



# El Monte Union High School District

## **Guidelines for Booster Clubs Adopted December 1, 2011 – Revised December 20, 2011**

### **Starting/Maintaining a Booster Club**

#### *Information required to start/maintain booster club:*

1. The name of the organization.
2. A dated formal letter addressed to the school principal indicating the formation of the booster club.
3. Bylaws, rules, and procedures under which the organization will operate.
4. The names, addresses and phone numbers of all officers.
5. A brief description of the organization's purpose.
6. A list of specific annual objectives.
7. The group's financial records shall be available for review by the District at any time.
8. The name of the bank where the group's account will be located and the names of those authorized to withdraw funds.
9. The signature of a site administrator who supports the request for authorization.
10. Desired use for any money remaining at the end of the year if the organization is not continued or authorized to continue in the future.

Authorization shall be granted for a period of one year. Requests for subsequent authorization must be presented annually, in writing, to the school principal.

### **Minimum Elements of a Constitution and By-Laws**

#### *A constitution should minimally include the following **Five** elements:*

1. Name and purpose of the organization
2. Membership (i.e., how membership is determined)
3. Executive Board or Officers
  - a. Positions and duties of each position defined
  - b. Position and term limitations (including officer resignations and impeachments)
4. Method of amendments to the constitution
  - a. By whom
  - b. By petition of \_\_\_ percent of members
  - c. By ballot
5. Adoptions or ratification of constitution and any subsequent amendments
  - a. Shall require (percentage) vote of (Executive Board)

#### *The by-laws should minimally include the following **Six** elements:*

1. Duties and powers of Executive Board and Officers
2. The composition and membership of committees
3. Successions
4. Elections and qualification for office
5. Finances
  - a. Statement of internal controls, authorization of financial activities

- i. Who shall approve prior to any commitment
- 6. Meeting schedule
  - a. For regular and special sessions
  - b. Time, manner, frequency
  - c. What constitutes a quorum
  - d. Who shall conduct meetings

## **Membership**

1. Parents, community members, and staff may be members of any booster club.
2. The principal or designee shall maintain on-going communication with the organization.
3. Membership fees may be used for raising funds for specific projects for the schools but **school fees may not be a requirement of parents or students to participate in school activities.**

## **Liability**

District liability for conduct and activities of an organization established for the purpose of supporting the district may be based upon the nature of the relationship between the two entities. That relationship may be contractual or based on the amount of district control or on the fact that the district is the beneficiary of the organization's activities.

Therefore, it is likely that a lawsuit based upon an activity of the organization will also name the district and seek a finding of joint liability. Whether the district is appropriately named or not, the district will incur legal expenses in defending the lawsuit.

The district has insurance coverage for booster clubs under its comprehensive liability insurance policy. A district, however, may more effectively limit its exposure by adequately supervising and monitoring the activities of a school-connected organization. Familiarization with applicable statutes, regulations and reporting requirements will assist the district in ensuring the proper conduct of the group's activities and therefore lessen the amount of district exposure.

## **Obtaining Tax Exempt Status**

Booster clubs are not legal components of a school district. Each organization must have its own tax identification number, own bank account, and is directly responsible for compliance with IRS and state reporting and disclosure requirements. Organizations who provide receipts to donors as a "charitable tax deductible donation" must be officially approved by IRS as a 501(c)(3) tax-exempt organization. It is the organization's responsibility to be both knowledgeable and compliant with all state and federal laws. Booster and parent groups are encouraged to contact the Internal Revenue Service and the Franchise Tax Board in order to obtain a tax-exempt status for their organization.

