



# **BOOSTER FINANCIAL PROCEDURES HANDBOOK**

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# RESOURCES

## *Burbank Unified School District*



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## **FIDUCIARY RESPONSIBILITY**

Every board member has a fiduciary responsibility to protect the assets of the booster club. Assets include money, volunteers, reputation and continuity of the organization. The financial officers have the responsibility to ensure the financial transactions are reported properly and the transactions are transparent for the board members and the members of the association(s).

## **BYLAWS**

- You are entitled to a copy of your organization's bylaws.
- A copy should always be part of your permanent records.
- Read them through, especially sections related to your job description/duties and any financial information pertaining to your organization.

## **FUNDRAISING AND PROTECTING BOOSTER CLUB TAX EXEMPTION**

Booster clubs are exempt from taxes under Section 501(c)(3) of the Internal Revenue Code if the organization has filed for tax exemption status with the IRS.

## **BUDGET**

### **BUDGET COMMITTEE (BEGINS WORK IN APRIL)**

- Check your bylaws for list of budget committee members; otherwise, the committee is appointed by the president-elect.
- Committee is chaired by the treasurer-elect.
- Design a financial plan to meet the needs of the program, activity, or school based on goals and objectives in collaboration with the teacher/coach/director booster liaison.
- Include "cost of doing business" expenses for your booster club, such as insurance, printing, etc., and fundraising expenses.
- Create proposed budget.
- Budget is an ESTIMATE of planned gross income and expenses for the next year.
- Can be changed or modified during the year.
- Requires membership approval.

### **CARRY OVER FUNDS FOR BUDGETING**

In general, funds raised by the booster club should be used in the year earned. It is acceptable to hold "carry over" funds for startup costs for the new school year and funds that have been restricted in use. These funds are intended to serve as a means to retain financial stability.

Money can be carried over as designated funds for specific purchases. These are considered restricted funds and must be used only for that designated purpose.

In planning the budget, it is not uncommon for booster clubs to have a small contingency savings for the efficient management of funds for reasons such as summer expenses and school year start up.

## BUDGET ADOPTION (MAY)

- Budget committee makes adjustments.
- Executive board reviews budget draft.
- Board presents/recommends budget to members during regular monthly meeting.
- Majority vote by general membership accepts the budget.

## MONITORING THE BUDGET

- The entire board is responsible for monitoring the budget.
- Inform committee chairmen of their activity/fundraiser budgets.
- Ensure expenses stay within budget.
- The budget is a working document and can be revised by a vote of the association.

Remember that budgets are only estimates – they are a guideline to follow. If there are any significant differences, over or under, these should be explained and documented in the meeting minutes.

## REVISING THE BUDGET

- Budget committee and executive board should review budget-to-actual numbers regularly; quarterly, at a minimum.
- Revise as necessary. Example: fundraising produced a great deal more or less than expected.
- Board approves.

## TREASURER REGULAR DUTIES AND REPORTING

The treasurer and volunteer chairpersons are responsible for counting, depositing, and reporting all monies RECEIVED by the association. This should be done in as timely a manner as possible and with at least two other individuals who sign the cash verification form with the treasurer. **(See sample Cash Verification/Money Counting Form at [burbankusd.org/domain/527](http://burbankusd.org/domain/527))**

## BUSD SCHOOL BOARD POLICIES YOU NEED TO KNOW

There are several BUSD School Board policies that directly apply to booster club operations. Here are some policies that you should be aware of:

- All funds generated by activities must be deposited to the bank within **five working days**
- Disbursement require **two co-signers**
- The president and treasurer (at a minimum) shall complete district-approved financial training no later than September 30
- Booster **must hold meetings at least monthly** and submit copies of meeting minutes to the site principal
- Boosters **must submit a mid-year financial report** to the site principal and district business office
- Boosters **must submit** a copy of the organization's accounting sheet of itemized revenues and expenditures for the prior fiscal year (**annual financial report**)
- School-connected organizations automatically **grant the Board the right to audit their financial records** at any time, for cause or randomly, at the cost of the district
- Fundraising activities must be approved in advance by the principal or designee
- All requests for reimbursements shall be **accompanied by an itemized receipt**

- **Boosters may not pay individuals who assist with any co-curricular or instructional program directly.** Funds must be donated to BUSD, and the district will, in turn, hire the individuals in accordance with district policy

## RECEIPTS/DONATIONS/INCOME/CASH HANDLING

It is recommended that every school site have some way to secure money on site, such as a safe, a permanently installed lock box, etc. Arrange to meet an officer or chairman of the organization at the safe/lock box as frequently as you feel the money is coming in (i.e. daily, weekly, semi-weekly, etc.).

- Separate monies for deposit by fundraising campaign or event (e.g. direct giving campaign, book-fair, game concessions, etc.).
- Make copies of checks and record cash in receipt book(s), by individual donor, for back up and recording of income in the financial files and reports. Also document by computer spreadsheet or manual ledger. Record the check number, payee, date, bank identity number, amount and what booster club activity the donation was written for.
- **TWO PERSONS NOT RELATED BY BLOOD OR MARRIAGE OR RESIDING IN THE SAME HOUSEHOLD MUST COUNT AND VERIFY ALL MONEY.**
- Use a cash verification (money counting form) form to list all cash and checks. It is recommended to have a printing calculator to run your totals on paper tape. Attach this to your cash verification form. Have your witness verify the money and sign the cash verification form.
  - Cash Verification Form or Money Counting Form
    - Must be used for the receipt of all cash and checks
    - Must be signed by all persons counting the funds
    - If someone else takes custody from those counting, the cash verification form must be countersigned by the person taking custody of the money
    - **A cash verification/money counting form template is available at [www.Burbankusd.org/domain/527](http://www.Burbankusd.org/domain/527)**
- Everyone signing gets a copy of the cash verification form
- Provide copies of the cash verification form, check copies, and cash receipts to the treasurer.
- Endorse checks with your check endorsement stamp/bank account number.
- Ideally, make separate deposits for each type of event or fundraising campaign. One deposit may be made for multiple functions as long as each activity is properly recorded in the correct event and the back-up is made accessible for each event (e.g. copy of deposit is filed with each activity's file folder).
- Deposit funds immediately. BUSD Board Policy states that funds must be deposited within five (5) days of collection. Request a duplicate receipt for each deposit; one deposit receipt is for the chairperson and one is for your treasurer.
  - A booster club shall **NOT** deposit funds:
    - From other groups or organizations into the booster club account (other boosters, PTAs, ASB, or other outside groups or nonprofits)
    - In a personal account
    - In school or school district accounts (Gifting proceeds: Make check payable to BUSD)
    - By smart phone check depositing apps (violates policy requiring two or more individuals verifying the deposit)

- Keep an accurate record of all receipts and payment authorizations for the treasurer's financial records. Maintain a paper trail with copies of checks and deposits/receipts attached).
- Record each donation by individual donor for accurate fundraising campaign or event earnings on a chosen accounting system (e.g. Excel spreadsheet, Quickbooks, etc.).
- Accounting for receipts by donor allows for accurate individual reporting of donations for their personal tax deduction purposes. (This is different than tracking donations per student, which is not allowed - see rules about Individual Fundraising Accounts, or IFA's).
- It is required that a tax receipt acknowledgement is sent to those donating \$250 or more to the booster group. (See *RECORDING ACTIVITY* section of this manual.)

