School-Connected Organizations & Food Sales

A question was asked regarding School-Connected Organization’s (SCO’s) compliance with various municipal codes and regulations associated with food sales, specifically at SCO sponsored fundraisers. Relevant passages have been pulled from ASCIP, the PTA Toolkit, and NMUSD Board Policy and highlighted for your convenience below. The full pages are attached to this document for reference.

**ASCIP Best Practices**

School-Connected Food Sales Booster and parent organizations must comply with state law as well as district policies and regulations on the sale of food on school premises. Food sales can only be held one hour after the school day ends. Booster and parent organizations are encouraged to review and become knowledgeable of applicable laws including county food handling requirements, state and federal nutritional standards, and district policies.

**PTA Toolkit, page F23**

Fundraising Local Requirements for Fundraising

Become familiar with state and local requirements for fundraising. These include school district policy for use of school grounds, equipment, food services; local permits for solicitation; municipal regulations for public gatherings – fire, curfew, traffic, food sales, health and safety; and regulations governing tax-reporting requirements.

**NMUSD Board Policy 1230**

Community Relations

The Board encourages school-connected organizations to consider the impact of fund-raising activities on the overall school and district program. School-connected organizations may consult with the principal to determine school needs and priorities. Activities by school-connected organizations shall not conflict with law, Board policies, administrative regulations, or any rules of the sponsoring school.
In accordance with Education Code Section 51521, programs, fundraisers, or other activities sponsored by booster and parent organizations must be authorized and conducted according to local board policy, laws, and school rules. At the beginning of each school year, each booster and parent organization shall submit to the principal/designee a list of the fundraising events that each organization proposes to hold that year. The principal/designee shall review the proposed events and determine whether the events conflict with or detract from the school's educational program. The following are guidelines for booster/parent organizations fundraising activities within the district:

1. Use of the district's/schools' name in fundraising activities should be approved by the school principal/designee and will comply with district policies and state law.
2. Students shall not be involved in fundraising activities except as volunteers for the booster organization.
3. Penal Code Sections 320 and 320.5 authorizes, under defined circumstances, eligible organizations to conduct raffles which require the payment of a fee for a chance to win a prize. Public schools are not "eligible organizations to hold raffles" but parent organizations with a 501(c)(3) status are. Information on how to conduct a raffle can be obtained from the California Attorney General's website: www.ag.ca.gov.
4. All booster funds are collected and maintained by the organization. The district's tax identification number cannot be used. No booster funds shall be kept in ASB or district accounts.

Use of School Facilities
State law and Board Policy and Administrative Regulation 1330 regulate community programs on district property. Refer to ASCIP’s Use of Facilities Guidelines for more information by clicking here.

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Administration and Expenditure of Funds
1. The treasurer's books and accounts shall be open to audit by a committee of members.
2. Upon dissolution of the group, all funds shall be transferred to the respective school's general student body funds.
3. Gifts to the student body of money or of approved materials may be made when approved by the principal or designee.
release of any funds required prior to the next association meeting in the fall. This allows the board-elect the ability to cover routine summer expenses as outlined in the bylaws.

The PTA shall not assume any financial obligation in any one term of office that will be carried over into the succeeding term. The proposed budget must be presented to and voted upon by the executive board and recommended for adoption at the first association meeting each year. After the budget is adopted by the association, it should be followed closely in all financial transactions. Adoption of the budget does not authorize the expenditure of the funds.

Amending the Budget

If adjustments are needed, the budget can be amended by a two-thirds vote of the association. It is recommended that the treasurer provide the executive board with a budget-to-actual comparison report quarterly, but at least midterm.

Protecting PTA Tax Exemption

PTAs are exempt from taxes under Section 501(c)(3) of the Internal Revenue Code. To retain the tax-exempt status, PTAs must pay attention that fundraising does not become the primary focus. All PTAs function under the exempt status of California State PTA and National PTA. An individual unit can have an effect on the entire association. Disregarding the prohibition against substantial commercial activities could result in having to pay tax or a tax penalty and/or loss of tax-exempt status by the IRS.

Most PTA fundraising activities are exempt from federal income taxes, because a majority of the work performed at the unit level is conducted by volunteers and donated merchandise is sold.

Fundraising

Local Requirements for Fundraising

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Standards for PTA Fundraising

Fundraising is the method of raising money to finance PTA programs and projects. The fundraising project must support the goals of PTA and be related to the educational, charitable, and philanthropic purposes as a tax-exempt organization. When planning the year’s activities, PTAs should use the 3-to-1 rule: There should be at least three non-fundraising programs aimed at helping parents or children or advocating for school improvements, for every one fundraiser.

