

# PTO/PTA AND BOOSTER CLUBS: THEIR RELATIONSHIP TO THE SCHOOL DISTRICT

- ▶ NMSBA Annual Convention  
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- ▶ Presented by

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# Types of Parent Support Groups or Volunteer Organizations

- ▶ Parent Teacher Organizations
- ▶ Parent Teacher Associations
- ▶ Athletic Booster Clubs
- ▶ Music Booster Clubs
- ▶ Alumni Groups
- ▶ Charitable and Scholarship Organizations/Foundations

# IMPORTANCE OF BOOSTER CLUBS AND VOLUNTEER ORGANIZATIONS

- ▶ You're not flush with cash; they're a necessity
- ▶ Booster clubs and foundations are invaluable to districts because they exist solely to support the district and give freely of their time and money to support the activities of the district.
- ▶ Primary source of funding for most athletic and activity expenditures in many districts;
- ▶ Example: District provides \$600 to the baseball team for a season; Total expenditures: \$10–15k for uniforms, sweats, jackets, spirit wear, equipment, supplies, travel, lodging, food, camps, etc.

# DRAWBACKS OF VOLUNTEER ORGANIZATIONS

- ▶ May create tort or civil rights liability for the actions of the groups or its members
- ▶ Misuse/embezzlement of funds
- ▶ May exert pressure/influence over personnel decisions and player playing time
- ▶ Can cause student athletic ineligibility
- ▶ Title IX liability for District if donations or gifts create more opportunities for one gender over the other.
- ▶ Can create a public relations “black eye” for the district

# GROUPS MAY BE INTERNAL OR EXTERNAL TO THE DISTRICT

- ▶ An internal group is under the direct control and supervision of district employees and is operated by the district, though outside community members may be involved. The district is directly liable for harms created by the internal group.
- ▶ An external group is entirely separate from the district and should be a separately created legal entity like a non-profit corporation. Theoretically, the district should not be liable for the actions of this external group but the external group may create Title IX liability for the district, or may be so closely intertwined with the district that the district and group are effectively legally the same for liability purposes.

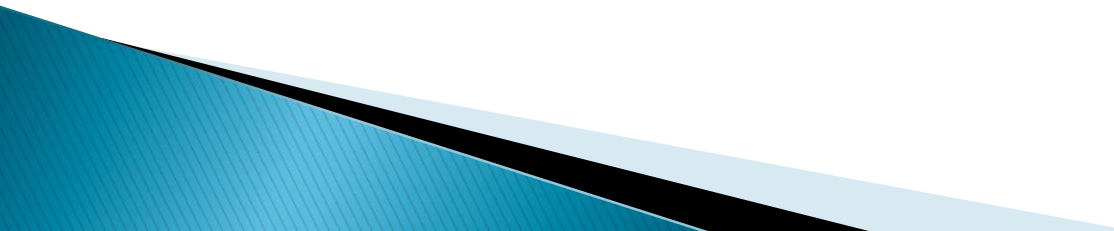
# Google “Booster Embezzlement”