## **EVENT CASHIERING PROCEDURES**

***The following are recommended procedures for handling cash at booster fundraising events. These procedures should be copied and distributed to all officers and chairmen.***

The event chairperson verifies money in cash box(es) provided by the treasurer by counting it upon receipt. This is to be done prior to the start of the event and as additional cash and/or cash boxes are distributed during the event. When the volunteer who is handling cash takes the cash box from the chairperson, it should be counted again by the cashiers. A typical cashier's box will consist of \$100 to \$350 in small bills and coins. More than one person must be at the cash box(es) at all times. The event chairperson is to designate the individuals who will be handling money.

### **MAKING CHANGE DURING EVENTS**

Any funds of \$20.00 and over being removed or collected from the cash box(es) for the purposes of making change during an event will be done by the event chairperson(s), a member(s) designated by the event chair(s), or the treasurer.

### **SECURING LARGE RECEIPTS DURING EVENTS**

It occasionally becomes necessary to remove cash from cashier's stations during cash-heavy events in order to protect the large amounts of money changing hands. Cashiers should try to determine when their boxes hold more than \$300 total and notify the event chairperson that the excess funds should be removed for safekeeping. When these funds are removed from the cash box(es), a Cash Verification Form must be filled out for the amount of the cash taken and signed by both the cashier and the chairperson removing the funds. The funds and the Cash Verification Form are then deposited in the safe until the conclusion of the event.

### **MONEY COUNTING AFTER AN EVENT**

Funds will be taken to a designated counting area by an officer or the event chairperson. Ideally money is not to leave the school premises except for deposit to the bank. A minimum of two designated members are responsible for the counting of the money. The individuals counting must not be related by blood or marriage nor reside in the same household. A Cash Verification Form must be completed and signed by both parties. A copy of the Cash Verification Form and the matching deposit are placed in a sturdy envelope, sealed, and signed over the seal by both parties who counted those funds. The envelope is further secured by sealing over the signatures with tape. The envelopes are then turned over to the treasurer or financial secretary for deposit, either directly or through the drop safe. The treasurer or financial secretary will provide a copy of the deposit receipt to the event chairperson. The original copies of the deposit receipts and the Cash Verification Forms are retained in the treasurer's records.



## **TREASURER'S DUTIES FOR CASH HANDLING**

Bank deposits will be made by the treasurer or financial secretary on a daily basis when warranted. When possible, deposits will be made during regular banking hours. If an event finishes after banking hours, deposits can be held in the safe on school campus or secure location on campus until the next business day. The treasurer will report to the chairperson the amount of money deposited by providing copies of deposit receipts.

## **SECURING CASH**

The booster president and treasurer share the combination to the safe. Two board members are needed to open the safe at any time. Board members opening the safe will witness removal and/or replacement of the contents and will close the safe and verify that the safe is locked and secure before leaving the premises.

## **DEPOSITS**

All funds received by the booster club shall be deposited directly into the appropriate booster club account in the bank designated by the club. Checks returned by the bank for insufficient funds, a closed account, or any other reason, shall be charged to the appropriate booster club fund. Immediate and reasonable attempts must be made to collect cash from the maker of a returned check. A returned check is surrendered to the maker only when cash is received to replace it. Replacement checks are not acceptable, and the returned check is not to be re-deposited (bank charges are incurred). If the check is collected upon, then the same fund is credited.

## **DISBURSEMENTS/EXPENSES**

- Treasurer reviews receipts and the completed check request or authorization form before writing the check. (See Check Request/Authorization Form for 501(c)(3) groups at [burbankusd.org/domain/527](http://burbankusd.org/domain/527))
- **All items submitted for disbursement must have an invoice or check request with *original receipt attached as back-up and description of reason for expense.***
- Items should be noted with the payee name, amount, fundraising campaign or event and purpose.
  - Invoices received for services should have an IRS W9 form completed before exchange of the check. This is to ensure proper 1099 reporting to the IRS in January.
  - Requests for **reimbursement**, where an individual has purchased items on behalf of, and for the ownership of, the booster club, are **not** to be submitted for 1099 at year end.
  - **Original** receipts should be turned in for reimbursement whenever possible.
  - Requests or receipts for reimbursements expenses should be no longer than 60 days old and be submitted within the school year that the expense was incurred.
- It is important when recording payments for reimbursement that "REIMBURSEMENT" is noted on all documentation. (e.g. REIMB, reimbursement of jellybeans for ...) This is to clarify and document that services were not provided and income is not "earned" by the individual receiving payment.
- Checks are payable only to the individual listed on the request/authorization.
- The amount on the check must match the authorized amount.
- Pay bills promptly. Present bills to be paid often; at least monthly.
- Forward authorizations (checks) to the president and recording secretary or other signers for signatures.

- Checks must be signed by **two authorized signers** **\*\*School board policy\*\***
- All expenses must be approved by the board and association.
- **NEVER pre-sign checks**
- **NEVER write checks to “CASH”**
- **NEVER pay in cash!**

## RECORDING ACTIVITY AND FILING

- Record deposits in Income categories by the type of fundraising campaign or event.
- Record disbursements/payments in Expense categories by fundraising campaign or event.
- Expense categories should be broken out by Fundraising Expenses, Program Expenses, and Operating Expenses.
- All financial activity (Deposits and Disbursements) should be entered, at minimum, into a ledger or spreadsheet or financial software (such as Quickbooks) for financial integrity and reporting.
- Physical documentation for filing should be organized in a format that makes sense for the booster club in a file box at a secure, accessible location. Examples:
  - File according to fundraising campaign or event, e.g. Fundraisers (Direct donation, Mixed Bags, Concessions), Programs (General Supplies, Assemblies), Operating Expenses (Insurance cost, Rent, Accounting Software), with deposits in date order and disbursements in date order; most recent date on top.
  - File according to all deposits in date order and all expenses in date order; most recent date on top.

## RECONCILING THE BANK STATEMENT

- Have an officer other than check signer review bank statement, sign and date it, then forward to treasurer.
- Use deposit slips, receipts and check register as back up to compare to statement.
- Statements should be reconciled at least monthly. **This is often a requirement of your insurance company.** Reconcile as soon as possible at beginning of the following month.

## REPORTING TO YOUR BOOSTER ASSOCIATION

- Keep board updated about income and expenses as they relate to the budget.
- Treasurers prepare and present a treasurer’s report at **every** association meeting; provide copies of reports for president, recording secretary, auditor, and association members (place a few copies out for review)
- A monthly report should include:
  - Cumulative summary of current cash status;
  - Itemized listing of deposits by date;
  - Itemized listing of disbursements by date and check number;
  - Cumulative year to date income and expense report
  - Budget to actual comparison
- A monthly report may also include:
  - cumulative year to date Income and Expense report by Fundraising Campaign or Event to show fundraising net profit.

