

# Gambling / Games of chance

\* See 337j (d)

CALIFORNIA CODES  
PENAL CODE  
SECTION 330-337z

330. Every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan-tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or other representative of value, and every person who plays or bets at or against any of those prohibited games, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

330a. Every person, who has in his possession or under his control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained or kept, in any room, space, inclosure or building owned, leased or occupied by him, or under his management or control, any slot or card machine, contrivance, appliance or mechanical device, upon the result of action of which money or other valuable thing is staked or hazarded, and which is operated, or played, by placing or depositing therein any coins, checks, slugs, balls, or other articles or device, or in any other manner and by means whereof, or as a result of the operation of which any merchandise, money, representative or articles of value, checks, or tokens, redeemable in, or exchangeable for money or any other thing of value, is won or lost, or taken from or obtained from such machine, when the result of action or operation of such machine, contrivance, appliance, or mechanical device is dependent upon hazard or chance, and every person, who has in his possession or under his control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained or kept, in any room, space, inclosure or building, owned, leased or occupied by him, or under his management or control, any card dice, or any dice having more than six faces or bases each, upon the result of action of which any money or other valuable thing is staked or hazarded, or as a result of the operation of which any merchandise, money, representative or article of value, check or token, redeemable in or exchangeable for money or any other thing of value, is won or lost or taken, when the result of action or operation of such dice is dependent upon hazard or chance, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

330b. (a) It is unlawful for any person to manufacture, repair, own, store, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to repair, sell, rent, lease, let on shares, lend or give away, or permit the operation, placement, maintenance, or keeping of, in any place, room, space, or building owned, leased, or occupied, managed, or controlled by that person, any slot machine or device, as defined in this section.

It is unlawful for any person to make or to permit the making of an agreement with another person regarding any slot machine or device, by which the user of the slot machine or device, as a result of the element of hazard or chance or other unpredictable outcome, may become entitled to receive money, credit, allowance, or other thing of value or additional chance or right to use the slot machine or device, or to receive any check, slug, token, or memorandum entitling the holder to receive money, credit, allowance, or other thing of value.

(b) The limitations of subdivision (a), insofar as they relate to owning, storing, possessing, or transporting any slot machine or device, do not apply to any slot machine or device located upon or being transported by any vessel regularly operated and engaged in interstate or foreign commerce, so long as the slot machine or device is located in a locked compartment of the vessel, is not accessible for use, and is not used or operated within the territorial jurisdiction of this state.

(c) The limitations of subdivision (a) do not apply to a manufacturer's business activities that are conducted in accordance with the terms of a license issued by a tribal gaming agency pursuant to the tribal-state gaming compacts entered into in accordance with the Indian Gaming Regulatory Act (18 U.S.C. Sec. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.).

(d) For purposes of this section, "slot machine or device" means a machine, apparatus, or device that is adapted, or may readily be converted, for use in a way that, as a result of the insertion of any piece of money or coin or other object, or by any other means, the machine or device is caused to operate or may be operated, and by reason of any element of hazard or chance or of other outcome of operation unpredictable by him or her, the user may receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or additional chance or right to use the slot machine or device, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value, or which may be given in trade, irrespective of whether it may, apart from any element of hazard or chance or unpredictable outcome of operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

(e) Every person who violates this section is guilty of a misdemeanor.

(f) Pinball and other amusement machines or devices, which are predominantly games of skill, whether affording the opportunity of additional chances or free plays or not, are not included within the term slot machine or device, as defined in this section.

330c. A punchboard as hereinafter defined is hereby declared to be a slot machine or device within the meaning of Section 330b of this **code** and shall be subject to the provisions thereof. For the purposes of this section, a punchboard is any card, board or other device which may be played or operated by pulling, pressing, punching out or otherwise removing any slip, tab, paper or other substance therefrom to disclose any concealed number, name or symbol.

330.1. Every person who manufactures, owns, stores, keeps, possesses, sells, rents, leases, lets on shares, lends or gives away, transports or exposes for sale or lease or offers to sell, rent, lease, let on shares, lend or give away or who permits the operation of or permits to be placed, maintained, used or kept in any room, space or building owned, leased or occupied by him or under his management or control, any slot machine or device as hereinafter

defined, and every person who makes or permits to be made with any person any agreement with reference to any slot machine or device as hereinafter defined, pursuant to which agreement the user thereof, as a result of any element of hazard or chance, may become entitled to receive anything of value or additional chance or right to use such slot machine or device, or to receive any check, slug, token or memorandum, whether of value or otherwise, entitling the holder to receive anything of value, is guilty of a misdemeanor and shall be punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail not exceeding six months or by both such fine and imprisonment. A slot machine or device within the meaning of Sections 330.1 to 330.5, inclusive, of this **code** is one that is, or may be, used or operated in such a way that, as a result of the insertion of any piece of money or coin or other object such machine or device is caused to operate or may be operated or played, mechanically, electrically, automatically or manually, and by reason of any element of hazard or chance, the user may receive or become entitled to receive anything of value or any check, slug, token or memorandum, whether of value or otherwise, which may be given in trade, or the user may secure additional chances or rights to use such machine or device, irrespective of whether it may, apart from any element of hazard or chance also sell, deliver or present some merchandise, indication of weight, entertainment or other thing of value.

330.2. As used in Sections 330.1 to 330.5, inclusive, of this **code** a "thing of value" is defined to be any money, coin, currency, check, chip, allowance, token, credit, merchandise, property, or any representative of value.

330.3. In addition to any other remedy provided by law any slot machine or device may be seized by any of the officers designated by Sections 335 and 335a of the **Penal Code**, and in such cases shall be disposed of, together with any and all money seized in or in connection with such machine or device, as provided in Section 335a of the **Penal Code**.

330.4. It is specifically declared that the mere possession or control, either as owner, lessee, agent, employee, mortgagor, or otherwise of any slot machine or device, as defined in Section 330.1 of this **code**, is prohibited and penalized by the provisions of Sections 330.1 to 330.5, inclusive, of this **code**.