- ▶ [Former band booster club member accused of embezzling \\$20,000 ...](http://www.fox4news.com/news/86969554-story)  
[www.fox4news.com/news/86969554-story](http://www.fox4news.com/news/86969554-story) Feb 8, 2016 – A former member of the Ponder Band *Booster Club* is under investigation after \$20000 meant for the band vanished.
- ▶ [Former treasurer accused of embezzling over \\$100k from Skyline ...](http://komonews.com/.../former-treasurer-accused-of-embezzling-over-100k-from-skyline-...) [komonews.com/.../former-treasurer-accused-of-embezzling-over-100k-from-skyline-...](http://komonews.com/.../former-treasurer-accused-of-embezzling-over-100k-from-skyline-...) Apr 14, 2016 – -- The former treasurer of the Skyline *Booster Club* was arrested Thursday for *embezzling* at least \$107,000 from the fundraising group that supports some 80 clubs and sports at Skyline High School in Sammamish. Wendy Helling had served as treasurer from 2008 until she abruptly ...
- ▶ [Lowell woman is charged with embezzling over \\$98,000 from athletic ...](http://lowellbuyersguide.com/lowell-woman-charged-with-embezzling-more-than-from-athl...)  
[lowellbuyersguide.com/lowell-woman-charged-with-embezzling-more-than-from-athl...](http://lowellbuyersguide.com/lowell-woman-charged-with-embezzling-more-than-from-athl...)
- ▶ [Arrests made for booster club embezzlement; Superintendent: New ...](http://rdrnews.com/.../arrests-made-for-booster-club-embezzlement-superintendent-new-pol...)  
[rdrnews.com/.../arrests-made-for-booster-club-embezzlement-superintendent-new-pol...](http://rdrnews.com/.../arrests-made-for-booster-club-embezzlement-superintendent-new-pol...)  
Arrests made for *booster club embezzlement*; Superintendent: New policy requires more accountability of such groups. September 17, 2016 • Local News ...
- ▶ [Sammamish woman arrested for embezzlement from high school ...](http://mynorthwest.com/.../sammamish-woman-arrested-embezzlement-high-school-booster...)  
[mynorthwest.com/.../sammamish-woman-arrested-embezzlement-high-school-booster...](http://mynorthwest.com/.../sammamish-woman-arrested-embezzlement-high-school-booster...) Apr 14, 2016 – The former treasurer of the Skyline High School *Booster Club* has been arrested for allegedly *embezzling* more than \$107000. Club members ...
- ▶ [Woman charged with stealing from Haslett Band Boosters](http://www.lansingstatejournal.com/story/news/local/2016/06/23/...boosters/86294162)  
[www.lansingstatejournal.com/story/news/local/2016/06/23/...boosters/86294162](http://www.lansingstatejournal.com/story/news/local/2016/06/23/...boosters/86294162) Jun 23, 2016 – A Perry woman has been charged with *embezzling* money from a *booster club* for band programs in the Haslett School District.
- ▶ [Former Keyser athletic boosters president indicted on embezzlement ...](http://www.times-news.com/...boosters...embezzlement.../article_31524850-bbca-5f9d-ae85...) [www.times-news.com/...boosters...embezzlement.../article\\_31524850-bbca-5f9d-ae85...](http://www.times-news.com/...boosters...embezzlement.../article_31524850-bbca-5f9d-ae85...) Sep 7, 2016 – A former president of the Keyser High School Athletic *Boosters Club* was indicted Tuesday by a Mineral County grand jury for *embezzling* more ...

# Google “PTA Embezzlement”

- ▶ [Former Walled Lake PTA treasurer charged with embezzlement – Detroit](#)
- ▶ [www.clickondetroit.com/.../former-walled-lake-pta-treasurer-charged-with-embezzle...Cached](#)
- ▶ Jun 7, 2016 – WALLED LAKE, Mich. – A former Pleasant Lake PTA treasurer is facing *embezzlement* charges after allegedly taking thousands of dollars.
- ▶ [Exam scheduled for former elementary school's PTA treasurer ...](#)
- ▶ [www.theoaklandpress.com/.../exam-scheduled-for-former-elementary-schools-pta-tre...Cached](#)
- ▶ Jun 16, 2016 – A West Bloomfield Township elementary school's former PTA ... students is now charged with *embezzlement* and awaiting an exam in her case, ...
- ▶ [Former Creighton's Corner PTA President Charged with Embezzlement](#)
- ▶ [loudounnow.com/.../former-creightons-corner-pta-president-charged-with-embezzle...Cached](#)
- ▶ May 26, 2016 – The sheriff's office says the money was *embezzled* between September 2015 and February 2016 during Sharifi's tenure as PTA president.
- ▶ [Protect Your Parent Group From Embezzlement – PTO Today](#)
- ▶ [https://www.ptotoday.com/pto.../1180-protect-your-parent-group-from-embezzlemen...Cached](#)
- ▶ [Similar](#)
- ▶ Jun 27, 2016 – Terrence Rice, a CPA in Milwaukee, follows *embezzlement* cases involving schools, .... PTO Today® is not affiliated with the National PTA®.
- ▶ [Former PTA President in Ashburn Charged with Embezzlement – Patch](#)
- ▶ [patch.com/virginia/ashburn/former-pta-president-ashburn-charged-embezzlement-0Cached](#)
- ▶ May 26, 2016 – Ashburn, VA – Creighton's Corner Elementary School's former PTA president allegedly *embezzled* \$13000 from the organization at the Ashburn ...

# WHEN MISMANAGEMENT HAPPENS, WHAT NEXT?

- ▶ Contact Board attorney and/or CPA with fraud experience or a certified fraud examiner.
  - ▶ Cooperate with the authorities
  - ▶ When communicating with the community, focus on the steps you are taking to recover the money and prevent theft
  - ▶ Don't talk about investigation publicly
- 



# FUNDRAISING LIABILITY

- ▶ R.W. v. Manzek (Pa. 2005)
  - Fundraising entity met with 5<sup>th</sup> grade students at school
  - Fundraising involved door-to-door candy sales with prizes for making the most sales
  - 10 year old girl raped
  - Parents filed civil rights case against district on the theory that it induced the girl to participate and put her in the position to be harmed.