- **Read your report into the minutes at each association meeting.** State the date range of the report, the total receipts, the total disbursements, cash on hand, and funds held in contingency (restricted funds or funds held for future use).
- Once the report is read, a motion is needed to approve your report and be noted in the minutes.

## RECORDKEEPING

The treasurer's records are the permanent financial records of the association and should include:

- Auditors' reports, checklists and recommendations for current and one prior year.
- Bylaws and standing rules.
- Certificate of Insurance (updated YEARLY)
- Copy of IRS Letter of Determination for Tax Exemption.
- Correspondence.
- Federal Employer Identification Number (EIN).
- Copies of tax and/or compliance filings.
- Information sheet listing the name, address and phone number of all financial institutions used, along with any passwords and information pertaining to computerized records.
- Corporate number, if applicable; California State Franchise Tax Board entity number and Attorney General Charitable tax number.
- Financial Reports:
  - Budget
  - Annual financial reports
  - Monthly financial reports
  - Mid-year and End-of-Year Financial Reviews
- Remittance forms to District Office – Office of the Assistant Superintendent of Educational Services.
- Forms and Job Descriptions.
- Checkbook register.
- Copies of minutes from each meeting.
- Bank reconciliations and bank statement.
- Authorizations for payment or check request with receipts and/or invoices attached.
- Fundraising reports along with cash verification and deposit records and cash receipt book(s).

Records should be kept in a secure, but accessible place. For example - in the school office, a locked room at the main meeting place, or a lockbox at your financial institution. Booster records should not be kept in private homes, a garage, in your car, etc.

## OUTGOING TREASURER'S CHECKLIST

- Compare year to date income and expense to budget, avoid last minute surprises.
- Prepare Annual Financial Report (for current fiscal year). **Required for booster to be approved by the BUSD school board.**
- Prepare financial records for end-of-term audit and provide to current auditor, as stipulated in the bylaws (after close of fiscal year).
- Provide training to your successor.

- Give ALL financial records and materials to the incoming financial officer.
- Assist the incoming officers in changing bank signatures.
- Assist with and prepare prior year fiscal financial reports as necessary and requested by BUSD for compliance with BUSD Board - May & September, typically.
- Prepare federal tax return (990N) or coordinate preparation of tax return (990EZ or 990), California tax form (199) and RRF-1 for your organization's Fiscal Reporting Year.
- Treasurer-elect chairs budget committee - April.
- Board-elect develops and adopts preliminary budget based on proposed booster club programs/fundraisers for the upcoming year - April/May.
- Present proposed budget to the Assistant Superintendent of Educational Services for adoption - May.

## INCOMING TREASURER'S CHECKLIST

- Visit the bank immediately upon taking office.
  - Add new check signers as authorized in the bylaws and **must be read into your booster club general meeting minutes.**
  - Verify old signers are removed.
  - Verify no ATM/Debit cards are associated with account.
  - On-line access to the account is permitted as long as bill pay is blocked.
- Attend BUSD workshops for financial officers, when offered.

## TAX REQUIREMENTS

**Note: If you are a separate 501(c)(3) that has filed for Tax Exemption Status with the IRS and not a former BSBA affiliate, you are required to submit your taxes with the IRS.**

It is the responsibility of the 501(c)(3) to meet with their tax accountant to file taxes according to the Federally and State mandated guidelines. (Below is the former BSBA timeline as a point of reference)

### FEDERAL TAX REQUIREMENTS (IRS)

- IRS Form 1099 - due to recipients by January 31; Report to IRS by February 28
- IRS Form 990/ 990EZ / 990N tax returns are required annually
- IRS Form 8868 is required for an extension
- Filed tax returns are due to the IRS four (4) months and 15 days after fiscal year ends (e.g. June 30th fiscal year-end tax returns is due November 15th)
- IRS Schedule B is required if booster club receives a donation of \$5,000 or more from a single donor
- IRS Form 990EZ and Form 990 have additional schedules (Schedule A, O, and G are common)
- If your booster club's gross receipts are:
  - Normally equal to or less than \$50,000 – File a 990N (average of the last three year's gross receipts)
  - More than \$50,000 and less than \$200,000 and total assets are less than \$500,000 – File form 990EZ
  - Equal to or more than \$200,000 or more, and total assets are equal to or more than \$500,000 – File form 990
- **Mail all tax returns via certified mail to the IRS**

## STATE OF CALIFORNIA REQUIREMENTS

### CALIFORNIA STATE FRANCHISE TAX BOARD (FTB)

- CA File 199 or 199N annually, per your fiscal year end.
- If your booster club's gross receipts are:
  - Normally equal to or less than \$50,000 – File form 199N
  - Normally greater than \$50,000 – File form 199

### CALIFORNIA STATE ATTORNEY GENERAL - CHARITABLE TRUST

- File the RRF-1 annually
  - Gross receipts should match tax return
  - Copy of federal return must be sent with the RRF-1
  - Internal audit is not the same as an audit prepared "In accordance with generally accepted accounting principles"
  - Fees dependent upon Gross Receipts

### CALIFORNIA STATE RAFFLE PERMITS

- Application and fee for a permit are due to the state of California by September 1st; more information at [www.ag.ca.gov/charities/raffles.htm](http://www.ag.ca.gov/charities/raffles.htm)
- "Raffle" vs. "Opportunity Drawing" –
  - Raffles must be reported to CA Attorney General if tickets are sold.
  - An opportunity drawing is where tickets are offered, free of charge, to everyone, for the "opportunity" to win a raffled prize.
- **Direct costs applicable to running your raffle must not be more than 10% of your Gross Receipts (Tickets Sold) (90/10 Rule - 90% Income/10% Costs). DO NOT purchase items to be raffled off, this could upset your 10% cost and cause the group to go over the 90/10 Rule of costs. Use only donated items.**
- **50/50 Raffles are ILLEGAL in the state of California - Do Not Do Them.** (The only exception in California is for PROFESSIONAL SPORTS FOUNDATIONS <CA Senate Bill 549, Oct. 2015>. This is not applicable to boosters).
- Read raffle financial reporting requirements closely; a separate raffle report, due October 1st, must be completed for each raffle conducted during a reporting year (Sept. 1 - Aug. 31).

**Any letters received from the Internal Revenue Service (IRS), Franchise Tax Board (FTB) or California State Attorney General's Office should be reported to the BUSD immediately. All letters must be dealt with swiftly to avoid further penalties or loss of non-profit status.**

## FINANCIAL REPORTING TIMELINE

- **January 20th** – Fill out and mail 1099
- **April** - Attend Spring Training to receive current year's BUSD Compliance Paperwork
- **May** - Submit BUSD Compliance Paperwork
- **September** - Submit Fiscal Year End (July 1 - June 30) Cumulative Financial Reports for submittal to BUSD Board approval and tax preparation.

## OTHER ITEMS

### NSF CHECK PROCEDURES

When a check has been returned by the bank, note it in the ledger and checkbook register along with the bank fees charged.