It is specifically declared that every person who permits to be placed, maintained or kept in any room, space, enclosure, or building owned, leased or occupied by him, or under his management or control, whether for use or operation or for storage, bailment, safekeeping or deposit only, any slot machine or device, as defined in Section 330.1 of this **code**, is guilty of a misdemeanor and punishable as provided in Section 330.1 of this **code**.

It is further declared that the provisions of this section specifically render any slot machine or device as defined in Section 330.1 of this **code** subject to confiscation as provided in Section 335a of this **code**.

330.5. It is further expressly provided that Sections 330.1 to 330.4, inclusive, of this **code** shall not apply to music machines, weighing machines and machines which vend cigarettes, candy, ice cream, food, confections or other merchandise, in which there is

deposited an exact consideration and from which in every case the customer obtains that which he purchases; and it is further expressly provided that with respect to the provisions of Sections 330.1 to 330.4, inclusive, only, of this **code**, pin ball, and other amusement machines or devices which are predominantly games of skill, whether affording the opportunity of additional chances or free plays or not, are not intended to be and are not included within the term slot machine or device as defined within Sections 330.1 to 330.4, inclusive, of this **code**.

330.6. The provisions of Sections 330.1 to 330.5, inclusive, of this **code**, with respect to owning, storing, keeping, possessing, or transporting any slot machine or device as therein defined, shall not apply to any slot machine or device as therein defined, located upon or being transported by any vessel regularly operated and engaged in interstate or foreign commerce, so long as such slot machine or device is located in a locked compartment of the vessel, is not accessible for use and is not used or operated within the territorial jurisdiction of this State.

330.7. (a) It shall be a defense to any prosecution under this chapter relating to slot machines, as defined in subdivision (d) of Section 330b, if the defendant shows that the slot machine is an antique slot machine and was not operated for gambling purposes while in the defendant's possession. For the purposes of this section, the term "antique slot machine" means a slot machine that is over 25 years of age.

(b) Notwithstanding Section 335a, whenever the defense provided by subdivision (a) is offered, no slot machine seized from a defendant shall be destroyed or otherwise altered until after a final court determination that the defense is not applicable. If the defense is applicable, the machine shall be returned pursuant to provisions of law providing for the return of property.

(c) It is the purpose of this section to protect the collection and restoration of antique slot machines not presently utilized for gambling purposes because of their aesthetic interest and importance in California history.

330.8. Notwithstanding Sections 330a, 330b, and 330.1 to 330.5, inclusive, the sale, transportation, storage, and manufacture of gambling devices, as defined in Section 330.1, including the acquisition of essential parts therefor and the assembly of such parts, is permitted, provided those devices are sold, transported, stored, and manufactured only for subsequent transportation in interstate or foreign commerce when that transportation is not prohibited by any applicable federal law. Those activities may be conducted only by persons who have registered with the United States government pursuant to Chapter 24 (commencing with Section 1171) of Title 15 of the United States **Code**, as amended. Those gambling devices shall not be displayed to the general public or sold for use in California regardless of where purchased, nor held nor manufactured in violation of any applicable federal law. A violation of this section is a misdemeanor.

330.9. (a) Notwithstanding Sections 330a, 330b, 330.1 to 330.5, inclusive, or any other provision of law, it shall be lawful for any person to transport and possess any slot machine or device for display at a trade show, conference, or convention being held within this state, or if used solely as a prop for a motion picture,

television, or video production.

(b) Subdivision (a) shall apply only if the slot machine or device is adjusted to render the machine or device inoperable, or if the slot machine or device is set on demonstration mode.

(c) This section is intended to constitute a state exemption as provided in Section 1172 of Title 15 of the United States Code.

(d) For purposes of this section:

(1) "Demonstration mode" means that the programming or settings of a slot machine or device have been programmed, set, or selected to operate normally, but to not accept or pay out cash or any other consideration.

(2) "Slot machine or device" has the same meaning as "slot machine or device" as defined in Section 330.1, or "gambling device" as defined in paragraph (1) of subsection (a) of Section 1171 of Title 15 of the United States Code.

330.11. "Banking game" or "banked game" does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. For purposes of this section it is not the intent of the Legislature to mandate acceptance of the deal by every player if the division finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. The house shall not occupy the player-dealer position.

331. Every person who knowingly permits any of the games mentioned in Sections 330 and 330a to be played, conducted, or dealt in any house owned or rented by such person, in whole or in part, is punishable as provided in Sections 330 and 330a.

332. (a) Every person who by the game of "three card monte," so-called, or any other game, device, sleight of hand, pretensions to fortune telling, trick, or other means whatever, by use of cards or other implements or instruments, or while betting on sides or hands of any play or game, fraudulently obtains from another person money or property of any description, shall be punished as in the case of larceny of property of like value for the first offense, except that the fine may not exceed more than five thousand dollars (\$5,000). A second offense of this section is punishable, as in the case of larceny, except that the fine shall not exceed ten thousand dollars (\$10,000), or both imprisonment and fine.

(b) For the purposes of this section, "fraudulently obtains" includes, but is not limited to, cheating, including, for example, gaining an unfair advantage for any player in any game through a technique or device not sanctioned by the rules of the game.

(c) For the purposes of establishing the value of property under this section, poker chips, tokens, or markers have the monetary value assigned to them by the players in any game.

333. Every person duly summoned as a witness for the prosecution, on any proceedings had under this Chapter, who neglects or refuses to

attend, as required, is guilty of a misdemeanor.

334. (a) Every person who owns or operates any concession, and who fraudulently obtains money from another by means of any hidden mechanical device or obstruction with intent to diminish the chance of any patron to win a prize, or by any other fraudulent means, shall be punished as in the case of theft of property of like value.

(b) Any person who manufactures or sells any mechanical device or obstruction for a concession which he knows or reasonably should know will be fraudulently used to diminish the chance of any patron to win a prize is guilty of a misdemeanor.

(c) Any person who owns or operates any game, at a fair or carnival of a type known as razzle-dazzle is guilty of a misdemeanor.

