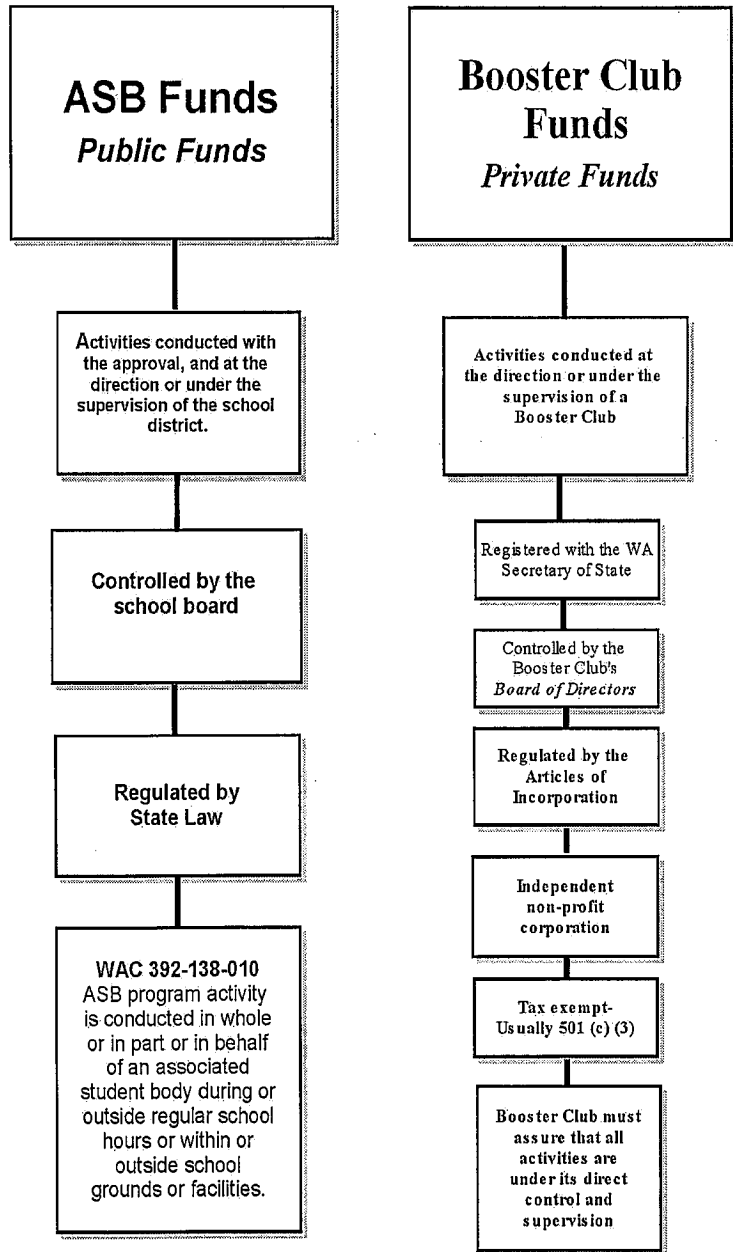




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ASB and Booster Clubs

Parents support groups are needed, helpful and necessary because schools will always need money and will always find uses for it. There are many enthusiastic and caring parents who are willing to help but don't know all the implications of their involvement. Make sure your parents are protected, and your interactions are positive whenever your Boosters are working for your programs.



Focus on...

Parent Support Groups

The Expectations

- Parents support groups needed, helpful and necessary.
- Schools need money and will always find uses for it.
- Limited resources from usual ASB sources.
- Limited time for teachers & administrators to raise funds.
- Limited time and opportunity for students to raise funds.
- Encouragement to involve parents comes from board & superintendent.
- Enthusiastic and caring parents are willing to help.

