

## Foundation and Chapter Differences

| FOUNDATION   | CHAPTER   |
|--|---|
| <ul style="list-style-type: none"><li>❖ Non-profit 501 (c)(3)</li><li>❖ Authorized according to the rules of IRS and State of Incorporation</li><li>❖ Incorporated; separate legal entity organized for a specific purpose, ex. provide scholarships to community</li><li>❖ Contributions are tax deductible</li><li>❖ Membership limited to Sorority members if complies with state law (for foundations that file Report # 11)</li><li>❖ Governed by the Board of Directors and Foundation's bylaws</li><li>❖ Actions and activities of Foundation must be approved by the Board of Directors and consistent with bylaws</li><li>❖ Membership meeting as determined in organizational bylaws or governance</li></ul> | <ul style="list-style-type: none"><li>❖ Non-profit 501 (c )(7)</li><li>❖ Authorized by Alpha Kappa Alpha Sorority, Inc.</li><li>❖ Not incorporated</li><li>❖ Contributions are <b>not</b> tax-deductible</li><li>❖ Membership limited to members of Alpha Kappa Alpha Sorority, Inc., who become financial with a chapter</li><li>❖ Governed by the chapter members</li><li>❖ Actions and activities of the Chapter must be approved by the membership</li><li>❖ Membership meetings monthly (except summer months)</li></ul> |

## Foundation and Chapter Relationships

| FOUNDATION  | CHAPTER  |
|---|--|
| ❖ Officers – Can be different than the chapter, but the Basileus, Program Chairman, & Tamiouchos must serve on the Board of Directors | ❖ Officers – Can be different from the Foundation, but the Basileus, Program Chair, & Tamiouchos must serve on the Foundation's Board of Directors |
| ❖ Fundraisers conducted by the Foundation are tax deductible  | ❖ <b>Fundraisers conducted by the Chapter are not tax deductible</b>   |
| ❖ Responsible for filing Form 990   | ❖ Included in Sorority's Group 990   |
| ❖ Responsible for any State Filings   | ❖ Sorority files state returns for chapters  |
| ❖ Must have own liability insurance   | ❖ Included in Sorority's liability insurance   |
| ❖ Has its own bank account, address separate from the chapter   | ❖ Has its own bank account, address separate from the foundation   |
| ❖ Program Collaborations  | ❖ Program Collaborations   |
| ❖ Private Benefit Prohibited  | ❖ Private Benefit Prohibited   |

# Do's and Don'ts of Operating Foundations

- ▶ **DO** apply for 501(c)(3) status from IRS as a separate legal entity apart from the chapter
- ▶ **DO** limit Foundation's Purpose
- ▶ **DO** follow state law in which it was incorporated
- ▶ **DO** have the following: Mission Statement/Articles of Incorporation, Bylaws, IRS Final Letter of Determination
- ▶ **DO** follow requirements of 501(c)(3) – organized, operated & exempt purpose
- ▶ **DO** dedicate Foundations assets to exempt purpose
- ▶ **DO** refrain from participating in any political campaigns

# Do's and Don'ts of Operating Foundations

- ▶ **DO** restrict lobbying activities to an insubstantial part of Foundations total activities
- ▶ **DO** ensure that its earnings do not inure to the benefit of any private shareholder, founder or individual
- ▶ **DO** have its own Federal Employer Identification Number (EIN)
- ▶ **DO** have its own programs related to its exempt purpose
- ▶ **DO** obtain a separate bank account, mailing address, insurance, bonding
- ▶ **DO** have a separate Board of Directors
- ▶ **DO** include the President, Treasurer, & Program Chairman of the chapter as members of the Board



# Do's and Don'ts of Operating Foundations

- ▶ **DO** ensure its assets are used for exempt purposes
- ▶ **DO** partner with chapter in support of Chapter programs
- ▶ **DO** consult with a local attorney or tax accountant
- ▶ **DO** file federal, state and local returns annually
- ▶ **DO** consult legal advice if Foundation chooses to use grants to ensure federal & state regulations are met
- ▶ **DO** obtain a solicitation license (dependent on state requirements)
- ▶ **DO** develop a risk management plan to protect the mission, reputation, and assets
- ▶ **DO** purchase insurance to protect against various risk events
- ▶ **DO** develop a Volunteer Recruitment Process

