SANCTIONED ORGANIZATIONS

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OVERVIEW

Oklahoma law requires that all funds collected by programs to aid students such as booster clubs, PTA's, etc., must go into a school activity fund and be under the control of the school district.

--OKLA. STAT. tit. 70, § 5-129

<u>There is one exception</u> - the exception is when the organization is sanctioned by the board of education

WHAT IS SCHOOL SANCTIONING

- All school districts are required to have sanctioning policies to allow booster clubs to be exempt from the activity fund controls
- What is sanctioning?
  - It does not mean an "approval" to act on behalf of the School District.
  - It does not mean a "penalty" by the School District.
- Sanctioning is just this: funds collected by booster clubs and other organizations are exempt from the regulations of the School District's school activity fund
- This means that organizations may, by and large, control their own funds and the use of those funds for the benefit of students **within certain exceptions**

WHAT IF AN ORGANIZATION IS NOT SANCTIONED?

- If an organization is not sanctioned by the board of education, then that organization **must** deposit its funds in a board approved school activity account that follows the disbursement policies and procedures of the school district

- Most school districts have a sanctioning policy.
- All administrators who deal with Sanctioned Organizations should review the School District's policy annually and be very familiar with it.
- All booster club officers should review the policy annually and be very familiar with it.

- In summary, an organization or PTA, if sanctioned, **IS <u>NOT</u>** subject to School Activity Fund requirements.
- However, a sanctioned organization or PTA **IS** subject to the School District's sanctioning policy requirements

THE SANCTIONING PROGRESS

THE APPLICATION PROCESS

- Ensure the application is submitted by the district's deadline
- The superintendent makes a recommendation to the board concerning sanctioning of any particular organization.
- The board reviews the organization's application and decides to approve or decline it.
- The board's decision is final and nonappealable.
- In deciding to sanction or renew a sanctioning application, the board of education may require further information.
- For example, the board of education may require financial statements.
- The booster club is obliged to keep accurate and current records.

BOARD CONSIDERATIONS AS TO SANCTIONING

- In determining whether to sanction an organization, a board of education considers:
  - if the program is an extension, expansion or related to school curriculum

    OR
  - whether the organization assists student government or other activities

    OR
  - whether the organization promotes activities approved by the board

- At any time, the board of education may—in its discretion—withdraw sanctioning if deemed to be in the best interests of the School District
- The board's decision is final and nonappealable
- It is clear that sanctioning / de-sanctioning is in the **total discretion** of the board of education

APPLICATION PARTICULARS

- The application form requires a statement of purpose, goals, organizational structure, and membership requirements of the organization
- The application form requires a detailed statement of how the school district and its students will benefit if the organization is sanctioned
- A statement of nondiscrimination under Oklahoma and Federal law
- Financial and performance audits, if any, which have been performed by an independent accounting firm
- Again, remember the application needs to be timely submitted by the deadline

SANCTIONED ORGANIZATION REQUIREMENTS

- Sanctioned Organization may be required to provide, on an annual basis, financial and performance audits by an independent accounting firm. If requested, such audits are required to be provided to the School District within 90 days of request

- As may be requested, Sanctioned Organizations must promptly provide copies of any and all records to the School District
- The board of education can withdraw sanctioning at any time
- No Sanctioned Organization can publish or otherwise publicly indicate that it has been sanctioned by the School District

NON-DISTRICT LIABILITY

- Neither the Board of Education nor the School District is liable for any obligation, loss of funds, misfeasance or malfeasance of any Sanctioned Organization
- **Accordingly, District employees cannot serve as the treasurer of a Sanctioned Organization**

TAX IDENTIFICATION NUMBERS

- Tax ID Numbers: Booster Club/PTA should never, under any circumstances, use the School District's tax ID number

- Organizations are required to have their own tax ID number

USE OF DISTRICT EMPLOYEES

- Due to IRS filing and reporting obligations on the District:
  - sanctioned organizations cannot employ or pay District employees
  - Sanctioned organizations cannot hire technicians, choreographers, independent contractors, or outside employees for the benefit of a District activity or program without **PRIOR** written permission from the District
- Besides raising Title IX issues, these hires also implicate serious state and federal tax issues
- Any request for payment to a District employee for services rendered must receive written approval **before** any services rendered. This is so those funds can be transferred to the District for payment by the District

- Sanctioned Organizations must issue all 1099s, W-2, and all other required annual tax forms
- Sanctioned organizations must submit copies of all such tax forms to the District's CFO no later than 30 days after the filing date each year
- District employees cannot have direct access to the bank accounts and financial records of Sanctioned Organizations
- No District logo can be used by a Sanctioned Organization without prior written permission of the Superintendent or designee

WHAT A SANCTIONED ORGANIZATION IS NOT

- Just because an organization is sanctioned does not mean that the organization is an arm of the School District.
  - IT IS NOT.
- A Sanctioned Organization **may not** say that it represents the School District **or** is affiliated with the School District when dealing with any vendors or the public in general.
- Bottom line: the School District does not "approve" an organization by sanctioning it.
- Sanctioned Organizations cannot obligate or attempt to obligate the School District.
- Doing so will likely cause your group to lose its sanction.

- Sanctioned Organizations have an obligation to explain to third parties that they are not a part of the School District
- A Sanctioned Organization has liability for its actions, not the School District
- Embezzlements in a Sanctioned Organization / PTA come up with greater frequency than we want.
- If there is an embezzlement, it is a problem for the Sanctioned Organization / PTA—NOT the School District

TITLE IX CONSIDERATIONS

- Title IX requires that no person, shall on the basis of sex, be precluded from participation in or be denied the benefits or be subjected to discrimination in any education program or activity receiving federal funds
- School districts receive federal funds
- So, school districts are subject to Title IX

- School districts must insure that equivalent benefits and services are provided to both sexes in athletic programs

- This does not require EQUAL benefits and services

- Therefore, where sanctioned organizations (booster clubs) provide benefits (money, equipment, etc.) or services that assist only teams of one sex, a school district is required by law to insure that teams of the other sex receive equivalent benefit or services

- It must be understood and cooperation with the School District is essential
- Accordingly, here is the fundamental premise: If booster clubs provide benefits to athletes of one sex that are greater than what the school is providing to athletes of the other sex, **then the School District must take steps to insure that the benefits and services are equivalent for both sexes**

- A school district may not use lack of its own funds to justify failure to insure similar benefits to boys and girls.
- A school district must assure that such factors as equipment, uniforms, coaches and facilities are provided **on an equivalent basis** regardless of booster club funding and the resulting benefits and services must be equivalent for both sexes.

- Booster club donations may involve monetary donations or nonmonetary donations.

- THUS, receiving money or benefits or in-kind contributions from organizations is **totally discretionary with a school district.**

- To sum up the Title IX issues, remember:
    - Though equal expenditures are not required, the pattern of expenditures should not result in disparate effects on the athletic benefits of either males or females.
- If a booster club will not cooperate with the school district's legal **requirement of equity of benefits,** then the booster club donation may be declined or re-routed elsewhere.

SUMMARY

- Sanctioned Organizations and PTAs exist solely to promote School District sponsored activities.
  - There is no other purpose.

- Accordingly, Sanctioned Organizations / PTAs must abide by School District rules or the School District simply will not accept the money or donations.

- If a Sanctioned Organization has rules that are contrary to a board of education or administrative practices, then the board and administration's policy or practices control

- If a Sanctioned Organization does not agree that the School District's policies and practices override its rules, then the School District can refuse any contributions or activities by the Sanctioned Organization.