The Components

Agencies and organizations that have interest in the operation of parental support groups:

- Internal Revenue Service
- Washington State Auditor's office
- Washington Secretary of State office
- County Department of Health
- Local School Board
- Office of the Superintendent of Public Instruction
- Washington Interscholastic Activities Association
- Washington State Gambling Commission
- Washington State Parent – Teacher Association
- Various Fund Raising Vendors
- Washington State Department of Revenue

The Issues

- ✓ Personal liability for members
- ✓ Inadequate insurance
- ✓ Federal Tax liability for bank accounts
- ✓ Violations of State gambling laws
- ✓ Improper food handling
- ✓ Title IX violations
- ✓ Breach of Fiduciary Duties: *Obedience, Care, & Loyalty*
- ✓ Co-mingling of private and public moneys
- ✓ Improper use of public facilities and/or materials
- ✓ Lack of monitoring and fixed responsibilities
- ✓ Public relations between school, parents and other patrons are compromised

Booster Club vs. ASB

Fundraising Guidance

I. What are the indicators that a bona fide parent group fundraiser into an ASB activity?

- The cash receipts are given to the school ASB secretary and/or stored in the school safe.
- The students handle the cash receipting reconciliation process during the school day.
- The inventory is purchased by the ASB... Student officer signs a purchase order.
- The school district holds and inventories the goods for resale.
- A majority of the work is performed by the students.
- The parent group uses the school name (without at least adding "boosters").
- The use of district facilities is not followed per district policy.
- School district personnel are involved during staff time.

II. Parent Groups - Booster Club and Parent Teacher Association - Private Money

- ✓ The school board should have policies to address the approval of activities of private groups. *Selling any item at school that is for a private business would be regulated by the school district policies.*
- ✓ Activities/events must be planned, managed and operated solely under the direction of the parent group.
- ✓ When using district facilities, the group must follow district policies.
- ✓ Funds cannot be commingled with ASB money.
- ✓ Keep the activity an "arms length" transaction.

III. Student Involvement

Children have a private life and can always work for an outside entity, but not during school time. If the student is selling an item at school or representing the school- the money is generally considered ASB. Students are able to raise money for an outside entity during school time with prior school district approval. The key is how a prudent person would view the sale- if it looks like a school sale, the money must go to ASB.

If issues are noted during an audit, it will be decided if the funds in question belong to the district. The answers to the following questions will help determine if the funds are district funds or parent/booster funds.

How was the information presented to those that participated-both sellers and buyers? For example, was the information presented as, "Sample School District Girls Soccer" or "Sample School Girls Soccer PTA"? If you found a "name" on the fundraiser/event promotional information you can perform a search at <http://www.secstate.wa.gov/corps/search.aspx> to determine if they have registered with the Washington State Secretary of State. Ask yourself, "Would a reasonable person in the community think that this was a Booster Club or School activity?"

IV. Prizes:

State audit staff has determined that any prize or other incentive must be within the diminimis range as defined by school board policy. That prize may be donated by an outside organization, but it cannot be the vendor providing the product or service.

Booster Clubs

Policies~Processes~Procedures

1 School Guidelines

- ✓ Money raised during the school day, on school property, using school personnel, or school materials is public money.
- ✓ Public money, generated by the students or in the name of students, may be used only for Cultural, Athletic, Recreational, or Social purposes.
- ✓ ASB funds are restricted Public money and cannot be used for curricular purposes.
- ✓ Co-curricular is not a legal term. Only curricular and extra-curricular are defined in the law.
- ✓ Public money cannot be given away for private use.
- ✓ Students and staff must collaborate on the generation and use of public money.
- ✓ You must have a system to monitor and protect the use of public money.
- ✓ You must follow the federal, state, school board, and your own rules about ASB.
- ✓ In a corporate sense, the Principal is the CEO and CFO; the school board is the Board of Directors.
- ✓ The State Auditor is only one of many regulatory agencies interested in ASB.

2 ASB or Booster?

What turns a bonafide parent group fundraiser into an ASB activity?

- ☞ The cash receipts are given to the school ASB secretary and/or stored in the school safe.
- ☞ The students handle the cash receipting reconciliation process
- ☞ The inventory is purchased by the ASB... Student officer signs a purchase order
- ☞ The school district holds and inventories the goods for resale.
- ☞ A majority of the work is performed by the students?
- ☞ The parent group uses the school name (without adding "boosters").
- ☞ District facilities use not following per district policy.
- ☞ School district personnel are involved during staff time.
- ☞ Event workers wearing official school apparel.

