



Ennis Britton Co., L.P.A.
Attorneys at Law

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Confessions of a Superintendent

- Chad Hilliker, Superintendent of Loveland City Schools
- Gary T. Stedronsky, Ennis Britton Co., L.P.A.



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Responding to Crisis



Bomb Threat

- Bomb threat called in right before school day was scheduled to start
- Immediate actions taken
- Goal – Get students back to class as soon as possible
- Communications with parents and staff
- Communications with press

Arbitration

- At issue before the Arbitrator was whether the Grievants were entitled to extra calamity day pay under Article 14 of the CBA
- **Article 14.1 - Calamity Day Definition**
“As set forth in Section 3319.081 (G) O.R.C. members of the bargaining unit shall be paid for days when schools are closed due to epidemic or other public calamity.”

Arbitration

- **Article 14.4 - Payment for Calamity Days**

“Employees requested by the administration to report to work on calamity days shall be paid at their regular wage rate for the time worked in addition to the regular rate earned on a calamity day.

Example:

Snow day – Day shift custodian is called to clear sidewalks. Custodian works 4 hours clearing snow. That custodian shall receive 8 hours calamity day pay plus 4 hours additional pay at straight time. Total 12 hours pay.”



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Navigating Booster and PTO Issues





Navigating Booster and PTO Issues

- Purpose of booster and PTO groups
- Control
- Overstepping their authority/purpose
- Potential interference with administration of school and its programs
- Political considerations
- Construction projects

Booster Group Organizational Structure

- Formal or Informal?
 - Formal Recognition
 - Recognized by a formal action taken by board of education
 - School-sponsored organization
 - Agreement in writing with the Board and organization
 - Approval to use school name, logo, mascot, etc. for fundraising activities
 - Chaperones/Volunteers on any trips must be fingerprinted
 - Informal Recognition
 - Treated like any other community group
 - Facility use forms
 - Needs to be clear when looking at the group that it is not sponsored by the Board
 - Events that are not Board sponsored: all advertising needs to be clear group is not Board sponsored.
 - If informal need to consider the grey area: When does the booster group act with the Board's approval and when does it not?



Board Policy

- Board supervision of booster group activities
 - 1) Board's authority to manage the schools within its district includes the supervision and control of both curricular and extra-curricular activities.
 - Appropriate settings and activities for booster functions
 - Sale of alcohol on school premises?
 - Gambling to raise money?
 - Insurance concerns?
 - Protect school's good name and reputation.
 - Submission of goals and fund-raising plans for Board approval
 - Idea of how much money will come into District
 - Chance to approve or disapprove of certain fund-raising activities



Board Policy

2) Use and control of booster funds.

- Board policy to review booster group books to ensure funds are maintained, documented and spent appropriately.
- Handling of cash
 - Identify who can handle cash
 - Identify procedures for tracking the source of cash
 - How much is collected?
 - Where does the money go?

Board Policy

- 2) Use and control of booster funds, cont.
 - Implementation of proper accounting practices
 - How to value non-cash donations?
 - External audits?
 - Income statement, balance sheet, expenses, etc.
 - Non-comingling funds
 - Should be separate accounts for funds raised for the benefit of the school and funds for the use of the booster group.
 - Since school is beneficiary of funds, it has an interest that funds are properly accounted for.
 - Board-implemented administrative controls:
 - What member(s) of the group can cash checks or withdraw funds?
 - Who can authorize contracts for the purchase of goods and services?
 - Require booster group to adopt formal regulations and bylaws.

Board Policy

3) Insurance

- Board of education may purchase a policy of insurance to cover “school support entities” against liability on account of damages or injury to person or property resulting from any act or omission of the organization.
 - Policy must be purchased from insurance company licensed to do business in Ohio;
 - Board must adopt resolution specifying:
 - the amount of insurance;
 - the necessity of the insurance; and
 - include a statement of the estimated premium as quoted in writing by at least two insurance companies if more than one company offers such insurance for sale to the Board.
 - Board must purchase the insurance from the lowest bidder.

Board Policy

3) Insurance, cont.

- Board must require school support organization to reimburse Board for cost of insurance.
- Except for findings of recovery in an audit report, a Board may indemnify, defend and hold harmless a school support entity against a civil lawsuit, and may provide for the defense of the school support entity in a criminal proceeding. Limitations:
 - Acting within scope of person's service to the Board;
 - Acting in the good faith belief that conduct was lawful and in the best interest of the school district; and
 - Expense and obligations must not exceed amounts appropriated for such purposes by the Board.



