Crowdfunding Basics

“Crowdfunding” refers to the practice of funding a project or cause by using the Internet to raise small amounts of money from a large number of people. 

Business ventures: Entrepreneurs and start-up businesses use crowdfunding to finance their projects, often with incentives/rewards for donors.

Charitable donations: Individuals and organizations use crowdfunding to raise money for various causes (e.g., medical bills, disaster relief, etc.).
School Uses

- Teachers and other school personnel have begun using crowdsourcing campaigns to raise money for the classrooms:
  - Supplies
  - Equipment
  - Special Projects
  - Class Trips
  - Repairs

Legal Concerns

- Although usually well-intentioned and potentially beneficial for students, teacher-initiated crowdfunds could trigger a number of legal landmines, including:
  - Gift violations
  - Inequitable resources
  - Data privacy
  - Content

Gift Law

- A local official may not accept a gift from an interested person. Minn. Stat. § 471.895.
- Gift includes money or property given without receiving consideration in return, with limited exceptions. Minn. Stat. § 471.895, subd. 1.
- Interested person means someone with a direct financial interest in a decision that a local official is authorized to make.
- Local official includes a school board member, superintendent, principal, or other school officer.

- The gift law typically would not apply to money given to teachers, but school districts likely have their own gift policies that may apply.
I. PURPOSE

The purpose of this policy is to avoid the appearance of impropriety or the appearance of a conflict of interest with respect to gifts given to school district employees and elected school board members.

II. GENERAL STATEMENT OF POLICY

A. The school district recognizes that students, parents, and others may wish to show appreciation to school district employees. The policy of the school district, however, is to discourage gift-giving to employees and to encourage donors instead to write letters and notes of appreciation or to give small tokens of gratitude as memorabilia.

B. A violation of this policy occurs when any employee solicits, accepts, or receives, either by direct or indirect means, a gift from a student, parent, or other individual or organization of greater than nominal value.

C. A violation of this policy occurs when any employee solicits, accepts, or receives a gift from a person or entity doing business with or seeking to do business with the school district. Employees may accept items of insignificant value of a promotional or public relations nature or a plaque with a resale value of $5 or less with an inscription recognizing an individual for an accomplishment. The superintendent has discretion to determine what value is "insignificant."

D. Teachers may accept from publishers free samples of textbooks and related teaching materials.

E. This policy applies only to gifts given to employees where the donor's relationship with the employee arises out of the employee's employment with the school district. It does not apply to gifts given to employees by personal friends, family members, other employees, or others unconnected to the employee's employment with the school district.

F. An elected or appointed member of a school board, a school superintendent, a school principal, or a district school officer, including the school business official, may not accept a gift from an interested person.

"Gift" Concerns

- If donations are received directly by an employee, the gift law and policy considerations could be triggered.
- Use of funds: Many crowdfunding sites have little oversight over how the funds are ultimately used.
- Improper influence: possibility of perceived favorable treatment for students whose parents donate.

Teachers should only be permitted to use crowdfunding initiatives in which the proceeds are sent directly to the School District.

Proper Purpose

- "The board may receive, for the benefit of the district, bequests, donations, or gifts for any proper purpose and apply the same to the purpose designated." Minn. Stat. § 123B.02, subd. 6.
- Teachers soliciting funds for their classrooms are doing so for the benefit of the district, and it is important that the district maintain oversight to ensure they are being used for a proper educational purpose.

Teachers should be required to specifically itemize what the funds will be used for, and obtain district approval of the use and purpose.
Fundraising/Grant Procedures

- School districts often have express fundraising policies for students and/or teachers, as well as policies that allow teachers to apply for grants for certain projects. These procedures help ensure:
  - Use of the funds is proper and consistent with the school's policies and educational goals.
  - Use of resources is fair and equitable.
  - Departing from these procedures risks creating a lopsided distribution of resources, either between classrooms or between buildings. This creates risks of discrimination claims or other legal and political grievances.
  - Also be mindful that booster clubs or similar groups are following established procedures and requirements.