As used in this subdivision, "razzle-dazzle" means a series of games of skill or chance in which the player pays money or other valuable consideration in return for each opportunity to make successive attempts to obtain points by the use of dice, darts, marbles or other implements, and where such points are accumulated in successive games by the player toward a total number of points, determined by the operator, which is required for the player to win a prize or other valuable consideration.

(d) As used in this section, "concession" means any game or concession open to the public and operated for profit in which the patron pays a fee for participating and may receive a prize upon a later happening.

(e) Nothing in this section shall be construed to prohibit or preempt more restrictive regulation of any concession at a fair or carnival by any local governmental entity.

335. Every district attorney, sheriff, or police officer must inform against and diligently prosecute persons whom they have reasonable cause to believe offenders against the provisions of this chapter, and every officer refusing or neglecting so to do, is guilty of a misdemeanor.

335a. In addition to any other remedy provided by law any machine or other device the possession or control of which is penalized by the laws of this State prohibiting lotteries or gambling may be seized by any peace officer, and a notice of intention summarily to destroy such machine or device as provided in this section must be posted in a conspicuous place upon the premises in or upon which such machine or device was seized. Such machine or device shall be held by such officer for 30 days after such posting, and if no action is commenced to recover possession of such machine or device, within such time, the same shall be summarily destroyed by such officer, or if such machine or device shall be held by the court, in any such action, to be in violation of such laws, or any of them, the same shall be summarily destroyed by such officer immediately after the decision of the court has become final.

The superior court shall have jurisdiction of any such actions or proceedings commenced to recover the possession of such machine or device or any money seized in connection therewith.

Any and all money seized in or in connection with such machine or device shall, immediately after such machine or device has been so destroyed, be paid into the treasury of the city or county, as the case may be, where seized, said money to be deposited in the general fund.

336. Every owner, lessee, or keeper of any house used in whole, or in part, as a saloon or drinking place, who knowingly permits any person under 18 years of age to play at any game of chance therein, is guilty of a misdemeanor.

337. Every state, county, city, city and county, town, or judicial district officer, or other person who shall ask for, receive, or collect any money, or other valuable consideration, either for his own or the public use, for and with the understanding that he will aid, exempt, or otherwise assist any person from arrest or conviction for a violation of Section 330 of the **Penal Code**; or who shall issue, deliver, or cause to be given or delivered to any person or persons, any license, permit, or other privilege, giving, or pretending to give, any authority or right to any person or persons to carry on, conduct, open, or cause to be opened, any game or games which are forbidden or prohibited by Section 330 of said **code**; and any of such officer or officers who shall vote for the passage of any ordinance or by-law, giving, granting, or pretending to give or grant to any person or persons any authority or privilege to open, carry on, conduct, or cause to be opened, carried on, or conducted, any game or games prohibited by said Section 330 of the **Penal Code**, is guilty of a felony.

337a. (a) Every person who engages in one of the following offenses, shall be punished for a first offense by imprisonment in a county jail for a period of not more than one year or in the state prison, or by a fine not to exceed five thousand dollars (\$5,000), or by both imprisonment and fine:

(1) Pool selling or bookmaking, with or without writing, at any time or place.

(2) Whether for gain, hire, reward, or gratuitously, or otherwise, keeps or occupies, for any period of time whatsoever, any room, shed, tenement, tent, booth, building, float, vessel, place, stand or enclosure, of any kind, or any part thereof, with a book or books, paper or papers, apparatus, device or paraphernalia, for the purpose of recording or registering any bet or bets, any purported bet or bets, wager or wagers, any purported wager or wagers, selling pools, or purported pools, upon the result, or purported result, of any trial, purported trial, contest, or purported contest, of skill, speed or power of endurance of person or animal, or between persons, animals, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever.

(3) Whether for gain, hire, reward, or gratuitously, or otherwise, receives, holds, or forwards, or purports or pretends to receive, hold, or forward, in any manner whatsoever, any money, thing or consideration of value, or the equivalent or memorandum thereof, staked, pledged, bet or wagered, or to be staked, pledged, bet or wagered, or offered for the purpose of being staked, pledged, bet or wagered, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of person or animal, or between persons, animals, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever.

(4) Whether for gain, hire, reward, or gratuitously, or otherwise, at any time or place, records, or registers any bet or bets, wager or wagers, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of person or animal, or between persons, animals, or mechanical apparatus, or upon the result, or purported result, of

any lot, chance, casualty, unknown or contingent event whatsoever.

(5) Being the owner, lessee or occupant of any room, shed, tenement, tent, booth, building, float, vessel, place, stand, enclosure or grounds, or any part thereof, whether for gain, hire, reward, or gratuitously, or otherwise, permits that space to be used or occupied for any purpose, or in any manner prohibited by paragraph (1), (2), (3), or (4).

(6) Lays, makes, offers or accepts any bet or bets, or wager or wagers, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of person or animal, or between persons, animals, or mechanical apparatus.

(b) In any accusatory pleading charging a violation of this section, if the defendant has been once previously convicted of a violation of any subdivision of this section, the previous conviction shall be charged in the accusatory pleading, and, if the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall, if he or she is not imprisoned in the state prison, be imprisoned in the county jail for a period of not more than one year and pay a fine of not less than one thousand dollars (\$1,000) and not to exceed ten thousand dollars (\$10,000). Nothing in this paragraph shall prohibit a court from placing a person subject to this subdivision on probation. However, that person shall be required to pay a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) or be imprisoned in the county jail for a period of not more than one year, as a condition thereof. In no event does the court have the power to absolve a person convicted pursuant to this subdivision from either being imprisoned or from paying a fine of not less than one thousand dollars (\$1,000) and not more than ten thousand dollars (\$10,000).

(c) In any accusatory pleading charging a violation of this section, if the defendant has been previously convicted two or more times of a violation of any subdivision of this section, each previous conviction shall be charged in the accusatory pleadings. If two or more of the previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall, if he or she is not imprisoned in the state prison, be imprisoned in the county jail for a period of not more than one year or pay a fine of not less than one thousand dollars (\$1,000) nor more than fifteen thousand dollars (\$15,000), or be punished by both imprisonment and fine. Nothing in this paragraph shall prohibit a court from placing a person subject to this subdivision on probation. However, that person shall be required to pay a fine of not less than one thousand dollars (\$1,000) nor more than fifteen thousand dollars (\$15,000), or be imprisoned in the county jail for a period of not more than one year as a condition thereof. In no event does the court have the power to absolve a person convicted and subject to this subdivision from either being imprisoned or from paying a fine of not more than fifteen thousand dollars (\$15,000).