3 Requirements

- Current organizational by-laws
- Business license (if retail sales are held)
- Parent organization rules (if any)
- Current list of officers
- IRS Tax Identification # (EIN)
- Washington State UBI #
- Certificate of Insurance
- Inventory of equipment
- Recent copies of income tax report
- Annual renewal of Secretary of State registration
- List of Bank accounts
- Current list of bank authorized signers
- Follow School Board rules/ policy
- Health cards (if food is sold)
- Articles of Incorporation with Sec. of State stamp
- IRS Tax exempt request letter and/or Tax determination letter
- Any other agreements

4 Officer's Duties

Fiduciary Duties~ These duties are imposed both by the courts and by state and federal statutes. A breach of these duties may lead to personal liability, loss of tax-exempt status, or both. *Duty of... Care: know you rules, Obedience: Obey your rules, Loyalty: no personal gain.*

5 Resources

- **North American Booster Club Association**- <http://www.boosterclubs.org>
- **Internet Nonprofit Center**- Information for and about nonprofits ~ <http://www.nonprofit-info.org>
- **Internal Revenue Service**- See form 1023 for application, and 990 to report income/expenses ~ <http://www.irs.gov>
- **Secretary of State**- Washington State laws (WAC/RCWs) regarding charitable solicitations and trusts. ~ <http://www.secstate.wa.gov/charities>
- **Washington State PTA**- Every child. One voice- <http://www.wastatepta.org>
- **Washington Association of School Business Officials**- Check for ASB rules ~ <http://www.wasbo.org>

Duties of Nonprofit Directors

These duties are imposed both by the courts and by state and federal statutes.

Fiduciary Duties

A breach of these duties may lead to personal liability, loss of tax-exempt status, or both.

Duty of Obedience

This duty requires directors to carry out the organization's purposes as set forth in its Articles of Incorporation and Bylaws and to ensure that the organization conducts its activities in a lawful manner.

The duty of obedience arises because donors, members, and the general public rely on the organization to use gifts, funds, image, and influence for the organization's stated mission. Tax-exempt status is an important benefit and carries with it the responsibility of always acting for the public good.

Breach

- Failure to monitor legal changes and requirements
- Failure to monitor activities and employees and agents
- Failure to monitor use of the organization's funds
- Unauthorized change or expansion of activities

Compliance Strategies

Regularly review the organization's articles of incorporation, bylaws, and applicable laws. Have access to (and use!) professional advisors to monitor changes in the law and to ensure the organization's compliance with all legal requirements.

Duty of Care

Directors have a duty to act in good faith, as a reasonably prudent person would, in a manner reasonably believed to further the best interests of the organization.

Good faith: the director must exhibit fair dealing, openness, and honesty of intention.

Prudent person: The director must act as a hypothetical "average" director would, applying sound practical judgment, without special skills, and without excessive caution.

Attentiveness: The director must be attentive to the operations of the organization, and must be alert to potential problems.

An important component of the duty of care is the directors' duty to manage carefully and responsibly the financial affairs of the corporation.

Breach

- Neglect of directional duties
- Neglect of the organization's legal and financial affairs
- Careless, frivolous decisions based on lack of information

Compliance Strategies

Take the position seriously. Avoid precipitous action and rash decisions. Spend time keeping informed; be familiar with organizational matters; review materials, and make special inquiry if information is lacking. Carefully select and monitor those to whom responsibilities have been delegated. Manage institutional funds wisely and prudently

Understand the relevant statutory provisions regarding nonprofit corporations and ensure the organization's compliance. Ensure that financial books and records and other necessary reports are accurate and complete. Know the state and federal reporting requirements and ensure that the organization completes them on time. Know the requirements of maintaining tax-exempt status and ensure that those demands are met. Seek expert advice for matters beyond individual expertise

Duty of Loyalty

This duty of loyalty includes the duty to further the organization's goals and not the directors' own best interests.

The duty of loyalty arises primarily as a reflection of the same duty imposed on directors of for-profit corporations. It has special significance in this arena, however, because of the federal prohibition on the "private inurement" from the activities of tax-exempt organizations.