- Treat the returned check as a credit or charge to Income for the Event or Fund.
- Treat the bank charge as a disbursement (check) and charge to Bank Fees Expense.

You do not have to accept another check from that person. Request payment in cash.

### **Tips for handling checks received by the booster club in payment for goods or services and returned from the bank for non-sufficient funds (NSF):**

- Call the writer of the check, explain that the check was returned by the bank and provide the reason given by the bank. Remember to state that the writer is now liable for whatever fee the bank has charged for the transaction.
- If the organization still has not received payment 10 days later, contact the check writer again to discuss the matter.
- It is at the discretion of the executive board to decide whether it is prudent to continue to pursue payment for a returned check deposited. This may be determined by the importance of the amount of the item returned.
- **This a confidential matter and should not be discussed outside the executive board meeting.**

### RESTRICTED FUNDS

The IRS states when money is raised for a specific purpose, (technology, auditorium, etc.), the money may only be used for that purpose. You must notify the donors if the booster club intends to use the money for a different purpose. If, at that point, the donor wishes to have their money back, the booster club must comply.

***One way to avoid restricting funds is to state on promotional information that "any funds received in excess of the fundraising needs for this program will be used in the general fund for future needs".***

### CONTRACTS

- Contracts should be approved by the membership BEFORE being signed by two elected officers
  - One signer must be the president
  - Do NOT sign just your name: Signed ABC Booster club, by president Jane Doe
- Follow this procedure for fundraising contracts, assemblies, vendors, etc.
- Independent contractors must provide proof of current insurance (Liability Certificate) before signing a contract with them. Proof of insurance is kept in your files.

### CREDIT OR DEBIT CARDS

Booster clubs **may not use credit/debit cards** to pay for purchases. Due to the requirement that disbursements must have two authorized signers, purchases must be paid by check.

Individuals paying for booster club purchases with a personal credit card must be extremely careful, as they may be held personally liable for purchases made without prior approval. Original receipts for items purchased by an individual must be submitted for reimbursement. Request Vendor credit accounts to pay by invoice with a check.

## **FUNDRAISING VIA THE INTERNET**

Booster clubs may wish to accept credit card payments for fundraising projects. Online payment collection systems (PayPal, etc.) must be limited to the collection of funds only. No expenses may be paid from this type of online collection account. When possible, a separate bank account should be established to restrict Internet access into the booster club's general fund checking account. An "Authorization to Transfer Form" should be used to transfer funds from the Internet checking account into the general fund checking account.

## **STUDENT INCENTIVES OR AWARDS**

Generally, individual student prizes or incentives connected with fundraisers are discouraged. This practice puts undue pressure on students to fundraise and offers an unfair advantage to more affluent families.

Should your group decide to offer incentives in conjunction with a fundraiser, they are considered a fundraising expense and should be approved in advance by the executive board as part of the committee's plan of work and budget. Programs offering incentives should have specific plans, tracking mechanisms, and a separate line item in the budget.

## **GIFT CARDS**

Gift cards should not be accepted as payment to the booster club for the proceeds of a fundraiser. booster club financial procedures do not allow for payment by gift card. However, gift card may be accepted as a donation to be used in a fundraiser, such as a raffle.

## **PERSONAL GIFTS**

Personal gifts for booster club members, teachers, school site staff, coaches, etc., should not be purchased by the booster club. Examples of personal gifts include gifts for baby showers, Secretary's Day, bereavements, weddings, or birthdays or other. If the membership determines that such items are necessary, the individual members can make *personal* donations to purchase the designated items. **These donations must be kept outside of the booster club and may not be commingled with booster club funds.**

## **GIFT TO SCHOOLS/BUSD**

Booster club members must approve the expenditure of all funds, including the amount of monies to be used for purchasing school equipment, prior to any purchase. This approval must come in the form of a motion and vote at a general meeting of the membership and must be recorded in the association minutes of the meeting.

A BUSD Gift Request Form should be completed by the boosters with help from the school site represented to ensure that the school district will assume responsibility for the liability, maintenance and upkeep of any equipment purchased. Check with the school district before making the purchase and

complete the donation in the form of a check payable to the school district (BUSD). This check will be presented and accepted by the school board at a school board meeting and recorded in the school board minutes.

At the first association meeting following the acceptance of the gift by the school board, a description of what was given to the school district must be noted again, and the date the school board accepted the gift must be recorded in the booster club association minutes and kept as permanent record of the intention of the gift to ensure that the monies are spent for the intended project, equipment, or program.

The school district is subject to a fiduciary responsibility by law. If the school district accepts money or equipment that is given, subject to a restriction, it must be honored. It is possible to request that a refund of the gift amount not used for the restricted purpose be honored. However, there must be a request filed with the school district by the booster club. A mutually agreeable solution must be sought if the district is unable to return said restricted funds, such as a reallocation designated by the booster association of funds.

## **PAYING COACHES/TEACHERS**

All monies for walk-on coaches, instructors/teachers should be gifted to BUSD directly and in turn, BUSD pays the individual for their time. Currently, BUSD has developed a procedural "flow chart" and BUSD Gift Form for the booster club to follow regarding the 3 main circumstances where someone is to be hired to provide a teaching service.

In addition, all personnel should be vetted by the district with a live scan and other required forms or paperwork. **The Hiring Flow Chart is available online at [BurbankSchoolsBoosters.org](http://BurbankSchoolsBoosters.org) for booster use.** Please contact the BUSD Fiscal Services office for questions regarding your group's hiring circumstance.

## **BUSD USE OF FACILITIES**

Be sure that a BUSD Use of Facilities form has been filled out for each fundraiser/event/program that occurs on a school property.

A fee may be required for custodial services. The District has a non-profit fee rate for booster clubs affiliated with the school district that applies when the booster club is running the function.

For more information, contact BUSD Facilities. You can also go to the BUSD website at [burbankusd.org](http://burbankusd.org), and use the drop-down menus for Departments, then Facilities Services.

## **INSURANCE**

The Burbank Unified School District requires booster organizations to provide proof of liability insurance in the minimum amount of \$1,000,000 per occurrence/ \$2,000,000 aggregate. It is a good idea, however, to acquire Directors & Officers as well as Bonding insurance. Check with your insurance carrier for limits and rates.

***Boosters: It is necessary to have BUSD noted as additionally insured on your policy.***

Be sure to request Certificates of Liability insurance from vendors for any function or event you are having. These certificates should be attached to your contracts and sent to BUSD with the Use of Facilities form.



Allowed activities for fundraisers and events are constantly changing. It is important to check with your insurance provider to assure that your booster club will be covered in the event of an accident or injury during your activity. Be aware that getting approval from BUSD may not necessarily constitute approval from your insurance company.

To extend your general liability policy to your booster, you must be hosting a booster sponsored event. The requirements of a booster sponsored events are:

1. The event must be **voted on** by the booster
2. The event must be **approved by** the booster
3. The event must be **scheduled by** the booster
4. The event must be **planned by** the booster
5. The majority of the **manpower must be provided by booster members**

Seriously consider Director's and Officer's & Bonding Insurance for your booster group.