(d) Except where the existence of a previous conviction of any subdivision of this section was not admitted or not found to be true pursuant to this section, or the court finds that a prior conviction was invalid, the court shall not strike or dismiss any prior convictions alleged in the information or indictment.

(e) This section applies not only to persons who commit any of the acts designated in paragraphs (1) to (6), inclusive, of subdivision (a), as a business or occupation, but also applies to every person who in a single instance engages in any one of the acts specified in paragraphs (1) to (6), inclusive, of subdivision (a).



attempts to give or offer, any money, bribe, or thing of value, to any participant or player, or to any prospective participant or player, in any sporting event, contest, or exhibition of any kind whatsoever, except a wrestling exhibition as defined in Section 18626 of the Business and Professions **Code**, and specifically including, but without being limited to, such sporting events, contests, and exhibitions as baseball, football, basketball, boxing, horseracing, and wrestling matches, with the intention or understanding or agreement that such participant or player or such prospective participant or player shall not use his or her best efforts to win such sporting event, contest, or exhibition, or shall so conduct himself or herself in such sporting event, contest, or exhibition that any other player, participant or team of players or participants shall thereby be assisted or enabled to win such sporting event, contest, or exhibition, or shall so conduct himself or herself in such sporting event, contest, or exhibition as to limit his or her or his or her team's margin of victory in such sporting event, contest, or exhibition, is guilty of a felony, and shall be punished by imprisonment in the state prison, or by a fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment.

337c. Any person who accepts, or attempts to accept, or offers to accept, or agrees to accept, any money, bribe or thing of value, with the intention or understanding or agreement that he or she will not use his or her best efforts to win any sporting event, contest, or exhibition of any kind whatsoever, except a wrestling exhibition as defined in Section 18626 of the Business and Professions **Code**, and specifically including, but without being limited to, such sporting events, contests, or exhibitions as baseball, football, basketball, boxing, horseracing, and wrestling matches, in which he or she is playing or participating or is about to play or participate in, or will so conduct himself or herself in such sporting event, contest, or exhibition that any other player or participant or team of players or participants shall thereby be assisted or enabled to win such sporting event, contest, or exhibition, or will so conduct himself or herself in such sporting event, contest, or exhibition as to limit his or her or his or her team's margin of victory in such sporting event, contest, or exhibition, is guilty of a felony, and shall be punished by imprisonment in the state prison, or by a fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment.

337d. Any person who gives, offers to give, promises to give, or attempts to give, any money, bribe, or thing of value to any person who is umpiring, managing, directing, refereeing, supervising, judging, presiding, or officiating at, or who is about to umpire, manage, direct, referee, supervise, judge, preside, or officiate at any sporting event, contest, or exhibition of any kind whatsoever, including, but not limited to, sporting events, contests, and exhibitions such as baseball, football, boxing, horse racing, and wrestling matches, with the intention or agreement or understanding that the person shall corruptly or dishonestly umpire, manage, direct, referee, supervise, judge, preside, or officiate at, any sporting event, contest, or exhibition, or the players or participants thereof, with the intention or purpose that the result of the sporting event, contest, or exhibition will be affected or influenced thereby, is guilty of a felony and shall be punished by imprisonment in the state prison or by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment and fine. A second offense of this section is a felony and shall be punished by imprisonment in the state prison or by a fine of not more than

fifteen thousand dollars (\$15,000), or by both imprisonment and fine.

337e. Any person who as umpire, manager, director, referee, supervisor, judge, presiding officer or official receives or agrees to receive, or attempts to receive any money, bribe or thing of value, with the understanding or agreement that such umpire, manager, director, referee, supervisor, judge, presiding officer, or official shall corruptly conduct himself or shall corruptly umpire, manage, direct, referee, supervise, judge, preside, or officiate at, any sporting event, contest, or exhibition of any kind whatsoever, and specifically including, but without being limited to, such sporting events, contests, and exhibitions as baseball, football, boxing, horseracing, and wrestling matches, or any player or participant thereof, with the intention or purpose that the result of the sporting event, contest, or exhibition will be affected or influenced thereby, is guilty of a felony and shall be punished by imprisonment in the state prison, or by a fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment.

337f. Any person: (a) Who influences, or induces, or conspires with, any owner, jockey, groom or other person associated with or interested in any stable, horse, or race in which a horse participates, to affect the result of such race by stimulating or depressing a horse through the administration of any drug to such horse, or by the use of any electrical device or any electrical equipment or by any mechanical or other device not generally accepted as regulation racing equipment, or

(b) Who so stimulates or depresses a horse, or

(c) Who knowingly enters any horse in any race within a period of 24 hours after any drug has been administered to such horse for the purpose of increasing or retarding the speed of such horse, is punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment, or

(d) Who willfully or unjustifiably enters or races any horse in any running or trotting race under any name or designation other than the name or designation assigned to such horse by and registered with the Jockey Club or the United States Trotting Association or who willfully sets on foot, instigates, engages in or in any way furthers any act by which any horse is entered or raced in any running or trotting race under any name or designation other than the name or designation duly assigned by and registered with the Jockey Club or the United States Trotting Association is guilty of a felony and punishable by imprisonment in the state prison, or by a fine not exceeding five thousand dollars (\$5,000) or by both such fine and imprisonment.

The term "drug" includes all substances recognized as having the power of stimulating or depressing the central nervous system, respiration, or blood pressure of an animal, such as narcotics, hypnotics, benzedrine or its derivatives, but shall not include recognized vitamins or supplemental feeds approved by the veterinarian representing the California Racing Board.

