



Frequently Asked Questions (FAQs) Regarding the Student Activities Fund

March 2016

Note: *The FAQs in this document are a compilation of questions asked and answers provided to various entities regarding these topics. The Iowa Department of Education (Department) anticipates this document will expand as it works through additional implementation issues. **This represents the most current official position of the Department related to these questions and supersedes previous Department guidance on this topic.** The Department will continue to review previous and new FAQs to include here and to ensure complete alignment with these responses.*

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Executive Summary

This updated guidance coalesces and supersedes multiple prior existing documents, hearing decisions, declaratory orders, and technical assistance into one (large) document. The Department spent the better part of a year working on this update and involved multiple groups to vet the responses, including groups of school business officials and school administrators, representatives of the activity and athletic associations and unions, members of the Finance Roundtable, and multiple internal staff members. While we are confident this document covers more ground than ever before, if there is one thing we've come to understand clearly about the Student Activity Fund is that there is always another twist to the uses of funding that is new or different.

This updated guidance will surely prompt a series of additional conversations locally and at the state level about how these funds are used. The general reaction to this document has been "we appreciate having this in writing." We understand that does not translate to "we like this" or "all of our questions are answered." This will be a continued topic of conversation over the next year as we clarify implementing the provisions of this updated guidance to ensure our uses of the Student Activity Fund are legal.

Topics which are new to this document or which are Points of Interest include:

- Fundraisers and the Authority for the Funds Raised
- How an Expenditure Meets the Public Purpose Test
- Scholarships or Rewards to Individual Adults or Students
- Trademarking, Advertising, and Resulting Revenues
- Directing Donations for Specific Purpose
- Out of Season Individual and Team Camps
- Charges to Students - What Can and Cannot be Charged
- Cheerleading, Dance Teams, and Show Choirs
- Indicators to Determine if an event or activity is District-sponsored
- What is a Cash Equivalent
- When to Use General Fund vs. Activity Fund
- Support for Low Socioeconomic Status Students
- Support for Participation by Students with IEPs or 504 Plans

Introduction

Student Activity funds are public funds. As such, these funds are subject to the statutory requirements for all public funds of the district. Public funds are governed by Article III, Section 31 of the Constitution of the State of Iowa, which stipulates public funds may only be spent for the public benefit. The questions and answers contained in this document are designed to address issues pertaining to internal control and/or statutory compliance requirements, primarily pertaining to school activities.

Student Activity funds are under the fiduciary control and responsibility of the district's board of education (board). The board establishes policies, then procedures are put into place by the district's administration and business office to establish internal control over these funds and ensure compliance with local board policies and statutory requirements. These requirements include the following:

- Code of Iowa, Chapters 279, 280, and 298A
- Iowa Administrative Code (IAC), Sections 281—12.6(1) and 281—98.70
- Court cases
- Iowa Attorney General (OAG) opinions
- Dillon's Rule

When comparing student activity information with other states, or national sports federation advice, keep in mind that Iowa differs from other states. The Iowa Supreme Court has determined that all student activities are under the board of each district in Iowa. By the Iowa Constitution, Iowa school corporations

operate under Dillon’s Rule, which states they possess and can exercise the following powers and no others: 1) those granted in express words, 2) those necessarily implied or necessarily incident to the powers expressly granted, and 3) those absolutely essential to the declared objects and purposes of the school corporation—not simply convenient or desired, but indispensable.

Refer to Appendix B of this document for additional details and definitions related to these requirements.

Student Activity Fund Purpose and Creation

1. **Question:** What is the broad plan of activities required by Iowa Administrative Code (IAC), also called “Rules?”

Answer: IAC 281—12.6(1) states that each board shall sponsor a student activity program sufficiently broad and balanced to offer opportunities for all pupils to participate. The program shall be supervised by qualified professional staff and shall be designed to meet the needs and interests and challenge the abilities of all pupils consistent with their individual stages of development; contribute to the physical, mental, athletic, civic, social, moral, and emotional growth of all pupils; offer opportunities for both individual and group activities; be integrated with the instructional program; and provide balance so a limited number of activities will not be perpetuated at the expense of others [emphasis added].

Simply because a community member or a district employee wants to do a project, and wants to use students for that project, does not make it part of the district’s student activity program.

2. **Question:** How often should the board review its activity program?

Answer: The local district should establish a timeline for review. Best practice would be to review the program at least every 3 to 5 years to ensure the activities sponsored by the district are meeting the needs and interests of its current student population. The board could use a needs survey to help determine if current activities are still meeting students’ needs and interests and what new activities should be developed. The board might consider developing a chart to show which growth areas stipulated in IAC are being met with each district-sponsored activity to determine growth areas being missed or under-supported by the current program offerings. The chart could also match activities to the instructional program with which that activity is integrated to identify if there is balance among all curricular areas.

3. **Question:** How much education on this topic is being directed to superintendents and athletic directors?

Answer: Biennially, a conference on student activities is sponsored by the School Administrators of Iowa (SAI) and the Iowa Association of School Business Officials (IASBO).

Accounting

1. **Question:** A district charges admission to its athletic events. What is the best way to account for this?

Answer: The district should have internal control procedures established for handling cash for all student activity events, including athletic events. The board would, of course, approve any policies, and the district’s business office should be involved in developing the detailed procedures. At a minimum, these procedures should include:

- Establishment of cash or change boxes with a specified amount.

- The cash or change boxes will be given to the administrative personnel responsible for the “accounting” function at the event.
- Use of pre-numbered tickets for admission to events.
- Involving two or more individuals in the cash collection/ticket sales process. In addition to cash collection/ticket sales procedures, instruct the individuals to not leave the cash/change boxes unattended under any circumstances.
- Counting and reconciling cash (by two or more individuals) to sales/pre-numbered tickets sold, including the amount of the beginning cash, at the end of the event.
 - To reconcile, use the next unsold ticket number less the beginning ticket number to determine the number of tickets sold. Multiply the number of tickets sold by the price per ticket to calculate total sales. Total sales compared to total collected should reconcile. Variances, if any should be minimal.
- Completion and signing of a reconciliation form by the individuals responsible for counting and reconciling the cash. A sample [reconciliation form](#) is provided on the Iowa Department of Education’s (Department’s) website.
- Requiring the cash or change box be turned in to the administrative personnel responsible for the “accounting” function at the event.
- Requiring the administrative personnel to take the cash collections to the bank night depository or, at a minimum, lock the cash collections in the district’s vault or other secure location in the district’s office for deposit on the next working day.
 - Prohibit individuals from taking cash collections home.
- Maintenance of a calendar of district events by the district’s business office. Verify on the next working day following the event that the office received either the cash collection or a deposit slip for that event.
- Issuance of a pre-numbered receipt, in the amount of the confirmed deposit, by the district’s business office the next working day.
- Periodic review/testing of the above listed processes by administrative personnel to ensure the district’s procedures are working as prescribed.

Remember: A district won’t be able to know if it has accounted for everything, if it doesn’t know how much should have been collected.

2. **Question:** May an athletic director, coaching staff, or other activity sponsors or staff establish separate checking accounts for fundraising or other activities related to district athletics? If so, is it okay to use the district’s taxpayer identification number?

Answer: No. An athletic director, coaching staff, or other activity sponsors or staff should not establish separate checking accounts for fundraising, or any other purpose, using the district’s taxpayer identification number or their own personal taxpayer identification number. These individuals should comply with the accounting procedures established by the district.

If a separate checking account is deemed necessary and appropriate, it should be opened and accounted for through the district’s business office rather than an individual. This allows the district to comply with section 291.6 of the Code of Iowa regarding the duties of the district secretary to “keep an accurate account of all expenses incurred by the corporation, and present the same to the board for audit and payment” pursuant to section 279.29 of the Code of Iowa. This also ensures that proper internal control procedures are in place for compliance and accountability and allows legitimate use of the district’s taxpayer identification number and sales tax exemption on purchases made from this account.

As a recommended practice where possible, districts are encouraged to annually request from banks all accounts which include the district’s tax identification number.

3. **Question:** Does the money collected through a specific sport or activity belong to that sport or activity to be used solely for its benefit?

Answer: If this question is related to a distinct fundraiser for which the public who gave donations or otherwise participated in the fundraiser were told the proceeds would go to one specific activity or use, then the district must honor what it told the public. Otherwise, the entire Student Activity Fund is one fund under the control of the board.

Individual accounts in the Student Activity Fund are for the convenience of activity sponsors to track fundraisers and club activities—they do not imply ownership of any monies by any entity other than the board. The board has authority to move money within that fund from one account to another as it chooses. For example, since cross country and golf are athletics, it would be appropriate to include their costs in the same athletic accounts as athletic activities that receive gate receipts, such as football. So, football gate receipts are not just for the football program—they can be used however the board wants to support the entire program of student activities required to be provided by the district under the law.

Individual accounts in the Student Activity Fund are the same concept as line items in the General Fund.

4. **Question:** What are subsidiary records in relationship to Student Activity Fund?

Answer: Subsidiary records are records maintained by activity sponsors or student officers, generally on the cash basis, to record balances, receipts, and disbursements in an individual student activity. The records generally do not consider inventory, receivables, prepaids, payables, or other accrued items. Subsidiary records are not official records of the district, which must be on the Generally Accepted Accounting Principles (GAAP) basis and must be included in the single accounting system of the district.

5. **Question:** What is “Public Purpose”?

Answer: Public Purpose is based on the Iowa Constitution, Article III, section 31; public money may be spent only for the public benefit. This topic was discussed in an Attorney General’s opinion dated April 25, 1979, but no specific definition was provided. The determination must be made by the governing board on a case-by-case basis with documentation of that public purpose determination in board minutes or in board policy. It is more or less a determination of policy and wisdom, properly determinable in light of public welfare, present and future, in a broad sense, which will be served by the expenditure from public money. It is a governmental action or direction that is intended to benefit the populace as a whole, but not intended to give benefit to private parties or particular individuals. It is not the board simply saying that it believes there is public purpose. The determination must be an equitable, carefully-considered, logical conclusion which an independent prudent person and the auditor during the annual audit would also reasonably conclude to be for the greater public good. It is the responsibility of the board to determine and to document that public purpose exists for an expenditure prior to that expenditure being made. This is not a determination that can be made by district employees beyond clear board policy. The harder it is to document public purpose, the more likely there is none.

6. **Question:** If an expenditure does not meet public purpose, does that mean it must be expended from the Student Activity Fund instead of General Fund?

Answer: No; if an expenditure does not meet public purpose, it cannot be expended from any district money in any fund. The Student Activity Fund money is as much public funds as any other fund the district establishes.

7. **Question:** What should a district do with excess student activity money? Does it go to the General Fund?

Answer: Revenues or balances from student activities cannot be transferred to the General Fund or any other fund of the district. The board will use funds in the Student Activity Fund to support the entire student activity program developed and provided by the district.

8. **Question:** What kinds of revenues belong in the Student Activity Fund?

Answer: Revenues to the Student Activity Fund are those moneys received by the district that are directly related to district-sponsored activities (curricular, cocurricular, extracurricular) for its students beyond the curriculum or student-initiated groups which are sponsored by the district. Revenues would include gate receipts to student activities, activity fees when fees are appropriate, student dues to student organizations sponsored by the district, fundraisers established by student groups or student activities to fund the program of that activity, or other kinds of revenues directly tied to district-sponsored activities for its students beyond the curriculum or student-initiated groups which are sponsored by the district.

The Student Activity Fund should not be used to account for revenues that are more appropriate to another fund. This would include activities that are curricular in nature, which would be more appropriate to the General Fund.

9. **Question:** Should the athletic account in the Student Activity Fund have subaccounts, for example, high school boys' basketball, track, and golf accounts, or how should it be set up?

Answer: Most districts establish a locally-defined project code for each activity. A district can pull a report from its accounting records to create a report of all revenues, expenditures, and balances by project code for each activity. A district, though, is not required to keep each activity separate. It could have one generic athletic project code to cover all athletic activities. It is a local decision on what level of detail best serves the district.

10. **Question:** Is there a chart that is very specific to easily determine what can and cannot be paid from the Student Activity Fund?

Answer: There are rules regarding the appropriate uses and inappropriate uses of funds in the Student Activity Fund in IAC 281—98. Authoritative sources on the Student Activity Fund have been included in chapter 9 of the Uniform Administrative Procedures (UAP) manual, which is updated periodically to include new or changed authoritative information. These two resources include extensive guidance on what is allowed to be expended from the Student Activity Fund.

11. **Question:** When the Department guidance states something required for a sport must be provided by the district, does that not mean that it must be paid from General Fund?

Answer: No. It means the district cannot charge the student a fee or cost for that item.

12. **Question:** Are academic clubs any different than other student clubs? The district accounts for the academic clubs similar to other student clubs, in that they are in the Student Activity Fund and generate donations and conduct fundraising to fund the activities. Is this correct? Examples of academic clubs include debate team, mock trial, Science Olympiad, math team, and robotics.

Answer: Yes, this is correct accounting.

Federal financial accounting guidelines (Uniform Financial Accounting) state, "As a general rule, cocurricular activities are any kinds of school-related activities outside the regular classroom that directly add value to the formal or stated curriculum. Cocurricular activities involve a wide range of student clubs and organizations. Extracurricular activities encompass a wide variety of other district-directed activities, typified by organized sports and other nonacademic interscholastic competitions." Cocurricular activities are also called academic activities in some circles and extracurricular activities are also called non-academic activities. In no case should a non-school activity be considered either cocurricular or extracurricular.

Iowa law specifies what revenues must be deposited in the Student Activity Fund and IAC specifies that the activity program in a district (both cocurricular and extracurricular) must be formally established by the board as a district sponsored activity and be supervised by qualified professional staff.

13. **Question:** What determines whether high school speech expenses should be paid out of the General Fund or the Student Activity Fund; specifically entry fees and scripts for students participating in speech contests? Is the correct criterion that if it is a student expense, it should be paid out of the Student Activity Fund, but if it is the speech sponsor's expense, it should be paid out of General Fund?

Answer: The criterion is whether the cost is ordinary and necessary as related to the student activity.

Speech contests would be a student activity if the board has determined it will provide this as an activity for its students. Ordinary and necessary costs related to the speech contests would be paid from the Student Activity Fund, whether costs are related to the students or the sponsor. However, the stipend or payment for acting as the sponsor, providing supervision on behalf of the board, and instructing students in various skills might be more appropriate to the General Fund. The district would have to determine the role of the sponsor in incurring the cost to determine which is the appropriate fund and also ensure that there is no "pay to play" by either requiring students to do more fundraising or pay higher dues and activity fees to cover the stipend or payment for performing the work of being the sponsor. It is a decision based on the facts surrounding the nature of the activity and its connection to the curriculum. There are student expenses that would be in the General Fund and some that would be in the Student Activity Fund, so separating costs by whether they apply to a student or an adult would not always result in the correct fund being used. All student activities by IAC are to be integrated with the curricular program, in the broader sense, so that couldn't be a measure to determine which fund.

If the activity is part of the classroom experience/enrichment in the class, then it is a General Fund cost. If it is voluntary on the part of students and is not part of the grade, even if much of the work is done in the classroom, then the cost for the students to participate is a cost of the Student Activity Fund. Speech contests that are not required would fall under the Student Activity Fund.

Refer to the [Staff section](#) for additional information.

Balancing Negative Accounts

1. **Question:** How should districts handle sports that do not generate enough revenue to cover expenditures?

Answer: Gate receipts, activity ticket fees, interest, and similar revenues deposited into the Student Activity Fund are distributed by the board to provide the broad program of activities the district is required to provide to all students under IAC. As an example, even though gate receipts might have been from football games, those gate receipts could be used by the board to cover other student activities including those at the elementary and middle school levels.

2. **Question:** Non-revenue generating sports often have negative balances at the end of the year. Past practice in the district is to shift money from an "all-activities" or interest bearing account to zero out the account. The auditor has said the district can't subjectively move that money and suggested fundraising in these areas. Requiring certain student athletes to fund-raise when others are not required to do so seems discriminatory. How should a district balance non-revenue sports that have negative accounts annually?

Answer: The auditor probably meant the district may not transfer money from one fund to another fund without special permission of the School Budget Review Committee (SBRC). For example, the district may not transfer money from the General Fund to the Student Activity Fund simply because the Student Activity Fund has a negative balance.

Within the Student Activity Fund, however, all funds are public funds under the control of the board. A board may move from one account to another account within the Student Activity Fund, as the board chooses, within certain limits and per the local district policy.

A board is required to provide a balanced program of student activities. Some activities will generate more gate or ticket revenues than others, but all activities are necessary to meet the requirements in rules for an activity program. The board would re-balance these accounts periodically, generally at least at year end, so that activities with lower gate or ticket revenues are not put in jeopardy of discontinuation. It is common for football gate receipts to support other athletics, including those at the elementary and middle school, and for athletic gate receipts to support non-athletic district-sponsored activities (e.g., drama, music, and art). This is appropriate.

It is also permissible, at the board's discretion, to allow individual accounts to be negative and carried forward to the following year as long as the total of all accounts in the Student Activity Fund is positive. For example, the district may want to continue an account with a negative balance if revenues are anticipated in the following year that would offset that negative amount. However, a district would not want to maintain a negative balance in an account that will not continue into the following year, such as the class of 2015 account. The board would move money with a general journal entry from another student activity account to zero out the negative student activity account which will not continue in existence in the subsequent year. This is done through general journal entries within the fund balance accounts, not through operations as intrafund revenues and expenditures transfers.

3. **Question:** The auditor says districts must balance each account in the Student Activity Fund at year end so that no account is negative. The Department only says the Student Activity Fund *as a whole* cannot be negative because the district should not spend more on student activities as a whole than it has generated and can budget for that purpose. This leads to districts moving any money in the Student Activity Fund balances around to cover deficit accounts. Is this appropriate?