School Districts should require administrative approval of all crowdfunding initiatives to ensure they are appropriate and consistent with District policy.

Data Privacy

- As part of their crowdfunding campaign, teachers may want to post pictures or descriptions of their students and/or classrooms.
  - Any pictures of students or student work are likely violations of the Data Practices Act and FERPA and should not be posted without the express written consent of a student’s parent.
  - Pictures of students may be designated as directory information, but attaching those images to any other information could still result in a violation.

Teachers must not be permitted to post any personally identifiable information about students (or coworkers), absent express written consent.

Content Concerns

- As part of their crowdfunding pitches, teachers may be critical of their school district and its resources. In some cases, this can create legal concerns for districts.

  False agency: Unless they are acting as a designated spokesperson for a board-approved, district-initiated campaign, teachers should not state or imply that they are speaking on behalf of the school district.
  - Doing so suggests that the fundraiser is part of district-level decision-making and could heighten concerns about equitability, funding, and curriculum.
  - Also imputes the teacher's opinions with those of the district as a whole, which could have additional political and legal ramifications.
Content Concerns

- IDEA & other educational liability: Suggestions that, in the absence of the requested donations, a school is failing to meet the needs of its students, could support claims of legal violations, particularly in a special education context.
  - Example: "In my center-based classroom, I work with students who have cognitive disabilities. These kids work hard and we're doing our best, but unfortunately, special education funding is tight, and our resources are limited and outdated. To help ensure these awesome kids can meet their IEP goals and make the progress they are capable of, we need some new supplies. I'm asking for donations to fund purchases of the following..." This suggests the status quo is insufficient to meet students' goals, and could trigger, or be evidence in, an IDEA due process hearing.

Content Concerns

- Consistency with other District policies: Well-intentioned initiatives could still conflict with, or trigger procedures in, other District policies. Examples:
  - Technology: If students will be accessing new devices, are any IT/technology procedures invoked?
  - Field trips: If a project involves travel off-site, is it consistent with District procedures regarding field trips?
  - Nutrition: If donations are to be used to provide food or snacks, are these consistent with District nutrition/wellness policies?
  - Intellectual property: If a teacher will be writing/creating something, is the application of the District's intellectual property policy clear?

Employee Speech

- Public employees retain certain free speech rights when speaking as private citizens. Speech is protected if an employee is speaking as a citizen on a matter of public concern.
  - But if the speech is pursuant to official duties, it is not protected.
  - Speech seeking funds for use in the classroom is likely speech pursuant to official duties as a teacher, and therefore within the school district's rights to regulate.
  - Even if the speech could be protected, the Pickering balance test applies: Does the school district have a legitimate justification sufficient to outweigh the employee's free-speech interests?
  - This is a case-by-case analysis, but in light of the concerns addressed previously, districts may have a reasonable argument that their interest overrules.
School Districts should require pre-approval of any employee-initiated crowdfunding campaigns. It may be helpful to develop an official policy and application in order to codify and streamline the process. Suggested requirements include:

- Proceeds must go directly to the School District.
- Donorschoose.org is one website that is specifically designed to fund classroom projects in coordination with school districts.
- The proposed use of the funds must be specifically itemized and approved to ensure it has a proper purpose, is consistent with district policies, and the value is accurate.

Text and images for the crowdfunding site should be submitted for approval to ensure that no data practices or other potential violations are present.

Districts should be cautious about approving proposals that would benefit one classroom or school with significantly superior equipment and materials to other classrooms or schools. Consider whether you can work with the teacher to modify the proposal to be more broadly applicable.

Special projects specifically designed for a teacher’s class are less concerning. E.g.: Materials for a special art project or funds for a unit-ending field trip, as opposed to purchasing iPads or Smartboards for a single class.

Questions?

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