337g. The possession, transport or use of any local anaesthetic of the cocaine group, including but not limited to natural or synthetic drugs of this group, such as allocaine, apotesine, alypine, benzyl carbinol, butyn, procaine, nupercaine, beta-eucaine, novol or

anestubus, within the racing inclosure is prohibited, except upon a bona fide veterinarian's prescription with complete statement of uses and purposes of same on the container. A copy of such prescription shall be filed with the stewards, and such substances may be used only with approval of the stewards and under the supervision of the veterinarian representing the board.

337h. Any person who, except for medicinal purposes, administers any poison, drug, medicine, or other noxious substance, to any horse, stud, mule, ass, mare, horned cattle, neat cattle, gelding, colt, filly, dog, animals, or other livestock, entered or about to be entered in any race or upon any race course, or entered or about to be entered at or with any agricultural park, or association, race course, or corporation, or other exhibition for competition for prize, reward, purse, premium, stake, sweepstakes, or other reward, or who exposes any poison, drug, medicine, or noxious substance, with intent that it shall be taken, inhaled, swallowed, or otherwise received by any of these animals or other livestock, with intent to impede or affect its speed, endurance, sense, health, physical condition, or other character or quality, or who causes to be taken by or placed upon or in the body of any of these animals or other livestock, entered or about to be entered in any race or competition described in this section any sponge, wood, or foreign substance of any kind, with intent to impede or affect its speed, endurance, sense, health, or physical condition, is guilty of a misdemeanor.

337i. Every person who knowingly transmits information as to the progress or results of a horserace, or information as to wagers, betting odds, changes in betting odds, post or off times, jockey or player changes in any contest or trial, or purported contest or trial, involving humans, beasts, or mechanical apparatus by any means whatsoever including, but not limited to telephone, telegraph, radio, and semaphore when such information is transmitted to or by a person or persons engaged in illegal gambling operations, is punishable by imprisonment in the county jail for a period of not more than one year or in the state prison.

This section shall not be construed as prohibiting a newspaper from printing such results or information as news, or any television or radio station from telecasting or broadcasting such results or information as news. This section shall not be so construed as to place in jeopardy any common carrier or its agents performing operations within the scope of a public franchise, or any gambling operation authorized by law.

**337j.** (a) It is unlawful for any person, as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, to do any of the following without having first procured and thereafter maintained in effect all federal, state, and local licenses required by law:

(1) To deal, operate, carry on, conduct, maintain, or expose for play in this state any controlled game.

(2) To receive, directly or indirectly, any compensation or reward or any percentage or share of the revenue, for keeping, running, or carrying on any controlled game.

(3) To manufacture, distribute, or repair any gambling equipment within the boundaries of this state, or to receive, directly or indirectly, any compensation or reward for the manufacture, distribution, or repair of any gambling equipment within the boundaries of this state.



(b) It is unlawful for any person to knowingly permit any controlled game to be conducted, operated, dealt, or carried on in any house or building or other premises that he or she owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(c) It is unlawful for any person to knowingly permit any gambling equipment to be manufactured, stored, or repaired in any house or building or other premises that the person owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(d) Any person who violates, attempts to violate, or conspires to violate this section shall be punished by imprisonment in a county jail for not more than one year or by a fine of not more than ten thousand dollars (\$10,000), or by both imprisonment and fine. A second offense of this section is punishable by imprisonment in a county jail for a period of not more than one year or in the state prison or by a fine of not more than ten thousand dollars (\$10,000), or by both imprisonment and fine.

(e) (1) As used in this section, "controlled game" means any poker or Pai Gow game, and any other game played with cards or tiles, or both, and approved by the Department of Justice, and any game of chance, including any gambling device, played for currency, check, credit, or any other thing of value that is not prohibited and made unlawful by statute or local ordinance.

(2) As used in this section, "controlled game" does not include any of the following:

(A) The game of bingo conducted pursuant to Section 326.5.

(B) Parimutuel racing on horse races regulated by the California Horse Racing Board.

(C) Any lottery game conducted by the California State Lottery.

(D) Games played with cards in private homes or residences, in which no person makes money for operating the game, except as a player.

(f) This subdivision is intended to be dispositive of the law relating to the collection of player fees in gambling establishments. A fee may not be calculated as a fraction or percentage of wagers made or winnings earned. The amount of fees charged for all wagers shall be determined prior to the start of play of any hand or round. However, the gambling establishment may waive collection of the fee or portion of the fee in any hand or round of play after the hand or round has begun pursuant to the published rules of the game and the notice provided to the public. The actual collection of the fee may occur before or after the start of play. Ample notice shall be provided to the patrons of gambling establishments relating to the assessment of fees. Flat fees on each wager may be assessed at different collection rates, but no more than three collection rates may be established per table. However, if the gambling establishment waives its collection fee, this fee does not constitute one of the three collection rates.

337k. (a) It is unlawful for any person to advertise, or to facilitate the advertisement of, nonparimutuel wagering on horse races.

(b) Violation of this section is an infraction punishable by a fine of five hundred dollars (\$500). A second conviction for a violation of this section is a misdemeanor punishable by a fine of up to ten thousand dollars (\$10,000).

337s. (a) This section applies only in counties with a population exceeding 4,000,000.

(b) Every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game of draw poker, including lowball poker, is guilty of a misdemeanor.

(c) Subdivision (b) shall become operative in a county only if the board of supervisors thereof by resolution directs that there be placed on the ballot at a designated county election the question whether draw poker, including lowball poker, shall be prohibited in the county and a majority of electors voting thereon vote affirmatively. The question shall appear on the ballot in substantially the following form:

"Shall draw poker, including lowball poker, be prohibited in \_\_\_\_ County? Yes \_\_\_\_ No \_\_\_\_"

If a majority of electors voting thereon vote affirmatively, draw poker shall be prohibited in the unincorporated territory in the county.

(d) Any county ordinance in any county prohibiting, restricting, or regulating the playing of draw poker and other acts relating to draw poker shall not be superseded until, pursuant to subdivision (c), the electorate of the county determines that subdivision (b) shall be operative in the county.

(e) The Legislature finds that in counties with a large, concentrated population, problems incident to the playing of draw poker are, in part, qualitatively, as well as quantitatively, different from the problems in smaller counties.