Answer: A district has certain money in the Student Activity Fund that is not earmarked money, for example all gate receipts, activity ticket sales, and interest. However, some of the money in the Student Activity Fund is from student dues, donations, or a fundraiser where the public was told the proceeds would be supporting a specific item. A district must honor those restrictions on donations and restrictions on fundraiser proceeds as they told the public those proceeds would be used. Generally, that would mean that student clubs or organizations would not have money moved from their balances unless the organization disbands (such as the senior class upon graduation), because most money raised by the club or organization would be dues or restricted donations and fundraisers. When a club or organization goes out of existence, the board should approve using fundraiser money for other purposes. Districts cannot alter the original intent of a donation without first contacting the donor for permission.

4. **Question:** If the Student Activity Fund has a negative balance, can the General Fund be used to cover the deficit?

Answer: No, use of General Fund for this purpose is not allowed. Iowa Code section 298A.2 specifies, "All moneys received by a school corporation from taxes and other sources must be accounted for in the general fund, *except moneys required by law to be accounted for in another fund*" [emphasis added]. Section 298A.8 requires establishment of a Student Activity Fund, and requires this fund to be used to support the student activity program defined in Department of Education administrative rules. The associated administrative rules are found in [IAC 281--98.70](#).

5. **Question:** What options are available to a district that has low gate receipts and unsuccessful fundraisers for its Student Activity Fund?

Answer: Some options could include, but are not limited to:

- Verify the negative balance in question is for the full activity fund, not each subaccount. Some subaccounts could have a negative balance as long as the overall fund is positive.

- Conduct a detailed review of activity fund expenditures. This might reveal items that should/could have been paid from another fund, such as General Fund.
- It is possible to seek relief via the SBRC, though in the past it has not granted additional authority related to student activities.
- Contact the booster club to see if they would purchase higher-cost items (i.e., certain equipment).
- Discuss the situation directly with the vendors; perhaps they could provide some options.
- Though charging admission for some activities is not an option, seeking free-will donation might be. The same goes for fundraising; though formal fundraisers may be difficult, providing an option to donate for a stated purpose might be worthwhile.
- For some lower participation, non-revenue generating sports, partnering with a neighboring district might be an option.

Auditing

1. **Question:** The Athletic Booster Club is a separate nonprofit organization not established by the district pursuant to section 279.62 of the Code of Iowa, but independently established to benefit the district's athletic program. Does it have to be included in the district's audit?

Answer: In accordance with criteria established by Governmental Accounting Standards Board (GASB), in GASB [statement 14](#), as amended by statements [39](#) and [61](#), school business officials and auditors must review the organization and financial information of these potential component units (PCU) to determine if they are part of the district's financial reporting entity. The financial reporting entity consists of the district and organizations for which the district is financially accountable. If the PCU is deemed to be part of the district's financial reporting entity, the school business officials and auditors will include the activity in the district's audit report.

In addition, the district may determine, through exercise of management's professional judgment, the inclusion of an organization that doesn't meet the financial accountability criteria if necessary in order to prevent the district's financial statements from being misleading. This determination should be based on the nature and significance of the organization's relationship with the district.

Some districts perform the accounting and record-keeping functions for booster clubs that are not a component unit. In those cases, the financial information is reported in the district's audit in the Agency Fund since the district has fiduciary responsibility over the booster club's financial activity. Whether or not the district performs the accounting and record-keeping function for the organization, inclusion in the audit report is for reporting purposes only. It does not change or affect the legal status, operating activities, or requirements of the booster club.

Tournaments and Other State Activities/Events

1. **Question:** Are there any special requirements for high school tournament events?

Answer: The Iowa High School Athletic Association (IHSAA) and the Iowa Girls' High School Athletic Union (IGHSAU) issued a [joint communication](#), dated January 20, 2005, regarding the ticket sales procedures to be used by member schools during IHSAA and IGHSAU sponsored athletic tournament events. The boards of these organizations adopted a policy required to be used by schools serving as IHSAA and IGHSAU tournament hosts. Specifically, the procedures required include:

- Collect the money for the ticket(s) sold.
- Tear ticket(s) off the roll in consecutive order and then tear the ticket(s) in half or have the person at the entrance door tear the ticket(s) in half and deposit them in a receptacle, there upon the spectator may enter the tournament venue.

These procedures would also be appropriate to non-athletic state activities and events.

2. **Question:** Where should the district record revenue from a state association or organization for hosting tournaments, activities or events, leading to, and including, the state tournaments, and where should the district record the revenue from the state association or organization for travel expense reimbursement?

Answer: Districts should record revenue received from the state organization or organization for hosting tournaments, activities or events in the General Fund. Under Iowa Code and [Uniform Financial Accounting](#), the revenue is not otherwise required to be recorded in another fund, and it is the equivalent to rent of the district's facilities and reimbursement for related costs. Also, the maintenance fees and other overhead costs are paid from the General Fund; therefore, the related revenue should be recorded in the General Fund to match and offset the expense. Expenditures would be paid from the revenue received.

Travel expense reimbursements would be recorded in the fund from which the travel expense would have been paid.

3. **Question:** When a school district hosts a tournament, activity or event and receives funds from the state association or organization for that event, can the district record the revenue in the Student Activity Fund and then pay the General Fund a portion of that revenue for rent and overhead costs? The Student Activity Fund account would keep the remaining portion of that revenue for its expenditures.

Answer: No. The revenue is General Fund revenue and cannot run through the Student Activity Fund. It may be possible that the payment from the state association or organization includes reimbursement of actual costs, in which case to the extent of those costs, the revenues will be matched with the expenditures in the same fund.

4. **Question:** The state athletic associations give districts money to defray the cost of meals for those individuals participating in sanctioned post-season tournaments. Can the Department clarify how to handle this?

Answer: The money is provided by state athletic associations to the districts to defray the actual cost of meals for the participating individuals. These funds should be deposited to the Student Activity Fund.

Exclusive Vendor Contracts and Sponsorships

1. **Question:** Are exclusive vendor contracts allowable and, if so, can the revenue from exclusive vendor contracts be recorded directly in the Student Activity Fund?

Answer: In accordance with an opinion of the Iowa Attorney General dated February 15, 2000 (Opinion No. 00-2-4(L)), exclusive vendor contracts are allowable. The opinion states in part:

- "The Board of Directors of a public school district may enter into exclusive contracts with vendors for the purchase of products sold on school premises or at school functions.
- Vendor contracts for non-educational goods are proprietary in nature and may extend beyond the term of current board members.
- A marketing firm may be employed to assist with the negotiation and oversight of vendor contracts.
- While statutory public bidding requirements are not applicable to district contracts for the purchase of goods and services, public policy supports use of competitive bidding procedures for such contracts."

According to guidance provided by the Department and Auditor of State, revenue from exclusive vendor contracts must be recorded directly in the district's General Fund, not the Student Activity Fund. There is

no statutory requirement or authority to record the revenue in another fund. It may then be expended for General Fund purposes, including some athletic or other extracurricular activities to the extent the expenditure would be allowable and appropriate from the General Fund.

2. **Question:** A district receives an annual sponsorship payment for a scoreboard. Should that sponsorship revenue be recorded in the Student Activity Fund or the General Fund?

Answer: Paying for the physical purchase and installation of the scoreboard is a General Fund or Physical Plant and Equipment Levy (PPEL) Fund cost, depending on the cost of the expenditure. Advertising revenue generated from the scoreboard, if designated as a donation by the donor, could be placed in the Student Activity Fund for the specified activity. If not designated as a donation by the donor, the revenue from advertising is placed in the General Fund.

Uses of Funds

1. **Question:** May a district waive admission charges to groups such as parents, students on teams, staff or their families, or senior citizens in the community?

Answer: When a board is evaluating waiving admission charges when it otherwise charges admission, it should consider that the district is foregoing district revenue for private purpose, the district is treating students inequitably, the practice may violate Title IX if the benefits are only for gender-specific teams, and may also violate Iowa Code section 282.20(2), which states, "it shall be unlawful for any school district to rebate to any pupils or their parents, directly or indirectly, any portion of the tuition collected or to be collected or to authorize or permit such pupils to receive at the expense of the district, directly or indirectly, any special compensation, benefit, privilege, or other thing of value that is not and cannot legally be made available to all other pupils enrolled in the schools." The ability to establish a public purpose to satisfy the constitutional minimum would not negate the requirements of state or federal law.

2. **Question:** Since the district is required to provide safety items such as helmets and football pads, are these costs paid from the General Fund?

Answer: No; the General Fund should not be used for purchase of safety-related uniform components necessary for participation in a district's extracurricular programs, such as helmets, pads, or other protective items. 281 IAC 98.61(2)"s" stipulates the General Fund can be used for paying costs not required to be accounted for in another fund. 281 IAC 98.70(2) specifies appropriate expenditures in the Student Activity Fund includes "ordinary and necessary expenses" for district-sponsored/supervised curricular and extracurricular activities.

If the costs were used the majority of the time for general physical education classes, and the uniform or safety gear was required to be worn for those physical education classes, then the cost would be appropriate to the General Fund. In either case, the cost would not be charged to the student.

3. **Question:** If parents are buying and organizing pre-game meals, can the district use the Student Activity Fund to account for this?

Answer: No. Parents may provide the meals directly to the students, but that would not be handled through the Student Activity Fund or through the district. If the parents want the district to hold the funds they provide, those would be accounted for in an Agency Fund.

4. **Question:** Can school district accounts pay for team/player meals? For example, a district's football team pays for a pregame meal every Thursday night for all team members and coaches prior to their Friday night game. They also pay for submarine sandwiches for games on the road. Is this allowed or should students be paying for their own food?

Answer: Normally meals are personal costs, so a public purpose would need to be established by the board prior to any such expenditures. The first example provided does not meet such purpose—holding the meal on Thursday when the game isn't until Friday.

5. **Question:** Can a district's student council, or other student group, give a scholarship to a graduating senior?

Answer: No. This would not be an appropriate expenditure from any student activity; doing so would be using public funds for private purposes rather than a benefit to the student activity program. It is a benefit to an individual student. The student groups should select uses that are appropriate and support the student activity itself.

6. **Question:** An administrator would like to use Student Activity Fund money to purchase student artwork (classroom projects) to display in the buildings. Is this allowable?

Answer: No; this would not be an appropriate use of Student Activity Fund money. Because the artwork was a classroom project, the cost of the canvas, paints, and other art supplies would have been paid from the district's General Fund resources. The student could be asked to have their work displayed, but the district could not use public funds to purchase.

7. **Question:** A student club (Key Club) has funds in the Student Activity Fund and also has a checking account at a local bank. The club wants to make a donation to a city playground. The club wants to use the money in the Student Activity Fund for this purpose because it does not have enough in its checking account. Is this allowable?

Answer: First, the board needs to determine if the club is actually a school activity or if it is a community organization for students. It is possible the club is not related to the school district even though its membership consists of students of the district. Key Club is the youth organization of a community organization (Kiwanis). Membership might be open to students from nonpublic schools and the home-schooled community as well as the public schools.

If the club is not actually a district-sponsored student club, then if any money is held by the district, it would be in the Agency Fund, not the Student Activity Fund. The club could use that money it owns in the Agency Fund for the contribution to the city playground or in any way that its parent organization permits.

On the other hand, if the district is sponsoring Key Club as one of its student organizations under the board's broad plan of student activities, then the club cannot hold a bank account outside of the district and its fundraising and other revenues would be accounted for in the Student Activity Fund. The donation to the playground would not be allowable from existing funds, but the club could do a new fundraiser with board approval and specify to the public that the proceeds will go to the community playground project.

8. **Question:** A district has an activity related to a business course. One component of the course can be satisfied by attending a meeting in Des Moines, which is not district-sponsored, that would involve a registration fee and overnight stay. However, there are other alternatives to satisfy the component of the course that do not involve travel. Can the district require participating students to pay the cost of registration and overnight stay in this situation?

Answer: If attending the Des Moines meeting is required for the course, then the district would pay the associated costs. However, since there are "no cost" alternatives from which students could choose, the district is not responsible if a student chooses the meeting in Des Moines. The district should seek legal counsel in the event a student wants to choose the meeting but is unable to afford that option.

9. **Question:** Can a district's Student Senate use money in its Student Activity Fund account to purchase "prizes" to give away to elementary, middle, and high school students during Thrill Night (Homecoming)?

Answer: No. Student Activity Funds are public funds and should not be used for rewards, prizes, or other private benefits.

Trademarks

1. **Question:** A district has applied to have its mascot/logo trademarked. Suppliers for clothing and other items that use the mascot/logo will have to submit a small monetary amount for each item that includes either of these. Will these funds need to be deposited in the General Fund or can they be deposited in an account in the Student Activity Fund?

Answer: The revenues will be General Fund revenues and are not related to any student activity. The district can trademark its mascot/logo; however, it cannot make a profit. School districts are nonprofit by definition. They exist by law to provide education but have not authority to conduct profit-making activities. Therefore, the payment will indeed be small. It will be the amount of cost the district incurred to pay for the trademark application spread over each request to use the mascot/logo. Once the costs have been recovered, there will be no future fees to charge. The benefit of trademarking is not a financial one. It allows the district to ensure its mascot/logo is used tastefully and appropriately and is not copied for another use. Even though the district cannot continue to charge a fee, this does not prevent any vendor from making a voluntary donation to the district for its student activity program.

Booster Clubs

1. **Question:** Should the district request its booster clubs provide items directly that do not meet public purpose or cannot be purchased from school district funds?

Answer: The restrictions on school district funds are within law; it would be inappropriate for the local district to use its booster clubs for the purpose of circumventing law.

2. **Question:** Could a district have a booster club, or the park and recreation program, operate its student activity program?

Answer: The requirement to provide a student activity program is a requirement of the district (281 IAC 12.6). Park and recreation programs are generally city or county programs and do not relieve the district of its responsibility to provide a broad and balanced activity program. The same issue would be present if the booster club is independent of the district—the district cannot transfer its legal responsibility for offering the program. If the booster club is a part of the district, then it would have the same requirements and regulations in operating the program as the district—it could only operate the program under the direct supervision of district administration.

However, the district could contract with another government or a private entity to operate its student activity program/s. The district would still be responsible for all oversight of the program/s, and all requirements of the district regarding the Student Activity Fund would apply.

3. **Question:** There is a new organization (a sports club) forming in a community outside of the school. The district currently has several booster clubs with which it has a good working relationship, but is concerned about this new organization. The club is being formed to subsidize the district's football program and will buy meals on road trips for the team and purchase equipment for students that cannot afford it, such as shoes. The club is not forming as a non-profit organization, or registering in any way what-so-ever, and is soliciting membership using the school name on its flyers. Can the district's team accept these gifts? If the club buys team shirts and shorts with the school's name on them to give to players, is that a violation of the Iowa gift law? Can coaches accept money from the club to attend clinics? Can coaches accept apparel or other non-cash items?

Answer: Under 281 IAC 36.14(3), a student may receive an award from the student's school, another secondary school, a registered organization or association, or the host of an event sanctioned by a registered organization or association. The value of the award cannot exceed \$50. Generally, no student shall receive any award or accept any trip or excursion of any kind from any individual, organization, or group outside the student's own school or the governing organization unless a stated exception applies. A student may receive an award for an outside school activity provided the award does not violate the amateur award rule of the amateur sanctioning body for that sport. In the absence of an applicable amateur award rule, the student shall not receive any award which exceeds \$50 in value. At no time may a student accept an award of cash.

All public employees are subject to Iowa's "gift law." Iowa Code section 68B.22 prohibits, with specific exceptions, a public official or public employee (or that person's spouse and dependent children) from accepting anything valued at more than \$3 from a restricted donor. In plain language, if the donor stands to benefit in any way from the public agency, the donor is a restricted donor.

The district may accept donations from the club as long as the uses of the funds as requested by the club are legal uses of funds by the district and do not violate other requirements applicable to the district, such as Title IX of the Civil Rights Act. Students, teams, and coaches should not accept gifts directly, and cannot accept donations on behalf of the district unless they directly turn over the donations to the district.

The organization cannot imply it is accepting donations on behalf of the district. It can indicate the donation will be given to the district; however, if the organization is not organized under Internal Revenue Code (IRC), these donations will most likely not be tax-deductible by the donor. Contact the Internal Revenue Service (IRS) with questions regarding deductibility. Also, the organization cannot use the district's federal identification number, discounts, tax free status, or any other district benefit because it is not part of the district.

Under IRS guidance, the amounts of cash or cash equivalents or the fair market value of non-cash awards received by participants, coaches, or others may represent taxable income. IRS guidance states, "If a booster club confers a benefit on a participant in return for their fundraising activities, such as by crediting amounts raised by a participant toward that participant's dues requirement, or by crediting amounts raised against the cost of a trip, the booster club is providing a private benefit to that participant. Consequently, such practices could result in the organization failing to be described in IRC section 501(c)(3). It is also possible that amounts credited to a participant's account due to fundraising would constitute income from services, and could result in employment taxes."

4. **Question:** An opinion of the Iowa Attorney General, supported by the Department, states, "...however, school districts are not required to maintain funds raised by outside organizations in the school's activity fund." Can you please clarify whether the district must account for funds raised by outside organizations in the district's Student Activity Fund?

Answer: The confusion is in the definition of "outside organizations." Entities that use the district's federal identification number, discounts, or tax exempt status, or are under the district's insurance policy are not outside organizations. Those organizations are part of the district's organization, and their funds must be accounted for by the district.

If the organization has its own federal identification number, its own liability insurance, and its own tax exempt status or charitable organization status under the IRC, then it is an outside organization. Auditing standards may require the entity be part of the district's audit, but for accounting, the district is not required to directly handle the money or the expenditures on behalf of this organization. The district may do so if requested by the organization and the district chooses to accept that responsibility. In that case, the district would account for these funds in an Agency Fund.

5. **Question:** The district's dance team wants to form a separate organization to fund raise for the dance team because they want control of the money. Can they do this?

Answer: If it is a district-sponsored activity, or otherwise associated with the school district, no, the students cannot form a separate organization nor have control of the money.

6. **Question:** We have a booster club at a high school that is independent of the district and we handle its funds in the Agency Fund. They want to run the concession stand at the district's baseball field, then donate to the Student Activity Fund baseball program as they see fit. First, is it acceptable for an outside organization to run a concession stand on school property? Secondly, if so, could the Student Activity Fund purchase the supplies for the concession stand and be reimbursed by the outside organization?