# NMAA Bylaws: Athletic Ineligibility

- ▶ Undue Influence of a Student results in year of ineligibility. Includes:
  - Inducement to change residence or schools for athletic purposes
  - Offer or acceptance of money, board, room, clothing; free or reduced rent; payment of moving expenses

# NMAA Bylaws: Athletic Ineligibility

- ▶ Students must be amateurs to represent their school in an NMAA sanctioned contest.
- ▶ “An amateur athlete shall not receive (directly or indirectly) reimbursement or financial benefit for participating in any athletic contest.... Financial benefit includes free or reduced meals, merchandise, gift certificates, etc.”

# NMAA Bylaws: Athletic Ineligibility

- ▶ Q1: The owner of a local shoe store invites a player from the local high school volleyball team to come by the store and pick out a pair of free shoes. Does this affect that player's amateur status?
- ▶ A1: Yes, financial benefit gained because of athletic participation does jeopardize a student's amateur status.
  
- ▶ Q2: After a great ballgame, the owner of the local restaurant invites the team over to the restaurant for a free meal. Could this affect the amateur status of the team members?
- ▶ A2: Yes, financial benefit gained because of athletic participation does jeopardize a student's amateur status.
  
- ▶ Q3: During the end of a season sports banquet, the booster club gives a blanket to each member of the team. Is this in violation of NMAA eligibility guidelines?
- ▶ A3: Awards must be symbolic in nature. Merchandise awards are in violation of NMAA guidelines and will affect the eligibility status of the student athlete.
  
- ▶ Q4: If a team wins a state championship, may the school reward the athletes/coaches with championship rings and if so, what entity may purchase the rings?
- ▶ A4: Providing state championship rings is allowed and they may be purchased by any entity (school, booster club, personal contributors, etc.) What school administrators must understand is if they choose to provide a championship team with rings, they are setting a precedent and must do the same for all other teams within the school who win state championships, even if it means purchasing them with school funds.

# New Mexico Bingo and Raffle Act

## § 60-2F-1 through 26

- ▶ Normally, nonprofit organizations need a permit to conduct certain games of chance
- ▶ NMSA 1978 § 60-2F-26A. Except as provided in Subsection B of this section, nothing in the New Mexico Bingo and Raffle Act shall be construed to apply to:
  - (1) a drawing or a prize at a fair or fiesta held in New Mexico under the sponsorship or authority of the state or any of its political subdivisions, or for the benefit of a religious organization situated in this state or for charitable purposes when all the proceeds of the sale or drawing shall be expended within New Mexico for the benefit of that political subdivision, religious organization or charitable purpose; or
  - (2) a bingo or a raffle held by a qualified organization that holds no more than one bingo occasion or one raffle in any three consecutive calendar months and not exceeding four occasions in one calendar year.
- ▶ NMSA 1978 § 60-2F-4Y. “qualified organization” means a bona fide chartered branch, lodge or chapter of a national or state organization or any bona fide religious, charitable, environmental, fraternal, educational or veterans' organization operating without profit to its members that has been in existence in New Mexico continuously for a period of two years immediately prior to conducting a raffle or making an application for a license under the New Mexico Bingo and Raffle Act and that has had a membership engaged in carrying out the objects of the corporation or organization...

# Manage These Issues from the Outset: Essential Elements of Contracts and Policies for Outside Support Organizations

- ▶ Contracts with booster clubs, PTA's and foundations, and district policies, should specify obligations to be complied with in consideration for use of school's name and brand.
- ▶ District's policies and contracts with outside groups should address:
  - Title IX issues
  - How funds are handled– specific accounting and banking procedures to reduce risk of embezzlement
  - Information provided to district, e.g., clubs organizational documents and bylaws, list of activities to be pre-approved, financial reports, budgets, and an accounting of sources and uses of funds, contact information for club officers
  - Insurance/Group indemnification of District
  - Bonding of organization treasurer
  - Tax liability for donations
  - Food handling
  - Group will comply with all laws and NMAA rules

# Essential Elements of Contracts and Policies for Outside Support Organizations Cont'd.

- Use of school facilities must be in accordance with District policy which complies with NMAC 6.50.17
- Unauthorized activities
- District Liaison
- Supervision/Prohibition of students engaged in fundraising
- All donations of equipment and improvements must be in accordance with law and cash donations exclusively belong to the district; no direct donation to coaches
- Termination of agreement or relationship without cause
- Support group advertising clearly state that activity is not sponsored by the District and disclaim district liability for group actions or events.

