Playing by the Rules
School Board Control of Extracurricular Activities
2019 MASBO Fall Conference
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The Law Changed!
• The former statute was seen as being in conflict with GASB 84.
• Used to PERMIT the Board to take control of extracurricular activities.
• Now REQUIRES that the Board take control of extracurricular activities.

Subd. 4. Board control of extracurricular activities.
(a) The board may take charge of and control all extracurricular activities of the district. Nothing in this section shall be construed to authorize the board to disband any extracurricular activities that were in existence or planned in existence in a home school or plural school as approved in W.S. Subsection 1 36B.36, paragraph (a).

(b) Extracurricular activities have all of the following characteristics:
(1) they are not offered for school credit nor required for graduation;
(2) they are generally conducted outside school hours, or if partly during school hours, at times agreed by the participants, and approved by school authorities;
(3) the content of the activities is determined generally by the pupil participants under the guidance of an adult or staff member.

(c) If the board does not take charge of and control extracurricular activities, these activities must be self-sustaining with all expenses, except direct salary costs and indirect costs of the use of school facilities, met by dues, admissions, or other student fund-raising events. The general fund must reflect only those salaries directly related to and readily identified with the activity and paid by public funds. Other revenues and expenditures for extracurricular activities must be recorded according to the Manual for Activity Fund Accounting. Extracurricular activities not under board control must have an annual financial audit and must also be audited annually for compliance with this section.

(d) If the board takes charge of and controls extracurricular activities, any or all costs of these activities may be provided from school revenues and all revenues and expenditures for these activities shall be recorded in the same manner as other revenues and expenditures of the district.

(e) A school district may reserve revenue raised for extracurricular activities and spend the revenue only for extracurricular activities.

(f) The teachers or pupils in the district must not participate in such activity, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.
Potential Impacts of Change

- Sales Tax Implications for Fundraising
- Contract Oversight by Board
- Increase of Fees?
- Oversight and Background Checks of Personnel
- Liability Concerns
Injury Claims

- Negligent Supervision Claims
- Was the Risk Foreseeable?
- Was it Sudden, Unanticipated Conduct?

Bullying Issues

- Liability Claims
- Safe and Supportive Schools Act
- MHRA
- Title IX

Transportation Obligations and Liability

- Must Transportation be Provided?
- What is the Standard of Care for Student Transportation?
- Verbal Case
Fenrich v. Blake School

- Non-MSHSL event
- Private Vehicle
- Seems to Conflict with Gylten?
- Effect of Non-Public School?

Protecting the School District from Liability

- Define the Activity
- Liability Waiver
- Employee Control
- Consistency
- Limitations on Student Driving
- Immunities

Access and Forum Issues

- Equal Access Act
- Noncurricular Groups?
- Limited Open Forum
- Equal Access Act Policies
Title IX

- Student Athletics
- Equal Opportunity
- Funding Issues

Questions?