Answer: It is allowable for an outside organization to run the concession stand. This could be done in a couple of ways. One option would be to hire (contract) with the organization to operate the stand for the district. In this type of situation, the expenditures (i.e., concession supplies) and generated revenue would be the district's; there would be no donation back from the organization.

Another option would be to set up a rental agreement to allow the organization to use the district's concession stand. For this option, purchase of the concession stand supplies would be the responsibility of the organization and could not be purchased through the district. Revenue generated would also be kept by the organization (is not considered district revenue); however, it would pay the district for use of the facility per terms of the rental agreement.

7. **Question:** Can the district purchase concession items then sell them to an independent booster club at cost?

Answer: No. The district cannot use the benefits it holds as a nonprofit governmental entity on behalf of an outside entity. Since the booster club is independent of the school, it would need to purchase its own concession items. The independent booster club would need to look into a sales tax exemption in its own standing, for example. The exemption under which a school district falls is limited to tax-certifying or tax-levying bodies and political subdivisions of the state.

8. **Question:** Can the booster club sell concession items and retain the profit?

Answer: If the booster club is independent of the school, it would need to rent the concession stand from the district on the same basis as any other independent organization or group and purchase its own items to sell in order to retain the profit. The district has the right to direct fundraising activities on school property and during school events, including the uses of that money. Rent is whatever the board policy states for all entities, so the district should follow the rental agreement outlined in board policy.

If the booster club is not independent of the school, the sales proceeds belong to the district and must be retained by the district.

If the district contracts with groups to run its concession stand, the booster club could be a purchased service of the district. The transaction should be an arms-length transaction in good faith like any other contracted service of the district.

9. **Question:** What implications are there if the district stores concession items that belong to an independent booster club?

Answer: The district could not discriminate by storing items for one outside organization but not another. Also, the district would incur liability for the items while under its custody and therefore, public funds used for district insurance to cover such items would be providing private benefit to the outside organization which owned the items.

10. **Question:** A booster club raises money for a particular team (such as football), that are gender-specific. Are there concerns with this?

Answer: According to federal civil rights guidance, a district may have issues related to Title IX if it does not address equitable disbursement of resources. The same issue would exist for a gift from a vendor to a specific group. The district may need to consider how it balances total funding to support all district-sponsored activities in a gender-equitable manner. 20 U.S.C. §§ 1681 – 1688.

11. **Question:** If an outside organization or booster club uses students to help conduct its fundraiser, does that make the fundraiser a district fundraiser?

Answer: No. Students may volunteer to assist an outside organization or booster club outside of school hours. The students could not imply they are representing the district or any student activity when they volunteer. If students are volunteering to participate in the outside organization's or club's fundraiser, it would need to be clear to the public that the fundraising event is not school-sponsored or school-sanctioned and donations to the activity are not donations to the district.

If the fundraising occurs during the school day or on school property, the district has authority to regulate such fundraisers.

12. **Question:** May a district give athletic passes to outside organizations or booster clubs to sell or otherwise use in a fundraiser of that organization or club?

Answer: No. All proceeds from admissions to a district-sponsored activity is revenue to the district. This would not prevent the outside organization or booster club from purchasing a block of athletic passes from the district at the same cost as any other community member and then using those purchased passes in some outside fundraiser to generate profit or donations.

13. **Question:** If the district has agency fund accounts specific to individual booster clubs, do the same principles apply to the use of those funds? For example, can the district pay for team camps from the agency fund using booster club accounts?

Answer: In order to hold booster club funds in the agency fund, those booster clubs would need to be independent entities (have their own tax ID) rather than a part of the district. The district cannot use booster club funds or any funds in the agency fund except at the direction of the owner of those funds, cannot pay expenditures prior to receipt of funds from the booster club, and cannot pay expenditures in excess of funds on hand from the booster club. The district would only be disbursing funds and receipting revenues on behalf of the booster club. Booster clubs are established for the purpose of supporting school district programs. Out of season team camps are not district programs.

14. **Question:** Is it allowable for a Parent-Teacher Organization (PTO) to host a clothing drive, then "sell" the items collected to the community for a free will donation? The purpose is to fund classroom grants.

Answer: If the PTO is under the school district, the proceeds would be district funds. Giving classroom grants to its own classrooms does not appear to meet the public purpose of the district. If the PTO is a separate organization from the school district, this might be a possible fundraiser. The district would have the right to control fundraising during the school day or school events or on school property.

15. **Question:** Is a booster club required to be a 501(c)(3) organization? What changes if the booster club does not obtain or maintain its tax exempt status?

Answer: A booster club is not required to obtain a Federal ID Number (FIN) or 501(c)(3) status as an independent organization. However, if it is an independent organization, it cannot use the district's tax exempt status, IRS government status, discounts, FIN, or any other benefit of the district.

If the booster club obtains a FIN, it will not be required to use the social security number (SSN) of one of its members for any banking transactions and will find it much easier to open accounts under the

regulations of homeland security. If the booster club obtains its own 501(c)(3) status under the IRS, then donations to the booster club may be tax deductible.

16. **Question:** We have a group that is wanting to form an FFA/Industrial Arts/Ag Program Booster Club. They are in the process of going through all the necessary steps to do this. The purpose of their group is to do fundraising in an effort to support these programs where the school is unable. One of the items that they have proposed is that they would like to take over the annual FFA fruit sales fundraiser. This has been traditionally run by the FFA advisor, who is an employee of the district, and the expenses paid and revenues controlled by the district. Would it be allowable to let the new booster club take control of the FFA fruit sales? Would FFA fruit sales be considered a district fundraiser in which case they would not be able to control the revenues? Are there guidelines that could be followed by them in which we could allow them to control and benefit from this fundraiser?

Answer: If the FFA/Industrial Arts/Ag Program Booster Club is formed, it would need to ensure that it clearly communicates it is not operating on the district's behalf and that it is an independent entity. Since an FFA chapter must be tied to the district's agricultural education program, anything done in the name of the FFA chapter must be treated as a district fundraiser (and be subject to district control). The outside group could do a fruit sales fundraiser, but it could not conduct "the annual FFA fruit sales fundraiser." Since this has previously been a local chapter activity, it will likely be difficult to separate the two. This could be confounded further if the booster club intends to continue having the FFA chapter members do the selling. Doing so would give a false impression to the public that it was the school organization's activity.

As is always the case, once a donation is received by the district, it falls under district control and its use must follow legal guidelines.

As a side note, you may or may not be aware that the National FFA has an affiliated group called the [National FFA Alumni](#). Iowa has a state organization, the [Iowa FFA Alumni Association](#), under which local affiliates can be organized.

17. **Question:** A district has an Athletic Booster Club and a Music Booster Club, which are both separate from the school district. The booster clubs take on projects and make equipment purchases the district can't afford to do within its normal activity accounts. When making these booster purchases, should the district have the booster clubs make the actual purchase directly or should the district require the money from the booster clubs before making the purchases?

Answer: The booster clubs could give the money to the school district to help with specific items, but the district would have to agree to that purpose prior to accepting the donation. If the equipment was required for curricular delivery, the district must buy the equipment. If students will be charged a fee for use of the equipment as a school supply, the district must purchase the equipment from the General Fund. Otherwise, the district could purchase the equipment from PPEL or SAVE if the requirements for equipment purchases are met. Booster clubs could also purchase the equipment directly and then donate the equipment to the school district.

18. **Question:** Can the parents of students participating in a sport or other activity like band or show choir, be "assigned" or otherwise required to participate in the activities and fundraising of the applicable booster club supporting that sport or activity?

Answer: No. Membership in booster clubs is voluntary.

Camps and Clinics

Note: Although the rules on which this guidance is based are directed toward athletics, the same principles would apply to any other activity which would be offered as a camp or clinic, such as music camps and clinics.

General Guidance: District-sponsored Camps/Clinics

Camp/clinic fees should be based on actual costs anticipated and established to at least break even. Excess funds (profit), if any, should be retained by the district in an Enterprise Fund if it is a regular event (on-going or repeated periodically), or in the General Fund if it is not a regular event (a one-time event). Excess funds should not be remitted or retained by the sports camp/clinic coaching staff.

A district's board should approve any salaries/wages along with granting approval to hold the sports camp/clinic. Revenue from fees collected should be deposited and recorded in the appropriate fund. All sports camp/clinic related expenses would require prior approval (purchase order), and payments would be processed through the normal disbursement process. Salaries for district personnel should be negotiated in advance, with the salary payments processed through the district's normal payroll process and be subject to withholdings. Wages would be reported on the district employee's W-2. Non-employees (sports camp/clinic staff not otherwise employed by the district) would become employees for the sports camp/clinic and be paid through payroll.

General Guidance: Privately-sponsored Camps/Clinics Using District Facilities

The contract between the sports camp/clinic facilitator and a district should address facility and equipment use and rental fees, insurance, and other costs of conducting the sports camp/clinic. The sports camp/clinic facilitator would need to rent the equipment and facility at fair rental value pursuant to sections 297.9 and 297.10 of the Code of Iowa and district policy. The sports camp/clinic facilitator would need to provide a certificate of insurance for liability coverage.

If a district is collecting registration fees, or paying any expenses from fees collected for a privately-sponsored sports camp/clinic, it would be accounted for in an Agency Fund on behalf of the private sponsor. A district may not pay any expenses prior to having cash on hand from fees collected for the organizer. Rental fees and reimbursement of other district costs are receipted into the General Fund.

1. **Question:** How should districts handle sports camps/clinics?

Answer: Sports camps/clinics may be handled differently depending on whether the sports camp/clinic is sponsored by the district (i.e., Community Education Program) or privately-sponsored using district facilities.

The rules established pursuant to 281 IAC 36.15(6) must be addressed and complied with. These rules address summer camps and clinics and coaching contacts out of season. Advertisements and other materials related to the sports camp/clinic should clearly identify or distinguish whether it is a district-sponsored sports camp/clinic or a privately-sponsored sports camp/clinic using district facilities.

2. **Question:** A district holds athletic camps and clinics in-season. In what fund should it account for the financial transactions?

Answer: If the camp or clinic is only an incidental event, not intended to recur, the General Fund could be used to account for the revenues and the expenditures. However, if the district intends to continue sponsoring camps and clinics on a regular basis, the financial activity should be accounted for in an Enterprise Fund.

3. **Question:** What is covered by the term “school facility?”

Answer: A school facility is any facility on campus or off-campus that represents a practice or competition site that is directly affiliated with a school-based activity.

4. **Question:** What are some guiding principles regarding camps and clinics?

Answer: In general, there may be no out-of-season contact between coaches/students during the school year. Summertime out-of-season contact between coaches/students is allowed, but only if the student voluntarily engages in the activity.

The fact that entities call their camps “team camps” does not change the fact that such a camp is subject to all the same rules as any other camp attended by a secondary student. No district funds can be used to pay for any student’s participation, either in whole or in part, in any out-of-season camp or clinic.

IRS guidance states, “If a booster club confers a benefit on a participant in return for their fundraising activities, such as by crediting amounts raised by a participant toward that participant’s dues requirement, or by crediting amounts raised against the cost of a trip, the booster club is providing a private benefit to that participant. Consequently, such practices could result in the organization failing to be described in section 501(c)(3). It is also possible that amounts credited to a participant’s account due to fundraising would constitute income from services, and could result in employment taxes.”

If a student wants to use school equipment, including school apparel (e.g., a jersey), during a camp or clinic, the district must charge fair rental value.

When a coach employed by the district sponsors a summertime, out-of-season camp or clinic, student participation must be voluntary and there can be no use of district funds. The camp or clinic may be operated under either of the following models:

- *Model 1: The camp/clinic is NOT a district activity.*
 - If the district’s facilities or equipment is used, the district charges rent at fair rental value to the coach.
 - All accounting and bookkeeping is done apart from district funds.
 - **Note: This is the model favored by the Department, IAHSAA, and IGHS AU when the camp or clinic is not district-sponsored.**
- *Model 2: The camp/clinic is sponsored by the district as a service to the community.*
 - *The camp/clinic is NOT considered to be either a cocurricular or extracurricular activity because the camp/clinic is not limited only to students enrolled in the public school district.* Registration would be available to any school-age student in the community, including those who are attending private schools, are dropouts, or are homeschooled. Therefore, any funds associated with it are not to be run through the Student Activity Fund. If the camp/clinic is a regular event (on-going or repeated periodically), use the Enterprise Fund; if the camp/clinic is not a regular event (one-time event), use the General Fund.
 - District funds cannot be used to help students with registration fees.
 - Any remuneration to the district’s coaches that work at the camp/clinic is not part of the coaches’ chapter 279 contract. The district will have a separate contract for payment to the coaches. Again, this is because the camp/clinic is not a cocurricular or extracurricular activity of the district. The remuneration will still be wages, subject to withholding, and reported on a W-2.

5. **Question:** Is there a recommendation to districts in terms of offering their own camps and clinics or encouraging camps and clinics to be run by outside entities or by coaches privately?

Answer: The state does not prescribe which method a district must use. It is a local board decision as to which method best supports the district's students and the integrity of the district's activity program. The board would need to consider issues such as:

- Will there be a public perception that the camp or clinic is sponsored by the district, when it is not? For example, would the public incorrectly believe the district will be exercising oversight, ensuring safety concerns are addressed, conducting background checks, ensuring concussion training has been completed, or providing insurance?
- Will fees charged to students be substantially different if sponsored by the district versus not sponsored by the district?
- Will any unanticipated excess of revenues over expenses support the district's student activity program, or will it be retained by the provider for its use rather than the district's?
- How much control will the district have to ensure that local policy, and state and federal requirements are met in regard to students if the camps or clinics are not sponsored by the district?
- How much risk is the district willing to accept in regard to appropriate uses of funds generated by the camp or clinic, potential fraud, and appropriate internal controls when the district is not the sponsor?

6. **Question:** Do the rules (i.e., [281 IAC, Chapter 36](#)) only apply to grades 9-12?

Answer: The rules were written on behalf of the high school athletic unions, and only addressed students in grades 9-12 within the definition of the IAC chapter. Younger grades were not considered, so the chapter is silent regarding other grade levels. However, the principles behind the rules would be appropriate to apply to all similar activities as the local board determines. The IAHSAA and IGHS AU address topics related to grades 7 and 8 through their respective Junior High Sports Manuals ([IAHSAA](#), [IGHS AU](#)).

7. **Question:** Can the IAC implement more stringent rules than those set by the National Federation of High School Sports?

Answer: Yes.

8. **Question:** Can a local district implement more stringent rules than IAC includes for camps and clinics and coach contact?

Answer: Yes.

9. **Question:** If a district has music, drama, cheerleading, or dance as part of its sponsored student activity program, can the district require students who are cheerleaders or dancers or involved in the music or drama programs to attend a camp at the student's expense?

Answer: If the camp is during that sport's season (where a season exists), it is permissible for a district to require participating students to attend a camp. If the district requires students to attend a camp, then it must pay for the camp from appropriate resources. A coach or sponsor cannot require students to participate in any activities outside of the season as a condition of participation in the sport, music, or drama activity during the season.

10. **Question:** A district has camp accounts that are separate accounts but currently are in the Student Activity Fund. The district's intent in raising funds for the camp accounts was to assist with the costs of summer camps, which are out-of-season. Can the district use the money in the camp accounts out of season, since that was the intent? If not, can the district transfer the money in the camp accounts to its boosters or school foundation to operate the summer camps?

Answer: No; a district cannot use the money in the camp accounts to sponsor a camp or clinic outside of the season for that sport, nor to pay the cost for a student to participate in a camp or clinic outside of the

season. The district must use the money in the camp accounts for allowable in-season camps and clinics; board intent does not override law. Additionally, a district cannot transfer its public funding to a separate or private entity; therefore, the district cannot give its camp account money to a booster club or school foundation.

The general principles regarding camp/clinic rules state that even if a college is providing the camp the district wants to send its students to, it does not change the fact that such a camp is subject to all the same rules as any other camp attended by a student. Therefore, it is not who is providing the camp or clinic (e.g., college, booster club, or school foundation) that determines whether or not the rules apply, but rather that the camp is intended to be attended by the district's students. A district cannot use its funding for, or require its students (whether a team or individuals) to participate in, any camp or clinic held out of season, regardless of what entity is offering the camp or clinic.

11. **Question:** Can a district have parents pay the school foundation or booster club instead of the district for its out-of-season camp or clinic?

Answer: No. A district cannot allow its revenue to be paid or transferred to a separate or private entity.

12. **Question:** Can a district have its school foundation operate out-of-season camps and clinics?

Answer: No. Foundations are separate, legal entities from districts, even if established by the district originally. They are organized under IRC as a non-profit organization or charitable organization. Foundations have their own board of directors, legal status, charter or purpose, and economic activity. Generally, foundations conduct fundraising to generate donations from the community or from alumni, invest those funds, and use the earnings or some of the corpus to support the district. It isn't the district that directs what a foundation does, it is the foundation's own board of directors. The foundation determines what activities it will undertake within the limits of its legal or tax status and its charter.

The general principles regarding camp/clinic rules state that even if a college is providing the team camp the district wants to send its students to, it does not change the fact that such a camp is subject to all the same rules as any other camp attended by a student. Therefore, it is not who is providing the camp or clinic (e.g., college, booster club, or foundation) that determines whether or not the rules apply, but rather that the camp is intended to be attended by the district's students. The district cannot use its funding for, or require students (whether a team or individual students) to participate in, any out-of-season camp or clinic, regardless of what entity is offering the camp or clinic.

13. **Question:** Can a district's high school or middle school coach conduct a sports camp for elementary students as a fundraiser?

Answer: A coach is not a "student activity." The district would need to determine if the camp is district-sponsored or not. It would then follow the guidance in rules for district-sponsored camps and clinics, or the guidance for privately-sponsored, as appropriate.

14. **Question:** Can a secondary coach be paid to run a camp for elementary students?

Answer: If the camp is a district-sponsored camp and meets the restrictions of IAC and local board policy, then the board may hire any qualified professional staff to supervise and provide the event. This could be the secondary coach or any other qualified person and would be run through payroll.

15. **Question:** Can a district send its cheerleaders to a cheerleading stunt camp for safety in the summer?

