



Public School Fundraising and Crowdfunding

Oceanside Unified School District

September 1, 2021

Fagen, Friedman and Fulfrost LLP

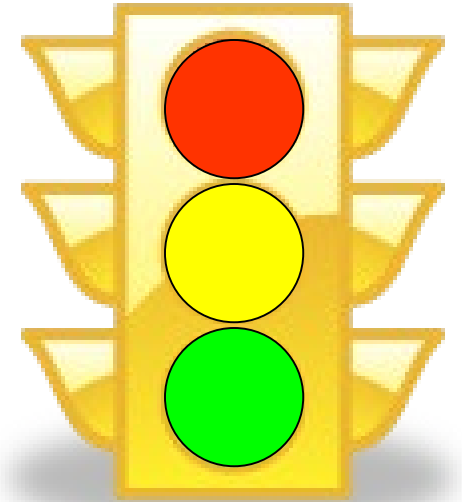


What We'll Cover Today:

- What is the law on student fees?
- Rules related to Fundraising and Donations
- Fundraising entities and their varying roles:
 - ASB
 - Boosters
- Crowdfunding Platforms and Online Fundraising
- Q&A

Fundraising Avenues

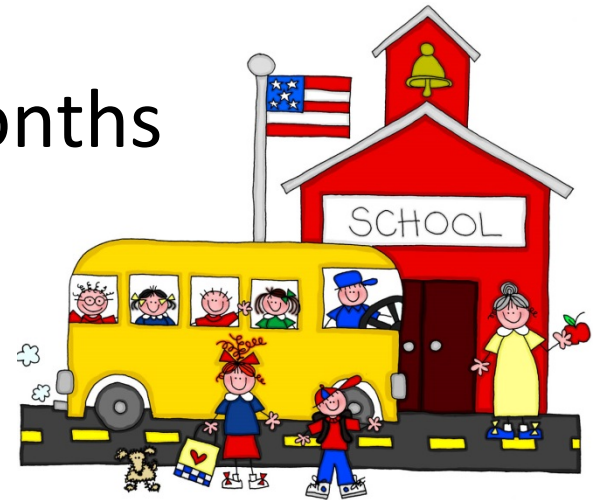
- Fees/Charges
- PTA/Booster Fundraising and Donations
- ASB Student Fundraising



California's System of Free Public Education

- “The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year...”

California Constitution, Article IX, Section 5



California Education Code

- “No school official shall require any pupil, except pupils in classes for adults, to purchase any instructional material for the pupils’ use in the school.”

Education Code § 60070

- “[t]hese [educational] opportunities are a right to be enjoyed without regard to economic status...”

Education Code §51004



California Code of Regulations

- “A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law.”

Title 5, CCR; § 350



Hartzell v. Connell

(1984) 35 Cal. 3d 899 (California Supreme Court)

■ Santa Barbara High School District

- ☐ Budget Cut for 1980-1981 school year (\$1.1)
- ☐ Began charging for programs previously free/sustained through fundraising: drama programs (drama, dance), music programs (orchestra, band, choir) and athletics (including cheerleading) - **\$25.00 per student per activity**
- ☐ “Saved” the programs

Hartzell v. Connell

(1984) 35 Cal.3d 899 (California Supreme Court)

- Court ruled against the school district
- Holding:
 - Educational activities, curricular and extracurricular, fall within the free school guarantee
 - Waiver and outreach do not equate with guarantee of free schools
 - Budget hardship is not relevant to guarantee of free schools

Takeaway:

- Must keep free activities which are an “integral fundamental part of the elementary and secondary education” and which are “necessary elements of any school’s activity.”



ACLU Lawsuit: Doe v. Calif.

- Challenged fees charged by various school districts (and staff)
- Expanded on issues beyond extra-curricular activities, i.e. textbooks and workbooks, lab fees and P.E. uniforms.
- As part of a settlement the Legislature agreed to change Education Code.



Pupil Fees: Definition

- Defines “pupil fee” to include any “fee, deposit, or other charge” imposed as a condition of a student’s participation in any activity offered by a school that “constitutes an integral fundamental part of elementary and secondary education, including, but not limited to, curricular and extracurricular activities.”
- No pupil shall “be required to pay a pupil fee for participation in an educational activity.” (EC § 49010.)

“Pupil fees” specifically include:

- ☐ Charging a fee as condition for participation in a class or extracurricular activity.
- ☐ Requiring students to make a payment to obtain a lock, locker, book, class apparatus, musical instrument, uniform, or “other materials or equipment.”
- ☐ Requiring students to make a purchase to obtain materials, supplies, equipment, or uniforms associated with an educational activity. (EC § 49010.)