Agreement for Board-Sponsored Groups

- Set forth the items that the Board requires of the Board-approved booster organization in writing.
 - Statutory requirements:
 - Board needs to receive copies of all filings with Ohio Secretary of State, Ohio Attorney General's Office, Ohio Department of Taxation and/or the U.S. Internal Revenue Service.
 - Reports
 - Annual tax reports
 - Annual audit reports



Agreement for Board-Sponsored Groups

- Other items to consider including in agreement between Board and booster organization:
 - Use of Board name, logo, mascot, etc.
 - Requirement to participate in annual training put on by Ohio Attorney General's office
 - Insurance coverage
 - Money handling procedures
 - How much oversight the District will have of the booster organization
 - What, if any, involvement will District employees have in the booster organization.



Attorney General Registration

- Ohio Attorney General now requires booster clubs who have gross receipts of \$25,000 or more to register annually.
- Registration includes:
 - Annual report including tax information
 - Submit copies of documents
 - Articles of incorporation
 - Bylaws
 - Constitution
 - IRS determination letter of tax-exempt status
 - Notification of any revocation of tax-exempt status from IRS
 - Notification of dissolution of organization
 - Pay annual fee (\$50-\$200 depending on the amount of assets held)

Booster Supported Construction Projects

- If construction project funded 100% by school support organization, then Board does not have to follow the procedures for soliciting bids and awarding contracts mandated by RC 3313.46.
- However, if Board is responsible for \$25,000 or more on the project, then must follow procedures mandated by RC 3313.46.
- Board oversight of booster–supported construction project:
 - Verify organization has sufficient funds to complete their fiscal obligations under the project;
 - Ensure that they obtained necessary permits, zoning approval, etc.;
 - Input and agreement over the design of the facility or building;
 - License agreement for access to school premises;
 - Liability insurance on the construction project; and
 - Waivers, releases, indemnification agreements.



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Successfully Passing a Levy





Successfully Passing Levy

- Right people/team in place
- Recognize that passing a levy is more important to you, as a Superintendent, than the levy team
- Fundraising tips
- Getting the message out

Use of Funds for Levy Matters: Information v. Support

- The primary limitation of a Board's authority to disseminate information is that it may not expend public funds or use public employees to support or oppose the passage of a school levy or bond issue.
- R.C. 3315.07(C)(1): “[N]o board of education shall use public funds to support or oppose the passage of a school levy or bond issue or to compensate any school district employee for time spent on any activity intended to influence the outcome of a school levy or bond issue election.”
- The law prohibits the use of school employees to support or oppose a levy; however, the law allows public employees to expend public funds for presenting information about school finances, which may include the *discussion* of a levy issue.
 - (C)(2): “A board of education may permit any of its employees to attend a public meeting during his regular working hours for the purpose of presenting information about school finances and activities and board actions, even if the purpose of the meeting is to discuss or debate the passage of a school levy or bond issue.”

School Employees & Levy Matters

- School employees working on their own time, and without financial support of the Board, may take part in pro levy campaigns urging the passage of a levy.
 - Hourly employees should keep a detailed record of their schedules to demonstrate that political activity takes place outside of normal hourly requirements.
 - Salaried employees may campaign during regular work hours. However, such employees should keep detailed logs or schedules to demonstrate that they still worked 40 hour work weeks.
- A Board may not compensate employees for distributing privately-financed materials supporting or opposing the passage of a school levy.



Levy Campaign Committees & Use of School Facilities

- Under R.C. 3313.77, a board of education may permit levy committees to use school facilities and supplies, when not in actual use for school purposes, if such committees request and pay for the use of equipment and supplies.
- Any Board policy permitting the use of school facilities or resources for political purposes must be content neutral.
- The Board may not deny a committee access to school facilities solely on the ground that the does not favor the committee's position.
- A committee may not hold a closed organizational meeting on school grounds.

Levy Campaign Committees & Use of School Facilities

- Signage

- The board of education may adopt a *reasonable* rule to regulate the posting of signs concerning school levy issues on school property.
- The Board may not adopt a rule which prohibits the posting of signs solely on the ground that such signs communicate a view not favored by the Board.
- Under R.C. 3313.77(B), the Board may permit political action committees and school levy committees to post signs concerning a school levy or bond issue on school property pursuant to the Board's adopted regulation and upon payment of a reasonable fee.