Answer: No. A district cannot require students to attend a camp during the summer. Students may voluntarily attend camps. Attendance at the camp would be a personal expense to the individual students attending. Using district funds, including Student Activity Funds, would not be appropriate. The focus/content of the camp (i.e., "safety") does not determine whether or not it is an allowable cost.

16. **Question:** Is there a problem with operating a private camp in a facility that was funded with tax exempt funds because the district would have been required to disclose it would not use the facility for private profit when it issued tax-exempt bonds?

Answer: A district would need to abide by any laws or regulations governing its facilities in making the decision on whether or not it will allow rentals if the intended purpose of the renter is to make a profit.

17. **Question:** When is a camp or clinic accounted for in the Enterprise Fund, when is it accounted for in the General Fund, and when is it accounted for in the Student Activity Fund?

Answer: It is either the district offering the camp or clinic, or an individual offering the camp or clinic. If an individual is offering the camp or clinic, it is not accounted for by the district unless the district is voluntarily handling the outside individual's money in the district's Agency Fund—it is not district funding. If the district is offering the camp or clinic, the board should decide if this will be an on-going offering (which means it is an Enterprise Fund event) or if it will be a one-time event (which means it is a General Fund event).

18. **Question:** When can an outside facilitator be paid for a team camp, or a camp open to all ages, or open to other districts?

Answer: If the camp is a district-sponsored camp and meets the qualifications of IAC, then the board may hire any qualified individual to provide the event and would also need to hire a qualified professional staff member to supervise. The individual hired to provide the camp could be an outside facilitator.

19. **Question:** When does a district need to require insurance and charge rent for facility use?

Answer: A district will require insurance and charge rent under the circumstances as described in its board policy covering facility usage. The policy must be equitably applied to all similar potential renters.

20. **Question:** Can a district be paid a percentage of the entry fees as the rental fee?

Answer: Yes, if this is stipulated in the rental agreement and is appropriate under the board policy covering usage of facilities.

21. **Question:** The guidance states a district cannot use revenues in the Enterprise Fund or the General Fund to sponsor a camp or clinic outside of the season for that sport, or to pay the cost of individuals or teams. How is this different than paying for registration fees?

Answer: There is no difference between the district sponsoring an out-of-season camp or clinic and the district paying registration fees for team members to attend an out-of-season camp or clinic. If students attend those out-of-season camps or clinics, it is a personal expense paid by the student. Student activities, including out-of-season camps and clinics, are covered in 281 IAC chapters 12, 36, and 37. The Iowa Constitution covers the private use of public funds.

22. **Question:** Camps seem to be very confusing: out-of-season camps, team camps, district-sponsored camps, and private camps. What funds can be used to pay for them?

Answer: Out-of-season camps are not paid by a district from any funds. Students wishing to attend out-of-season camps will pay that personal expense directly. "Team camp" means the entire team is required to attend. This is possible during the season if it is a requirement of all players on the team to attend the camp. A district can sponsor a camp during the season for which students can voluntarily attend and the costs would be paid from the fees charged to the participants. A district can sponsor a team camp during the season and charge the fees to the Student Activity Fund whether or not the district is sponsoring the camp as an Enterprise Operation, or as a special event in the General Fund. A district can pay registration fees for students to attend a private camp during season if it is a team camp and the entire team is required to attend—the registration fees would be paid from the Student Activity Fund.

Coaching Contact Out of Season

Note: Although this section of the FAQs does not specifically address use of the Student Activity Fund, it has been included to help clarify responses within the previous section regarding camps and clinics.

1. **Question:** Who is a “volunteer” coach as used in 281 IAC 36.15(6)?

Answer: A volunteer coach is an unpaid person who holds a coaching authorization or a coaching endorsement and who is acting under the direction of an employed coach and who has the knowledge and approval of the school administration.

2. **Question:** Who is a “coach” as used in 281 IAC 36.15(6)?

Answer: “Coach” means an individual, with coaching endorsement or authorization as required by Iowa law, employed by a school district under the provisions of an extracurricular athletic contract or employed by a nonpublic school in a position responsible for an extracurricular athletic activity. “Coach” also includes an individual who instructs, diagnoses, prescribes, evaluates, assists, or directs student learning of an interscholastic athletic endeavor on a voluntary basis on behalf of a school or school district.

3. **Question:** Can a school’s coach have his/her spouse or friend serve as the “declared coach” of a non-school team while the school’s coach is providing instruction in the background?

Answer: No. A coach diagnoses, prescribes, evaluates and directs student learning and supervises assistant coaches and volunteers in the performance of coaching objectives. If a coach is “directing” student-athlete learning through another person, “prescribing” who should play at what position, and/or “evaluating” and determining who needs to work on certain skills, then the person is coaching.

4. **Question:** When does the school team season begin and end?

Answer: The first legal date of practice defines the start of the school team season, and the school season ends on the final day of the state tournament.

5. **Question:** What is “participating” as defined in 281 IAC 36.15(7)?

Answer: If a student is a member of the school team, s/he is “participating” in that sport. A student is “participating” on a non-school team when the team is involved in a competition. Practice with a non-school team does not constitute participation.

6. **Question:** What is included in the term “school facility?”

Answer: Any facility on campus or off-campus that represents a practice or competition site that is directly affiliated with a school-based activity.

7. **Question:** What does “conflict with sports in season” mean?

Answer: If a student-athlete has to make a choice between participating in a practice, game, or other team activity for a sport in season, or participating in an activity for a sport that is not in-season held at a member or associate member school facility, or supervised or sponsored by an out-of-season school coach, a conflict exists. The sport in season takes precedence. In cases of emergency or rescheduling, the priority is with the sport in season.

8. **Question:** 281 IAC 36.15(6) refers to “summer camps and clinics and coaching contacts out of season.” What is the definition of “summer” as it pertains to this rule?

Answer: Summer is defined as June 1 until the first day of fall sports practices.

9. **Question:** Softball practice is scheduled from 1-3 p.m. A student wants to attend an on-campus camp that would cause her to miss softball practice. Can she miss softball practice for this?

Answer: If a potential conflict exists when an on-campus summer camp, clinic, workout, or other team activity is scheduled at the same time as an in-season practice or game, the student athlete shall go to the in-season sport activity, unless released by the in-season coach. The in-season sport has priority. Local school administration shall determine how to avoid conflicts.

10. **Question:** May the high school coach of a summer sport give a player permission to miss a practice, contest, or team activity to attend an out-of-season camp on his/her own in a different sport?

Answer: Yes. The in-season coach *may* give permission, but does not *have* to give permission. No violation occurs as long as permission of the in-season coach is given.

11. **Question:** Can a school impose stricter guidelines on its coaches and/or students than those imposed by rules established in 281 IAC chapter 36?

Answer: Yes. Stricter policies than outlined by these rules are the prerogative of the local district (281 IAC 36.15(1)).

12. **Question:** Who is covered by these (Chapter 36) rules?

Answer: The Chapter 36 rules only address students in grades 9-12 and personnel under contract to coach or who serve as volunteer coaches of a school team involving students in grades 9-12. The rules are silent regarding students and coaches at other grade levels. However, the local school board may choose to extend non-school participation rules to junior high school students.

13. **Question:** Is a team meeting during the school year, outside the season, legal?

Answer: Per 281 IAC 36.14(5), this is a determination made by the governing association. The determination of the associations is that each coaching staff is allowed one preseason team meeting during the school year, outside of the season.

14. **Question:** If a high school player works as an instructor at an elementary school camp run by his/her coach during the school year, outside the season, is the coach violating the coaching contact?

Answer: Pursuant to rules, during the school year, outside the sport season, each student may work at a one-time, one-day clinic for elementary/middle school students run by his/her coach without the coach violating the coaching contact rule.

15. **Question:** Can coaches officiate their athletes outside the sport season, during the school year or during the summer?

Answer: Yes. Officiating does not constitute coaching contact.

16. **Question:** During the school year, outside the sport season, can a coach practice or compete with or against his/her students in the sport(s) s/he coaches?

Answer: No. Practicing or competing with or against students on a coach's team constitutes coaching.

17. **Question:** During the softball season, and after May 31, a softball player has enrolled in an off-campus basketball camp in which her basketball coach is a member of the camp staff. Can the softball player still attend the camp?

Answer: Yes. The student can participate in any camp or clinic s/he chooses. However, the student's basketball coach shall not require his/her students to participate in the camp.

18. **Question:** Does transportation during the school year by a coach, outside the season, count as contact?

Answer: No. The act of transporting students to non-school competitions, camps, and clinics is permissible during the school year, outside the season, as long as no coaching occurs. A school district is not authorized to provide student transportation, except as specified pursuant to IC 285.10(9). It is not a district responsibility to provide transportation of students to non-school events. A coach should be mindful of putting his/herself in a situation that could be construed as coaching.

19. **Question:** Does transportation by the coach outside of the season and not during the school year count as contact?

Answer: No.

20. **Question:** The high school football coach has a film session scheduled, during baseball season, for a group of football players who also play high school baseball. Baseball practice is also scheduled at that time. Is this a violation?

Answer: Yes, this is a violation. Coaching activities between June 1 and the first day of fall sports practices shall not conflict with sports in season. If a potential conflict exists, the student athlete shall go to the in-season sport activity. The in-season sport always has priority. Local school administration shall determine guidelines on how to avoid conflicts.

21. **Question:** Can the coach of the high school basketball team coach a club or Amateur Athletic Union (AAU) volleyball team during the school year outside the volleyball season?

Answer: Yes, as long as the high school basketball coach is not also serving as a high school volleyball coach (paid or volunteer) for his/her school district.

22. **Question:** Can the coach of the high school baseball team coach the high school softball players during the school year?

Answer: Yes, as long as the high school baseball coach is not also serving as a softball coach (paid or volunteer) for that school district.

23. **Question:** If a school district has multiple high schools, can the football coaches for one high school provide an out-of-season camp or clinic for one or more of the other high schools where he/she is not the coach?

Answer: Coaches of the same sport within the district switching teams for the purpose of circumventing the rules would not be appropriate. Contact the athletic associations for a definitive answer.

24. **Question:** Can the coach of a high school basketball team coach an all-star team that includes a player from his/her own team?

Answer: Yes, as long as that player is a senior whose interscholastic athletic season for that sport has concluded (281 IAC 36.15(6)“a”).

25. **Question:** Can the coach of a high school team coach a junior high team, or club team in that same sport during the school year, outside the season, if that team does not include any of his/her high school student-athletes?

Answer: The coaching contact rules only address 9-12 grade students and are silent regarding lower grades. However, the local school boards may choose to extend non-school participation rules to junior high school students.

26. **Question:** During the school year, outside the season, can the coach of the high school girls swim team coach the youth girls swim club program practice (all students under the 9th grade) if, at the same time, the high school girls' club program is practicing? The youth program practices in lanes 1-3 and the high school girls are practicing in lanes 4-6.

Answer: No; this is a violation of the coaching contact rule. This applies to all sports where the same facility is being used at the same time for students in grades below the 9th grade and 9th grade and above.

27. **Question:** May a high school coach of an out-of-season sport require a player to attend any workouts, camps, clinics, or other activities for that sport during the school year? How about during the summer?

Answer: No. A high school coach may not require his/her students to attend a camp outside the high school season at any time. Attendance at any out-of-season activities must be totally voluntary. Coaches cannot punish or reward student-athletes based on attendance at any out-of-season activities.

28. **Question:** During the school year, outside the season, can a coach of a high school team coach his/her student athletes in a sport in which he/she is under contract (paid or volunteer) with the school district?

Answer: No, during the school year outside the sport season, coaching contact is illegal.

29. **Question:** During the school year, outside the season, can the coach of a high school team coach a non-school team if there are no members of his/her high school team on this team, but they will compete against a non-school team comprised of members of the coach's high school team?

Answer: Yes, this would be allowed since the individual is not coaching the student athletes from his/her high school team.

30. **Question:** During the school year, outside the given coach's season, can the coach provide supervision for an open facility, such as the gym, weight room, or batting cages, if his/her team members are present?

Answer: Yes, the coach may supervise, but may not coach, his/her student athletes. The open facility must be open for all students in the district and not just his/her team members. The team members may not be given preference over other students of the district. The coach is there to provide supervision for all students present and not to be a coach; therefore, he/she cannot provide sport-specific drills or techniques.

31. **Question:** What procedure must be followed if a student wishes to participate in a non-school event in the same sport during the school team season?

Answer: The local school board shall, by policy, determine whether or not participation in non-school athletic events during the same season is permitted and provide penalties for students who violate the board's policy.

32. **Question:** Do the non-school participation rules prohibit any participation in sports that are not currently in season?

Answer: No. The only non-school sports prohibited by this rule are those that are concurrent with the school team season.

33. **Question:** If a basketball coach has a son or daughter who plays on the high school basketball team, is it permissible for the coach to have contact by coaching his/her son or daughter at any time of the school year or between June 1 and the first day of fall sports practices?

Answer: Yes. At no time is coaching contact with a son or daughter a violation of any rule. However, during the school year outside the basketball season, if other members of the high school basketball team are present, this becomes a violation.

34. **Question:** If a team's head coach and assistant coach each has a daughter playing for the school's volleyball team, may the head coach and the assistant coach be in the gym giving instruction out-of-season to his/her respective daughter at the same time?

Answer: Yes. Coaches may work with their family members at any time without being assessed coaching contact. If other members of the team are in the gym, or if one of the coaches works with the other coach's daughter, this becomes a violation.

35. **Question:** May a high school student athlete participate in college tryouts?

Answer: Yes. Although 281 IAC 36.15(2)"h" prohibits high school students from participating and/or training with or against college athletes who are representing their collegiate institution, or as part of an event sanctioned or sponsored by a collegiate institution, "nothing in the rules prohibits a high school student from participating in a one-time tryout with or against members of a college team with permission from the member school's administration and the respective collegiate institution's athletic administration."

Charges to Students

1. **Question:** What can be charged to students?

Answer: Iowa Code allows only seven items for which a student fee may be charged: textbooks and school supplies, summer school, driver education, transportation fees for students not eligible for free transportation, eye protective devices, ear protective devices, and school meals. In addition, district may charge nonresident students for tuition, but tuition is not considered a fee in that case. These fees can only be implemented with board action and for the rates the board approved. These items are charged at cost (or depreciated cost in terms of textbooks), and no other student fees may be charged nor, in lieu of a student fee, may the student or parent be required to provide. The cost of the items for which a fee will be charged and the fees charged are accounted for only in the General Fund.

Items that are tangible personal property not related to instruction, the purchase of which is strictly voluntary, and ownership of which inures to the purchaser, can be sold by the district to students and others. The district may charge the actual cost of such items as activity tickets, school newspapers, yearbooks, and class rings.

2. **Question:** Does the list of allowable student fees also apply to student activities, and is there a basic guideline to determine which supplies a district may charge a fee?

Answer: Yes; if the student activities are curricular. The Iowa Attorney General has stated that if an item is essential to the teacher's presentation of a course, the item must be free to students. Specific examples given by the Attorney General were fees for art supplies for art classes and chemicals for science classes. On the other hand, if a student voluntarily desired to "upgrade" materials for a project (for example, in a woodworking course to go from the district-provided pine wood to cherry wood), the student would have to pay for the upgrade. The district must provide the basic pine for the instruction, but the student pays for voluntarily choosing a better quality of wood. The Attorney General also stated a fee may be charged for such items as paper and writing utensils purchased by the district and used by students because, while clearly important to the education process, those items are not essential to the teacher's presentation of a course. OAG #79-12-22.

This would translate to student activities in this way:

- A reasonable rental fee may be charged to students for musical instruments owned by the district, purchased from the General Fund, and used for a student activity such as marching band.

However, if the musical instruments were purchased from the Physical Plant and Equipment Levy (PPEL) or SAVE instead of General Fund, then no rental fee is allowed. The fee is deposited in the General Fund.

- Lockers and locks are a fixture of a school. No fee can be charged for their use to students participating in a student activity.
- Performance uniforms/robes may be important for instruction but are not essential to the instruction. These fall under the “school supplies” aspect in terms of fees. A cost-based rental fee could be charged to students to cover the cost of dry cleaning or mending the uniforms/robes, if those uniforms/robes are worn as part of the curricular program. The fee would not apply if the uniforms/robes are only worn as part of the cocurricular or extracurricular program.
- Athletic protective gear, which is part of a uniform regulated by a governing association, is equivalent to “essential to instruction” and is purchased from the Student Activity Fund, and no fee may be charged to students.
- No student may be assessed a fee merely for being a participant in an extracurricular activity or program as Iowa is not a “pay to play” state. However, this does not mean fees which can appropriately be charged as school supplies, pursuant to Iowa Code section 301.1, cannot be charged in connection with tangible items (OAG #81-8-29). For example, a towel is not essential to instruction; thus, a student can be required to provide a towel or to pay a modest towel fee for the district to provide a towel. A fee may not be charged for equipment, protective gear, coaching salaries, or the cost of officials. These costs are equivalent to “essential to instruction” in the extracurricular realm (25 D.o.E. App. Dec. 62).

3. **Question:** Can a district charge students for sheet music or charge students the replacement cost for sheet music the student loses?

Answer: Sheet music would be considered “textbooks” under the allowable fees and would follow the board policy on fees. Sheet music, like textbooks, can be loaned to students, rented to students for a fee, or sold to students, as determined by the board. Fines to students for lost sheet music cannot be the replacement cost. Instead, it would be a calculation of the remaining value of that asset.

4. **Question:** If a district has activities such as cheerleading, dance, band, or show choir as part of its sponsored student activity program, can the district require students who are cheerleaders, dancers or band or choir members to purchase their own uniforms/costumes?

Answer: No. Anything that is required or essential for any student activity of the district would fall under “no fee.” Cheer, dance, choir, or band uniforms are necessary and required for cheer or dance squads and bands or choirs, so those are the responsibility of the district to provide. A district may hold fundraisers if it does not have sufficient funding. Historically, many districts ask a booster club to donate funding or to lead fundraisers for this purpose.

Districts can require students to provide and wear undergarments to keep the uniforms sanitary and provide shoes that will be worn exclusively by the student and can be worn as street wear.