What should be avoided?

■ Specific requirements:

- ☐ All supplies, materials, and equipment needed to participate in educational activities must be provided free of charge.
- ☐ Fee waivers or “opt-outs” impermissible.
- ☐ Cannot establish “two-tier system.”
- ☐ Cannot offer credit or privileges in exchange for \$\$ or donations.
- ☐ Cannot remove credit or privileges because pupil does not / will not provide \$\$ or donations. (EC § 49011.)

What can we do?

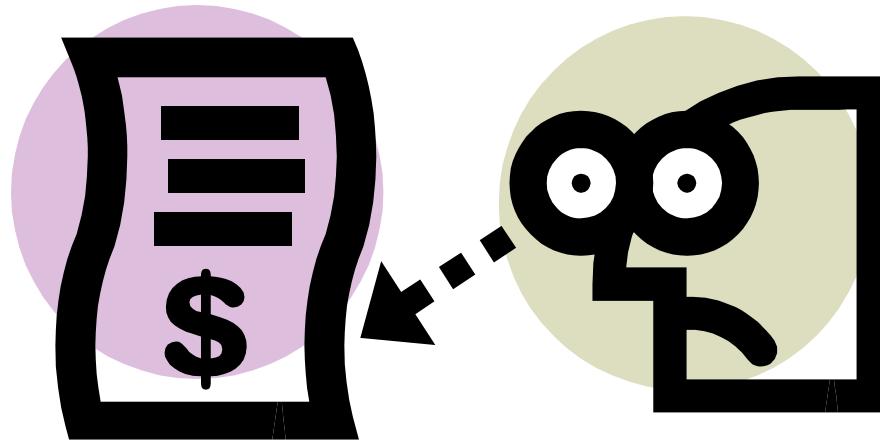
■ But...

- ☐ May solicit **voluntary** donations.
- ☐ May solicit **voluntary** participation in fundraising activities.
- ☐ May provide students with “prizes or other recognition” for **voluntarily** participating in fundraising activities.

(EC § 49011.)

Bottom Line

- If it's necessary for participation in the school-sponsored program or activity, you may not charge (unless authorized by law).



Uniforms

- A school district has a basic duty to provide supplies which are necessary to fulfill school's educational program.
 - Includes school-related extracurricular programs
 - Cheer, band, softball, track, etc.

Uniforms

- School must provide a free uniform to any student who is a member of the school team free of charge.

Members will pay for their own uniform, which will cost approximately \$500 - 800. Uniforms are non-returnable and non-refundable, even if the member quits, becomes academically ineligible or is kicked off the squad.

Uniforms

- If the uniform item is required, the District must provide free of charge
- Not required to fund “extra” items
- Students may elect to purchase and keep items at their own expense



ASB Fees

- Not permitted: membership fees in student organization as condition for participation in educational activities.
- Not permitted: requiring purchase of ASB card to participate in educational activity.
- Permitted: encourage purchase of ASB card by offering discounts on admission to activities.

Consequences for Non-Compliance

- A complaint for an unauthorized fee collection may be filed with the district or principal under the Uniform Complaint Procedures.
- If complaint has merit, district shall provide a remedy to all affected pupils, parents/guardians including reasonable efforts by the school to ensure full reimbursement.



Fundraising and Donations



Fundraising

- Permissible, as long as raising of funds is voluntary
- Not allowed: requiring that students raise funds or pay a fee themselves

We understand that cheer is an expensive sport. To assist you in paying the fees we will be offering several fundraisers where the extra money earned can be applied directly to squad member's individual accounts. We need parents to be in charge of the various fundraisers. Please be ready to sign up and

Fundraising (cont.)

- Allowed: requiring a student to attend a fundraising event in same way as attendance at games, rehearsals, performances
- Example:
 - ☐ Requiring members of vocal choir to perform at a school fundraising concert
 - ☐ Require a student to attend a presentation about a school-wide giftwrap fundraiser

Fundraising Always Needs A Disclaimer

- “Not related in any way to student participation in activity or program”
- Where appropriate → “Not an activity of school district.”



District Approval of Fundraisers

- California Education Code § 51521 requires district approval of all fundraising activities
 - ☐ Each organization should submit a list of proposed fundraising programs to the principal for approval. **(Including Crowdfunding Campaigns!)**
 - ☐ The principal may compile all proposed fundraising lists and submit the documentation to the district for approval

District Approval of Fundraisers (cont.)

