



Matthew L. Stout

Partner
Columbus
614.227.8861
mstout@bricker.com

Managing and helping booster and support organizations

December 11, 2018

Booster/support organizations can be a valuable asset to school districts. In an era of shrinking budgets, booster groups often provide avenues for additional financial resources for teams and extracurricular clubs that a school district cannot provide. They also allow parents to take a more active role in the activities of their child and feel like they are doing their part to help the program. Overall, booster groups can provide support that is invaluable to the success of a team or an extracurricular club.

But with the many benefits come challenges for school districts. The reality is that nearly all booster/support groups are independent organizations of a school district and its board of education, and thus, not subject to any statutory monitoring requirements by the school district or its board. This can create problems for a school district and its administrators trying to make sure that booster/support organizations do not run afoul of the law. Perception is reality, and when a booster/support organization gets in trouble, the perception is that it is the school district that has erred. A board of education should review and consider updating or adopted certain policies and procedures to protect itself and its school district from legal and reputational risks.

This is especially true considering that most booster/support groups, while

independent of the school district, are viewed as being affiliated with the school district because of the names they have and the activities they support. For example, if the XYZ Wrestling Boosters are formed to support the wrestling program at the XYZ School District, the casual and uninformed taxpayer of XYZ School District is probably going to believe that the XYZ Wrestling Boosters are an official arm of the XYZ School District. So, when a booster/support organization makes the front page of the newspaper for the wrong reasons, it is easy for outsiders to pin the blame on the school district, even though the school district had little, if anything, to do with the misstep.

That's why it is important for a board of education to establish a written policy for its booster/support organizations. While not governed by Ohio Law, it is recommended that a policy for booster/support organizations contain the following:

- Requirement that the organization provide a copy of their organization and governing document(s)
- Requirement that the organization provide a roster of organization officers and board members
- Requirement that the organization provide an annual statement of revenues and expenses
- Requirement that the organization provide a summary of annual fundraising activities
- Restrictions on the organization's use of funds
- Guidelines for use of school district facilities and grounds by the organization
- Requirement of proof of legal filings of the organization (federal and state)
- Proof of officer dishonesty bond for officers of the organization
- Requirement of a federal tax identification number for the organization
- Guidelines on the fiduciary duties for board members of the organization
- Requirement of proof of a 501(c)(3) determination letter, if applicable

All of the items listed help the school district monitor booster/support organizations while limiting the school district's involvement in the day-to-day activities of each organization. They also require the leaders of booster/support organizations to become better informed about their organization. This is critical since the leadership of these organizations typically changes annually, and the new leadership is often not informed of the ongoing obligations required by state and federal laws.

The written policy should be reviewed with the leaders of each of the booster/support organizations on an annual basis. It is recommended that an annual booster/support organization meeting be held prior to the start of the school year to review this policy and to make sure the booster/support organization leaders are well-informed on their requirements and expectations. In addition, this meeting gives booster/support organization leaders the opportunity to ask questions and better understand their roles.

Managing a 501(c)(3) designation

One area that school districts should monitor diligently with respect to booster/support organizations is 501(c)(3) designations from the Internal Revenue Service. Many booster/support organizations have this designation. However, a common misconception for booster/support organization leaders is that, because their group is a nonprofit organization, it is automatically deemed a 501(c)(3) tax-exempt organization. Many times, this misconception is passed down as leadership changes from year-to-year and creates a pitfall of potential problems.

Booster/support organizations that receive a 501(c)(3) tax-exempt designation from the IRS are able to accept tax-exempt donations and conduct various fundraising activities that non-501(c)(3) tax-exempt organizations are not. These activities include bingo, instant bingo, raffles and Monte Carlo Nights. Being able to accept tax-exempt donations and to conduct these fundraising activities is obviously beneficial to the fundraising efforts of a booster/support organization. But it goes without saying that a booster/support organization that engages in these activities without a 501(c)(3) designation can cause significant problems for itself and generate negative publicity for its affiliated school district. That is why closely monitoring this designation is so important for school districts.

A booster/support organization that has been designated as a 501(c)(3) tax-exempt organization must have a determination letter from the IRS stating its designation. As noted in the recommended policy guidelines, the board of education should require that any booster/support organization holding itself out as a 501(c)(3) entity provide proof of its determination letter. Even with a determination letter, booster/support organizations must file documentation with the IRS on an annual basis to maintain their 501(c)(3) designations. Failure of the booster/support organization to file this documentation could result in the booster/support organization having its 501(c)(3) designation revoked by the IRS. The board of education should also require proof of these annual filings. (More information regarding the registration and reporting requirements for 501(c)(3) entities may be obtained at www.irs.gov.)

State registration requirements

Another issue that has arisen in recent years is the state registration requirement for booster/support organizations. In the past, there was some confusion over this issue, as certain entities with less than \$25,000 in annual revenue were sometimes exempt from state registration. This is no longer the case; all booster/support organizations are required to register under the State of Ohio Attorney General website, regardless of annual revenues and assets and their tax designation. The Attorney General online registration system automatically determines the nature of the required registration needed and calculates the fees due, if necessary. Also available on the Attorney General website is a [frequently asked questions page](#), which is useful in providing booster/support organization leaders with guidance about the rules and

requirements for their organization.

A well-organized booster/support organization can be a vital resource to a school district and its board of education. Among other things, it can help enhance students' educational and extracurricular experiences while lessening the financial burden on the school district. Implementing a written policy and guidelines for booster/support organizations to follow can help tap their full potential. It can also protect both the organization and the school district from unwanted headlines and land mines. So, get a written policy in place! It is a critical step toward protecting your school district and reaping the rewards of your booster/support organizations!

This article was originally published in the December 2018 issue of OASBO's SBO Quarterly.