# Do's and Don'ts of Operating Foundations

- ▶ **DON'T** include the name of AKA or the chapter in the Foundation's name
- ▶ **DON'T** permit activities that do not further its exempt purpose
- ▶ **DON'T** operate for the benefit of private interests such as those of its founder
- ▶ **DON'T** distribute benefits to other organizations which serve private interests or to persons related to the foundation
- ▶ **DON'T** operate for the primary purpose of conducting a trade or business not related to its exempt purpose
- ▶ **DON'T** have purposes or activities that are illegal or violate fundamental public policy
- ▶ **DON'T** use its tax-exempt status to avoid paying taxes
- ▶ **DON'T** use assets to fund chapter social events or meetings
- ▶ **DON'T** commingle foundation and chapter funds

## **Characteristics of Chapter Assessments**

- ▶ **Allowed per AKA Constitution and Bylaws**
- ▶ **Amount voted and agreed by chapter members in a duly authorized chapter meeting**
- ▶ **Used by chapter to fund chapter activities**
- ▶ **However, chapter can vote to pay assessment to another organization**
- ▶ **Included in their annual budget-mandatory of all members**
- ▶ **Must be paid before per capita is submitted**

# FUNDRAISING

- ▶ **Foundations hold fundraisers for exempt purposes**
- ▶ **Fundraisers are not used for activities that benefit a private interest-i.e., chapter anniversary**
- ▶ **Fundraisers are generally not taxed as unrelated business income**
- ▶ **Contributions or donations are tax deductible to highest extent allowed**
- ▶ **Foundation may need solicitation license depending on state requirements**
- ▶ **Reported on Foundation Form 990**
- ▶ **Form 990 due on 15<sup>th</sup> day of 5<sup>th</sup> month after foundation year end**

- ▶ **Allowed per Foundation Bylaws**
- ▶ **Amount voted and agreed by foundation members in a duly authorized foundation meeting**
- ▶ **Part of the foundation budget**
- ▶ **Used by foundation to fund foundation activities**
- ▶ **Foundation generated assessment payment or non-payment has no effect on financial membership of chapter member**
- ▶ **Chapters can hold fundraisers for program activities**
- ▶ **Monies must be used to benefit the public and not chapter operations**
- ▶ **Contributions or donations are not tax deductible**
- ▶ **Chapter may be liable for unrelated business income**
- ▶ **Chapter must receive approval from corporate office**
- ▶ **Chapter may need solicitation license depending on state requirements**
- ▶ **Reported to Corporate Office on Report #2**



- ▶ **Chapters can transfer monies in Fundraising account to Foundation if that the specific purpose disclosed to donors aligns with the initiatives of the Foundation. For example, if donors are told that the funds would be used to support breast cancer awareness and the Foundation does not have breast cancer awareness as part of its mission/purpose, this could create significant legal and tax issues for the Chapter**
- ▶ **Chapter fundraisers covered by AKA insurance**

- ▶ **Foundation responsible for all federal and state tax reporting**
- ▶ **Foundation is not the fundraising arm of the chapter**
- ▶ **Must obtain separate liability insurance**
- ▶ **Foundation and chapter can collaborate on fundraising activities-however, must be disclosed to the public, activity must be in line with exempt purpose of the foundation and not be used to avoid paying taxes**

## FISCAL AGENCY

- ▶ **Entity established to hold funds for another entity but does not control how the funds are spent**
- ▶ **Can be a 501(c)(3) that receives tax deductible contributions for non 501(c)(3) organizations**
- ▶ **A 501(c)(3)-Foundation should not act as a fiscal agent for a 501(c)(7) entity-Chapter**
- ▶ **A 501(c)(3) can't act as a pass through to receive tax deductible contributions from the public and transfer them to a 501(c)(7)**
- ▶ **Although the 501(c)(7) may use the funds for charitable purposes, it could lose its tax-exempt status**