- Before approval, the district may consider:
 - ☐ How does the event impact student safety?
 - ☐ Is the event appropriate for the educational experience of the student?
 - ☐ Does the event interfere with the normal operation of the school?
 - ☐ Are there conflicting events on the same day?

Donations

- Schools, foundations, booster clubs may solicit donations from students, parents, community
- As long as process is voluntary and in “no way prerequisite to participation in program or activity”

Below is a list of uniform pieces that are *required for the season and the approximate “donation” needed for this expense. It does not include tax or shipping. If you cannot afford these required uniform pieces, please speak with one of us privately regarding this issue so we can accommodate your son/daughter’s needs as



Donations (cont.)

- Any statement or explanation related to a donation that could lead a reasonable person to believe that the donation is not truly voluntary should be avoided
- Examples:
 - ☐ Specified minimum amount of donation
 - ☐ Date by which donation is due
 - ☐ Lesser donation amount if funds are received early

Donations (cont.)

- Any statement or action that exerts explicit or implicit pressure on students or parents to make donation should be avoided
- Examples:
 - ☐ Reprimanding player for failure to make donation
 - ☐ Barring player from tryouts for not paying fee to attend summer camp
 - ☐ Requiring a “donation” for required part of cheerleading uniform
- Not violation: positively recognizing players and families who donate

Donations/Fundraising Strategy

■ District Policy Initiative:

- Shift from individual requirement to group fundraising
- Approach from program-needs standpoint



Donations/Fundraising Suggestions

- Not allowed: Parent letter stating that the “required donation” is \$180 for uniform
- Allowed:
 - ☐ Selling *optional* spirit packs (make it clear)
 - ☐ Sending letter soliciting *voluntary* parent donation to program (again, make it clear)
 - ☐ Providing *option* of keeping items students willing to pay for

Board Policies Regarding Donations and Gifts

- BP 3290 requires the board to consider the following before accepting any gift:
 - ☐ Is the gift's purpose consistent with the district's vision and philosophy?
 - ☐ Will the program continue after donated funds are exhausted?
 - ☐ Does the gift entail excessive costs?
 - ☐ Does the gift imply endorsement of any product or business?
 - ☐ Does the gift or donation come with a condition?
 - Is the condition consistent with the district's vision and philosophy?
 - Will the district be able to fulfill the condition?
- Organizations should keep these considerations in mind when considering donating to the school district

Fundraising Entities:

- ASB
- Student clubs and organizations

Are legally related to the district and will use the district's EIN.

- Booster clubs
- PTA
- Foundations

Are not legally related to the district and will need their own entity structure, EIN, non-profit status and accounting and auditing practices.

ASB Money Management

- ASB: student organizations that raise and spend money on behalf of students
- Will need to open a checking account, with district's EIN. Best practice to have district's business office open and supervise the account
- Must follow statutory requirements and board policies regarding handling of funds

Booster Club/ Parent Organization Money Management

- Booster and parent organizations are formed to assist the district financially but are NOT part of the district
- Each organization must have its own bank account and tax identification number
 - ☐ It is the organization's responsibility to know and comply with relevant laws and regulations
 - ☐ NEVER comingle booster club and personal funds or district money
- Organizations may choose to apply for tax-exempt status through the IRS

Booster Club/Parent Organization Money Management (cont.)

- Must adhere to district facility use policies and Civic Center Act requirements
- Must still get board approval if fundraising for students/school/district (Ed. Code § 51521)
- Fundraising must be non-partisan, non-political and non-sectarian
- Organizations are responsible for their own accounting, auditing, and payment of applicable taxes
 - ☐ Procedures to prevent fraud:
 - Checks should require more than one signature
 - Use prenumbered receipt books
 - Require monthly bank reconciliations
 - ☐ The district may review and audit booster accounts.