The Legislature finds that counties with a population exceeding 4,000,000 constitute a special problem, and it is reasonable classification to adopt prohibitory legislation applicable only to such counties.

(f) If any provision of this section is held invalid, the entire section shall be invalid. The provisions of this section are not severable.

337t. The following definitions govern the construction of this section and Sections 337u, 337w, 337x, and 337y:

(a) "Associated equipment" means any equipment or mechanical, electromechanical, or electronic contrivance, component or machine used remotely or directly in connection with gaming or any game that would not otherwise be classified as a gaming device, including dice, playing cards, links which connect to progressive slot machines, equipment which affects the proper reporting of gross revenue, computerized systems for monitoring slot machines and devices for weighing or counting money.

(b) "Cashless wagering system" means a method of wagering and accounting in which the validity and value of a wagering instrument or wagering credits are determined, monitored, and retained by a computer that is operated and maintained by a licensee and that maintains a record of each transaction involving the wagering instrument or wagering credits, exclusive of the game or gaming device on which wagers are being made. The term includes computerized systems which facilitate electronic transfers of money directly to or from a game or gaming device.

(c) "Cheat" means to alter the normal elements of chance, method of selection, or criteria, excluding those alterations to the game generally done by the casino to provide variety to games and that are known, or should be known, by the wagering players, which determine any of the following:

- (1) The result of a gambling game.
- (2) The amount or frequency of payment in a gambling game.
- (3) The value of a wagering instrument.
- (4) The value of a wagering credit.

(d) "Drop box" means the box that serves as a repository for cash, chips, tokens, or other wagering instruments.

(e) "Gambling establishment" means any premises wherein or whereon

any gaming is done.

(f) "Gambling game device" means any equipment or mechanical, electromechanical, or electronic contrivance, component or machine used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss. The term includes any of the following:

(1) A slot machine.

(2) A collection of two or more of the following components:

(A) An assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in a slot machine.

(B) A cabinet with electrical wiring and provisions for mounting a coin, token, or currency acceptor and provisions for mounting a dispenser of coins, tokens, or anything of value.

(C) A storage medium containing the source language or executable **code** of a computer program that cannot be reasonably demonstrated to have any use other than in a slot machine.

(D) An assembled video display unit.

(E) An assembled mechanical or electromechanical display unit intended for use in gambling.

(F) An assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in a slot machine.

(3) Any mechanical, electrical, or other device that may be connected to or used with a slot machine to alter the normal criteria of random selection or affect the outcome of a game.

(4) A system for the accounting or management of any game in which the result of the wager is determined electronically by using any combination of hardware or software for computers.

(5) Any combination of one of the components set forth in subparagraphs (A) to (F), inclusive, of paragraph (2) and any other component that the commission determines, by regulation, to be a machine used directly or remotely in connection with gaming or any game which affects the results of a wager by determining a win or loss.

(g) "Past-posting" means the placing of a wager by an individual at a game after having knowledge of the result or outcome of that game.

(h) "Pinching wagers" means to reduce the amount wagered or to cancel the wager after acquiring knowledge of the outcome of the game or other event that is the subject of the wager.

(i) "Pressing wagers" means to increase a wager after acquiring knowledge of the outcome of the game or other event that is the subject of the wager.

(j) "Tribal Gaming Agency" means the person, agency, board, committee, commission, or council designated under tribal law, including, but not limited to, an intertribal gaming regulatory agency approved to fulfill those functions by the National Indian Gaming Commission, as primarily responsible for carrying out the regulatory responsibilities of the tribe under the Indian Gaming and Regulatory Act (25 U.S.C. Sec. 2701) and a tribal gaming ordinance.

(k) "Wagering credit" means a representative of value, other than a chip, token, or wagering instrument, that is used for wagering at a game or gaming device and is obtained by the payment of cash or a cash equivalent, the use of a wagering instrument or the electronic transfer of money.

(l) "Wagering instrument" means a representative of value, other than a chip or token, that is issued by a licensee and approved by the California Gambling Control Commission or a tribal gaming agency, for use in a cashless wagering system.

337u. It is unlawful for any person to commit any of the following acts:

(a) To alter or misrepresent the outcome of a gambling game or other event on which wagers lawfully have been made after the outcome

is determined, but before it is revealed to the players.

(b) To place, increase, or decrease a wager or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the gambling game or any event that affects the outcome of the gambling game or which is the subject of the wager or to aid anyone in acquiring that knowledge for the purpose of placing, increasing, or decreasing a wager or determining the course of play contingent upon that event or outcome.

(c) To claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a gambling game, with intent to defraud, without having made a wager contingent on the game, or to claim, collect, or take an amount greater than the amount actually won.

(d) Knowingly to entice or induce another to go to any place where a gambling game is being conducted or operated in violation of this section, or Section 337v, 337w, 337x, or 337y, with the intent that the other person play or participate in that gambling game.

(e) To place or increase a wager after acquiring knowledge of the outcome of the gambling game or other event which is the subject of the wager, including past-posting and pressing wagers.

(f) To reduce the amount wagered or cancel the wager after acquiring knowledge of the outcome of the gambling game or other event which is the subject of the bet, including pinching wagers.

(g) To manipulate, with the intent to cheat, any component of a gambling game device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the gambling game or with knowledge of any event that affects the outcome of the gambling game.

337v. It is unlawful for any person at a gambling establishment to use, or to possess with the intent to use, any device to assist in any of the following:

(a) In projecting the outcome of the gambling game.

(b) In keeping track of the cards played.

(c) In analyzing the probability of the occurrence of an event relating to the gambling game.

(d) In analyzing the strategy for playing or wagering to be used in the gambling game, except as permitted by the California Gambling Control Commission or a tribal gaming agency.

337w. (a) It is unlawful for any person to use counterfeit chips, counterfeit debit instruments, or other counterfeit wagering instruments in a gambling game, the equipment associated with a gambling game, or a cashless wagering system.