- ▶ **AKA requires that chapter working with foundations follow all legal and statutory requirement**
- ▶ **AKA requires the foundation and chapter operate as separate distinct entities**
- ▶ **Foundation should not be used as a pass-through vehicle or divert funds or tax benefits to the chapter**
- ▶ **AKA, the chapter and could face legal challenges if the foundation serves as fiscal agent to chapter**

## **Characteristics of Chapter Funded Programs**

- ▶ **Allowed per AKA Constitution and Bylaws**
- ▶ **Heart and Soul of the Sorority**
- ▶ **Chapters required to implement program targets**
- ▶ **Includes current targets as outlined by current Supreme Basileus**
- ▶ **Can include other local programs**
- ▶ **Program chairman of the chapter responsible for implementing targets**
- ▶ **Funded via member dues, assessments, fundraising, grants, corporate sponsorships**
- ▶ **Monthly reporting on status of targets at chapter meetings**



## **Characteristics of Chapter Funded Programs**

- ▶ **Chapter develops its own budget to fund**
- ▶ **Chapter reports its annual budget to the Sorority in Report #1 by Feb. 1**
- ▶ **If chapter fundraises for programs, Report #2 is completed and submitted to corporate office by Feb.1**
- ▶ **Chapter must obtain corporate office approval if it decides to fundraise**
- ▶ **Chapter must also follow state laws for fundraising**
- ▶ **Chapter members participate and vote on the budget**
- ▶ **Chapter is included in sorority group 990 tax form**
- ▶ **Additionally, chapter fundraising activities is reported on form 990-T completed by corporate office**

## **Characteristics of Foundation Programs**

- ▶ **Foundations organized for one of 8 purposes – religious, charitable, educational, scientific, literary, testing for public safety, fostering national or international amateur sports and prevention of cruelty**
- ▶ **Programs must align with their mission/exempt purpose to maintain tax exempt status**
- ▶ **Foundation programs are not voted on by the chapter**
- ▶ **Foundation develops its own budget to fund its programs**
- ▶ **Foundation program/fundraising activity is reported on its separate 990 completed by the foundation**
- ▶ **Earnings of the foundation should not be used for the benefit of an individual, founder or related entity**

## **Characteristics of Foundation Programs**

- ▶ **Foundation does not need approval from AKA to fundraise**
- ▶ **Foundation must follow state law regarding fundraising - i.e., may need a solicitation license**
- ▶ **Foundation must have its own separate liability insurance**

## **Foundation/Chapter Collaboration – Programs**

- ▶ **Can collaborate on programs that align with foundation mission/exempt purpose. For example, if the purpose of the foundation is to increase the literary skills of its community and the chapter program is breast cancer awareness, the foundation could not support the chapter program since the program does not align with the charitable purpose of the program**
- ▶ **Chapter Basileus, Tamiochos and program chairman must be on the foundation board .**
- ▶ **Can't be used for social events that provide benefits to private or related individuals such as chapter anniversary or cotillion/debutante ball**

## **Foundation/Chapter Collaboration – Marketing**

- ▶ **Can collaborate on joint fundraisers and events**
- ▶ **All disclosure and solicitation rules must be followed**
- ▶ **If fundraising with chapter, disclosure must be made as to which organization will collect the funds and how the funds will be distributed**
- ▶ **If funds are paid to the foundation, chapter cannot receive any of the funds (501(c)(3) tax-preferred treatment)**
- ▶ **Corporate approval required for chapter fundraising. Corporate will not approve joint fundraisers because AKA has no authority over the foundation.**
- ▶ **Foundation must have its own insurance**
- ▶ **Must include chapter as additional insured**



## Foundation/Chapter Collaboration – Advertising

- ▶ The foundation should not be referred to as the philanthropic or fund-raising arm of the chapter
- ▶ Chapters can never “own” or “operate” its own 501(c)(3) Foundation.
- ▶ The two must always be separate and distinct and are not in a legal partnership
- ▶ To avoid confusion and mitigate risk, use something similar as:
  - ❑ ABC Foundation, a 501(c)(3) entity, is *working with* ABC chapter
- ▶ Proper record keeping and distribution of any credit, recognition, or benefits should be shared between the partnering organizations to identify the contributions from both organizations