## **NOT COVERED**

- Athletic activities: Organized sports including (but not limited to) sport clubs, sports camps, municipality teams, school teams (public or private), sports leagues, college teams or professional teams **\*\*DO NOT COLLECT FUNDS FOR BUSD SUMMER CAMPS\*\***
- Concessionaires or commercial vendors (must provide their own insurance)
- Childcare services (Check your insurance guide for details regarding babysitting at meetings)
- Mechanical / Motorized Rides at Carnival
- Vehicular Transportation of Any Type / Automobile Liability
- Weapons, including but not limited to guns, knives, swords, bows, axes and sling shots/catapults
- Workers Compensation Claims

Consult site administration when planning new activities; some activities covered by booster insurance are NOT ALLOWED per BUSD policy

**Read your insurance guides closely.** RV Nuccio and AIM both provide comprehensive insurance guides. Go online or ask your broker for copies. **(See Additional Insurance Documents - APPENDIX II)**

## **FORMS AVAILABLE FROM BUSD**

Booster forms available at Burbank Unified School District website – [www.burbankusd.org/domain/527](http://www.burbankusd.org/domain/527)

>burbankusd.org > community > fundraising committees

- **Sample monthly summary sheet**
- **BUSD money verification form (cash / check counting form)**
- **Payment authorization/check request form**
- **Authorization for transfer between accounts**
- **Booster hiring flow chart for BUSD**
- **BUSD use of facilities forms**
- **BUSD hiring procedures**
- **Insurance information**

- **Booster insurance allowable activity sheet**
- **Raffle information**

## APPENDIX I: RAFFLE FAQs FROM THE CA STATE ATTY. GENERAL

### What is a raffle?

A raffle is a type of lottery in which prizes are awarded to people who pay for a chance to win. Each person enters the game of chance by submitting a detachable coupon or stub from the paper ticket purchased. A raffle must be conducted under the supervision of a natural person age 18 or older. At least 90 percent of the gross receipts from raffle ticket sales must be used by the eligible tax-exempt organization to benefit or support beneficial or charitable purposes in California.

Awarding raffle prizes by use of a gaming machine, apparatus, or device such as a slot machine is prohibited. Operating or conducting a raffle via the Internet is also prohibited. However, the organization conducting the raffle may advertise the raffle on the Internet. See Penal Code section 320.5 and [Laws and Regulations](#).

### Do we need to register if we call our raffle an “opportunity drawing”? What sort of raffle can we have if we don’t want to register?

If participants are required to purchase a ticket in order to have a chance to win a prize, the drawing is subject to the provisions of Penal Code section 320.5 and related regulations.

Penal Code section 320.5, subdivision (m) states that a raffle is exempt from registration with the Attorney General’s Office if all of the following are true:

- It involves a general and indiscriminate distribution of the tickets;
- The tickets are offered on the same terms and conditions as the tickets for which a donation is given; and
- The scheme does not require any of the participants to pay for a chance to win.

### What is the 90/10 rule? Does it apply to 50/50 raffles?

Penal Code section 320.5, subdivision (b)(4)(A) states that 90 percent of the gross receipts generated by the sale of raffle tickets for any given draw are to be used by the eligible organization for charitable purposes. For example: An organization raised \$100 in ticket sales. It would be required to spend \$90 of that amount to further its charitable purposes, and only \$10 could be used to help pay for expenses or operating costs associated with conducting the raffle.

The organization is not precluded from using funds from sources other than the sale of raffle tickets to pay for the administration or other costs of conducting the raffle. However, the organization must exercise due care in using other funds. The misuse of restricted assets or the use of unrestricted assets which results in losses to the corporation may subject the board of directors to personal liability for breach of fiduciary duty.

The 90/10 rule applies to 50/50 raffles, in which 50 percent of ticket-sale revenue is awarded as the prize and 50 percent of the revenue is retained by the organization conducting the raffle. **50/50 raffles are illegal because 90 percent of the gross ticket-sale revenue is not used for charitable purposes.**

***(The only exception in California is for PROFESSIONAL SPORTS FOUNDATIONS <CA Senate Bill 549, Oct. 2015>. This is not applicable to boosters).***

### **What happens if we do not meet the 90/10 requirement?**

Penal Code section 320.5 is a criminal statute. Violations may be forwarded to the local district attorney, city attorney, or county counsel for investigation and possible prosecution. In addition, the Attorney General may take legal action under the provisions of the Nonprofit Corporation Law for breach of fiduciary duty or waste of charitable assets. The raffle registration may also be suspended or revoked. (See section 419.2(a)(2) of the raffle regulations, which can be found on the CA Attorney General's website: [oag.ca.gov/charities/raffles](http://oag.ca.gov/charities/raffles).)

### **May we sell raffle tickets prior to the raffle drawing if we are not currently registered?**

No. You must obtain a confirmation letter from the Registry of Charitable Trusts prior to conducting any raffle activities. This includes selling tickets to an event that will be held in the future. If you wish to conduct the drawing after September 1 of any year, but you wish to sell tickets prior to September 1 of that year, you must register for both years.

### **If an organization gives away raffle tickets, does it have to register and report?**

Registration is not required if all tickets for a drawing are free, solicitations of voluntary donations to the organization are in no way connected to distribution of tickets, and this is made clear to all participants. If a "donation" is required in return for a ticket, registration is required.

### **How do I register to conduct a raffle? (BOOSTERS ONLY-Not applicable to Fundraising Committees)**

Complete the raffle annual registration form (CT-NRP-1) and mail it to the Registry of Charitable Trusts with the \$20 registration fee. Checks should be made payable to the Department of Justice.

Please note: You must receive written confirmation of registration before conducting any raffle activities, including the sale of tickets. Raffle registration forms are available on the Attorney General's Website at [Charities Forms](#), or may be requested by mail, fax, or telephone.

### **What is the deadline for registration, and can I still submit an application if I miss the deadline?**

The registration period for raffles runs from September 1 to August 31, and registration applications are due on or before September 1. If an eligible organization that has not registered by September 1 determines after that date that it will conduct a raffle during the reporting year (September 1 through August 31), the organization must submit its registration application at least 60 days before the scheduled date for the raffle. Applications are processed in the order received, and no expedited service is available. In order to receive confirmation of receipt of an application, the application must be mailed to the Registry of Charitable Trusts via certified mail.

### **How long is a raffle registration valid?**

A raffle registration is valid from the date registration is issued through August 31. Registration must be renewed annually, on or before September 1 of each year in which the organization wishes to conduct raffles.

### **Our organization is a Fundraising Committee which operates under BUSD. Can we conduct our own raffles?**

Only an "eligible organization" may conduct a raffle. An "eligible organization" is defined as one that has conducted business in California for at least one year and is exempt from taxation under one of the subsections of Revenue and Taxation Code section 23701 listed in Penal Code section 320.5, subdivision

(c). If the organization has not, independent of the national organization, applied for and received tax-exempt status from the Franchise Tax Board, it is not, by definition, an “eligible organization.”

