



## FREQUENTLY ASKED QUESTIONS

### **How can Parent Booster USA (PBUSA) provide immediate federal 501(c)(3) tax-exempt status to booster clubs?**

PBUSA has a group letter ruling from the IRS, which means that PBUSA has been authorized by the Internal Revenue Service (IRS) to grant federal, 501(c)(3) tax-exempt status to all of its member booster clubs -- school PTOs, athletic, music, academic and other school support organizations.

### **How should a booster club be set up?**

First, PBUSA strongly recommends that booster clubs incorporate. Incorporation provides liability protection for the officers, directors, and volunteers. When a club incorporates, a new entity is formed which is liable and responsible for the actions of the club. If a booster club is not incorporated, all responsibility rests on the shoulders, and personal assets, of the officers, directors and volunteers because there is no legal body or entity that is responsible.

Next, every booster club should have current bylaws which govern their actions. Bylaws provide the rules for how the organization operates, including how often meetings are held, how the budget is developed and voted on, how officers are elected and their responsibilities, and how financial controls are enforced. Additionally, all clubs need to know the federal and state rules regarding tax returns, fundraising, registering to fundraise in their state, and filing reports.

### **Our booster club has never filed taxes so what should we do?**

Our recommendation is to join PBUSA at the Get Legal level, which includes PBUSA getting your club a new Employer Identification Number (EIN), incorporating the new entity, registering your club with the IRS, and then filing required state charity registration and sales tax exemption forms, if applicable. Here is why this is so important:

- ALL nonprofit groups are required to file tax returns. The IRS has a rule that any organization, regardless of income, MUST file the appropriate tax return. Organizations recognized as tax-exempt file the appropriate form of IRS 990 (990-N, 990-EZ, 990-Full). If an organization does not have tax-exempt status it may be required to file a corporate tax return and pay tax on net income.
- If a booster club does not file a tax return, it risks future penalties and interest for failure to do so. If a booster club DOES NOT have federal tax-exempt status, filing a Form 990, the tax-exempt return, will raise questions with the IRS. An organization cannot even file the online IRS 990 e-postcard unless it is a registered tax-exempt organization with the IRS. So, to be legal and operate under IRS rules, booster clubs need to pursue federal 501(c)(3) tax-exempt status.

- The IRS expects all organizations to begin filing taxes immediately upon obtaining an EIN. Nonprofits that fail to file federal income taxes on time for three consecutive years automatically lose their tax-exempt status. As a result, if your group has an EIN over two years old that has never been used to file taxes, you may immediately lose your tax-exempt status when PBUSA submits your information to the IRS. So joining PBUSA is your first step toward operating legally; please note that this doesn't remove any prior liability for not filing taxes for the original organization.

### **Should booster clubs have their own EIN?**

Yes, booster clubs should have their own EIN (Employer Identification Number) and not use their school's EIN. The booster club funds and associated bank account(s) should be kept separate from the school's funds and bank account(s) to enable accurate accounting.

### **How much control should the school have over the activities and financial affairs of our booster club?**

To be effective, booster clubs generally must work closely with the school, band, athletic, gym or other group that they support. However, sometimes there can be conflicts regarding how much control the school or other group has over the activities of the booster club. We recommend booster clubs be established as a separate legal entity. This means that the booster club can and should control its own activities and finances. The school or other group that is supported, however, can and should control how its facilities are used, and should advise the booster club of its needs.

Clarifying the relationship between the booster clubs and the schools they support is essential to a productive and problem-free working relationship. PBUSA recommends that schools should view their support organizations as independent granting organizations.

Schools want assurance that booster clubs are properly organized [IRS 501(c)(3)'s] and employing sound financial practices before allowing use of school facilities for meetings, communicate to parents using "backpack mail" and so forth. Schools may ask to review booster club's financial records. While legally a school generally cannot require a booster club to comply, it is probably a good idea to cooperate. A school financial review can provide assurance that the club's finances are being handled properly.