Breach

- Use of position or information to gain personal advantage
- Use of position or information to further the interests of third persons
- Excessive compensation or benefits
- Corporate loans to directors

Compliance Strategies

Act only in the best interest of the organization. Fully disclose any conflict of interest. Obtain approval by disinterested directors. Recuse themselves from any discussion of or vote on any potential board action in which they have a conflict of interest.

Booster Clubs...How would you answer???

Q. I heard that Booster Clubs are to hold no more than two 50/50 raffles per year. If more were organized to reap the profits, apparently the gambling commission needs to be notified.....Can you tell me exactly how to go about this process? Whom would we contact? Is there a fee for the process? Is there a website? Do you know a name or phone number?

A. As a *Booster Club* you can do 2 unlicensed raffles every calendar year, provided you have been granted 501 c-3 status by the IRS. If you are not registered with the IRS you cannot hold a raffle. If you want to hold more raffles then you must buy a Raffle License from the local gambling commission office. Your county should have one. Go to the gambling commission website (www.wsgc.wa.gov) for more details.

Q. One of our parents (no students ever involved) arranged with several businesses in our community to make a donation and then in turn a sign with their name on it was up on the fence in the baseball field. The money was put into the general fund. Our district believes it is ASB money. My assistant principal for activities and I both feel it is not ASB as students were never ever involved in any aspect of the money.

A. *The money should go into ASB... An Attorney General memo (a couple of years ago) found no statutory authorization for General Fund fundraising of this type, therefore the money goes to ASB. ASB moneys do not have to have students involved, they may be raised in the name of students. Without the Baseball program the revenue source would not exist, so this is Athletic in nature and an acceptable ASB fund source.*

Q. Can a High School have a separate Booster Club (Gridiron Club) with a separate tax ID number? Our school has a Booster Club, but we would like to break off and be a completely separate entity. They have a tax id number, and are telling us that we cannot organize our own club with another tax id number.

A. *Approach Booster Clubs as another business in town. They must register with the Washington Secretary of State, or get a business license. They must get there own tax ID # (EIN). The school must keep those private businesses separate from the business of public education. They might also need to register as a 501 c-3 with the IRS (that is required if they want to run raffles as a fundraiser). Tax numbers are easy to get by calling a toll free number- check out www.ira.gov for the toll free call. I'm attaching an information sheet on Booster Clubs for you.*

Q. Can we give league passes to parents of students because the student is an ASB officer. These passes allow them the parents to get into all league games home and away

A. NO...The Auditor will consider this practice a gift of public funds and will generate a finding.

Q. Do you think it sounds ok for the booster club to use HS kids to teach elementary kids sports skills and charge some money as a fundraiser?

A. This may be ok if the students' participation is optional and there are no promises from the coach of future privileges on the team. Students can have a personal life. Warn the Boosters that if they are planning on paying the helpers, there will be IRS tax implications. Also, have them check their insurance policy for this event.

Q. The treasurer of the old Booster Club (which was not legal) wants to be the treasurer for our new Organization (which is legal). A number of us think it would not be a good idea for a number of reasons. What are your thoughts?

A. I think the answer depends upon how good the former treasurer was in their job.

Q. Can Senior students' parents sell candy canes during lunch to raise money for the post graduation party? They would also need to deliver the candy to students. The money would be given to the Booster Club to hold for graduation. Is this an allowable activity?

A. Outside groups can do business on campus if they follow your school district policy. Check with the business manager. If it is ok, make sure the public and students and teachers know that it is a parent group activity not ASB.

Q. Is it legal for the Booster Club to have the fundraiser and use school time for the kickoff assembly and reward assembly? If not, can they do it if they split the profits fifty-fifty with ASB? Can you direct me to the WAC or RCW that states that? Any information that I can get will help state my case.

A. The Auditor has agreed that a PTO can hold an information assembly to offer students the opportunity to participate in their fundraiser. But the PTO needs to follow the rules in the attachment "Parent Group Definition" and not have the school collect the money. You can sign a contract with the PTO to split money- it is best to run all the funds through ASB and then have the PTO bill you for their half. The Parent group must be considered private organization (a company). The school is a public entity. Thus, private enterprise on public land must be regulated. The Washington PTA may have some more information of the WAC's & RCW's. I got this information from their publication "ASB and the Law"