It should involve as many members as possible and be fun. It should not be a burden to the school staff or parent volunteers, compete with or detract from school lunch and nutrition programs, or conflict with other PTA, school, or community events. Children should never be used to sell door-to-door or exploited to raise funds. It cannot involve commercial or advertising obligations. See National PTA’s Back-to-School Kit sections Finance and Fundraising, which prescribes the ethics of fundraising.

The fundraising project must have the approval of the membership in advance of the event, and the vote must be recorded in the minutes. Projects must have a specific purpose. If the fundraising project is ongoing (e.g. e-scrip), it must be approved each year by the association membership.

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Fundraising Committee Responsibilities

PTA fundraising activities are carried out by a committee whose chairman is an appointed or elected member of the executive board. The president should not be a chairman. All plans must be approved in advance by the executive board.

The major responsibility of the fundraising committee is to raise the amount needed to meet the proposed unit budget and to work cooperatively with the PTA president and treasurer in accounting for receipts and disbursements for the activity. The committee may also plan specific fundraising events and activities. Check the Insurance and Loss Prevention Guide to be sure the activity is allowed.

Committee Procedures

Fundraising events must be approved in advance by the executive board and association. Approval should be recorded in the minutes. Recruit enough volunteers to conduct the project. Assign each volunteer specific tasks and develop a work schedule. Solicit donated goods and services. Clear the dates with the school and reserve needed facilities and equipment. (See Event Planning Worksheet, Forms Chapter; Preliminary Planning, Programs Chapter)

Make firm arrangements with vendors. Obtain all necessary permits. Be sure each vendor is fully covered by his own liability insurance and Workers’ Compensation insurance. Have vendor sign a Hold Harmless Agreement (Forms Chapter) and obtain a copy of the vendor’s certificate of insurance.
School-Connected Organizations

The Governing Board recognizes that parents/guardians and community members may wish to organize parent organizations and/or booster clubs for the purpose of supporting district and extracurricular programs, such as athletic teams, debate teams, or musical groups. The Board appreciates the contributions made by such organizations and encourages their interest and participation in supporting district activities and helping to achieve the district's vision for student learning.

(cf. 0200 - Goals for the School District)

(cf. 6020 - Parent Involvement)

The Board recognizes that school-connected organizations are separate legal entities, independent of the district. However, in order to help the Board fulfill its legal and fiduciary responsibility to manage district operations, any school-connected organization that desires to raise money to benefit any district student shall submit a request for authorization to the Board, in accordance with Board policy and administrative regulation. In addition, the Superintendent or designee shall establish appropriate internal controls for the relationship between school-connected organizations and the district.

(cf. 1321 - Solicitation of Funds from and by Students)

(cf. 1330 - Use of School Facilities)

(cf. 3452 - Student Activity Funds)

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(cf. 3290 - Gifts, Grants and Bequests)

(cf. 3554 - Other Food Sales)

(cf. 5030 - Student Wellness)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

35160 Authority of governing boards
38130-38138 Civic Center Act, use of school property for public purposes
48931 Authorization for sale of food by student organization
48932 Authorization for fund-raising activities by student organization
49431 Sale of food to elementary students during the school day
49431.2 Sale of food to middle, junior, or high school students
49431.5 Sale of beverages at elementary, middle, or junior high schools
51520 Prohibited solicitation on school premises
51521 Fund-raising project

BUSINESS AND PROFESSIONS CODE
17510-17510.95 Solicitations for charitable purposes
25608 Alcohol on school property; use in connection with instruction

GOVERNMENT CODE
12580-12599.7 Fundraisers for Charitable Purposes Act

PENAL CODE
319-329 Lottery, raffle

CODE OF REGULATIONS, TITLE 5
4900-4965 Nondiscrimination in elementary and secondary education programs
15500 Food sales in elementary schools
15501 Food sales in high schools and junior high schools

CODE OF REGULATIONS, TITLE 11
300-312.1 Fundraising for charitable purposes

UNITED STATES CODE, TITLE 20
1681-1688 Discrimination based on sex or blindness, Title IX

COURT DECISIONS
Serrano v. Priest, (1976) 18 Cal. 3d 728

Management Resources:
CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

1101.89 School District Liability and "Hold Harmless" Agreements, LO: 4-89

WEB SITES

CSBA: http://www.csba.org

California Office of the Attorney General, charitable trust registry: http://caag.state.ca.us/charities

California State PTA: http://www.capta.org

Policy NEWPORT-MESA UNIFIED SCHOOL DISTRICT

adopted: September 8, 2009 Costa Mesa, California