Booster/Parent Organization Donations and Employee Involvement

- Best to donate funds or reimburse for items purchased, so purchases can go through regular district procedures
 - Expenses for goods, supplies and transportation should be made by the district then reimbursed by the Booster
- District employees can participate in booster organizations, but not during regular working hours
- District employees need district approval to also be employed by a booster club and the position must not present a conflict of interest

Retention of Records

- Because of frequent turnover, it is important that all organizations produce and retain clear records
- The following records should be retained in a safety deposit box:
 - ☐ Cash receipts/disbursements and bank records
 - ☐ Financial reports and income tax returns
 - ☐ Minutes of meetings

Keeping Booster Club/ Parent Organization Management Separate from the District

- The district should not directly manage booster clubs
- Neither party should take action that would cause a reasonable person to believe that the district is responsible for the booster club
- The district may send a letter to the booster members explaining that the booster club may not act as an agent of the district

Internal Controls

- ASB organizations, Booster clubs, and PTAs, are all responsible for ensuring that proper internal controls exist for all financial activities
- Internal controls are procedures that ensure honesty and efficiency in financial transactions
 - These procedures protect resources and reputations

HOT TOPIC: CROWDFUNDING

■ Crowdfunding is an online fundraising method which allows a group to raise money from many people, typically over the internet.

- ❖ Quick and efficient way to reach a wider scope of potential donors
- ❖ A variety of platforms will offer different features and benefits



Platform Features



- Things to consider when selecting a crowdfunding platform:
 - ☐ Type of Donation
 - ☐ Fulfillment/Receipt
 - ☐ Exposure and Funding Partners
 - ☐ Costs

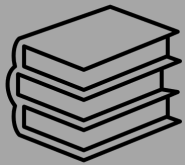
Type of Donation

- Platforms will allow a variety of donation types, usually in the form of money, goods, or services.
- Each has pros and cons
 - Money is the most flexible but increases risk;
 - Goods/Services avoid potential mismanagement, but they avoid standard procedure.

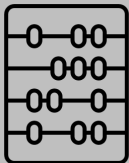
Fulfillment/Receipt



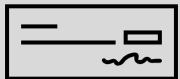
Depositing funds into an individual account



Using donated funds to directly purchase items



Applying credit for the donated funds to the individual user's account

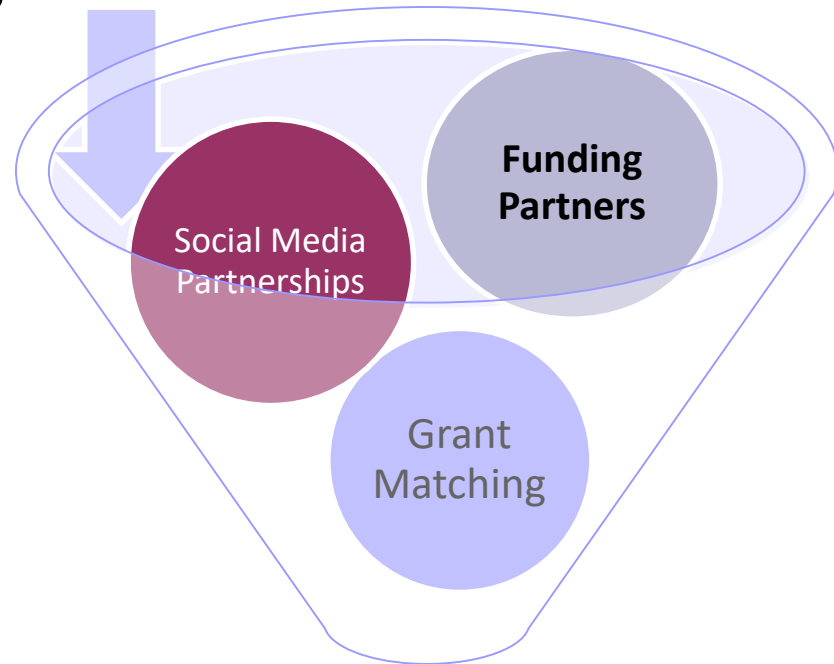


Mailing a check to an authorized individual



Exposure and Funding Partners

- What kind of exposure tools does the platform offer to reach donors outside of personal networks?



Costs



Some platforms will offer a basic free functionality and additional paid suites of product upgrades for a fee.

***Paid options tend to allow greater levels of oversight**



Cost should be balanced against considerations regarding the levels of control and usage of the helpful features

District Policies for Crowdfunding:

1. Staff must request prior approval from the Business Services Office before letting a campaign go live.
2. All crowdfunding products/equipment/supplies requested must align with the District's technology plan, adopted curriculum, and other applicable standards.
3. District staff should not receive direct cash payments.
4. Online campaigns must comply with applicable federal and state student privacy laws.
5. Staff must provide status reports to the Business Services Office upon completion of the campaign and shipping/receipt of crowdfunded items.
6. All materials, supplies and funds raised on behalf of or for the benefit of the District become district property.

