

Basic principles in relation to raising funds and entering into contract, agreement or arrangement involving funds other than funds received from the Government

Section 40AF(3)(b) of the Education Ordinance (the Ordinance) which has undergone amendment through Education (Amendment) Ordinance 2004 provides that a sponsoring body may issue guidelines to its incorporated management committee (IMC) for –

- (i) raising funds (including borrowing money); or
- (ii) entering into any contract, agreement or arrangement involving funds other than funds received from the Government.

2. The sponsoring body may, with reference to the core principles stated below, issue to the IMC appropriate guidelines as to how to handle the relevant financial arrangement:

Raising Funds (Including Borrowing Money)

- A. The sponsoring body should remind the IMC that the main purpose of organising fund raising activities is to raise funds for school's own advancement, such as to improve the environment or facilities of the school. Fund-raising may include seeking donations, subvention and sponsorship of services or goods (such as gifts, souvenirs) from its own pupils and outside organisations, companies or individuals.
- B. The sponsoring body should decide if the IMC is required to secure its prior approval every time before launching fund raising activities or entering into any agreement with parties offering funds, donations, subvention or sponsorship. If the answer is 'yes', the sponsoring body should decide the documents that the IMC has to submit for the purpose of its approval. The sponsoring body may consider setting a limit and instruct that prior approval is not required if the amount incurred is lower than the set limit.
- C. The sponsoring body should remind the IMC that all activities involving borrowing money, seeking funds, donations, subvention or sponsorship should not affect the image of the school and the sponsoring body or violate the mission of the sponsoring body. The school should also ensure that the activities would not endanger public safety or cause nuisance to the public. Moreover, all money collected should be applied for the purpose benefiting pupils' learning or teachers' professional development of the school.
- D. The sponsoring body should remind the IMC that the subsidies and subventions provided by the Government to the school every year should be adequate in supporting school's general expenditure and thus school has no need to borrow money from outsiders and should avoid involvement in loans. Only under special circumstances, for example, if the IMC is satisfied that the school has genuine need to procure goods by instalments and is not required to pay interest to the lending institution, will the IMC be allowed to submit such application for the sponsoring body's approval. Further, in setting the pertinent regulations and procedures in relation to borrowing money, the sponsoring body should ensure that the IMC would not use school assets as a mortgage or guarantee for the loan borrowed.

- E. The sponsoring body should request the IMC that all money collected through borrowing, fund raising, donation, subvention and sponsorship as well as expenditures incurred in such activities should each be recorded in a separate ledger for audit purposes.

Entering into contract, agreement or arrangement involving funds other than funds received from the Government

- A. The sponsoring body may consider providing the IMC power to enter into any contract, agreement or business arrangement involving non-government funds with an operator/supplier basing on the needs of the school without sponsoring body's approval. Nevertheless, before entering into the above-mentioned contract, agreement or business arrangement, the IMC should be reminded to make reference to EDB Circular No.24/2008 "Trading Operations in Schools" such that it will have a better understanding of the fundamental principles to be observed when conducting/entering into business or trading operations in the school premises.
- B. The sponsoring body should remind the IMC that unless prior written permission to do otherwise is obtained from the Permanent Secretary for Education, the IMC should ensure that no profit or net income arising from a non-government funded undertaking or business arrangement should be used for any purpose other than those directly benefiting the pupils as stipulated under section 99B of the Education Regulations.
- C. The sponsoring body should remind the IMC to ensure that the operators/suppliers would not cause any damage to the image of the school and the sponsoring body or endanger public safety and cause nuisance to the public when conducting the above-mentioned business or trading operations.
- D. The sponsoring body should request the IMC that all money collected through conducting the above-mentioned business or trading operations as well as expenditures incurred in such activities should each be recorded in a separate ledger for retention and audit purposes.

3. Besides, the IMC, being the employer of its staff, has the responsibility to formulate clear policies, accountability mechanism and monitoring procedures regarding the acceptance of advantages and donations in accordance with the relevant provisions of the Prevention of Bribery Ordinance. This is to ensure that integrity of school management is maintained on matters relating to fund raising or entering into contracts, agreements or arrangements involving non-government funds. In this regard, the sponsoring body should remind the IMC to make reference to EDB Circular No. 14/2003 "Acceptance of Advantages and Donations by Schools and their Staff" and the provision on acceptance of donations at EDB Circular Memorandum No. 52/2009 "Notes on Selection of Textbooks and Learning Materials for Use in Schools".

4. Meanwhile, the IMC should lay down relevant procedures and require all its members and the teaching and non-teaching staff of the school to report any situation where they or their families or friends may have an interest, financial or otherwise, in any company or organisation which has or is likely to have business dealings with the school, or to disclose their pecuniary or other personal interest in relevant meetings. For detailed information relating to conflict of interest, schools may refer to the above-mentioned EDB Circular No. 14/2003 as well as sections 40BF, 40BG and 40BH of the Ordinance (Appendix).

Education Ordinance

Provisions relating to Pecuniary or Other Personal Interests

Section	Content
40BF	<p>A manager of a school shall, at least once in every 12 months, make to the IMC of the school a written declaration which –</p> <ul style="list-style-type: none">• states the particulars of any pecuniary or other personal interest, direct or indirect, that he has in any matter that raises or may raise a conflict with his duties as a manager of the school; or• states that he has no such interest.
40BG	<ul style="list-style-type: none">• If a manager has any pecuniary or other personal interests in a matter that is considered or is to be considered at a meeting of the IMC, he shall disclose the nature of the interest at the meeting.• After disclosing the nature of his pecuniary or other personal interest, the manager shall not, unless the IMC otherwise determines, be present during the deliberation or take part in any deliberation or decision of the matter.
40BH	<ul style="list-style-type: none">• The IMC shall keep a register of all the declarations made under section 40BF. Any inspector of schools may inspect the register at any reasonable time.• The IMC shall keep a register of all disclosures made under section 40BG and permit any inspector of schools and the public to inspect the register at any reasonable time.