Whether a “chapter” (sometimes referred to as a “subsidiary” or “child”) of a national office or other organization (“parent”) may conduct a raffle is determined on a case-by-case basis after a review of relevant facts:

**Does the parent organization qualify as an “eligible organization” in California?**

Is the subsidiary funded by the parent?

**Do the parent and subsidiary file a group return with IRS?**

**How independent is the subsidiary from the parent, and to what degree does the parent control and manage the subsidiary?**

If the parent is an “eligible organization” and there is a true parent-subsidiary relationship, only the parent is required to register for raffles conducted by both the parent and subsidiary. The parent is also responsible for filing all subsequent raffle reports. The parent is ultimately responsible for conducting the raffle, but may delegate responsibilities to the subsidiary.

**Our organization is an auxiliary [or chapter, charter, lodge, etc.] with a group exemption and has its own Federal Employer Identification Number (FEIN). How do we register?**

Only an “eligible organization” may conduct a raffle. To qualify as an “eligible organization” within the meaning of Penal Code section 320.5, the organization must have one of the requisite California Franchise Tax Board (FTB) exemptions set forth in the statute. (See Pen. Code § 320.5, subd. (c).) Please note that an Internal Revenue Service exemption does not qualify an organization to conduct raffles.

The organization must submit its FTB tax exemption letter or entity status letter with the raffle registration application. If you cannot find one of these letters, contact FTB to request a copy. If the organization has never been granted FTB tax exemption, you must file an application with FTB to obtain the requisite tax-exempt status. Please contact the California Franchise Tax Board at (916) 845-4171 for more information.

**When is the Nonprofit Raffle Report required to be filed?**

An aggregate report is required for all raffles held by the organization during the reporting year. The report must be filed with the Registry of Charitable Trusts at any time after the conclusion of a raffle, but no later than October 1 of each year for activities in the current registration period.

**What kind of record keeping is required?**

Record-keeping must be sufficiently detailed in order to complete the Nonprofit Raffle Report form (CT-NRP-2). Organizations should review that form before conducting a raffle in order to assure all necessary categories of information are being maintained, including the date and location of each raffle held, total funds received from each raffle, total expenses for conducting each raffle, the charitable or beneficial purpose for which raffle proceeds were used or the amount and organization to which proceeds were directed. (See Nonprofit Raffle Report form at: [oag.ca.gov/charities/forms](http://oag.ca.gov/charities/forms).)

**When can an organization expect to receive confirmation of registration?**

Depending on volume of registration applications received, staff may not send confirmation of registration for up to 60 days after receipt of the registration application.

**What are the consequences for an eligible organization that fails to register with the Attorney General’s Registry of Charitable Trusts to conduct raffles in California?**

*Gambling is illegal in California unless it is permitted by statute. A raffle is defined as gambling unless it meets all of the criteria set forth in Penal Code section 320.5.* One of the criteria is that an eligible organization must be registered with the Attorney General prior to conducting any activity associated with a raffle. Failure to comply with the provisions of section 320.5 is a misdemeanor. Violations of section 320.5 may be forwarded to the local district attorney, city attorney, or county counsel for enforcement. Section 320.5 and related regulations can be found on the Attorney General’s website at [oag.ca.gov/charities/raffles](http://oag.ca.gov/charities/raffles).

**How many raffles may we conduct?**

There is no limit to the number of raffles an organization may hold during any registration period for which it holds a valid registration certificate. A valid registration certificate allows an organization to conduct raffles from September 1 through August.

Though an organization may conduct numerous raffles during that time, the organization must keep records adequate to account for all revenue received from, and expenses incurred for each raffle held during the registration year in order to properly complete their year-end raffle report (CT-NRP-2). A report that reports only estimates of revenue and expenses will not be accepted for filing.

Organizations that host raffles as part of a larger fundraising event must maintain raffle proceeds and expenses separate from all other event monies and report only raffle proceeds and expenses on form CT-NRP-2.

**The raffle report form asks what other eligible organizations received funds from our raffles. Our organization does not distribute funds until our fiscal year-end, which conflicts with the October 1st report deadline. What do we do?**

Submit the report by October 1st with an attachment indicating that a revised report will be submitted listing the recipient organizations at the end of your organization’s fiscal year. When submitting the revised report, please type or print “Revised Report” next to the raffle year on Part B, Question 1.

## APPENDIX II: ADDITIONAL INSURANCE INFORMATION

Booster clubs are businesses, and are separate legal entities from the school district. **As with any other business, boosters are held accountable to the public for its actions, or lack thereof, with which it interacts.** The majority of this responsibility lies with current and past leadership, such as the directors and officers.

Even though an accident or occurrence is the result of unintentional negligence, it is, nonetheless, considered negligence. This condition oftentimes leads to an allegation or lawsuit, wherein the booster president, and all other officers and directors of the booster, **are personally and individually named, placing their PERSONAL ASSETS at risk** (home, vehicles, savings, attachment of future wages and earnings of both individual and spouse).

In the U.S. court system, anyone can sue leadership at any time for any reason. **Suits against booster leadership can be groundless or false, but still require a costly and highly specialized defense** (some in excess of \$250,000). If the lawsuit is not answered and properly defended, it is lost by default, and a judgment obtained against leadership. Responsibility to the public exposes a booster club and its individual leadership to an element of risk, which can be transferred to another through the use of public or **general liability insurance**.

To extend your general liability policy to your booster, you must be hosting a booster sponsored event. The requirements of a booster sponsored events are:

- The event must be **voted on** by the booster
- The event must be **approved by** the booster
- The event must be **scheduled by** the booster
- The event must be **planned by** the booster
- The majority of the **manpower must be provided by booster members**

### PARTICIPANT'S WAIVER

It is very important that you realize that **you can never sign your liability away regardless of the document or waiver** that we are talking about. **A waiver will not hold up in court if your booster is found at fault for an injury occurring at one of your events.** However, a waiver is a tool used to help deter the lawsuit mindset. By having all participants sign a waiver, you are helping to plant the seed that the participant is responsible for their own actions. While a waiver isn't a requirement to extend coverage under the General Liability policy, it is a step in the right direction to help protect your booster against bodily injury lawsuits.

Waiver forms are available from your insurance broker. Check their websites.

### CONTRACTORS/VENDORS

There are times when you, as a booster, agree to bring certain vendors or contractors in as entertainment. **Prior to bringing in a vendor or contractor, you must ask for a copy of their Certificate of Insurance.** A Certificate of Insurance should only come from the insurance company where the vendor does his/her business. Make sure that there is a current date on the Certificate, as that will be your proof that the vendor has followed prudent business practice and has kept his/her insurance active. **Your**

**policy does not insure such vendors**, but it does cover claims for attendees who get hurt from a vendor's services.

## **PROCEED WITH CAUTION**

The following activities are those which ARE covered under your General Liability insurance policy, but you must follow the outlined precautions to limit the risk of a claim.

**Babysitting** – Babysitting is something that you would provide during booster meetings or booster sponsored events. We ask that you have two adults volunteers (18 years or older) in the room at all times. This dual rule is in force to protect against any molestation claims, to provide a second witness to rule out false claims, and to provide extra assistance in the case of an emergency. If paid baby sitters are involved they will not be covered under this policy.