(b) It is unlawful for any person, in playing or using any gambling game, the equipment associated with a gambling game, or a cashless wagering system designed to be played with, receive, or be operated by chips, tokens, wagering credits or other wagering instruments approved by the California Gambling Control Commission or a tribal gaming agency, or by lawful coin of the United States of America to either:

(1) Knowingly use chips, tokens, wagering credits, or other wagering instruments not approved by the California Gambling Control Commission or a tribal gaming agency, or lawful coin, legal tender of the United States of America, or use coins or tokens not of the same denomination as the coins or tokens intended to be used in that gambling game, associated equipment, or cashless wagering system.

(2) Use any device or means to violate this section or Section 337u, 337v, 337x, or 337y.

(c) It is unlawful for any person, not a duly authorized employee

of a gambling establishment acting in furtherance of his or her employment within that establishment, to possess any device intended to be used to violate this section or Section 337u, 337v, 337x, or 337y.

(d) It is unlawful for any person, not a duly authorized employee of a gambling establishment acting in furtherance of his or her employment within that establishment, to possess any key or device known to have been designed for the purpose of, and suitable for, opening, entering, or affecting the operation of any gambling game, cashless wagering system, or dropbox, or for removing money or other contents from the game, system, or box.

(e) It is unlawful for any person to possess any paraphernalia for manufacturing slugs. As used in this subdivision, "paraphernalia for manufacturing slugs" means the equipment, products, and materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing, or concealing a counterfeit facsimile of the chips, tokens, debit instruments, or other wagering instruments approved by the California Gambling Control Commission or a tribal gaming agency, or a lawful coin of the United States, the use of which is unlawful pursuant to subdivision (b). The term "paraphernalia for manufacturing slugs" includes, but is not limited to, any of the following:

(1) Lead or lead alloys.

(2) Molds, forms, or similar equipment capable of producing a likeness of a gaming token or lawful coin of the United States.

(3) Melting pots or other receptacles.

(4) Torches.

(5) Tongs, trimming tools, or other similar equipment.

(6) Equipment which can be reasonably demonstrated to manufacture facsimiles of debit instruments or wagering instruments approved by the California Gambling Control Commission or a tribal gaming agency.

337x. It is unlawful to cheat at any gambling game in a gambling establishment.

337y. It is unlawful to do either of the following:

(a) Manufacture, sell, or distribute any cards, chips, dice, game, or device which is intended to be used to violate Section 337u, 337v, 337w, or 337x.

(b) Mark, alter, or otherwise modify any gambling game device or associated equipment in a manner that either:

(1) Affects the result of a wager by determining win or loss.

(2) Alters the normal criteria of random selection, which affects the operation of a gambling game or which determines the outcome of a game.

(c) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use conveyed may be employed to violate Section 337u, 337v, 337w, or 337x.

337z. (a) Any person who violates Section 337u, 337v, 337w, 337x, or 337y shall be punished as follows:

(1) For the first violation, by imprisonment in a county jail for a term not to exceed one year, or by a fine of not more than ten thousand dollars (\$10,000), or by both imprisonment and fine.

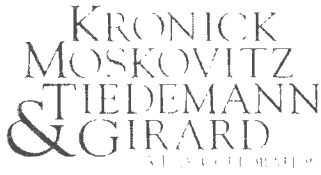
(2) For a second or subsequent violation of any of those sections, by imprisonment in a county jail for a term not to exceed one year or by a fine of not more than fifteen thousand dollars (\$15,000), or



by both imprisonment and fine.

(b) A person who attempts to violate Section 337u, 337v, 337w, 337x, or 337y shall be punished in the same manner as the underlying crime.

(c) This section does not preclude prosecution under Section 332 or any other provision of law.



## MEMORANDUM

**ATTORNEY-CLIENT PRIVILEGE**  
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**CONFIDENTIAL**

TO: Casey Goodall, Ed.D., M.B.A.  
Associate Superintendent, Business Services  
Tracy Unified School District  
  
Catherine Lyons  
Secretary to the ASBS

FROM: Diana Halpenny  
Jennifer Postel

DATE: November 13, 2007

RE: The Use of School District Facilities for Bingo

FILE NO.: 11153.001

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### I. ISSUE

Kronick, Moskowitz, Tiedemann & Girard (“KMTG”) has been asked to advise the Tracy Unified School District (“District”) regarding the use of District facilities for fundraising activities. Specifically, the District has asked whether a parent group may use a school site for a bingo night<sup>1</sup>.

### II. BRIEF ANSWER

The answer to the question of whether or not the District may permit a school site to be used for a bingo fundraiser depends upon the legal status of the group hosting the bingo night and whether or not the group has obtained the proper license from the Tracy Police Department. If the parent group is an organization qualified for tax exempt status and eligible to receive charitable contributions, then the group would be eligible to obtain a bingo permit. If the parent group has obtained a license to conduct bingo games from the Tracy Police Department, then the District may properly authorize the group to use a school site for a bingo fundraiser.<sup>2</sup>

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<sup>1</sup> This memorandum is limited to the use of District property for bingo only. The memorandum does not discuss other types of “gambling” activity such as raffles or card games.

<sup>2</sup> Board policies and other District regulations were not reviewed in the process of drafting this memorandum. Prior to authorizing any group to use District facilities for bingo, District staff should confirm that internal policies and regulations do not provide additional limitations on the District’s right to authorize bingo on school property.

### III. DISCUSSION

The starting point in a discussion about the legality of permitting a controlled game on District property is California Penal Code (“CPC”) §337j(b) which provides, “It is unlawful for any person to knowingly permit any controlled game to be conducted, operated, dealt, or carried on in any house or building or other premises that he or she owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required...”<sup>3</sup> However, there is an express exception to this general rule for bingo, provided the group conducting the bingo game qualifies for exemption under CPC § 326.5.

The statutory exception provides that bingo may be conducted if the city or county has adopted an ordinance allowing bingo, so long as the ordinance provides that games are only to be conducted by charitable organizations, and the receipts of the game are only to be used for charitable purposes.<sup>4</sup> Thus, the next step in the analysis of this issue is to determine whether local ordinances authorize bingo play for qualifying organizations.

