



Driving support

Support organizations can bolster district resources

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Booster groups, parent-teacher organizations and other support organizations are an important part of public school success. Many districts rely on these outside organizations to augment the district's financial resources and promote, support or enhance students' educational, athletic, cocurricular and extracurricular experiences. Although the district's decision to approve donations from these organizations and their fundraising activities may seem like a no-brainer, the board should evaluate several key considerations prior to acceptance. This article outlines some of those considerations and can be shared with school leaders and support organizations as you kick off another school year.

Is the support organization's fundraiser consistent with the goals and objectives of the school or district?

If a support organization has ideas for specific fundraising initiatives for the upcoming year, the organization should work in collaboration with the district to ensure that the time, date, purpose and location of fundraisers won't conflict with school or district programs or activities, and that the fundraiser is consistent with the goals and objectives of the school or district. If there are limitations on or concerns about specific fundraising activities, such as the sale of alcohol on district premises, gambling activities or gun raffles, the district could use this planning meeting to outline those limitations or concerns.

Is the fundraiser set up with individual fundraising accounts?

Some support organizations conduct cooperative fundraisers that give students the option to offset a fee or

assessment through their participation in the fundraiser. Individual fundraising accounts are set up for each student, and families that participate in the fundraising program are typically awarded credit toward fees or charges, which is commensurate with their level of fundraising profits. These programs are common in school districts but carry with them significant legal risks for support organizations.

Most support organizations qualify for federal tax-exempt status under section 501(c)(3) of the Internal Revenue Code (IRC) because they support education or promote amateur athletics, both of which are specifically listed in the IRC as public charitable purposes. To maintain their tax-exempt status, however, support organizations must ensure that their activities benefit the stated public charitable purpose of the organization, and not private individuals. IRC specifically prevents any part of the net earnings of these organizations from "inuring" to the benefit of any private individual.

In 2011, IRS issued a directive stating its opinion that "if a booster club confers a benefit on a participant in return for their fundraising activities, such as by crediting amounts raised by a participant toward that participant's dues requirement, or by crediting amounts raised against the costs of a trip, the booster club is providing a private benefit to that participant." In other words, IRS held that cooperative fundraising and individual fundraising accounts promoted private, nonpublic interests instead of the public charitable purpose of the organization hosting the fundraiser. Therefore,

engaging in such practices could result in an organization no longer qualifying for tax exempt status under section 501(c)(3).

To avoid revocation of tax-exempt status, support organizations should apply any funds raised or received by any individual to the benefit of the entire team, club or class without differentiating individuals. When the money goes to the entire group, the benefit does not inure to a single individual and instead fulfills the stated purpose of the support organization.

Does the donation lead to an imbalance between boys and girls athletic programs?

Public elementary and secondary schools have a responsibility under Title IX of the Education Amendments Act to provide equal athletic opportunities to all students, regardless of sex. When evaluating the benefits, opportunities and treatment given to boys and girls teams, the district must include those benefits, opportunities and treatment obtained with outside financial assistance. Outside financial assistance includes funds raised by fundraising, support organizations and other private donors.

In February 2023, the Office for Civil Rights issued a guidance document that reviewed the Title IX implications that can result from a well-intended, but potentially lopsided, donation from a booster group, stating, "If booster clubs provide more support to boys than girls in your school's athletic program, or vice versa, then your school must ensure that the benefits, opportunities and treatment are equivalent for both boys

and girls in its athletic program. Failure to do so may indicate a possible Title IX violation.” Districts should be mindful of accepting donations that could lead to an imbalance and make sure that the district has a plan for ensuring that the benefits and services provided to athletic programs for both sexes are equivalent.

Does the donation compensate a school employee to coach or perform other district services related to a student activity?

In 2008, the Ohio Ethics Commission (OEC) issued an advisory opinion examining whether it is permissible for a support organization to pay a school employee to coach or perform other district services related to a student activity (OEC Opinion No. 2008-01). OEC concluded that Ohio Ethics Law prohibits a school employee who is receiving compensation from the district for coaching or other services from accepting payment for the same services from any other person, including support organizations. These same laws also prohibit a support organization from promising or providing such compensation to an employee for a school-related activity.

The opinion does note that no person, including a support organization, is precluded from making a voluntary gift or endowment to the district that could be used as the district chooses, subject to the limitations discussed in that opinion.

Is the donation a building, facility or other improvement to the district?

Occasionally, boards of education may be approached by a support organization wishing to donate artificial turf, stadium improvements, a new locker room or other “big-ticket” buildings, facilities or improvements. While both support organizations and boards are typically eager to make such improvements happen, it’s extremely important for the two entities to concur on each party’s contributions and responsibilities. Is the support organization contributing 100% of the funds necessary to complete the project? Will the board finish the project or assume the support organization’s debt if funding runs short? Who’s paying maintenance, operating or replacement expenses? Does the support organization have the proper permissions it needs to enter school property? Typically, boards work closely with their board counsel to review these

and other questions and the proposed plans, specifications and timelines for the project. The parties typically draft and enter into a contract or agreement once they reach consensus on these issues.

An effective relationship between support organizations and the district can significantly augment the district’s financial resources and enhance the opportunities provided to students in the district. Although this article examines several aspects of ensuring an effective relationship, there are many other considerations. OSBA’s “Effective Booster Groups and Support Organizations” provides additional information for both support organizations and districts and is designed to serve as a resource to help answer frequently asked questions from both groups. Purchase the publication at www.ohioschoolboards.org/catalog/publications. ■

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