# SPECIFIC FINANCIAL CONTROLS

- ▶ Group treasurer handles all funds
- ▶ Two signatures required on checks
- ▶ Funds always deposited in an authorized account on a daily basis; deposit slips kept as record
- ▶ Two people count the money and provide treasurer with receipt
- ▶ Receipts or invoices provided for all expenses
- ▶ Bank statements reconciled by treasurer monthly; and reviewed periodically by club officers
- ▶ Require reimbursement forms and copies of invoices; 2 signatures for approval
- ▶ Specify maximum of petty cash on hand (\$75–\$100)



# TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

- ▶ “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.”
- ▶ Protection applies to all elementary and secondary schools and colleges– public or private– that receive federal financial assistance (ALL OF YOU), and extends to all aspects of these institutions’ education programs and activities.

# TITLE IX AND ATHLETICS

- ▶ Title IX is most famous for its impact on the participation of girls in sports
- ▶ In 1972, 7% of high school athletes were girls
- ▶ In 2011, 41% of high school athletes were girls
- ▶ Girls who play sports do better at schools, are less likely to engage in risky behavior, and are healthier than girls who don't
- ▶ Of all the categories of Title IX complaints for unequal treatment that includes admissions, grading, discipline, harassment/sexual violence, retaliation, athletics receives the most complaints.

# TITLE IX AND ATHLETICS

- ▶ Title IX regulations set out factors for determining if there is a disparity in the way different genders are treated
- ▶ Districts are responsible for creating comparable athletic opportunities and for making sure students participating have reasonably equivalent access to equipment and supplies, facilities, support services, scheduling of games and practice times, compensation for coaches, travel accommodations, publicity, financing

# TITLE IX ENFORCEMENT

- ▶ Title IX is enforced by the U.S. Department of Education, Office of Civil Rights (“OCR”).
- ▶ Individuals or groups who believe they have been discriminated against may also sue under Title IX.

# Title IX OCR Enforcement– Athletic Programs

- ▶ According to the OCR's 2012 Enforcement Highlights:
  - Almost 600 OCR team members are involved in Title IX enforcement at headquarters and 12 regional offices across the country
  - From FY2009 through FY2011, OCR initiated 17 proactive investigations of possible Title IX violations in athletics programs. During that same period, OCR received over 900 complaints alleging Title IX violations in athletics
- ▶ Time consuming and complex investigation with uncertain outcomes

# OCR Compliance Resolution– Hingham Public School District– October 2012

- ▶ OCR commenced compliance review May 2010 and travelled to District to meet Superintendent, HS Principal, Athletic Director to discuss scope of investigation
- ▶ OCR returned to District several times in May–June to interview students, coaches, grounds crew staff, and other individuals and to inspect facilities
- ▶ OCR returned to the District several times during SY 2011–12 to meet with parent groups, re-interview coaches, and discuss findings
- ▶ OCR also gathered statistical, budgetary, and historical data on a rolling basis throughout the compliance review

# OCR Compliance Resolution– Hingham Public School District– October 2012

- ▶ OCR's investigation:
  - Analyzed whether district provided equal opportunity to participate in athletics; and
  - Analyzed equal opportunities in four components of the athletic program:
    1. Locker rooms, practice facilities, competition facilities
    2. Scheduling of games and practice times
    3. Opportunity to receive coaching; coach compensation
    4. Provision of equipment and supplies

# OCR Compliance Resolution– Hingham Public School District– October 2012

- ▶ Ultimately OCR found that Hingham High School was violating Title IX in several areas, largely due to the activities of booster clubs
- ▶ OCR and Hingham entered into Resolution Agreement that required the creation of assessments for equality in all tested areas, continuous monitoring, surveys, reporting requirements, remedies for specific violations, and the creation of a comprehensive policy to regulate booster funding.



# HOW CAN A BOOSTER CLUB CREATE A TITLE IX VIOLATION?

- ▶ Title IX requires districts to consider the proportion of athletes and teams by gender, and then review whether an equivalent percentage of athletic expenditures are spent on the each gender
- ▶ BOOSTER DONATIONS COUNT!
- ▶ Baseball boosters raise \$50k for baseball. Softball boosters raise \$10k for softball. Boys travel in style. Boys' hockey booster club raises way more money than girls' hockey boosters and buys better ice time. Does this create a disparity?
- ▶ Some booster clubs put forth more fundraising efforts than others or are more successful; Boys teams generally attract more sponsorship

# HOW CAN A BOOSTER CLUB CREATE A TITLE IX VIOLATION?

- ▶ “Where booster clubs provide benefits and services that assist only teams of one sex, the institution shall ensure that teams of the other sex receive equivalent benefits and services. If booster clubs provide benefits and services to athletes of one sex that are greater than what the institution is capable of providing to athletes of the other sex, then the institution shall take action to ensure that benefits and services are equivalent for both sexes.” *OCR, Title IX Investigator’s Manual*
- ▶ If a disparity exists, district has to create an “off-setting benefit” for the other gender
- ▶ If it can’t make an off-setting benefit, District may have to reject a donation, benefit or service.