Title 4 of Tracy’s municipal ordinances addresses public welfare, morals and conduct. Chapter 4.24 titled “Licensing and Regulation of Nonprofit Organization for the Operation of Bingo Games” governs exempt bingo play in Tracy.

Tracy Municipal Ordinance (“TMO”<sup>5</sup>) 4.24.010 provides for lawful bingo within Tracy and properly aligns the municipal ordinances with the State Constitution. TMO 4.24.020 and 4.24.040 limit charitable organizations to those organizations recognized as non-profit organizations under state and federal law. Tracy’s municipal ordinances comply with the state requirements for authorizing bingo play and therefore bingo games may be conducted pursuant to the guidelines proffered by Tracy.

Tracy permits organizations that are charitable organizations under state and federal law “to apply to the City for a license to conduct bingo games in the City under the provisions of Section 326.5 of the Penal Code of the State and the provisions of this chapter.” (TMO 4.24.040.)

The ultimate answer to the question of whether or not the parent group at issue may host a bingo game on District property as a fundraiser turns on the legal status of the parent group. If the parent group seeking to use District facilities for a bingo fundraiser is organized as a nonprofit organization eligible to receive tax exempt gifts (“Qualified Nonprofit Group”), the TMO

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<sup>3</sup> CPC § 337j(d) provides the consequences for violations, “Any person who violates, attempts to violate, or conspires to violate this section shall be punished by imprisonment in a county jail for not more than one year or by a fine of not more than ten thousand dollars (\$10,000), or by both one year imprisonment and a fine.”

<sup>4</sup> Section 19(c) of Article IV of the California Constitution provides, “the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.”

<sup>5</sup> All provisions of the TMO referenced in this memorandum were obtained from the Lexis Nexis municipal codes website at <http://municipalcodes.lexisnexis.com/codes/tracy/>. A link to this webpage is provided by the Stockton San Joaquin Public Library and the full text of the codes may be viewed on this page.

provisions discussed below and CPC §326.5 govern bingo play. If the parent group is not a Qualified Nonprofit Group, they are not permitted to conduct a bingo game and the District should not permit them to do so on District property.

It is not necessary for the District to independently determine whether or not the group is a Qualified Nonprofit Group. Qualified Nonprofit Groups must apply for a license with the Tracy Police Department and the application, "shall be filed not less than thirty (30) days prior to the proposed date of the bingo game or games." (TMO 4.24.050.) Thus, any Qualified Nonprofit Group eligible to conduct bingo games in Tracy will have a bingo license from the Tracy Police Department proving their qualifications to conduct bingo games. Requesting the license negates the need to independently determine whether the group is a Qualified Nonprofit Group because the Tracy Police Department will have already done that in determining whether to issue the license. Bingo licenses are good for six months and the initial license costs fifty dollars while subsequent renewals cost ten dollars. (TMO 4.24.060.) The licenses are "issued to a specific person on behalf of a specific nonprofit charitable organization to conduct bingo at a specific location" and in no event may the licenses "be transferable from one person to another nor from one location to another." (TMO 4.24.080.)

If the parent group wanting to play bingo as part of a fundraiser is a Qualified Nonprofit Group but they have not obtained the proper license, the District may recommend that the group secure the necessary license in order to legally play bingo as a fundraiser, but the District would be out of compliance with state and local law to permit the group to use District facilities without the license. CPC §337j(b) plainly states, "It is unlawful for any person to knowingly permit any controlled game to be conducted, operated, dealt, or carried on in any house or building or other premises that he or she owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law..." The exception whereby bingo is not a controlled game for purposes of the statute only applies to bingo conducted pursuant to law. (CPC §337j(e)(2)(A).) TMO requires licensing and therefore a conservative approach to determining whether or not to permit a group to use District property to conduct bingo would be to require proof of licensure.

Assuming the group is a licensed Qualified Nonprofit Group which may legally conduct a bingo game, the location of the game must still be addressed. "A nonprofit charitable organization shall conduct a bingo game only on property owned or leased by it and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized." (TMO 4.24.080.) The school site being sought by the parent group is neither owned nor leased by the parent group. Thus, even if the parent group is a Qualified Nonprofit Group and there is sufficient time to secure the necessary license from the Tracy Police Department, the group must rent space from the District in order to comply with this TMO provision.

CPC §326.5(f) provides an alternative should the District choose to donate its space for the event. Specifically, a Qualified Nonprofit Group may conduct a bingo game on "property whose use is donated to the organization, and which property is used by that organization for an office

or for performance of the purposes for which the organization is organized.” Presumably, the parent group is organized for the purpose of raising funds in support of school related activities. Further, they likely fulfill the purpose of their organization on the school site. Thus, under the CPC, the parent group would be permitted to use space donated by the District for conducting a bingo game.<sup>6</sup>

Compliance with the guidelines and restrictions for lawful operation of bingo games is the responsibility of the group conducting the bingo game. However, the District should be advised that CPN §326.5 prohibits minors from participating in bingo games. Further, bingo games must be open to the public, not just members of the group conducting the bingo game. CPN Section 326.5 provides detailed guidelines and restrictions for bingo play should the District choose to review the restrictions placed upon Qualified Nonprofit Groups licensed to conduct bingo games.

#### **IV. CONCLUSION**

California only permits the District to authorize lawful bingo games on District facilities. Therefore, the District should only permit licensed Qualified Nonprofit Groups to use its facilities for bingo provided the group meets the property usage requirement. Specifically, lawfully conducting bingo games on District property in Tracy requires 1) a Qualified Nonprofit Group 2) a license from the City of Tracy, and 3) a group which performs the functions for which it is organized on school property. While CPC does not specifically require that groups obtain a license, local ordinances do.

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<sup>6</sup> Please note that this requirement regarding location mandates that you view this memorandum in its limited scope of addressing the issue of a parent fundraising group seeking to use District space for a school fundraiser. The analysis provided would not apply to another charitable group seeking to use District property to raise funds for issues unrelated to the school site. For example, a bingo fundraiser for the homeless would not fall within the exception because the school site is not used for the purpose of eliminating homelessness.