Which activity is impermissible?

1. Prepare and distribute materials to advance public awareness of highlights/successes of the district's educational programs.
2. Prepare and distribute newsletters, financial reports and other reports concerning the operations of the schools of the district.
3. Prepare and distribute a newsletter with a letter to the editor from a student in support of the levy.
4. Distribute reports and materials concerning Board policies and actions, procedures, administration and finances and state and federal requirements.
5. Distribute materials concerning the Board's programs, activities and plans.

Which activity is impermissible?

1. Distribute materials regarding student achievements and information concerning employees.
2. Distribute any other information the Board considers helpful in keeping students, parents, employees and residents aware of the operations of the school district.
3. School employees working on their own time, and without financial support of the Board, take part in pro-levy campaigns urging the passage of a levy or bond issue.
4. School employees working during lunch breaks on school computers to develop pro-levy materials.
5. School administrators attend a pro-levy meeting during the regular school day to present district information and answer questions concerning district finances and operations of the district.

Which activity is impermissible?

1. Levy supporters meet in school district facilities on a “space available” basis at times permissible according to the district’s facility use policy.
2. Students participate in levy campaign activities after regular school hours.
3. Signs are posted on-campus describing the impact on the school of the passage or failure of the levy.
4. School resources are devoted to registering students to vote.
5. Students staff a table at lunch where they encourage other students to give some of their lunch money to support the levy campaign.

Which activity is impermissible?

1. Administrators spend time during normal school working hours supporting the passage of the levy. They keep a log of the time spent on this activity, as well as when this time was made up outside of normal working hours to ensure that at least 40 hours per week are devoted to non-levy campaign work.
2. Administrators, on their own time and accessing their school e-mail accounts from home computers, send out e-mails from their school e-mail accounts to community members asking them to vote for the levy.
3. Administrators use district computers or equipment to provide information about the school district, including the district's finances, and how the passage or failure of a levy will impact the district and the services it provides to students, staff and the community.
4. School resources are used to develop and carry out a general "get out the vote" campaign.



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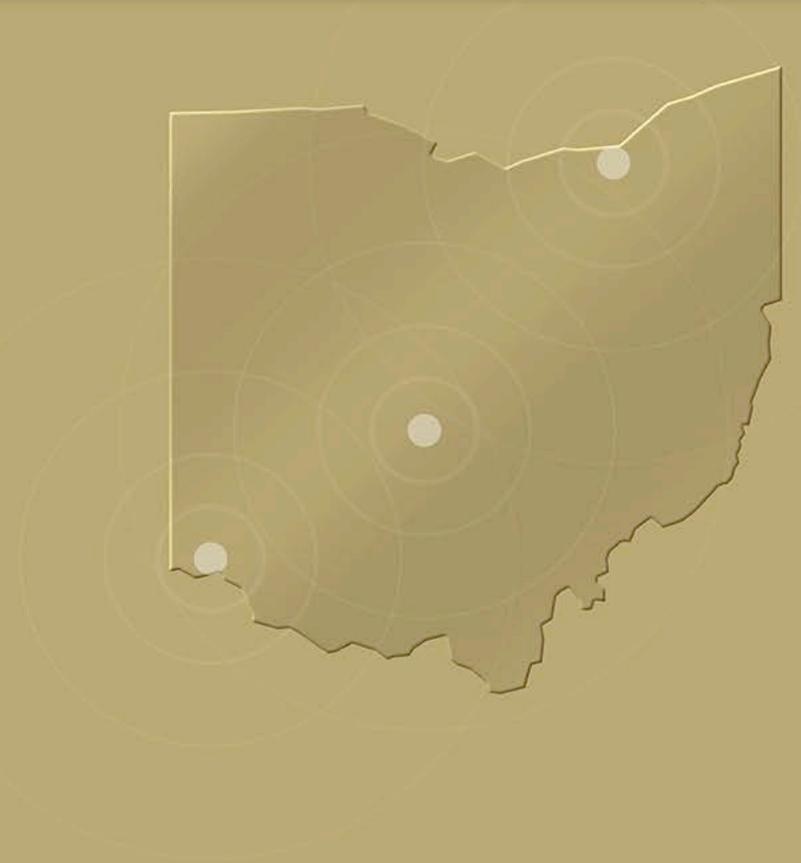
Questions?

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