Student Privacy



FERPA “Family Educational Rights and Privacy Act”:

Federal law that protects students' educational records

Need parent (or eligible aged student) consent to disclose educational records.



Don't Post:

Student photographs: individual or groups of students in the classroom or on school campus

Student names, grades, ages or other identifying information

Images of written student work

Fundraising Information and Guidelines

September 1, 2021

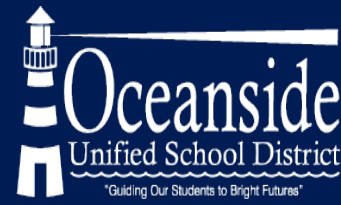


Fundraising Procedures

In order to fundraise for an OUSD school site, the following procedures must be followed:

1. Submit the “Annual Authorization for School Affiliated Organizations to Fundraise” packet
2. Upon receiving district approval to fundraise, request “Use of Facilities” online through Facilitron (<https://www.facilitron.com/ousd92058>)
3. Hold fundraiser
4. Deposit funds into organization’s bank account
5. Donate funds or goods to school site; site reports donation to Board of Education through donation procedure
6. After donation to site, inform families of how much was raised and how it was spent

Annual Authorization Packet



- New packet for 2021-2022
- Fillable form on website, www.oside.us/fundraising
- Complete packet with attachments and signatures
- Submit to Business Services by **Thursday, September 30, 2021**
- A approved copy of the authorization page will be returned to organization, principal, and Facility Use Office

Online “Use of Facilities” Requests

- Any event taking place on an OUSD site requires an approved “Use of Facilities” request
- New process online for efficiency using Facilitron, www.facilitron.com/ousd92058
- Requesters are able to digitally view available space, reserve a facility, and make payments through Facilitron
- Each online transaction will include a 10% service fee
- Events may require OUSD staff to be present and paid (i.e.: custodian, security, etc.)
- Facility requests require a minimum of 30 days advance notice
 - Requests for OUSD Performing Arts Centers require a minimum of 60 days advance notice and deposit
 - Requests for OUSD stadiums require a minimum of 60 days advance notice, deposit, and OUSD Board of Education approval
- Approval process should take 7 days once all information is received
- Due to COVID-19, please allow for processing delays
- Facilitron information, including instructions and required documents, on website, www.oside.us/fundraising
- Renee Fernandez, 760-966-4022, rfernandez@oside.us

Not permitted...

- On-site car washes due to storm drain requirements and regulations
- Potentially dangerous activities (dunk tanks, pie in the face, etc.)
- Food sales between hours of midnight and 30 minutes after site dismissal
- Door to door sales by students under the age of 16 unless part of a team **and** supervised by an adult
- Mandatory participation in activities, events, or fundraisers
- Alcohol, tobacco, and smoking (including vaping) at any on-site events

5th Grade Camp...

Suggestions and recommendations for 5th Grade Camp fundraising and planning:

- Include language in the parent letter explicitly informing parents that participation is always voluntary. This is to ensure that parents and student understand that the trip is an extracurricular activity that will not impact the student's grade or participation marks.
- Add a box to the letter giving parents the option to decline to provide permission for their child to attend. Again, this will indicate that participation is strictly voluntary.
- Add language to the letter stating that no student will be excluded from the trip due to the inability to pay.
- Provide contact information for the site administrator (instead of the teacher) in the section for questions regarding the inability to pay.
- A sample letter is on the website, www.osite.us/fundraising

Inflatables...

There are serious guidelines on the use of inflatables for events:

- Review rules for participation with students and strictly adhere to those rules
- All participants should complete a permission form available on the website, www.oside.us/fundraising
- All participants should be under direct adult supervision at all times
- Closely follow the manufacturer's directions and guidelines in regards to proper set up and use of inflatable
- Vendor should provide Hold Harmless Contract – a waiver of liability claims against the district
- Vendor should provide certificate of liability naming the district/organization as additionally insured

If the site contracts for inflatables, the site/district is responsible.

If the organization contracts for inflatables, the organization is responsible.

Best Practices

- Emphasize fundraisers that support the whole group, student body, and/or grade level
- Be inclusive of all students and families
- Spend current year's funds on current year's students
- Ensure the fundraising activities are voluntary and not required for student participation in school activities
- Governing board members should be the designated receivers of cash payments during activities
- Remember, the organization is about the students!

Contacts

Use of Facilities office:

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Business Services office:

Colette Leyva

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Website: www.oside.us/fundraising



Questions?



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