# HOW CAN A BOOSTER CLUB CREATE A TITLE IX VIOLATION?

- ▶ Relevant comparison is the overall benefits provided to all boys and girls teams as opposed to single sport equivalence
- ▶ Not all differences are discriminatory; Football just costs more; Unequal gifts or donations to one gender do not *per se* violate Title IX but OCR will scrutinize to find some “off-setting benefit” to ensure overall equal treatment. The off-set may need to come from district funds.
- ▶ Problems typically occurs with single-sport clubs who want to earmark their donations to the sport they support

# THE INFAMOUS MICHIGAN BLEACHER CASE

- ▶ Plymouth High School Baseball Boosters raised funds over six years to revamp bleachers for visibility and to provide stadium seating at a cost of about \$15k
- ▶ Softball boosters did not raise comparable funds; no district money was available to make similar improvements; There was a Title IX complaint
- ▶ OCR required the district to renovate the School's varsity softball field to include a scoreboard and seating equivalent to what is provided at the School's varsity baseball field;
- ▶ The construction of a similar seating structure for the girls softball field were not viable solutions given district resource constraints.
- ▶ District removed and salvaged the seating to come into Title IV compliance.

# School Athletics Equity Act [22-31-1 to 22-31-6 NMSA 1978]

- ▶ **NMAC 6.13.4.8 REQUIREMENTS:**
- ▶ A. No officer, agent or employee of any local school board, school district or charter school shall subject any person to discrimination based on gender in any interscholastic sport. Nor shall any public school operate its interscholastic program in a manner that discriminates against students or staff on the basis of gender.
- ▶ B. School districts and charter schools shall provide comparable athletic opportunity in interscholastic sports for both genders. Each school district and charter school has the option of prohibiting participation by both genders on the same team, where comparable or separate athletic opportunity exists for both genders. Comparable athletic opportunity exists only where a good faith effort is made so that teams are provided with comparable facilities, equipment, supplies, game and practice schedules, travel and per diem allowances, coaching (including assignment and compensation of coaches), academic tutoring, housing, dining facilities and publicity.

# School Athletics Equity Act: PED Regulation

- ▶ NMAC 6.13.4
- ▶ Each year ... no later than August 31st, the following data shall be submitted to the department in a format required by the department:
  - (a) an accounting of the funding sources that are used to support the school's athletics programs and to which teams those funds are allocated funding sources include;
    - (i) state funding;
    - (ii) federal funding;
    - **(iii) fund raising or booster clubs;**
    - (iv) game and concession receipts;
    - (v) gate receipts;;
    - (vi) cash or in-kind donations;
    - (vii) grants; and
    - (viii) any other sources;

# Booster Clubs and Title IX Compliance

- ▶ Funds and like-kind donations should come directly to the district, and become the district's funds to ensure equitable distribution.
- ▶ All district's need to have at least one IX coordinator and gifts and donations must be scrutinized for IX compliance if they may affect boys and girls unequally.
- ▶ District needs to analyze the impact of donations, benefits, and services and find ways to make sure the athletic program is balanced overall
- ▶ Essentially, do the analysis that OCR would do in an investigation
- ▶ Educate the parents; Bring the booster clubs together to train on Title IX issues; Booster clubs should communicate with and have a close relationship with the Title IX officer

# Booster Clubs and Title IX Compliance

- ▶ Consider a single athletic booster club to benefit all sports
- ▶ Consider putting all single-sport booster donations in a single athletic fund for equitable distribution
- ▶ Another option is to allow booster donations to be ear-marked for a particular sport but take a percentage off for putting into a general fund to provide any necessary offsetting benefits to the underfunded gender.
- ▶ Provide copy of policies and procedures to coaches, boosters, donors
- ▶ You've got to manage them; pay attention; read the reports, hold them to the terms of the contract or policy



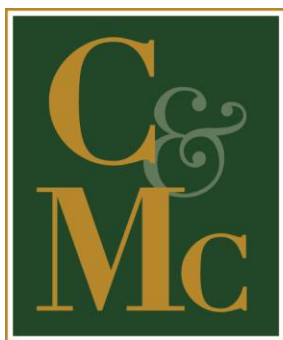
# THANK YOU!

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