5. **Question:** Can a district charge parents of a student on the bowling team for the cost of bowling lanes and shoes?

Answer: No. If equipment or fees are required to play a sport or participate in an activity sponsored by the district, the district is required to pay the cost. In Iowa, students do not “pay to play.” Students cannot be required to pay for things which are required to play the sport. This is also true if bowling is a unit in physical education—the district is required to pay the cost.

6. **Question:** Could a district “group purchase” uniforms or safety gear from a single vendor to exceed the \$500 threshold, thereby purchase the uniforms or safety gear from PPEL or Secure an Advanced Vision for Education (SAVE) funds?

Answer: No. The ability to group purchase to exceed the cost threshold in PPEL is limited to equipment and technology. Uniforms and safety gear are not equipment and are not technology.

7. **Question:** Could a district charge a fee to students for cleaning or repairing equipment which was purchased from PPEL?

Answer: No. Fees to students for books, supplies, and equipment fall under Iowa Code chapter 301, which limits such fees to items purchased with General Fund money. The fees must be accounted for in the General Fund.

8. **Question:** Students at an activity event splattered clay mask cream in the locker room, creating extensive cleaning by the custodial staff. Can the district charge the cost to clean the locker room to the student activity that was not well supervised?

Answer: No. The district cannot charge the cost of custodial services to the student activity. This is a supervision issue that should be addressed with the district's sponsor of the group. If students' behavior rises to the level of vandalism, the district should address this through its insurance policy and board policies regarding vandalism.

9. **Question:** A district currently charges the senior class for caps and gowns, class composite, flowers, and a breakfast. The current senior class does not have enough money to cover these expenses. What costs can the school pay, what expenses are the responsibility of the senior class, and what costs are the responsibility of the individual seniors?

Answer: None of the items listed are directly prohibited for the district to provide under the right circumstances; however, some would require public purpose to be established prior to the expenditure.

The senior class could pay for any of the items from its student activity account as long as the revenues came from class dues, or from fundraisers or donations where the contributors knew the money would be spent for these costs.

In general, students can be charged for items that are voluntary in nature, are voluntarily customized to the student, or are retained by the student, and where the individual cost can be determined. Charges are considered charges for school supplies and cannot exceed actual cost.

Following is additional information regarding each of the items:

- **Caps and Gowns:** These are "uniforms" for the graduation ceremony. If students are required to participate in the ceremony and wear the cap and gown, this requirement would support the district paying for the rental of gowns or purchase of gowns the district retained. If the student can choose to either wear the cap and gown or wear dress clothes, then it would more likely be a cost to the senior class or the student directly. If the cap and gown are retained by the student, or are customized (e.g., the student's name in the cap or something similar), then it would be expected that the student pay for the item. If the district pays for the rental or purchase of gowns from the General Fund, they are recorded as graduation supplies in the principal's office function and are retained by the district.
- **Class composite (picture):** If this is a gift to the students, and public purpose is established, then it could be paid by the district or it could be paid from the senior class funds. If this is optional and the student either purchases it or not, then it would be expected that the student pay for it.
- **Flowers:** These are like the class composite if we are talking about items the student receives, like a carnation when they walk across the stage. However, costs that are part of the ceremony (e.g., sprays of flowers, balloon drops, decorations, and security) are more likely to be district costs or senior class costs and would not be charged directly to individual students.
- **Breakfast:** Food is generally a personal cost, but OAGs have said if a public purpose could be established, the district could pay the cost. The example in the OAG is a retirement party for staff. If the district wants to provide it, talk with the district's auditor to determine if the breakfast is similar, then work with the board to establish public purpose prior to the expenditure. Some

districts take donations from staff to cover the senior breakfast. This would also be allowed from senior class funds as long as the money came from class dues, or came from fundraisers or donations where those giving the donations realized this was the intended purpose. If the breakfast is totally voluntary, it could be provided at a fee (cost) to each student who chooses to participate.

10. **Question:** The district received a contract from a golf course stating each student that participates on the golf team must pay a student golfer fee in order to use the course. This is a membership fee for the months of the school's golf season only. If the student has a family or individual membership for the entire year, the membership fee is considered paid. The district would collect the fee from students and pass it on to the golf course. The same situation might occur for range charges for the district's archery and trap shooting teams and bowling lane costs for the bowling team. Is this an appropriate process?

Answer: No; the relationship between the golf course and the student is not a school issue. If the district uses the golf course at a specific time for the golf team's organized practices or competitions, then the school should pay those fees, not the students. If individual students are practicing on their own time and not a school schedule, then where they practice is up to the student and his/her family. This may require a membership at certain golf courses. If so, the student should pay that membership fee to the golf course directly; the school should not collect fees from students on behalf of the golf course. For these situations, the district could not pay an individual's or his/her family's membership fee as it would constitute use of public funds for private benefit.

The same thing would be true for bowling. What the school establishes (i.e., its competition or scheduled practices) is a cost of the district. If a student wants to practice bowling outside of required practices or competition, then the student would pay his/her own lane, shoe, and/or membership fees for those times.

Districts charging fees for trap shooting and/or archery need to be careful to ensure they are following law. Again, the district needs to provide whatever is necessary for the school-sponsored activity and must follow Iowa Code chapter 301 regarding renting or selling supplies related to curriculum. They cannot have a general participation fee. Districts should only pay for district-established meets and practice times, not for what students do on their own time. For example, if the range does not donate range time and use for students to practice on their own, the school should not pay these costs on the students' behalf. Shotguns and bows could be rented to students because they are likely sized to the individual student and there may be a requirement for uniformity in equipment for competition purposes.

11. **Question:** Can the district charge a fee for show choir if it flows those charges through the booster club?

Answer: No. The district cannot use a booster club to obtain fees for the show choir or any other district activity.

12. **Question:** What is the difference between student dues and student activity fees?

Answer: Student dues are established by student organizations as the cost of membership in that organization. Joining the student organization or club must be voluntary and cannot simply be an assessment for a status the student otherwise has a right to, such as "membership" in the junior class. An activity fee is a purchase of a right to get into some or all student activity events without further gate charges, and is generally a discounted rate. Paying an activity fee is also voluntary.

13. **Question:** What recourse do districts have if a family refuses to pay damage fees?

Answer: For actual damage or vandalism by a student or any individual, the district would go through its own insurance policy first, and the district's insurance company would work with the family's insurance company to determine liability. Otherwise, districts can use the collection process to obtain charges that

are rightfully due. Be sure the “damage fee” is not simply an arbitrary fine, but is instead an actual cost to the district, and that the cost is not covering something for which the district is responsible.

14. **Question:** Are there any circumstances where a district can charge fees to students (e.g., participation, uniform costs, and transportation) for activities such as show choir, band, cheerleading, and dance team? If so, what is the distinguishing factor(s) between these extracurricular activities and athletic teams?

Answer: If an activity is established by the board as part of its broad plan of student activities to meet the needs as required in IAC, then there is no difference between one student activity and another. Under no circumstances may there be a participation fee to students in Iowa to participate in student activities.

Districts are permitted to charge fees to students for school supplies for the instructional program. Since most extracurricular activities and athletics are not directly related to the instructional program of the district, a fee is not possible. If any of the costs are related to an instructional program, and the costs (as well as the associated fees) are reasonable and accounted for in the General Fund (only), it might be possible to charge a small fee for school supplies. Items that students retain or that are personalized are generally purchased by the students.

If the activities are not part of the board’s broad plan for student activities sponsored by the district as required by IAC, and the students involved just happen to also be students of the district, the district needs to be very careful to separate these from the district’s program. It is recommended the district discuss these outside activities with its legal counsel and independent auditor.

15. **Question:** Can a district charge an annual party fee to students to cover the costs of classroom celebrations?

Answer: No. That is not a fee authorized by Iowa Code.

16. **Question:** Can high school student clubs charge membership dues?

Answer: If joining the club is voluntary and it is not necessary for some classroom purpose, then yes, the club can charge dues to students who want to join the club.

17. **Question:** Can students be required to pay class dues in order to participate in events, such as prom?

Answer: Class dues are not mandatory dues. There is no way to compel any accountability related to payment or nonpayment, and there can be no repercussion related to nonpayment.

18. **Question:** May a district charge a participation fee to students for student activities or student athletics?

Answer: No. Students cannot be charged to participate in district-sponsored or provided activities. However, a district could have a sharing agreement with another district under certain circumstances and charge the resident district for the proportionate cost of the students participating.

19. **Question:** If a student does not participate in fundraising, can the district or activity sponsor/coach prevent that student from participating in the activity or event?

Answer: No. Participation in fundraising activities cannot be used as a criterion for participating in district-sponsored student activities.

20. **Question:** Can a district charge a field trip fee to students for the year’s anticipated field trips?

Answer: No. That is not a fee authorized by Iowa Code.

21. **Question:** Can a board require parents to pay a fee for children to go on a field trip that is district-sponsored and scheduled during regular school hours?

Answer: No. Any field trip offered on a day of school, and for which the students have been counted as present and the school day has been counted as a day of instruction, would be paid by the district.

22. **Question:** Can a board require parents to pay a fee for children to go on a field trip that is not part of the school day, not connected to the classroom, and participation is voluntary?

Answer: Yes. The parents could be charged actual costs for their students to participate in an optional field trip outside of school instruction. Example might include weekend enrichment or day camp activities.

23. **Question:** Can a district require students to bring a sack lunch, or to pay a fee for a district-provided sack lunch, to go on a field trip that is scheduled during regular school hours?

Answer: No. If the day of the field trip is a day of attendance, the district is required to provide the school lunch program the same as any other day. The district could provide a sack lunch from the school's kitchen, or purchase a lunch during the field trip for students. The student may, but cannot be required to, bring a sack lunch from home or bring money to purchase lunch during the field trip.

24. **Question:** May organizations donate money for field trips?

Answer: Yes. Organizations may raise funds and donate that money to the district to cover costs of field trips. The donations cannot be student specific, however. These donations would be accounted for in the General Fund.

25. **Question:** May a district share costs with students for a field trip during the school day? For example, could the district pay for the ski slope entrance and transportation, but require the students to pay for ski rental and lift costs?

Answer: No. If the intent of the field trip is clearly to go skiing, and it is held during a school day, then the school should pay all associated costs of skiing. However, the students could be required to pay for optional activities available at the slopes, unrelated to skiing, such as snow tubing or snowboarding equipment and fees.

26. **Question:** May a district take students to an etiquette dinner where the sole purpose is to learn table manners and require the students to share the costs of the meal?

Answer: If the trip occurs during the school day, the district may not charge a fee and must cover the costs. If the meal occurs after school hours and is optional, then the district may charge a fee for the meal. The district may want to consider using food from the school lunch program for the meal and having someone come to the school to provide the etiquette lesson.

27. **Question:** If a district makes all field trips optional, and provides alternatives for students at school during the field trips, is it then permissible to charge a fee to those students that choose to go on the field trip?

Answer: No. If the field trip is during the school day and students that go on the field trip are counted as in attendance for a day of school, there can be no charge to the students for the trip. This is true whether field trip is mandatory or optional.

28. **Question:** Can a district charge a rental fee for students to use football helmets and pads after the season is over for use in a post-season football tournament that the school is not associated with?

Answer: Yes. This is equivalent to a normal rental fee for using district equipment by outside parties. The fee would be allowable as long as it is reasonable and your district normally charges such fees for rental of school equipment by the community.

If the district does not normally charge rent for the community using school equipment, then the district could consider a deposit instead of a rental fee to cover any repair of damage, if necessary, and then return the deposit when the equipment is returned in good shape.

29. **Question:** Is there a limit on how high a rental fee could be, such as a helmet fee?

Answer: There is not a dollar amount set in Code. Instead, Iowa Code chapter 301 refers to “cost” when selling and “reasonable” for fees. Reading “reasonable” and “cost” together would suggest that a fee should be no more than the cost of the item spread over the years the item is expected to be used (similar to straight line depreciation) and could be less.

Supporting Low Socioeconomic Status Students

1. **Question:** How should the district buy equipment for low socioeconomic status students (i.e., track shoes) that are required for participation in an activity?

Answer: The district is not positioned to be able to provide personal items for students, nor would a fee waiver apply. The district could refer the students to organizations which are established to provide such assistance.

2. **Question:** Can a district receive a donation to cover FFA dues for a student who cannot afford the dues? Are FFA dues subject to the fee waiver?

Answer: A district cannot receive a student-specific donation. Once a donation is given to a school, it becomes public funds and cannot be used for individual benefit. The donor should give the donation directly to the student and the student can use the donation to pay the dues. Dues are not subject to the fee waiver requirement.

3. **Question:** If a community member gives a donation to the district to purchase clothes or books for students, what should the district do?

Answer: The district should return the donation and direct the individual to an organization that provides those social services. If the donation was for a specific student or students, it is not permissible to go through the school district in order to obtain a tax deduction for something that would not have been tax deductible if given to the student(s) directly.

Construction and Facility Maintenance

1. **Question:** The district’s Athletic Booster Club (or Band, Vocal Music, Parent-Teacher Organization [PTO], etc.), which is a separate nonprofit organization, requested permission from the district’s board to construct a concession stand on district property. They have asked the district to share in the cost. Can the district make a contribution from the Student Activity Fund or Capital Projects, PPEL Fund to the Athletic Booster Club for this specific purpose?

Answer: The district may not contribute public funds to a separate organization such as this Athletic Booster Club. Building on district property, if the facility will not be entirely owned by the district, would require a 28E agreement (see Iowa Code chapter 28E). Consult the district’s attorney to determine if a 28E agreement is possible for construction with a private entity on district property where the district is not the sole owner of the facility.

If the construction is allowed pursuant to a 28E agreement, the district’s share of the cost may be paid from the PPEL or SAVE Fund, but not from the General Fund or the Student Activity Fund, because the General Fund and the Student Activity Fund may not be used for construction. Alternatively, the district

could make payments to a contractor or other vendor pursuant to section 279.29 of the Code of Iowa for a portion (or percentage share) of the cost of the concession stand. The district (and private entity) must comply with the bidding requirements for public construction in Chapter 26 of the Code of Iowa.

The district would need to manage the project in order to ensure compliance with these statutory requirements, as well as to ensure adequate insurance coverage is in place. Best practice would be for the Athletic Booster Club to donate its share to the district, if joint construction is permitted, and the district account for the entire project.

2. **Question:** What fund should pay for painting a district's track?

Answer: If painting the track or chalking the baseball or football field is needed each time there is a meet, then the cost is paid from the Student Activity Fund. If painting the track is done periodically, such as annually, it is property maintenance and would be paid from General Fund. Upgrades to the track are accomplished using either PPEL or SAVE funds.

3. **Question:** The FFA chapter has been accumulating a balance in their Student Activity Fund account for the purpose of constructing a facility for the agricultural program. Can FFA funds be used for that purpose?

Answer: No. Facility acquisition or construction costs would not be appropriate from any student activity account. The construction cost of a facility for the district's program would be paid from the district's Capital Project Funds, such as PPEL or SAVE. Distinct fundraisers could be designated for the facility and deposited to PPEL.

Fundraising

1. **Question:** Can Statewide Voluntary Preschool Program (SWVPP) students fundraise with the elementary students?

Answer: No. SWVPP students are not included in student activities, which are K-12. The SWVPP program would be allowed to participate in fundraising activities of its own, if authorized by the board, to support the SWVPP.

2. **Question:** Do districts have to approve and account for all fundraising activity, including fundraising activities of affiliated organizations as well as board-sponsored fundraising activities?

Answer: According to an opinion of the Iowa Attorney General dated September 1, 1983 (Opinion No. 83-9-1(L)), "Iowa law does not require school districts to maintain funds raised by outside organizations in the school activity account. A school district board may regulate fund-raising activity during school hours and district-sponsored events, and it may regulate the use of funds derived from those sources."

Districts should have policies and/or procedures in place to address fundraising activity. Consideration should be given to the following:

- The board or its designee approves all district-sponsored fundraising activity.
- The board may adopt a policy requiring board approval of all fundraising activity, including fundraising activities of affiliated organizations such as booster clubs and the PTO.
- The board establishes procedures for district-sponsored fundraising activities, as well as fundraisers sponsored by outside groups and organizations, to help ensure consistency and accountability.
- The board determines the extent, if any, of administrative support to be provided for district-sponsored and affiliated organization fundraising activity including, for example, the cost and/or expense associated with staff time used in collecting payments; preparing, printing and/or assembling mailings; and postage.

- Fundraising activity should be clearly designated as district-sponsored or as sponsored by an outside group or affiliated organization to clearly establish responsibility and accountability.
- If district-sponsored, the district accounts for the fundraising activity.

3. **Question:** Can a district require students to participate in fundraising efforts as a requirement to participate in an activity or event?

Answer: No.

4. **Question:** A community youth club (Key Club) is sponsored by the local Kiwanis. Even though most of the students in the youth club are also students of the school district, the club is not part of the district-sponsored student activities. District policy allows district-sponsored student organizations and other district-sponsored student activities to work the concessions at school events as a fundraiser. Key Club would like to do this also. Is this allowable?

Answer: Given the board's policy, because the community youth club is not a district-sponsored student activity or student organization, and working the concessions is an option for school clubs as a fundraiser, the Key Club is not eligible. If working the concessions as a fundraiser was open to all organizations in the community, then Key Club would fall under that opportunity. Because many of the members of the community youth club are likely students of the district, it should be made clear to the public that the concessions is a fundraiser and which organization (school or otherwise) is receiving the net proceeds.

5. **Question:** Can student fundraising activities in high school result in students being paid cash? 281 IAC 98.70(3)"h" says cash payments should not be made to student members of activity groups. In one district, an outside fundraising company oversees the fund raising done by students for a school club and pays out cash to students. However, all promotional materials about the fundraiser and the card they sell are on school letterhead, bear the name and logo of the high school, and say nothing about the private company. Are these cash payments to students appropriate? Could the school give shirts or bags or something else to students instead of cash?

Answer: If the district is using an external company to conduct a fundraiser, it is no different than the district doing the fundraising themselves; the external fundraiser is a purchased service of the district. All the associated rules apply, which means students cannot receive cash. The students also cannot receive merchandise or personal benefits in lieu of cash—that is still providing district (public) resources to benefit individual students.

