

Common Booster Club Questions

As districts face shrinking budgets, they rely increasingly on booster clubs to provide financial support for extracurricular activities. This article discusses some common questions about booster clubs and their finances.

UIL Regulations and Booster Club Finances

Boosters clubs provide parents and interested community members a means to support extracurricular activities beyond serving as mere spectators. Booster clubs hold fundraisers, organize banquets, and donate merchandise to the schools.

Booster clubs supporting University Interscholastic League (UIL) activities are subject to the UIL Booster Club Guidelines and other related UIL rules. These guidelines and rules form an accountability structure for booster clubs.

The UIL has designated each district's superintendent to be responsible for the district's UIL program and for developing a local structure under the UIL system that booster clubs must follow. For example, booster clubs must obtain the approval of the superintendent before initiating projects and raising funds. Booster clubs may not provide valuable consideration to athletes in violation of the amateur athlete rule or awards to any student in violation of the awards rule. Booster clubs may obtain non-profit status from the Internal Revenue Service.¹

Although the UIL rules require that the booster club solicit the superintendent's approval before beginning projects and spending funds, the booster club retains control over the initiation of the expenditures and the details of projects. The rules do not require that the funds be transferred to the district, so they remain in the custody of the booster club. The superintendent may structure the local UIL rules to permit district control over the funds, at the superintendent's initiative or under the board's guidance, however. The district may also enter into an agreement with the booster club, transferring control of the funds to the district. Regardless of the manner by which control of the funds is transferred to the district, UIL rules prohibit the club from specifying the purpose for which the district must use the funds.²

Booster clubs that do not support UIL activities are not subject to the UIL rules. Districts can exert some measure of control over those clubs by entering into agreements with the clubs, refusing to sanction clubs that do not follow the policies developed by the district, or creating the clubs under the auspices of the district.

¹ 2003-04 UIL Booster Club Guidelines, at <http://www.uil.utexas.edu/admin/booster.html> (October 17, 2003).

² *Id.*

TASB recommended policies GE(LOCAL) and GE(REGULATION) establish guidelines for booster clubs. For example, GE(LOCAL) requires parent and other outside groups to obtain district approval prior to purchasing equipment for the schools. The policy also requires booster clubs to adhere to school board policies. The adoption of GE(LOCAL) alone by a district does not bring the funds raised by the booster clubs under the control of the board.

GE(REGULATION) provides for more control of the booster clubs by districts, possibly including control of the funds raised by the clubs. The policy provides for local campus approval of booster clubs, outlines provisions for club fundraising in the schools, and establishes general guidelines for club conduct. If the campus principal opts only to rubberstamp the fundraisers and expenditures of a booster club, generally allowing the club to act independently, then the club would maintain control of the funds raised. That structure mirrors the structure set out in the UIL rules. If the principal takes a greater role in the development of the booster club fundraising plans and budget or generally places specific requirements on how the money must be raised and spent, then the funds can arguably be considered public funds under the control of the district.

If a booster club not subject to UIL rules opts to function as a non-profit corporation, the funds raised by the booster club, absent an agreement with the district, will remain private funds under the control of the club. This structure would mirror the foundations established by districts and by universities to support the interests of their respective schools.³ Because the booster club is not subject to UIL restrictions, the club may specify a use for any money donated.⁴ If the club does not specify a use, the district can use the funds for any legal purpose the school board deems proper.⁵

Booster Clubs and Title IX

Booster clubs can impact a district's compliance with Title IX. Title IX is the federal law that prohibits discrimination on the basis of gender in educational programs. Title IX applies to school districts because they receive federal funds.⁶

One of the many factors considered in determining overall compliance with Title IX is the funding level of related programs.⁷ Booster club funds are considered in this analysis.⁸

Consider the following example: A district has a boys' baseball and girls' softball team. The teams have an equal number of participants and equivalent operational needs. The district provides each team with a \$4000 budget. Only the boys' baseball team has a corresponding booster club. The club raises an additional \$3000 for the boys' team and requests approval from the superintendent to use the funds to purchase new equipment and uniforms for the boys' baseball team. Although these funds are not spent by the district, the funds will be included in the funding analysis for Title IX purposes. The girls' team now faces a \$3000 funding disparity.

³ For examples of such programs see Op. Tex. Att'y Gen. MW-373 (1981) and Tex. Att'y Gen. OR2002-2159.

⁴ *Id.*

⁵ Tex. Educ. Code § 11.156.

⁶ 20 U.S.C. § 1681 (1972).

⁷ 34 C.F.R. § 106.41(c). *See also Favia v. Indiana Univ. of Penn.*, 7 F.3d 332 (3d Cir. 1993).

⁸ *See, e.g., Daniels v. Sch. Bd. of Brevard County, Fla.*, 995 F. Supp. 1394 (M.D. Fla. 1997).

To avoid a Title IX violation, the district could spend more of the district's money on the girls' team, deny the booster club's purchasing request, or convince the club to divide the funds equally between the two teams.

Booster Clubs and Charitable Raffles

Another common question regarding booster clubs is fundraising through charitable raffles. During a raffle, an organization awards a prize or multiple prizes to individuals selected by chance from a pool of those who have purchased, or otherwise promised a thing of value for, a ticket representing the chance to win.⁹

Under the state Charitable Raffle Enabling Act, only a "qualified nonprofit organization" may conduct raffles to benefit a district or a specific school. A booster club must therefore meet the requirements of the Act to qualify to hold raffles.¹⁰ The Texas Lottery Commission, the agency that monitors charitable raffles, is a good resource for information on qualifying under the Act and administration of raffles generally.

A booster club can begin to qualify under the act by incorporating as a non-profit.¹¹ For more information regarding incorporation, contact the Texas Secretary of State's office.

In order to enrich the educational experience of the students, it is crucial that a district and local booster clubs form an effective partnership. By reviewing district policies and entering into clear agreements with the clubs as necessary, a district can comply with legal requirements while enjoying the benefit of these support organizations.

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This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is neither an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. It is important for the recipient to consult with the district's own attorney in order to apply these legal principles to specific fat situations.

⁹ Tex. Occ. Code § 2002.002(6).

¹⁰ Tex. Occ. Code §§ 2002.003, 2002.051; Op. Tex. Att'y Gen. JM-1176 (1990).

¹¹ Tex. Occ. Code § 2002.003(a).