## Foundation Grants

- ▶ **Foundations give grants to other 501(c)(3) organizations**
  - ❑ Inappropriate to give tax deductible contributions to 501(c)(7)
- ▶ **Foundation cannot act as a pass-through to receive monies**
  - ❑ Could adopt chapter's program and fund the activity
- ▶ **Foundation is not an income source for chapters**
  - ❑ Foundation earnings should not be used to provide a private benefit to an individual, founder, or related entity
  - ❑ Foundation and chapter are two separate organizations with different tax structures

## Scholarship Programs

- ▶ **Chapters & foundations must ensure that a proper scholarship program is followed including these points:**
  - ❑ Implement well defined scholarship procedures
  - ❑ Scholarship recipients should not be identifiable before the scholarship process is complete
  - ❑ Selection criteria should incorporate a “needs-based” approach
  - ❑ Selection process should be “blind” (or nearly blind) in order to protect both the organization awarding the scholarship, and the recipient of the scholarship
  - ❑ Scholarship opportunity should be properly solicited and publicized
  - ❑ All other proper tax reporting, procedures, and disclosures must be followed

# Foundation Scholarship Reporting

## ► Foundations/Organizations

- ❑ If provided directly to the student and no documentation required for verification;
  - If over \$600, required to issue Form 1099
  - If less than \$600, Form 1099 not required
- ❑ If provided directly to the educational institution, include student ID
  - Due diligence considered completed
  - Include scholarship as expense on form 990

## ► Individual

- ❑ If provided directly to student and not used for tuition, fees, books, equipment
  - Taxable income to the individual (for any amount) whether or not 1099 provided

# Foundation Scholarships to Family Members

- ▶ **Foundation's earnings should not be used to benefit foundation officers, private or related persons, etc.**
  - ❑ Due to funds are received from general public
- ▶ **Permissible in extremely limited situations**
  - ❑ Recipient naturally falls within targeted scholarship pool
  - ❑ Recipient selected blindly
- ▶ **IRC 501(c)(3) expressly forbids inurement of net earnings to the benefit of a private shareholder or individual**
  - ❑ Must serve **public** interest



## Debutante Balls/Cotillions

- ▶ **501(c)(3)** Foundations should not participate in activities that do not further its tax-exempt purpose.
- ▶ **501(c)(3)** Foundations should not host private or social events to provide benefits to private or related individuals
- ▶ For example, debutante balls, chapter anniversaries are primarily social in nature, for the benefit of private individuals, the chapter, related persons, and is not a legitimate fundraiser intended to advance the foundation's exempt purpose
  - ❑ Internal Revenue code describes tax-exempt purpose as religious, charitable, educational, scientific, literary, testing for public safety, fostering sports competition, prevention of cruelty to children or animals.

## **Debutante Balls/Cotillions Cont'd**

- ▶ **Although scholarship fundraising is likely in line with many foundations' exempt purpose, Debutante ball “scholarships” are targeted, identifiable beforehand and restricted only to those who participate in the ball**
- ▶ **Scholarship recipients are usually required to provide services to qualify for the scholarship-soliciting contributions from donors and ads**
- ▶ **Scholarship recipients required to sell a minimum number of ads-in some instances, they are guaranteed a certain portion of return**

# Areas of Importance

- ❖ As separate entities all items relayed to the Chapter should be conveyed on behalf of the Basileus and for information purposes only. Foundation business of any kind is NOT to be conducted during chapter meetings.
- ❖ The Foundation cannot be the only entity displayed or identified to be partnered with the chapter on the chapter website.
- ❖ Chapter members cannot receive any sanctions or concerns that are in connection Foundation on behalf of the chapter.

# Areas for Additional Discussion

- ❖ Fundraising and Ways and Means
- ❖ Scholarships
- ❖ Bylaws
- ❖ Website
- ❖ Member status