PTO should never agree to hold a vendor harmless or indemnify a vendor against liability in the contract.

Note that additional insured coverage is not available for workers compensation. The PTO does not have workers compensation insurance. The PTO should only enter into

agreements with independent contractors and should not enter into any agreements with vendors that would expose the PTO to workers compensation claims.

PTOs shall not become sponsors of any other non-school organization such as scouts, neighborhood groups or athletic leagues. Please review the AIM Insurance Guide for requirements for PTO-sponsored events. If the PTO would like to co-sponsor an event with another organization, please consult with AIM to confirm coverage requirements.

Contracts

In the course of a year, a PTO may enter into a variety of contracts. For instance, a PTO may contract for a band for an event or purchase supplies for a fundraising venture. Before you enter into a contract on behalf of your PTO, consider the following:

- Does the PTO chair or committee member have authorization from the executive board to negotiate and execute a contract?
- Do the by-laws require approval of the contract by the full PTO membership?
- Have the contracts been reviewed by the district, if needed, and agreed to by the executive board?
- Under no circumstances should any PTO sign a Hold Harmless Agreement for a vendor/concessionaire/service provider, or agree in any way that the PTO will be held responsible for liability. Review all contractual arrangements very carefully to make sure that they do not contain such provisions.
- Is the length of the contract limited to the term of the participating officers, and does it not encumber future boards?
- When entering into a contract, the PTO chair is responsible for the agreement and should clearly identify that it is the PTO entering into the contract and not the chair as an individual. The signature on a written contract should read, "PTO by: John Doe, Co-Chair."
- It is preferable to require two signatures on a contract (both co-chairs' signatures).

By-Laws

A PTO shall operate in compliance with its bylaws. The bylaws set forth requirements for the operation of the PTO, including nominating, budgets and certain matters requiring approval from the PTO full membership. The bylaws require periodic review by the Executive Board to make sure they are consistent with PTO best practices.

Payments to DPS Staff

PTOs shall not make payments directly to Darien Public School employees for services rendered under any circumstances. The payments should come from the district, even when the PTO provides the funding. This eliminates the need for PTOs to fill out 1099 forms for DPS employees and limits the PTOs' liability. This includes special classes or events during the day or after school hours.

Teacher Funds

Per the IRS, PTOs cannot make direct payments to teachers for the purpose of classroom preparation without presentation of receipts. The PTO Treasurer must keep all these receipts.

Elementary Only

Spending Cap

The Spending Cap applies only to the Elementary PTOs and is in place to ensure equitable experiences among the elementary students. The Superintendent and BOE are informed of changes. Per CDSP's Spending Cap Policy, the spending cap is \$175 per student. All recurring expenses should be paid within the Spending Cap. Exceptions to this rule are CDSP dues, all charitable donations, appropriations (such as expenses related to a new playground), AIM insurance payment, accounting software (Quickbooks) subscription, and PTO contributions to a 5th Grade Celebration and Gift (please see guidelines below).

Recurring line items that are expected to make money or break even, but instead lose money, must be considered In Cap for spending purposes. For example – Yearbook is expected to break even, but loses money. This expense is considered In Cap.

Non-monetary contributions (i.e., water bottles for an event) should be considered within the Cap where applicable. Co-Chairs and Treasurers should let committee chairs know that their budgets include non-monetary donations.

Teacher Gift Cap

Most schools ask their room parents to collect money from the class to be distributed to their teacher as gifts at Holiday time and at the end of the school year. Please follow the following guidelines:

- Holiday gift (limit of \$15/teacher, \$5/aide) per student
- End-of-Year gift (limit of \$25/teacher, \$10/aide) per student

The Holiday and End-of-Year gifts, and the collection of them by room parents, are unofficial. They must remain in the hands of room parents, and not be incorporated into the PTO's bank accounts. There are several consequences if these funds are co-mingled. Use of that money becomes an in-cap expense. Since the funds were collected as teacher gifts, the money must be used on only teacher gifts, as funds raised for a specific purpose cannot be used for any other purpose. Holding money for later purposes by depositing it in your PTO account turns your organization into a bank, and could jeopardize the 501(c)(3) status.

A gift to a staff member outside of these gifting periods (i.e. a principal's birthday or a teacher's retirement) may not be more than \$75 per gift. Any amount above \$75 requires a filing of a 1099.

5th Grade Celebration and Class Gift –

Per CDSP's 5th Grade Celebration Policy, PTOs may sponsor a 5th Grade Celebration. It must take place on school property and cost no more than \$50 per 5th grader, regardless of parent contributions and donations. This \$50 cap includes everything - all items necessary for any breakfast and/or picnic, any swag given to 5th graders no matter the time of year, lawn signs, and any decor or refreshments during the ceremony. For example, a PTO may hold a separate fundraiser to pay for 5th grade graduation balloons, however the cost of these balloons must still be included in the \$50/student cap. Additionally, each graduating student may receive one t-shirt outside of this cap. The PTO contribution, if any, is an Out of Cap expense. Off property celebrations may not be paid for or supported by the PTOs and may not be advertised in E-newsletters or via backpacks.

Per CDSP's 5th Grade Celebration policy, The PTOs may contribute a class gift to the school on behalf of the 5th graders. The cost cannot exceed \$2,000 and is considered an Out of Cap expense.