**Athletic Events** – Your General Liability policy covers athletic events such as **fun runs, field day, and donkey basketball** as long as it is being run by your booster. Your General Liability policy **does not** cover athletic organizations which maintain a regular practice and competition schedule such as a football team or cheerleading squad. Your booster insurance policy is only meant to cover those 1 or 2 day events that your organization runs...**not the football team, the cheerleading squad, or the band.**

**After School programs** – *BUSD and insurance requirements for holding after school enrichment classes or programs are extremely limited.* These programs must be run and managed by the school site. If your booster attempts to run or manage a school related program – your insurance will not cover it.

## **BONDING (COMMERCIAL CRIME)**

**A booster should be run like a business. You have a budget to work within, deadlines to meet, and events to plan. The main concern in any business is finances.** You may have many different officers with check signing capabilities or you may trust one of your volunteers to run to the bank to deposit fundraising money. Although there may be various safeguards set up to protect your funds, there is still a large risk of someone embezzling your money. The Bond (or Commercial Crime) policy is set up to protect your money, scrip, securities, and other cash equivalents against embezzlement, robbery, and theft.

### ***Requirements and Conditions for Bonding Coverage***

To extend your Bond policy to your booster, **you must agree to the following requirements:**

1. Your booster **must conduct an annual audit/review of the books** by an audit/review committee or qualified accountant.
2. The **monthly bank reconciliation must be reviewed and signed by someone who does not have authorization to sign checks.** Financial software does not qualify under this requirement.



**Coverage may be voided if the above requirements and conditions are not followed.**

### ***Police Reports Are Required***

Whether you are talking about embezzlement, robbery or theft, these are all very serious illegal crimes. In order to process a claim, **you must notify the authorities in your area and provide your insurance company with a police report naming the individual you suspect embezzled the funds.** This may be the hardest part of any embezzlement claim, as the individual whom you suspect of the crime is probably someone very close to you and other members of the board. **Contact your insurance provider immediately if you suspect theft or embezzlement.**

### **TOP 10 WAYS TO PROTECT YOUR FUNDS AGAINST EMBEZZLEMENT**

1. ***Never take booster money home.***
2. ***Deposit booster money into the bank daily, even if a project is on-going.***
3. ***Deposit the money in the bank as soon after the conclusion of the project as possible.***
4. ***Two people should always count the money and sign the receipt verifying the amount.***
5. ***Two signatures should be required on all checks.***
6. ***Never sign a blank check or a check made out to "cash."***
7. ***All bills should be paid by check, never cash.***
8. ***Conduct an annual audit/financial review of the books.***
9. ***Have a non-signer physically receive, review and sign the bank statements monthly.***
10. ***Purchase a Bond Policy and follow the requirements.***

### **INSURANCE CONCERNS REGARDING GIFTS TO THE SCHOOL**

We all know that booster's raise money to purchase items to give to the school. To further decrease your liability, it is recommended that the booster not purchase any merchandise to give to the school directly. Instead, a better choice would be for the booster to "gift" the money to the school and allow the school to purchase the items that the booster wishes to donate. While this is an acceptable form, we encourage you to put together your own gifting forms with your letterhead to use for your school.

Do NOT purchase items for the school and donate the items. Gift the money to purchase the items to your school and allow the school district to purchase the items. Your booster club can be held liable for injuries caused by or occurring on or near equipment you have purchased as long as the equipment is in use.

### **OFFICER'S LIABILITY (NON-PROFIT PROFESSIONAL LIABILITY)**

As with any business, **you as an officer of the booster can be sued for any decisions that you make individually or as a booster.** These decisions can include what type of fundraiser to have, where to hold an event, or any other managerial decisions. Your Director's and Officer's Liability policy is to protect the

way you manage the booster and the decisions that are made by you and other board members of the booster.

### ***Coverage Highlights***

The Officer's Liability policy provides coverage for any decision that you as an officer may make. Other things that might fall under this coverage are items such as:

1. Mismanaging the funds of the booster
2. Any wrongful act including errors and omissions, misleading statements, or negligent acts
3. Discrimination
4. Incorrectly running your elections
5. Not following your by-laws
6. Misrepresentation

### ***Exclusions***

There are certain exclusions that your Officer's Liability policy has. The following are specifically excluded items:

1. Any criminal acts
2. Any knowingly wrongful act
3. A claim arising from the operations of any political action committee
4. Claim brought on behalf of insured or any entity affiliated of insured

**These lists are not all inclusive. If you have a question about a specific situation and are inquiring if coverage is provided, please call your insurance provider.**

## APPENDIX III: FUNDRAISING ISSUES FOR NON-PROFITS

### *PUBLIC COUNSEL | COMMUNITY DEVELOPMENT PROJECT | FUNDRAISING ALERT*

#### GENERAL FUNDRAISING CONSIDERATIONS

Charities that are recognized as tax-exempt under Section 501(c)(3) of the Internal Revenue Code are generally not required to pay income tax. However, income from certain activities, as explained below, may still be taxable under federal or local law. Additionally, numerous registration and reporting requirements under federal and local law exist in connection with fundraising activities. The following highlights just a few of those taxes and reporting requirements.

#### ***Tax on Unrelated Business Activities***

Charitable organizations may be required to pay tax (UBIT) on income derived from a regularly carried on trade or business ***if the activity is not substantially related to the organization's exempt purpose*** (an "unrelated business activity"). This general framework for taxation of income from unrelated business activities contains some exceptions, including, for instance, if in operation of the unrelated activity the charitable organization: 1) utilizes a volunteer workforce; 2) sells ***donated*** merchandise; or 3) conducts bingo or similar activities.

Certain fundraising activities may be considered unrelated business activities if they are regularly carried on (for example, weekly or online sales or auctions) and no exception to the UBIT rules applies. Two cautions exist with respect to unrelated business activities and fundraising. The first relates to the scope of the activities, and the second relates to potential tax liability. First, to ensure that it maintains its tax-exemption, an organization should not dedicate a substantial part of its time or resources to "unrelated" activities. Second, unless an exception applies, the income from such unrelated activities will be subject to UBIT.

Keep in mind that income-generating activities that are structured to further one or more of a charity's exempt purposes will not be subject to UBIT because they do not fall within the definition of "unrelated business activities." For example, a charity's operation of a retail grocery store as part of a therapeutic and training program to help disadvantaged youth, when the store is almost fully staffed by the youth, is not likely to constitute an unrelated business activity because the store is operated in a manner that furthers one of the charity's exempt purposes by assisting the youth.

Additional information concerning unrelated business activity and its exceptions can be found in IRS Publication 598, Tax on Unrelated Business Income of Exempt Organizations, available at [www.irs.gov/pub/irs-pdf/p598.pdf](http://www.irs.gov/pub/irs-pdf/p598.pdf).