State and Federal forms and further information can be found at the following Web sites:

### *Tax Identification Number*

Form SS-4, "Application for Employer Identification Number"

Instructions: <http://www.irs.gov/pub/irs-pdf/iss4.pdf>

Fill-in form: <http://www.irs.gov/pub/irs-pdf/fss4.pdf>

### *Non-Profit Status*

Publication 557, "Tax-Exempt Status for Your Organization"

<http://www.irs.gov/pub/irs-pdf/p557.pdf>

Package 1023, "Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code" Includes fill-in form 1023, instructions for form 1023, and form 872-C: <http://www.irs.gov/charities/article/0,,id=139469,00.html>

Form 8718, "User Fee For Exempt Organization"  
<http://www.irs.gov/pub/irs-pdf/f8718.pdf>

California Forms and Instructions Form 3500 Booklet, "Exemption Application Booklet"  
Includes instructions and two copies of form 3500.  
[http://www.ftb.ca.gov/forms/2008/08\\_3500bk.pdf](http://www.ftb.ca.gov/forms/2008/08_3500bk.pdf)

Consult Tax Tips Pamphlet No. 18, "Sales and Use Tax Guide for Volunteer and Nonprofit Fundraising Organizations" to determine what may and may not be taxable.  
<http://www.boe.ca.gov/pdf/pub18.pdf>

### **Fundraising Activities**

In accordance with Education Code Section 51521, programs, fundraisers or other activities sponsored by booster clubs must be authorized and conducted according to local board policy, local and state laws, and school rules. At the beginning of each school year, each booster club shall submit to the principal or designee a list of the fundraising events that each organization proposes to hold that year. The principal or designee shall review the proposed events and determine whether the events are in conflict with or detract from the school's educational program.

*The following are guidelines for booster/parent organizations fundraising activities within the El Monte Union High School District:*

1. Use of the districts'/schools' name in fundraising activities should be approved by the school principal or designee and will comply with district policies and state law.
2. Students shall not be involved in fund raising activities except as volunteers for the booster organization.
3. Penal Code Sections 320 and 320.5 authorize, under defined circumstances, eligible organizations to conduct raffles, which require the payment of a fee for a chance to win a prize. Raffles may include 50/50 raffles, donation drawings, duck derby and cow chip bingo. Public schools are not "eligible organizations" but parent organizations (i.e., booster clubs) with a 501(c)(3) status are. Information on how to conduct legal raffle can be obtained by going to the California Attorney General's Website: [www.ag.ca.gov](http://www.ag.ca.gov).
4. All booster funds are collected and maintained by the organization. The district's tax identification number cannot and will not be used. No booster funds shall be kept in ASB accounts.

### **Use of School Facilities**

State law and Board Policy and Administrative Regulations 1330 (a)-(c) regulate community programs on district property. A district Facility Use form should be submitted before the intended activity (please note that booster events are covered under the District's insurance policy).

### **School-Connected Food Sales**

Booster clubs must comply with state law as well as district policies and regulations on the sale of food

on school premises. Booster and parent organizations are encouraged to review and become knowledgeable of applicable laws including county food handling requirements, State and Federal nutritional standards, as well as the district's Wellness Policy. Additional information is available from the Office of Child Nutrition Services.

### **Administration and Expenditure of Funds**

#### *Administration and expenditure of funds guidelines:*

1. The treasurer's books and accounts shall be open to audit by a committee of members, one of which may be the principal of the school or his/her designated representative.
2. Upon dissolution of the group, all funds shall be transferred to the respective school's general student body funds. The district business office shall be advised in writing of the dissolution.
3. Gifts to the student body of money or of approved materials may be made when approved by the principal or designee.

### **Purchases for Schools**

#### *Purchasing guidelines:*

1. All purchases shall be donated to the school in accordance with board approved policies and procedures.
2. Staff may make requests through their principal or designee to the booster club for desired donations.
3. Donations may be made in cash to allow the purchasing department to buy items that are in line with district purchasing guidelines and statutory laws.
4. The maintenance department must be consulted, prior to purchase, on all items requiring installation. The business office must be consulted on purchase of items requiring a maintenance contract.
5. Capital improvements, equipment (over \$5,000), and uniforms may only be purchased with the prior approval of the principal and the district superintendent. These purchases must be processed through the district purchasing department to ensure compliance with statutory laws. Organizations "donate" the funds to the district for the purchase of such capital outlay items.