If the external fundraiser is its own entity, it must in fact be independent of the district. It cannot use the district's letterhead, discounts, tax exempt status, or federal identification number (FIN). The company could state it is raising money to give to the district, but cannot give a false impression to the public that the fundraiser is a district activity. The Attorney General has stated a district has the right to regulate fundraising activities during school and during school-sponsored events, and to regulate the use of the proceeds for such events. Therefore, if the external company conducts its fundraising activity during school or during school events, then the district regulates that activity according to the rules that apply to districts.

If the external fundraiser is independent of the school and presents itself to the public as such, then the external fundraiser might be able to give money to students as long as the fundraiser does not occur during school or during school sponsored events and it does not violate the student's amateur status. Under IRS guidance, the cash, or cash equivalent, or the fair market value of non-cash items given to students, would most likely be taxable income reportable to the IRS. In addition, IRS guidance issued June 27, 2011, states "If a booster club confers a benefit on a participant in return for their fundraising activities, such as by crediting amounts raised by a participant toward that participant's dues requirement, or by crediting amounts raised against the cost of a trip, the booster club is providing a private benefit to that participant. Consequently, such practices could result in the organization failing to be described in IRC section 501(c)(3). It is also possible that amounts credited to a participant's account due to fundraising would constitute income from services, and could result in employment taxes."

6. **Question:** Can a scholarship be awarded to the “top sellers” of a fundraiser?

Answer: No. Giving an individual benefit to students would not be allowable. Using public funds for purposes of scholarships is also not allowable.

7. **Question:** The district’s band goes on a trip every four years. The band members fund-raise those four years to pay for the cost of the trip (does not include spending money). One of the students raised money above and beyond, believing she was raising the extra money for her mother to go along as a chaperone and to help with her mothers' expenses. This mother was not selected as a chaperone and wants her daughter to have the excess money raised as her "spending money." Can the district do this?

Answer: No. Money cannot be given to a student nor used for that student's personal benefit (or the benefit of the student’s family). All of the money raised belongs to the district, is under the control of the board, and needs to be used according to law, board policy, and what was publicized during the fundraisers.

8. **Question:** Annually, the band/vocal music participants hold a magazine sale. Can the proceeds go directly to the Music Booster Club?

Answer: No. The district may not allow revenue collected in the name of the district and belonging to the district to be paid to or transferred to a separate or private entity.

9. **Question:** There are social fundraising websites where individuals or groups can post a fundraising idea/need and solicit donations via the Internet. Generally, the funding company keeps five percent of the total collections. Can student activity groups, or individual students, use these sites to support district activities and trips?

Answer: No district employee, or other individual who is not a board official, can set up a fundraiser in the name of the district. Absent board approval, the individuals would be requesting funds for themselves personally and would NOT be representing the district. The district might not be able to prevent people from creating individual accounts and soliciting personally, but those individuals could not do this in the name of the district. It would be good practice to establish a board policy clearly stating that no individual shall set up any social fundraising web account stating or implying the district is involved.

If a board officer or designee is authorized to set up the account, all money raised goes into the student activity account to fund a portion of the total trip or activity costs—not individual students’ costs. The funds belong to the district and it is the board who determines its distribution.

A board officer could set up an account to offset fee waivers where they apply—but that may not apply for a voluntary trip or event where there are no fee waivers required. The district would need to talk with its attorney due to IRS regulations and whether or not this provides an individual benefit disallowed by Iowa Constitution.

10. **Question:** An activity sponsor would like to give a game playing piece with each purchase at the concession stand (similar to a fast food restaurant). Each game piece would have a letter on it. If a student collected the game pieces to spell the words of the prizes, the student would win that prize. To satisfy the “no purchase necessary to win” requirement, the group would give each team a quantity of game pieces before the game. The district does have a gambling license. Would this be allowable?

Answer: No. The students are not purchasing the game pieces, and there would be no gambling receipts from which to purchase prizes, if allowable. The only revenue the activity would have is the concession revenues, and those are not revenues from a gambling activity. The concession sales would merely be the method used by the district for giving out the game pieces. Therefore, the prizes would

have to be donated for that specific purpose and could not be purchased from district funds, including the funds generated through the concession stand.

11. **Question:** Is there a de Minimis level of public funds that can be given to students as an incentive without being concerned about public purpose or public property for private benefit? Does being paid from the Student Activity Fund rather than a tax fund make a difference?

Answer: There is no de Minimis level to which public funds can be used for private purpose; all public funds are subject to the same limitation. Activity funds are public school district funds.

12. **Question:** Can private individual community members conduct fundraisers?

Answer: A private individual would be no different than any other outside organization or entity. The private individual could not express nor imply a fundraiser is district-sponsored or that donations given to the private individual would be tax deductible as a donation to the school district. The district board may regulate fund-raising activity during school and school-sponsored events, and it may regulate the use of funds derived from those sources.

13. **Question:** Are gate/ticket receipts considered a fundraiser for the student activity for which there is a gate receipt charged or ticket sold?

Answer: No. Gate receipts or ticket sales for student activities, such as sports, music, or drama, are district revenues which are accounted for in the Student Activity Fund and used by the board to support the broad plan of activities the district sponsors in compliance with IAC. The board would determine how much of any gate receipts it will use to support any single student activity.

14. **Question:** Can a district's cheerleaders have camps for younger girls and boys and state that the camps are a fundraiser for cheerleading?

Answer: It is possible that the board would approve a camp or clinic as a fundraiser for a student activity. However, the student activity is part of the district's program and would be subject to the same rules as if the district were directly providing the camp or clinic.

15. **Question:** A district's teams/coaches do fundraising and the district maintains an account for teams with these proceeds. Can these fundraising proceeds be used to enter teams in shootout tournaments in the summer? The purpose of the fundraising is for students to be able to attend these events without having to incur cost.

Answer: No, as stated with guidance related to team camps, the funds cannot be used for that purpose. The district should not conduct any fundraising for purposes that are not legal to the district. The students who voluntarily choose to participate in out-of-season tournaments will pay their own entry fees and other costs.

16. **Question:** The district has athletic fundraising accounts that give coaches the ability to spend the money as they wish for their programs, with proper approval from the activities director and superintendent. What are the rules for what this money can go towards? Is it allowable to go towards coaching staff apparel and apparel for their wives?

Answer: There are a number of issues the district needs to address in its operations. No accounts should exist where individuals make the determination on how that money will be expended. Student activities are not the programs of the coach or the sponsor; they are the programs of the board. The board should establish the program of student activities it will sponsor. The board should also approve all fundraising under the district name, including those by groups in the Student Activity Fund. All expenditures from the Student Activity Fund should utilize the purchase order system like any other fund in the district.

The activities director and superintendent are not authorized by law to independently approve expenditures of district funds; only the board can do so. Even expenditures paid prior to board approval still have an approval process and must be listed by the board in policy as costs that may be paid before full board approval. All expenditures must be for verified bills presented to the board secretary (no designees are allowed by Code).

Coaching apparel is either a personal expense or the apparel is owned and held by the district. No family of the coach should be provided any apparel from district funds. The apparel the coach wears, if provided by the district, may not be customized or individualized at district expense and must be returned to the district for other coaches when the coaching season concludes. If the coach wants to pay for removable customization to the apparel, as long as there is no damage to the apparel in applying or removal of the customization, that is allowable.

17. **Question:** A class offered by the district (Ag Business) sells candy bars as a fundraiser for expenses for the class to take a field trip to the Chicago Board of Trade (e.g., meals). Past practice has been to allow students to keep half of the money raised. All other trip expenses are paid by the district. Is this allowed?

Answer: No. The students cannot receive any of the money raised directly. All money raised should be used to pay the expenses of the trip for all students who go on the trip.

18. **Question:** The district has three students who will travel to Europe with the Iowa Ambassadors of Music next summer. One of their fundraising projects is working the concession stand, where they will earn approximately \$100 each. Can the Activity Fund pay this money to the company who is providing the trip on behalf of each student?

Answer: If the district operates its concession stand by contracting with individuals, the money earned is considered compensation and is paid directly to the individuals who earned it (per Iowa Code section 279.30 the district can't by-pass the individual). If various activity groups are allowed to work the concession stand and retain the net profit as a fundraiser for that activity, then the net proceeds would be deposited into that student activity's account in the Student Activity Fund.

The relationship between the district and the Iowa Ambassadors of Music must also be clear. If this or any other trip is not directly related to a curricular or co-curricular activity, the district would not pay any public funds to the company providing the trip.

Generally, Iowa Ambassadors of Music is a non-school event and is not a board-approved student activity. In this case, the district would need to determine if board policy permits individual students to be contracted to operate the district's concession stand when those students are doing so to pay for a non-school trip or for their own use rather than to raise money for a student activity of the district. It would not be appropriate for individual students to fundraise for personal use through the district when the event for which they are fundraising is not a school district activity or event. Again, any money earned by working in the concession stand, if permitted, is considered compensation and is paid directly to the individual students who earned it.

19. **Question:** The orchestra teacher is willing to take any orchestra student that would like to go to a concert in Chicago, IL. The concert is not required, nor is it needed, for the curriculum to be taught in this class. The estimated cost is \$90.00 per student to cover the bus and ticket to the concert. This event would take place on a regular day of school, so any student who did not wish to take this opportunity will receive instruction like a normal day. Can those students that want to go to Chicago fundraise for this trip knowing that any profit from the fundraiser is going to cover an equal amount of the cost for all the students going (not based on individual selling profit)?

Answer: This is not a student activity or field trip established and approved by the board. It is an opportunity that individual students may choose. The costs would be personal costs to the students and not district paid. It would not be appropriate to fundraise through the district under these circumstances.

Community Service Fundraising

1. **Question:** Is it legal to write a check out of the school activities account to Relay for Life®, Cancer Awareness, or something along those lines, if the students had done a fundraiser for this?

Answer: A student club can fundraise for a specific project that benefits the community as long as the fundraising activity meets the purpose for which the student activity exists. For example, if a fundraiser is designed to contribute to the civic growth of the students participating in the district-sponsored student activity, it may be appropriate, with board approval, to conduct that community service project. The Student Activity Fund is not created for the purpose of supporting outside entities or individuals except within the purpose of IAC. If a student activity held a fundraiser for this purpose and it was publicized to the public as for that purpose, the district can pay the net proceeds of that fundraiser to the stated organization.

2. **Question:** Can a student club fundraise for a private organization if that is the stated purpose of the fundraiser, for example, a community service project?

Answer: A student club can fundraise for a specific project that benefits the community as long as the fundraising activity meets the purpose for which the student activity exists. For example, if a fundraiser is designed to contribute to the civic growth of the students participating in the district-sponsored student activity, it may be appropriate, with board approval, to conduct that community service project. The Student Activity Fund is not created for the purpose of supporting outside entities or individuals except within the purpose of IAC.

3. **Question:** A fundraiser was held for a Habitat for Humanity house for a family in the district. Should the check be issued from General Fund or Activity Fund?

Answer: It depends on how the board authorized the fundraiser. If it was a fundraiser conducted as a community service under the IAC related to student activities, then the proceeds would be paid from the Student Activity Fund to Habitat for Humanity. If it was a school-wide or district-wide fundraiser approved by the board rather than a fundraiser of a specific student activity, the money would be accounted for in the General Fund and the check would be paid from the General Fund.

Shared Activity Program

1. **Question:** We have various districts for which we cooperatively provide athletic programs: soccer, tennis, bowling, and swimming, and non-sports programs such as drama or music. Is there a correct way to handle these cooperative sharing arrangements? Can we charge the other districts \$250 per student to participate in a sport? Can the other districts pass the cost on to the student participants?

Answer: There is no fee allowed by law for athletics or other student activities. Instead, the districts can share the cost of offering the program(s). The districts would pay for the program in some proportionate way. Billing is based on cost of services rendered rather than a flat fee. The cost is paid by the district(s) and cannot be passed to the student participants.

2. **Question:** Is the district responsible for transporting the students to cooperatively shared athletic programs, or non-athletic programs, for practice?

Answer: Yes. The programs which are cooperatively shared are part of the district's offering under its student activity program. If a program is not offered at the school where the student attends, transportation by the district must be available to the students free of charge.

Staff

Paid Staff

1. **Question:** What staff could be paid from Student Activity Fund?

Answer: Athletic officials, judges, clinicians, accompanists, and other staff exclusively used for the individual student activity, could be paid from Student Activity Fund. Payments to these employees would be processed through the district's regular payroll process, subject to proper payroll withholdings and reporting. Staff that perform administrative, director, clerical, fiscal or similar functions and responsibilities on behalf of the district, even if exclusively working with the student activity program, would be paid from the General Fund. An activity director would be a General Fund expenditure.

The cost related to sponsors and to coaches would need to be considered on a person-by-person basis, based on what they do with or for students. If the nature of their work is more like an athletic director or activity supervisor, the costs would be more appropriate to the General Fund. If the nature of their work is more like an athletic official, where multiple staff can and do perform the service exclusively needed for that sport or activity, the costs would be more appropriate to the Student Activity Fund.

Student Activity Fund revenues, by definition, include admissions, activity fees, student dues, student fundraising events, or other student-related cocurricular and extracurricular activity. Much of this revenue is generated from students and parents (i.e., dues, fees, and fundraising). The district must be mindful that it does not use funding in a way that could be construed as "pay for play." This is not allowed in Iowa and would violate the concept of free public education. In other words, no student fundraiser proceeds, student dues, or activities fees should be used to support district staff supervising, sponsoring, coaching, or similar positions.

The amount that staff will be paid will be board determined or may be included in the language of the Master Contract.

2. **Question:** Do employees of a district that officiate for the district have to be paid with regular payroll or may they be treated as an independent contractor?

Answer: This question is addressed in Chapter 16 of the Uniform Administrative Procedures for Iowa School District and AEA Officials manual and in Internal Revenue Code. Anyone who performs services is an employee if the employer can control what will be done and how it will be done. This is so even when the employee has considerable freedom of action. It only matters that the employer has the legal right to control the method, result, or other key elements of the services. The employer will be liable for income tax and employee social security and Medicare taxes if these taxes are not deducted and withheld because the employer considered an employee to be a nonemployee (see IRS Publication 15). Athletic officials are employees (Revenue Ruling 57-119, CB 1957-1,331). Even though athletic officials are not controlled as to their officiating, the employer determines which games, the pay per game, the scheduling of the games and, if wanted, the pairing of officials.

In addition, the Auditor of State has published a [Technical Update "School Districts – Independent Contractor vs. Employee"](#) document, dated January 2011.

The Iowa Public Employees Retirement System (IPERS) has determined that even though the individual may otherwise be a covered employee, the income received as a result of performing referee services for varsity and junior varsity athletic events for which a license is needed from the IHSAA, is excluded from IPERS coverage. Without regard to this IPERS decision on coverage, payments to employees of a district who provide additional services to the district shall be handled through the district's regular payroll process and reported as wages on the employee's W-2.

3. **Question:** Do individuals that officiate, who are not otherwise employees of the district, have to be paid with regular payroll or may they be treated as an independent contractor?

Answer: Pursuant to IRS section 31.3306(d), the IRS has allowed school districts to treat athletic officials, who are not otherwise employed by the district, as if they were independent contractors, even though technically they are not. The IRS specifies athletic officials and does not address any other individuals.

4. **Question:** Can speech judges be treated as non-employees, like athletic officials coming from other districts?

Answer: No. The IRS regulation that allows athletic officials who are not otherwise district employees to be treated as if they were non-employees was specific to athletic officials. The district would need to use the IRS guidelines on all other individuals to determine if each one is either an employee or an independent contractor.

5. **Question:** Can districts pay athletic officials immediately following the game?

Answer: Section 279.30 of the Code of Iowa states, "The board of directors of a school district or an area education agency may by resolution authorize the secretary, upon approval of the superintendent or designee, or administrator, in the case of an area education agency, to issue payments when the board of directors is not in session in payment of reasonable and necessary expenses, but only upon verified bills filed with the secretary or administrator, and for the payment of salaries pursuant to the terms of a written contract..."

This section goes on to state, "Each payment must be made payable only to the person performing the service or presenting the verified bill, and must state the purpose for which the payment is issued. All bills and salaries for which payments are issued prior to audit and allowance by the board must be passed upon by the board of directors at the next meeting and be entered in the regular minutes of the secretary."

Pursuant to a valid contractual agreement between the school board and the officials, which includes terms and conditions for payment and compliance with sections 279.29 and 279.30 of the Code of Iowa, officials could be paid the night of the game, after the service has been rendered. For non-contract officials or substitute officials, payment should be made after services have been rendered and audited and allowed, similar to other vendor payments. The district should have a policy, and (athletic) officials should be informed, that payment will be made in this manner unless a valid contract exists.

6. **Question:** If payment must be made through payroll, does that mean it must be a General Fund expenditure?

Answer: No. Any fund that would have wages paid to staff would be paid through payroll and expended in the proper fund from which those wages are due.

7. **Question:** Can the district pay athletic trainers from the Student Activity Fund?

Answer: Yes. Staff, other than an athletic or activity director, exclusively used for the individual student activity, could be paid from Student Activity Fund. Payments to these employees would be processed through the district's regular payroll process, subject to proper payroll withholdings and reporting.

8. **Question:** Can a district pay current students to umpire middle school softball/baseball?

Answer: Yes. This would be pay for a service rendered and is taxable income to the student.

9. **Question:** Is it appropriate for a district to pay sporting event referees/officials from the General Fund rather than the Student Activity Fund?

Answer: Use of General Fund for this purpose is not appropriate. Iowa Code section 298A.2 specifies, "All moneys received by a school corporation from taxes and other sources must be accounted for in the general fund, *except moneys required by law to be accounted for in another fund* [emphasis added]." Section 298A.8 requires establishment of a Student Activity Fund, and requires this fund to be used to support the cocurricular program defined in Department of Education administrative rules.

10. **Question:** Can a district, by board policy, establish a percentage of the net proceeds for a camp or clinic that will go to the coaches for providing the camp?

Answer: Yes, if that method of payment is consistent with the coaching contract with the district, any applicable master contract provisions, and paid through payroll.