#### ***Sales and Use Tax***

Sales and use tax applies to the sale or use of tangible personal property in California. Charitable organizations may be subject to either tax depending on the nature of a particular fundraising activity. Organizations must obtain a seller's permit if they are engaged in business in California and intend to sell or lease tangible personal property that would ordinarily be subject to sales tax if sold at retail, unless certain limited exceptions apply to the particular sales activity.

For additional information, please see California State Board of Equalization Publication 18, Tax Tips for Nonprofit Organizations, available at [www.boe.ca.gov/pdf/pub18.pdf](http://www.boe.ca.gov/pdf/pub18.pdf), and Publication 73, Your California Seller's Permit, available at [www.boe.ca.gov/pdf/pub73.pdf](http://www.boe.ca.gov/pdf/pub73.pdf).

### ***Substantiation of Charitable Contributions***

Donors and charities must comply with a number of different substantiation requirements in connection with the donation of goods and services. **Generally, charities are required to provide written disclosures to a donor who makes a contribution in excess of \$75 if the donor receives goods or services in exchange for that contribution.** For donations of any amount, a donor will need either an acknowledgement from the charity or a bank record such as a cancelled check or credit card statement, in order to claim the deduction. Additionally, a donor is responsible for obtaining a written acknowledgement for any single contribution of \$250 or more in order to claim the donation as a deduction.

For additional information, please see IRS Publication 1771, Charitable Contributions – Substantiation and Disclosure Requirements, available at [www.irs.gov/pub/irs-pdf/p1771.pdf](http://www.irs.gov/pub/irs-pdf/p1771.pdf), and IRS Publication 526, Charitable Contributions, available at [www.irs.gov/pub/irs-pdf/p526.pdf](http://www.irs.gov/pub/irs-pdf/p526.pdf).

### ***Notice of Intention and Information Card***

In the City of Los Angeles, a charity must file a Notice of Intention with the Los Angeles Police Commission Charitable Services Section at least 15 days prior to the start of any fundraising campaign or special event that involves solicitation for charitable purposes. The charity is then issued an Information Card that must be provided to all potential donors. Detailed information about this requirement can be found on the Los Angeles Police Commission website,

[www.lapdonline.org/police\\_commission/content\\_basi\\_c\\_view/9147](http://www.lapdonline.org/police_commission/content_basi_c_view/9147).

Many cities and counties have enacted similar ordinances regulating charitable solicitations. You should be aware of the requirements for all cities or counties in which you are conducting fundraising. A list of city and county offices with information on local solicitation ordinances can be obtained at

### **GAMING ACTIVITIES**

Although Article IV, Section 19 of the California Constitution prohibits many forms of gambling in California, nonprofit organizations meeting certain eligibility requirements may conduct bingo, raffles, or “poker nights” as fundraisers, if these games are conducted according to detailed rules after appropriate registration. These exceptions to the prohibition on gambling are summarized below.

#### ***Charity Poker Night Fundraisers***

**NOTE: Fundraising Committees may NOT hold charity poker night / casino night fundraisers. Only one event per year is allowed per 501 (c)(3) Booster nonprofit organization.**

Eligible organizations that have been in existence for at least three years may register with the California Attorney General’s Bureau of Gambling Control to conduct one “poker night” fundraiser each year, in which participants may play controlled games such as poker or Pai Gow. (Eligible organizations with multiple chapters may hold one such fundraiser per chapter per year.) Such an event must be no more than five hours in duration.

- Winners’ prizes at these events must be donated, and cash prizes may not be awarded.
- No individual prize awarded may exceed a cash value of \$500, and the total value of prizes awarded may not exceed a cash value of \$5000.
- Persons under the age of 21 may not participate.

- At least 90 percent of revenues generated at these events must go directly to the nonprofit organization, and no more than 10 percent of gross receipts may be paid as compensation to the entity or persons conducting the fundraiser, excluding a facility rental fee.

Organizations holding these fundraisers must maintain event records, and be willing to provide an itemized report to the Bureau of Gambling Control upon request, of gross receipts, costs incurred, recipients of net profits, number of fundraiser participants, and prizes awarded. All suppliers of equipment used in playing the controlled games must register with the Bureau of Gambling Control as well.

For more detailed information about the requirements for conducting charity poker night fundraisers, visit the California Attorney General's Bureau of Gambling Control website,

<http://ag.ca.gov/gambling/charitable.php>.

### **Bingo**

The California Penal Code defines bingo as a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conforms to the numbers or symbols selected at random. Tax-exempt charitable organizations generally may conduct games of bingo for fundraising purposes in California, as long as the city or county in which the bingo is to occur has implemented an authorizing ordinance and the bingo games are operated consistent with that local ordinance and with the California Penal Code. **Funds from bingo games must be counted jointly by at least two members of the charity, deposited into a special bingo bank account and not commingled with other funds.**

The proceeds of bingo will not likely subject an organization to UBIT because the IRS has created a special exception to the UBIT rules for proceeds derived from certain bingo games. For more details, see Section 513(f) of the Internal Revenue Code and IRS Publication 598, Tax on Unrelated Business Income of Exempt Organizations, available at [www.irs.gov/pub/irs-pdf/p598.pdf](http://www.irs.gov/pub/irs-pdf/p598.pdf).

### **Raffles**

SEE APPENDIX I: RAFFLE FAQs FROM THE CA STATE ATTY. GENERAL (ABOVE)

<http://oag.ca.gov/charities/raffles>

### **Auctions and Other Sales of Goods**

There is no specific prohibition in California or federal tax law on the ability of a charity to hold an auction for fundraising purposes. An auction or silent auction does not constitute a game, but is rather a sale of goods by the organization. Typically, both regular and silent auctions allow participants to bid on any item offered for sale, and the winning bidder will purchase the auctioned item for the bid price. Purchasers of items at a charity auction may claim a charitable contribution deduction for the excess of the purchase price paid for an item over its fair market value. However, the purchaser must be able to show that he knew the value of the item was less than the purchase price. For example, if a charity provides a catalog with a good faith estimate of items available for bidding and the purchaser has no reason to doubt the accuracy of the published estimate, the purchaser may generally take a charitable contribution deduction equal to the excess of the purchase price over the published value.

Donors who provide goods for charities to sell, whether at an auction or otherwise, may take a charitable contribution deduction in connection with that donation, but the deduction will be limited to the donor's tax basis (acquisition cost) in the contributed property. Donors are not permitted to claim a fair market value charitable deduction for a donation of appreciated property that is donated for sale rather than

for use by the charity. IRS Publication 561, *Determining the Value of Donated Property*, available at [www.irs.gov/pub/irs-pdf/p561.pdf](http://www.irs.gov/pub/irs-pdf/p561.pdf), contains information on determining the fair market value of donated property.

Charitable organizations may be subject to UBIT on the proceeds derived from such sales if they are regularly carried on, unless an exception (e.g., utilizing a volunteer workforce or selling donated merchandise) applies. Organizations should review IRS Publication 598 to assess whether any UBIT exceptions apply. A charitable organization may also be subject to sales tax for conducting sales of goods, and should review the California State Board of Equalization website, [www.boe.ca.gov](http://www.boe.ca.gov), and BOE Publication 18, to determine if it is subject to such tax.