### **Support Personnel**

The El Monte Union High School District does not allow parent or booster clubs to hire staff to perform services for the El Monte Union High School District. If a booster club wishes to pay for additional and/or extra-curricular services, the person to provide the services must be hired through the Personnel Department of the district. The booster club will deposit such funds into a district account for the proposed expenses. The funds must be sufficient to pay for the actual services plus and benefits due the employee.

#### *Procedure*

1. A personnel requisition will be completed by the principal of the school receiving the services and submitted to the Business Office which will verify deposit of the booster or parent organization donation and forward the requisition to the Personnel Department.
2. The employee will be hired through normal channels and be subject to all rules and regulations imposed by the Personnel Department and the State of California.
3. The employee is not authorized to perform services until after Board approval and district receipt of the donated funds.
4. The personnel will be paid after the above procedure is completed and they have signed the time card/timesheet at the site.

## **Retention of Records**

Since voluntary organizations often suffer from the constant turnover of officers and members, it is important that the activities of the organization be clearly documented and that a procedure for retaining those documents be established. Among the documents that should be retained by the organization are:

1. Cash receipts
2. Cash disbursements and general ledger
3. Bank records
4. Income tax returns
5. Minutes of meetings as defined by the organization by-laws

It is recommended that the organization obtain a safety deposit box or a similar storage facility to ensure security of important documents.

## **Limitation of Liability**

1. School personnel should not try to manage or direct booster clubs. Appropriate advice on use of the school name by a booster or parent organization is recommended.
2. The school should not cause others to believe it is in charge or has any responsibility for a booster or parent organization.
3. The school should send a letter of understanding to each booster club that explains the organization is not authorized to act as an agent or represent itself as an agent of the school or district **(See Exhibit A)**.
  - a. The same letter should clarify that booster clubs should not use district or school letterhead for carrying out its business.
  - b. The school should require the booster club to acknowledge receipt of the letter and to agree to abide by its terms.

## **General Do's and Don'ts of Booster Clubs**

### *What to do:*

- Obtain tax identification number and tax-exempt status, if applicable.
- Open financial account under the above criteria. Maintain records for continued status.
- Create logo and name to be used; the school or district is separate. High school or district logos should not be used without specific authorization of the Superintendent/designee; booster clubs and parent organizations have their own identity.
- Raise funds by using adult membership. Special projects may include students who volunteer.
- Maintain relationship with principal and his/her designee for input of needs.
- Donate all purchases to the school district in accordance with District policy.
- Donate funds to ASB accounts for specific student teams/groups.
- Consult District maintenance department prior to purchasing items that require installation or business office prior to purchasing goods or services that require on-going maintenance contracts.
- All capitalized expenditures over \$5,000 must be processed through the District's purchasing department.

### *What NOT to do:*

- Conduct fundraiser activities requiring students to participate.
- Co-mingle booster or parent organization funds with ASB funds.
- Represent booster or parent organization activities as those of the El Monte Union High School District

or one of its schools.

**Exhibit A**

**Letter from School to Booster Club**

Please insert the following into School letterhead:

Dear \_\_\_\_\_ Booster Club (or Name of President),

This letter is to formally notify you that as a booster club, you are NOT authorized to act as an agent or represent yourself as an agent of either \_\_\_\_\_ High School or El Monte Union High School District. Further, your booster club is NOT to use \_\_\_\_\_ High School or El Monte Union High School District letterhead or logos for carrying out any of your business.

Please sign below as acknowledgement of receipt and agreement to abide by the terms of this letter.

Thank you for understanding.

Sincerely,

\_\_\_\_\_  
Insert Name, Principal

Acknowledgement:

\_\_\_\_\_  
By

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Position/Title

\_\_\_\_\_  
Date