Unpaid Staff or Volunteers

1. **Question:** Can a district give a gift certificate or activity pass to volunteers that have assisted its athletic department during the year?

Answer: Article III, Section 31 of the Constitution of Iowa provides that public funds may only be spent for the public benefit. This concept is also addressed in various court cases and opinions of the Iowa Attorney General, including an opinion dated April 25, 1979.

Expenditures in this area should be evaluated and determined through the criteria of "public purpose" and the board should document the public purpose served, including how the public benefits through the expenditure of public funds for the particular purpose. Because doing so would establish a precedent, this decision should be made by the district's board, rather than district officials, department heads, or employees. Documentation should be in the board minutes and/or through established board policy. The decision and documentation should be in place prior to spending the public funds. Keep in mind this decision and related documentation may not eliminate the doubt surrounding this type of expenditure. It simply establishes the district's consideration and justification for the expenditure.

If the volunteer is also an employee of the district, the value of the gift certificate would be compensation and must be accounted for through the district's regular payroll process and subject to withholdings pursuant to section 422.16 of the Code of Iowa. If the volunteer is not an employee of the district, the gift certificate, if provided for services performed, should be reported on a 1099, if applicable.

It would be best if the district found a way to honor the volunteers that did not involve giving cash or cash equivalents. A banquet might be easier to document as having a public purpose than cash/cash equivalents when the person is an unpaid volunteer.

Professional Development

1. **Question:** Is the cost for staff to attend the Student Activity Fund Conference appropriate to be paid from Student Activity Fund?

Answer: No. The professional development costs for staff would be a cost of the General Fund.

2. **Question:** Can items such as conference registrations and lodging related to professional development for coaches for speech/drama, music, and athletics be paid out of Student Activity Fund?

Answer: No. These would be General Fund costs.

3. **Question:** Can individual association membership fees of staff members be paid from Student Activity Fund?

Answer: No. These would be General Fund costs if the membership is required by the district. The individual staff members would pay the fees themselves, without district reimbursement, if the membership is for personal benefit and not district benefit.

Transportation

1. **Question:** What transportation costs are allowed to be paid from the Student Activity Fund?

Answer: Transporting students to and from school and between schools within the district would not be appropriate to any fund except General Fund. However, transportation outside of getting students to and from school and between buildings which is specific transportation necessary for the activity program to function would be allowable to the Student Activity Fund. The students cannot be charged for that transportation (Iowa Code section 285.10(9)) in lieu of using district funds. Iowa Code section 285.1(12) specifies when the pro rata cost is calculated, it may not include transportation for student activities. The Student Activity Fund may reimburse the General Fund for transportation (mileage rate) related to student activities, but the board has discretion not to charge the Student Activity Fund for the transportation.

2. **Question:** May the Student Activity Fund pay for a bus driver rather than pay a mileage rate?

Answer: No. Paying specific costs of transportation would not result in the Student Activity Fund paying the “fair value” for such travel. The pro rata cost calculated in Code is the method used to arrive at fair value. The cost of the driver may be higher or lower than the pro rata cost. Iowa Code section 285.10(9) allows the board, in its discretion, not to require reimbursement from the Student Activity Fund to the General Fund for transporting pupils to and from student activities sponsored by the school district.

3. **Question:** If a district charters a bus instead of using a school bus, can the additional cost be charged to students?

Answer: No. Transportation cannot be charged to student participants, whether or not the bus the district chooses to use is district-owned or chartered.

In addition, the district will need to consider Title IX issues and Iowa Code section 282.20(2) if it provides a chartered bus for some students or student activities, but not for other students or other student activities where the traveling distance is similar.

4. **Question:** Could a booster club donate money to “upgrade” the transportation for a student activity from using a school bus to chartering a bus?

Answer: Yes. The district should receive the designated donation prior to chartering the bus. The district should pay the entire invoice directly, using the booster club donation for the excess cost.

The reason that the booster club could pay for upgrade in transportation in this case when other answers in this document have said “no” is because upgrading transportation was a legal option that the district could have done, but chose not to do. The answer would have been different if the cost was not a legal cost to the district and using the booster club to pay for that cost would have circumvented law.

5. **Question:** Can the district charge students to ride a school bus to watch (not participate in) a sporting event since those students are not participating in the student activity?

Answer: Yes.

Travel/Trips

1. **Question:** On international trips, if students miss an instructional day because they leave a day before spring break, but the rest of the trip is over spring break, would that need to be school-sponsored, board-approved, and all transactions run through a Student Activity Fund account? Can it be managed by a tour company, and if so, would the agreement need to be between the district and the tour company instead of between the tour company and each individual student?

Answer: If the students are going on a trip, it doesn't need to be school-sponsored just because the students are missing one day of school. Whether or not the day missed is considered an excused absence is determined by district policy. The tour company could manage the whole thing without involving the district. The district may not want to be involved if the tour company is handling this because it makes it a district liability.

There would be more issues to resolve if a student organization is going, a district-paid sponsor is involved, or the students did fundraising through the district activity fund for this trip. The district could pay the tour company actual travel bills from the student activity fundraising proceeds; however, that probably makes the trip associated with, if not sponsored by, the district. Once the trip is considered district-sponsored, the district is responsible for managing the collection of payments, fundraising, and paying the travel costs. The district could pay those travel costs through a tour company or it could pay those costs directly. It is a toss-up on which way would be less expensive—the tour company will get a commission but it will also get group discounts, neither of which would be available to the district.

2. **Question:** The show choir normally competes in two or three out-of-state competitions per year. They leave on Friday evening and return on Sunday. Can the students who are participating in the competition be charged or required to pay for their own meals, lodging, and a transportation fee?

Answer: The students participating in the competition cannot be charged for transportation or lodging for overnight travel for a district-sponsored team/choir attending a regular competition. However, the district may arrange for budget accommodations, such as dorms. Students may be expected to provide their own meals or meal money outside of a normal school day.

3. **Question:** If there is a district-sponsored trip, and families paid their own way, and a refund is issued from the company who managed the trip, should that amount be refunded to the families?

Answer: Yes. The refund should be distributed to those that originally incurred costs for that trip, in proportion to the amount they paid.

4. **Question:** How should costs for chaperones be handled for district-sponsored trips? Can the charges to students going on the trip be high enough to cover the costs of the trip for the chaperones?

Answer: If the chaperone is receiving a trip as a reward or in lieu of compensation in exchange for being a chaperone, that would be taxable compensation. If the trip is district-sponsored, and the chaperones are being compensated by having their costs paid, that is an expense to the district, even if paid from the Student Activity Fund, and not to the students going on the trip. If the chaperones are volunteers, they should be paying their own expenses.

5. **Question:** A senior trip does not seem to fit the definition of public purpose. How should this type of activity be handled?

Answer: A senior trip would need to meet the parameters of a student activity as defined in IAC and established by the board. If the senior trip is part of the district's board plan to provide activities for all students, as is required by IAC, it could be considered a student activity.

6. **Question:** Who pays the costs of the district's Business Professionals of America (BPA) advisor to attend the national convention?

Answer: If the advisor is assigned by the district to attend the national convention, the district would pay the costs.

Uniforms/Clothing

1. **Question:** Can the district purchase shirts, jackets, or other clothing for district employees from the Student Activity Fund?

Answer: Article III, Section 31 of the Constitution of the State of Iowa stipulates that public funds may only be spent for the public benefit. Student Activity Funds are public funds; therefore, the district must determine the propriety and document the public purpose and public benefit to be derived. Districts should establish a policy to preclude purchases of personal clothing from public funds, and/or define the exceptions, if any, including the requirement for board consideration, documentation of public purpose, and approval.

In addition, based on IRS guidelines, the value of the apparel (or other property, award, or prize) must be of "nominal value" and provided "infrequently" to be excludable from an employee's wages, and it may not be cash or cash equivalent (i.e., gift card or certificate, savings bond). Examples of excludable de Minimis awards include items such as holiday turkeys and hams, plaques, and coffee mugs.

Districts may wish to refrain from allowing public funds to be used to purchase personal items of clothing under any circumstances since this establishes a precedent that may be difficult to justify and/or administer fairly and consistently among employees and student groups. A better alternative would be to have employees pay for the cost of the apparel. The payments from the employees would be collected by the district and accounted for in the General Fund. The district would order the apparel when sufficient funds have been collected.

2. **Question:** If a district decides to customize required uniforms in some way, could it then require the participating students to buy the uniforms?

Answer: No; this would violate the law, the rules, and the associated OAGs. If customizing is necessary for some purpose, uniforms can have customizing such as a name badge that is sewn on and can be removed.

3. **Question:** Can the district sell to students and staff clothing with the school logo?

Answer: Yes, with certain restrictions. Public funding cannot be used for this purpose, so the district must collect payment with the orders from students and staff prior to purchasing the clothing items. Any

sale would need to be at cost (no profit) unless advertised as a fundraiser. In addition, the district must work with the Department of Revenue regarding any requirement for collecting and remitting sales tax.

4. **Question:** When would the cleaning cost of choir uniforms be accounted for in the General Fund and when would it be accounted for in the Student Activity Fund?

Answer: If wearing of the robes is a requirement imposed by the district for its curricular program, the cleaning cost would be accounted for in the General Fund. If the district charged a cleaning fee to students in choir who are using those robes, the fee and the cleaning cost would be accounted for in the General Fund.

If wearing of the robes is a requirement imposed by the district for its cocurricular or extracurricular program, the cost of cleaning may be accounted for in the Student Activity Fund and no fee may be charged to students.

Vendor Incentives

1. **Question:** The Blood Center encouraged the elementary art teacher to organize a blood drive as a fundraiser for the art program, then sent the teacher a \$200 gift card. Another school plans to sponsor a “pennies for patients” event for the Leukemia Foundation. If it raises more than \$500, the Foundation will send a \$50 gift card for a pizza party. Are these appropriate?

Answer: No; these fundraisers were not handled appropriately. First, no staff member should organize a fundraiser which has not been board-approved, nor should the staff member use his/her position with the district to solicit for a non-district fundraiser. Second, no staff member should solicit or accept gifts or incentives from a vendor or fundraising sponsor. Any gift cards or other incentives received should be turned in to the district’s business office.

2. **Question:** When the district orders merchandise, vendors sometimes “throw in” some extra items for the coaching staff. Is this allowable?

Answer: Chapter 68B of the Code of Iowa establishes the ethical requirements for state and local government for Iowa’s “gift law.” According to the Iowa’s Ethics and Campaign Disclosure Board, the gift law prohibits officials and employees or their immediate family members from receiving or soliciting gifts from a “restricted donor.” The district’s board should have a policy regarding compliance with Iowa’s gift law.

Section 68B.2(24) includes four definitions for restricted donor including “a person seeking to be a party to a sale, purchase, lease or contract with the agency (includes school districts) by which the state official or employee is employed.” Exceptions to the receipt or solicitation of gifts are detailed in section 68B.22(4), including an exception for nonmonetary items with a value of three dollars or less received from any one donor during one calendar day. Restricted donors may not “pool” resources to give a gift greater than three dollars. Section 68B.22(3) of the Code of Iowa requires items received from restricted donors be turned over to the school district for official use within 30 days.

Referring again to the Iowa Ethics and Campaign Disclosure Board document, “a good rule of thumb is for state (and local) officials and employees to avoid receiving or soliciting gifts from anyone who would have an interest in the actions of the official or employee’s agency.”

Pursuant to Iowa Code sections 68B.25 and 903.1, violating the gift law could result in imprisonment and/or fines and can also be grounds for dismissal or other employee discipline.

3. **Question:** With some “card fundraisers,” the coaches also receive clothing. Is this a violation of the gift law?

Answer: Depending on the value, it may be a gift law violation. It would not be appropriate for a coach or a sponsor of any activity to receive gifts directly related to school or student activities at any amount, whether or not it violates the gift law. If a coach or sponsor receives such an item, it should be returned unused to the fundraiser organization or given to the district to determine its use.

4. **Question:** A district is holding a contest to name its high school café. A vendor with which it does a lot of business would like to donate a tablet or smartphone to give to a student in the district for naming the high school café. Is this allowable?

Answer: The district could not give the item to a student as it would amount to use of public funds (public property) for private benefit. Once the tablet or smartphone is given to the district, even if it was intended to be given to a student, it becomes district (public) property.

5. **Question:** Annually, the district's FFA holds a fruit sale. The student advisor contacted the vendor to request that the vendor provide awards to students as incentives for higher sales. Is this allowable?

Answer: No. This is a district fundraiser; no money or cash equivalent can be given to students as part of that fundraiser.

6. **Question:** A district recently held a fundraiser in which the high school students sold pizzas through a local pizza establishment. The checks and cash were deposited in the school account, and the district paid the invoice. The employees who initiated the fundraiser were told they could not give out gift cards for top sellers, so they contacted the pizza establishment to buy the gift cards for them and those cards were included on the invoice. Would this be an example of the district using an external fundraiser in which all the rules apply and cash/cash equivalents are not permitted?

Answer: Yes, this is not permitted. The district is still buying gift cards with funds that are district (public) funds, even if the pizza establishment buys them and then puts them on the invoice.

The rules apply to the total amount of funds raised due to the district; therefore, the gift cards were purchased with district funds. Buying gift cards listed on the invoice is no different than if the district had purchased gift cards directly. The district should try to work with the pizza establishment to return the gift cards for cash that the district should have received as proceeds. If they refuse, the district will need to use the gift cards from the central office for allowable purchases that have passed the audit and allowance process.

Support for Participation by Students with IEPs or 504 Plans

1. **Question:** What are the obligations of school districts concerning student activities for students with disabilities?

Answer: School districts, pursuant to IDEA and according to the Office for Civil Rights (OCR) and the Office of Special Education Programs (OSEP), must provide students with disabilities with an "equal opportunity for participation" in school activities. Iowa Admin. Code r. 281—41.107(1); 34 C.F.R. § 300.107(a). But generalizations cannot be made as to how that must be accomplished, and individual assessment is necessary to determine the appropriate level of participation. It is not an arbitrary decision on the part of the district, its administration, or its coaches. It is a child-specific inquiry. Refer to guidance from OCR and IDEA in this matter.

2. **Question:** If a student has an Individualized Education Program (IEP), does that mean the district must automatically waive all fees and dues related to extracurricular activities?

Answer: No. IDEA states that students with disabilities can be charged the same school fees and activity dues that are charged to all other non-disabled students. Iowa Admin. Code r. 281—41.39(3); 34

C.F.R. § 300.39(c). Of course, fee waiver requirements would apply to students with disabilities the same as non-disabled students. Iowa Admin. Code Chapter 281—18.

3. Question: If a student has an IEP, is the district required to provide similar IEP services necessary to permit the student to participate in a district-sponsored student activity?

Answer: Yes, if it is necessary per the IEP for the child to have an equal opportunity for participation. Iowa Admin. Code r. 281—41.320(1); 34 C.F.R. § 300.320(a). Refer to OCR and IDEA guidance.

4. Question: Is it necessary for the school activity to relate to the child's goal before the school district is obligated to provide services?

Answer: No, a school district is obligated to provide the child with an equal opportunity for participation in cocurricular and extracurricular activities, even if the chosen activity does not relate to the child's IEP goals.

5. Question: What is meant by an "equal opportunity for participation"?

Answer: As a general rule, this refers to "leveling the playing field" and ensuring the needs of children with disabilities are met as effectively as the needs of children without disabilities. A child with a disability must have an equal opportunity to participate in and benefit from the activity, which may include providing supports to the child or modifying nonessential elements of the activity. Please keep the following in mind.

- A child with a disability may not be excluded from an activity merely because she has a disability ("She's in special education. She'll never be able to handle our team's complex playbook!").
- A child with a disability is entitled to supports and supplementary aids and services necessary for the equal opportunity for participation (e.g., a large print script or large print sheet music, adult support).
- A child with a disability may be entitled to reasonable modifications of an activity; however, a school need not make a requested modification if it would result in a fundamental alteration of the activity or one that would give the competitor a competitive advantage. If the activity is at issue was cross country, a reasonable modification might be to provide a deaf runner a visual cue that is synchronized with the starting gun. In contrast, cross country need not be fundamentally altered, such as by shortening the length of the course or providing a runner with a disability a one minute head start.
- Equal opportunity for participation does not mean that all children with disabilities must be guaranteed a certain level of participation (a spot on a team, a certain number of lines in a play, a certain amount of playing time, first chair in orchestra, a solo in the end-of-year choir concert), and IEP teams and 504 teams do not have the authority to make those decisions. Children with disabilities, with or without reasonable modifications and supports, still must meet skill levels appropriate to the activity, as determined by the leader of that activity (e.g., coach, director, or conductor).
- Schools may impose legitimate safety-related criteria for participation in an activity. A child may be excluded from an activity only if the child's safety cannot be addressed with reasonable modifications or the use of supplementary aids and services. For example, a child with a disability is interested in playing interscholastic football. If the child needed an adult to monitor fluid intake during competition, that may be a required modification. If the child's impairment precluded any physical contact, there would be no way this child's disability could be accommodated, even with modifications or supports.

6. Question: May school districts require children with disabilities to participate in separate activities solely for children with disabilities?

Answer: No. Children with disabilities must have the opportunity to participate with children without disabilities to the maximum extent appropriate. Children with disabilities cannot be categorically restricted to segregated activities. For example, a child with a disability who wishes to participate in a school's track and field team may not be told "You can only do Special Olympics" if the child is able to participate in the school's track and field team, with or without modifications and supports, if the child was given an equal opportunity for participation.

7. Question: What happens if students with disabilities cannot participate in a district's currently offered student activities program?

Answer: For students with disabilities who are unable to participate in a school's current activity program, OCR advised that school districts "should create additional opportunities for those students with disabilities." OCR recognizes that there is no legal obligation to do so; however, it encourages school districts to do so voluntarily. OCR provides the following guidance on this option:

These athletic opportunities provided by school districts should be supported equally, as with a school district's other athletic activities. School districts must be flexible as they develop programs that consider the unmet interests of students with disabilities. For example, an ever-increasing number of school districts across the country are creating disability-specific teams for sports such as wheelchair tennis or wheelchair basketball. When the number of students with disabilities at an individual school is insufficient to field a team, school districts can also: (1) develop district-wide or regional teams for students with disabilities as opposed to a school-based team in order to provide competitive experiences; (2) mix male and female students with disabilities on teams together; or (3) offer "allied" or "unified" sports teams on which students with disabilities participate with students without disabilities.

According to OCR, a school district's separate activities must be "supported equally as compared with the district's other ... activities." That would depend on the facts of each case. If a school maintains a choral group for students with disabilities, for example, OCR would ask how other choral groups are supported. If the concert choir goes on a tour, does the choral group for students with disabilities go on a tour? If the concert choir has a winter concert on school premises and promoted by the school district, does the choral group for students with disabilities also have a similarly supported winter concert (whether that be a separate program or on the same program as the concert choir)?

8. Question: Does "non-academic" as used by OCR mean "non-school?"

Answer: No. "Non-academic" means things outside of the academic classroom provided by or through the school district. "Non-school" means activities provided or sponsored by outside or private entities rather than the school district.

9. Question: Is there any situation where a "non-school" activity could be deemed to be a "non-academic" activity of the school district?

Answer: Yes, according to OCR guidance. If the school district provides substantial assistance to the non-school activity, it could be deemed to be a district's activity for purposes of federal requirements (such as IDEA, 504, or OCR). The example given was a private bowling activity after school where the school district was providing staff, student transportation and promotion during the school day or during school activities. How much assistance would be considered "substantial" was not clarified.

10. Question: If a student has an IEP or a 504 Plan and wants to participate in a community-based activity program (such as Park and Rec), is the district required to provide similar IEP services necessary to permit the student to participate?

Answer: No, as long as the activity is a non-school activity/program and the district does not provide substantial assistance (staff, facilities, student transportation, referrals or promotion, etc.) to the community-based activity program.

11. Question: If a student has a service animal, is the student permitted to bring that animal with him/her to student activities, either as a spectator or as a participant?

Answer: Yes. Keep in mind that the service animal may not fundamentally alter the program or activity. For example, a child with a disability may have a service animal on the sidelines of an interscholastic football game; however, it would be a fundamental alteration of the game of football to allow the service animal onto the field during game action.

12. Question: If a child with a disability is able to participate in an integrated activity, may the child also participate in a separate activity for persons with disabilities?

Answer: Yes, if the child with disabilities is eligible for both activities and it is otherwise feasible to do so (e.g., no scheduling constraints). For example, if a child is eligible to participate in concert choir and a separate choral group for persons with disabilities, the child may choose to participate in both, in one, or in neither.

13. Question: If separate activities solely for children with disabilities are not required, may a school district discontinue offering them?

Answer: While OCR states that adding activities may be voluntary, it is likely that OCR would conclude that discontinuing an existing separate program or activity solely for students with disabilities would violate the ADA and Section 504, unless there was a legitimate nondiscriminatory reason for doing so (e.g., lack of student interest).

14. Question: Is the director of a separate activity for children with disabilities (e.g., the coach for the Special Olympics Team) paid from special education funding?

Answer: No. However, the separate activity, such as Special Olympics, might be a student activity if the separate activity is the alternative athletic/competitive experience the district (board) is voluntarily using to provide equitable opportunity under OCR guidance. In that case, it would be paid for in the same way as any other student activity, including transportation for the participants, but will not be paid from special education funding.

15. Question: Where can I find more information about these topics?

Answer: For more information, please consult the following resources.

- Americans with Disabilities Act, Title II, regulations:
<http://www2.ed.gov/policy/rights/reg/ocr/edlite-28cfr35.html>
- Section 504 Regulations: <http://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html>
- United States Department of Education, Office for Civil Rights, "Guidance on Schools' Obligation to Provide Equal Opportunity to Students with Disabilities to Participate in Extracurricular Athletics" (Jan. 25, 2013):
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf>
- Letter to Negron (OCR, Dec. 16, 2013):
<https://www.nsba.org/sites/default/files/reports/OCR%20Dec.%202016%20%20Letter%20-%20RE%20-%20NSBA%20May%202013%20Letter.pdf>

Appendix A – Checklist for Indicators of District-sponsored Event or Activity

Occasionally, there is a question about whether an event or activity in which students participate is district-sponsored (or otherwise connected to a district) or is not. The board must make a determination based on factors such as:

- Is the activity mandatory for certain courses or groups of students?
- Is the district, or should the district, be paying for expenditures related to the activity?
- Are district personnel responsible for the students while on the activity?
- If district personnel are responsible, are they being paid for the activity by the district?
- Are district personnel making arrangements for the activity or coordinating the event in some way?
- Do district fee waivers apply to any costs for the activity (applies to curricular activities only)?
- Does the district hold any liability for any damages incurred by individuals participating in the activity?
- Is the activity on school time?
- If on school time, are the absences by the students coded as approved or as present rather than absent?
- Is the district providing transportation for the event or activity?
- Is the district advertising or otherwise promoting the event or activity and if yes, is the event or activity identified as a school district event or activity?
- Are school district personnel advertising or otherwise promoting the event or activity while on school property or at school events? What is their level of involvement?
- Is the school district deriving any benefit from the event (cash rebate, free participation for staff, etc.)?
- Is the event or activity promotional materials using the school district's name or logo?
- Does the curriculum nest around it? Assignments or lectures linked to the trip? Moving other tests in courses to accommodate the trip?

To assist the board in its determination, the following guidance is provided.

A “yes” answer to any of the following five questions means that the activity is school-sponsored.

- Is the activity mandatory for certain courses or groups of students?
 - Note that the activity must be mandatory. “Strongly suggested” or “highly preferred” is not mandatory. The line between mandatory and “strongly suggested” will vary based on the facts of each case.
- Is the district paying for any of the expenditures related to the activity?
 - Note that whether the district should be paying for the expenditures is a separate question the board must determine.
- Is the district providing transportation for the event or activity?
 - This applies regardless of how the district is providing transportation (directly, through contract, through reimbursement, etc.).
 - Note that whether the district should be providing transportation for the event or activity is a separate question the board must determine.
- Is the event or activity sponsored by or affiliated with a student organization recognized by the school district?
- Is the activity or event used as a school-identified incentive for student performance (perfect attendance, honor roll, meeting individualized learning goals)?

If all five of these questions are answered “no,” the event or activity may still be school-sponsored based on answers to the following questions, when the answers are taken as a whole, based on the nature and extent of the evidence.

- Are district personnel responsible for the students while on the activity? If so, are they being paid for the activity by the district?
 - A “no” answer to either question suggests that it is not a school-sponsored event or activity. A “yes” answer to both suggests that it is a school-sponsored event or activity.
- Are district personnel making arrangements for the activity? If so, are district personnel making arrangements for the activity during time in which they are being paid by the school district?
 - A “no” answer to either question suggests that it is not a school-sponsored event or activity. A “yes” answer to both suggests that it is a school-sponsored event or activity.
- Is the activity on school time? If on school time, are the absences by the students coded as approved or as present rather than absent (whether excused or unexcused)?
 - A “no” answer to either question suggests that it is not a school-sponsored event or activity. A “yes” answer to both suggests that it is a school-sponsored event or activity.
- Is the district advertising or otherwise promoting the event or activity (whether paid or free)? If so, is the event or activity identified as a school district event or activity?
 - A “no” answer to either question suggests that it is not a school-sponsored event or activity. A “yes” answer to both suggests that it is a school-sponsored event or activity.
- Are school district personnel advertising or otherwise promoting the event or activity during their contract time, while on school property, or at school events?
 - A “no” answer suggests that it is not a school-sponsored event or activity. A “yes” answer suggests that it is a school-sponsored event or activity. The degree of promotion will be considered for this factor.
- Is the school district deriving any benefit from the event or activity (cash rebates, discounts, free participation for staff, etc.)?
 - A “no” answer suggests that it is not a school-sponsored event or activity. A “yes” answer suggests that it is a school-sponsored event or activity. The amount and degree of promotion will be considered for this factor.
- Is the school district providing any benefit to the organizer of the event or activity (free or reduced-cost advertising or promotional efforts, free or reduced-cost services, free or reduced-cost facilities fees or rental agreements, etc.)?
 - A “no” answer suggests that it is not a school-sponsored event or activity. A “yes” answer suggests that it is a school-sponsored event or activity. The amount and degree of benefit provided will be considered for this factor.
- Is the school district’s name, the name of a school building, or other intellectual property of the district (school seal, school logo, school mascot, school slogan, school colors, etc.) used in the promotion of the event or activity?
 - A “no” answer suggests that it is not a school-sponsored event or activity. A “yes” answer suggests that it is a school-sponsored event or activity. The amount and degree of usage will be considered for this factor.
- Is the activity or event embedded in the school’s curriculum (alternatively, does the curriculum “nest around” the event or activity)? For example, are assignments or lectures linked to the event or activity? Are tests in courses or other school events scheduled or moved to accommodate the event or activity?
 - A “no” answer suggests that it is not a school-sponsored event or activity. A “yes” answer suggests that it is a school-sponsored event or activity. The amount and degree of integration with the curriculum will be considered for this factor.

If the school district is aware of actions promoting an event or activity that are done without its express permission (teachers promoting an activity in class, an event organizer using a school district’s name or other intellectual property, etc.) and it does not take steps to stop those unauthorized actions, the event or activity may be deemed school-sponsored under certain circumstances.

Appendix B – Statutory References and Definitions

Article III, Section 31, Constitution of the State of Iowa

“No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor, shall any money be paid on any claim, the subject matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local, or private purposes, (emphasis added), unless such appropriation, compensation or claim be allowed by two-thirds of the members elected to each branch of the General Assembly.”

Section 279.62 of the Code of Iowa

Nonprofit School Organizations. “The board of directors of a school district may take action to adopt a resolution to establish, and authorize expenditures for the operational support of, an entity or organization for the sole benefit of the school district and its students that is exempt from federal income taxation under section 501(c) (3) of the Internal Revenue Code. The entity or organization shall reimburse the school district for expenditures made by the school district on behalf of the entity or organization. Prior to establishing such an entity or organization, the board of directors shall hold a public hearing on the proposal to establish such an entity or organization. Such an entity or organization shall maintain its records in accordance with Chapter 22 (of the Code of Iowa), except that the entity or organization shall provide for the anonymity of a donor at the written request of the donor. The board of directors of a school district shall annually report to the Department and to the local community the administrative expenditures, revenues, and activities of the entity or organization established by the school district pursuant to this section. The Department shall include in its annual condition of education report a statewide summary of the expenditures and revenues submitted in accordance with this section.”

Note: Section 11.6(1)(a) was also amended to require an audit of “the revenues and expenditures of any nonprofit school organization established pursuant to section 279.62.”

Section 298A.8 of the Code of Iowa

Student Activity Fund. “The student activity fund is a special revenue fund. A student activity fund must be established in any school corporation receiving money from student- related activities such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys in this fund shall be used to support only the cocurricular program defined in Department of Education administrative rules.”

Component Unit

“Legally separate organizations for which the elected officials of the primary government are financially accountable. In addition, a component unit can be other organizations for which the nature and significance of their relationship with a primary government are such that exclusion would cause the reporting entity’s financial statements to be misleading.” (GASB Statement 14, as amended by GASB Statements 39 and 61)

Dillon’s Rule

School districts operate under Dillon’s Rule. This means school districts “possess and can exercise the following powers and no others: First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; and third, those absolutely essential to the declared objects and purposes of the (school) corporation – not simply convenient or desired, but indispensable” (Black, H.C., *Black’s Law Dictionary*, 6th ed. 1990: West Publishing, St. Paul.)

Financial Reporting Entity

“A primary government, and organizations for which the primary government is financially accountable, is a financial reporting entity. In addition, the primary government may determine, through exercise of management’s professional judgment, that the inclusion of an organization that doesn’t meet the financial accountability criteria is necessary in order to prevent the reporting entity’s financial statements from

being misleading. This determination should be based on the nature and significance of the organization's relationship with the district." (GASB Statement 14, as amended by GASB Statement 61)

GASB

Governmental Accounting Standards Board (GASB) establishes the basic principles applicable to governmental accounting and reporting.

Gift

Chapter 68B.2 (9) of the Code of Iowa. "Gift means a rendering or anything of value in return for which legal consideration of equal or greater value is not given or received."

Iowa Administrative Code rule 281--12.6(1)

"Each Board shall sponsor a pupil activity program sufficiently broad and balanced to offer opportunities for all pupils to participate. The program shall be supervised by qualified professional staff and shall be designed to meet the needs and interests and challenge the abilities of all pupils consistent with their individual stages of development; contribute to the physical, mental, athletic, civic, social, moral, and emotional growth of all pupils; offer opportunities for both individual and group activities; be integrated with the instructional program; and provide balance so a limited number of activities will not be perpetuated at the expense of others."

Internal Control

"A process, effected by an entity's governing body, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories: (1) reliability of financial reporting, (2) compliance with applicable laws and regulations and (3) effectiveness and efficiency of operations."

Internal control is the responsibility of all officials and employees of the school district and is designed to protect both the district and its employees.

Recommended governmental internal control procedures are detailed in the Iowa Auditor of State's Internal Control Questionnaire located on the [Auditor of State website](#). Select "audit practice aids" and page down to "[internal control questionnaire](#)."

Primary Government

"A state government or general purpose local government. Also, a special-purpose government that has a separately elected governing body, is legally separate and is fiscally independent of other state and local governments." (GASB Statement 14)

Restricted Donor

Section 68B (2)(24)(a) of the Code of Iowa "Restricted donor" includes a person who "is seeking to be a party to any one or any combination of sales, purchases, leases, or contracts to, from or with the agency in which the donee holds office or is employed."

Iowa Administrative Code rule 281—98.70

"The student activity fund must be established in any school district receiving moneys from student-related activities such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys collected through school activities are public funds that are the property of the school district and are under the financial control of the school board. Upon dissolution of an activity, such as a graduating class or student club, the surplus must be used to support other student activities in the student activity fund. Prudent and proper accounting of all receipts and expenditures in these accounts is the responsibility of the board. School districts may maintain subsidiary records for student activities if those records are reconciled to the official records on a monthly basis; however, all official accounting records of the student activity fund shall be maintained within the school district's chart of account pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies."

98.70(1) Sources of revenue in the student activity fund. Sources of revenue in the student activity fund include income derived from student activities such as gate receipts, ticket sales, admissions, student club dues, donations, fund-raising events, and any other receipts derived from student body cocurricular or extracurricular activities, contests, and exhibitions as well as interest on the investment of those moneys.

98.70(2) Appropriate uses of the student activity fund. Appropriate expenditures in the student activity fund include ordinary and necessary expenses of operating school district-sponsored and district-supervised student cocurricular and extracurricular activities, including purchasing services from another school district to provide for the eligibility of enrolled students in interscholastic activities provided by the other school district when that school district does not provide an interscholastic activity for its students.

98.70(3) Inappropriate uses of the student activity fund. Inappropriate expenditures in the student activity fund include the following:

- a. Maintenance of funds raised by outside organizations.
- b. The cost of bonds for employees having custody of funds derived from cocurricular and extracurricular activities in the conduct of their duties. These are costs to the general fund.
- c. Expenditures that lack public purpose.
- d. Payments to any private organization unless a fundraiser was held expressly for that purpose and the purpose of the fundraiser was specifically identified.
- e. Transfers to any other fund of any surplus within the fund.
- f. Payments more properly accounted for in another fund such as public tax funds, trust funds, state and federal grants, textbook/library book fines, fees, rents, purchases or sales, sales of school supplies, or curricular activities.
- g. Use of the student activity fund as a clearing account for any other fund.
- h. Cash payments to student members of activity groups.
- i. The cost of optional equipment or customizing uniforms.
- j. The cost of uniforms when the following two tests are not met:
 - (1) The activity is a part of the school's educational program, and
 - (2) The wearing of the uniform or equipment is necessary in order to participate.
- k. Hospital or medical claims for student injuries or procurement of student medical insurance.
- l. Optional costs related to activities that are not necessary to the cocurricular and extracurricular program such as promotional costs.
- m. Membership fees in student activity-related associations if the fees are optional, i.e., nonmember schools may participate in sponsored events.
- n. Costs to participate in or to allow students to participate in any cocurricular and extracurricular interscholastic athletic contest or competition not sponsored or administered by either the Iowa High School Athletic Association or the Iowa Girls High School Athletic Union.

Iowa Administrative Code rule 281—12.6

The following standards shall apply to the activity program of accredited schools and school districts.

12.6(1) *General guidelines.* Each board shall sponsor a pupil activity program sufficiently broad and balanced to offer opportunities for all pupils to participate. The program shall be supervised by qualified professional staff and shall be designed to meet the needs and interests and challenge the abilities of all pupils consistent with their individual stages of development; contribute to the physical, mental, athletic, civic, social, moral, and emotional growth of all pupils; offer opportunities for both individual and group activities; be integrated with the instructional program; and provide balance so a limited number of activities will not be perpetuated at the expense of others.

12.6(2) *Supervised intramural sports.* If the board sponsors a voluntary program of supervised intramural sports for pupils in grades seven through twelve, qualified personnel and adequate facilities, equipment, and supplies shall be provided. Middle school grades below grade seven may also participate.

Iowa Administrative Code rule 281—36.15(6)

Summer camps and clinics and coaching contacts out of season.

- a. School personnel, whether employed or volunteers, of a member or associate member school shall not coach that school's student athletes during the school year in a sport for which the school personnel are currently under contract or are volunteers, outside the period from the official first day of practice through the finals of tournament play. Provided, however, school personnel may coach a senior student from the coach's school in an all-star contest once the senior student's interscholastic athletic season for that sport has concluded. In addition, volunteer or compensated coaching personnel shall not require students to participate in any activities outside the season of that coach's sport as a condition of participation in the coach's sport during its season.
- b. A summer team or individual camp or clinic held at a member or associate member school facility shall not conflict with sports in season. Summertime coaching activities shall not conflict with sports in season.
- c. Rescinded IAB 4/20/11, effective 5/25/11.
- d. Penalty. A school whose volunteer or compensated coaching personnel violate this rule is ineligible to participate in a governing organization-sponsored event in that sport for one year with the violator(s) coaching.