

Education Foundations



Capistrano Unified School District
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1

The Legal Foundation for Charitable Foundations

- Generally, federal tax law permits corporations to organize for a charitable purpose under a “non-profit” designation. (26 U.S.C. § 501(c)(3).)
- State law requires registration and reporting requirements for charitable organizations. (Cal Code Gov. § 12850-12599.8.)

The Legal Foundation for Charitable Foundations

- State oversight is through the California Attorney General's Office. (Cal Code Gov. § 17510 et seq.)
- The Attorney General may issue a cease and desist order whenever it determines a charitable organization has:
 1. Made a material false statement in an application, statement, or report
 2. Failed to file an incomplete financial report
- Complaints are processed through the Attorney General's Registry of Charitable Trusts

The Legal Foundation for Charitable Foundations

- At the District level, oversight is pursuant to Board Policy:

Board Policy 1260:

“The Board therefore approves and encourages the creation of an independent educational foundation to actively raise funds that will enhance educational opportunities for our students.”

“[T]he Board desires to work cooperatively with the foundation in determining the purposes for which funds may be used to meet the changing needs of the District and its students.”

The Legal Foundation for Charitable Foundations

- At the District level, oversight is pursuant to Board Policy:

Board Policy 3290:

“The Board of Trustees may accept any gift, grant, or bequest of money, property, or service to the District from any individual, private agency or organization, or other public agency that desires to support the District's educational program.”

The Legal Foundation for Charitable Foundations

- At the District level, oversight is pursuant to Board Policy:

Board Policy 3290 (continued):

“Before accepting any gift, grant, or bequest, the Board shall carefully consider any conditions or restrictions imposed by the donor to ensure their consistency with the District's vision, philosophy, and operations. If the Board believes the District will be unable to fully satisfy the donor's conditions, the gift shall not be accepted.”

The Legal Foundation for Charitable Foundations

- At the District level, oversight is pursuant to Board Policy:

Board Policy 3290 (continued):

“In addition, the Board shall ensure that acceptance of the gift, grant, or bequest does not:

1. Involve creation of a program which the Board would be unable to sustain when the donation is exhausted
2. Entail undesirable or excessive costs
3. Promote the use of violence, drugs, tobacco, or alcohol or the violation of any law or District policy”

The Legal Foundation for Charitable Foundations

- At the District level, oversight is pursuant to Board Policy:

Board Policy 1230:

“School-connected organizations that desire to raise money to benefit any District school or student shall submit a request for authorization to the Superintendent or designee, in accordance with Board Policy and Administrative regulation.”

“All funds raised to support any new District programs, personnel, facilities, or projects must receive prior approval from the Superintendent or designee before fundraising begins.”

The Legal Foundation for Charitable Foundations

- At the District level, oversight is pursuant to Board Policy:

Board Policy 1230 (continued):

“Violations of law, Board Policies, administrative regulations, or rules of the sponsoring school may result in the rejection of donated funds or revocation of the school-connected organization’s authorization to collect funds on behalf of the school or District.”

Oversight of Foundations

- Collection of federal, state, and local rules establish layers of oversight by various agencies:
 1. Federal oversight of whether an entity adheres to rules for 501(c)(3) charitable organization
 2. State oversight related to charitable purposes, and required paperwork
 3. District oversight with respect to acceptance of donations, use of donations, and use of District's name in raising funds

The CUSD Foundation



“The mission of the CUSD Foundation is to raise money by developing partnerships with businesses and the community to enhance the quality of education for every student in the Capistrano Unified School District.”

The CUSD Foundation

- April 12, 2018 statement from CUSD Foundation:
“The Board of Directors of the Capistrano Unified School District Foundation recently became aware of serious financial irregularities that we believe involve the Foundation’s former executive director who resigned in December 2017.”
“The Foundation is shocked and deeply saddened by this situation, but remains absolutely committed to providing financial support to assist in meeting the educational needs of the many students in the Capistrano Unified School District.”

The CUSD Foundation

- District's April 27, 2018 response:
“In light of these allegations, the District is extremely concerned about the Foundation's present ability to appropriately manage and direct the funds which it currently controls.”
- Evidence contributing to District's concerns:
 1. Foundation's inability to pay invoice for vendor approved by a school site based on promises of funding from the CUSD Foundation
 2. Inability of Foundation to accurately inform District and site-based organizations of amount of money on account for specific sites

The CUSD Foundation

- District's April 27, 2018 demands included:
 1. "Turn over to the District all funds currently in its possession that were raised for the benefit of CUSD schools."
 2. "Turn over to the District an accounting of all financial transactions."
 3. "All pending and future requests for donations from District employees must be presented" to Deputy Superintendent.

The CUSD Foundation

- Foundation's May 2, 2018 response:
 1. "Turn over to the District all funds currently in its possession that were raised for the benefit of CUSD schools."

Request denied. "Our non-profit organization cannot legally transfer or turn over funds...."

2. "Turn over to the District an accounting of all financial transactions."

Request denied: "This is being handled by appropriate law enforcement agencies and an outside accounting firm."

The CUSD Foundation

- Foundation's May 2, 2018 response (continued):
 3. "All pending and future requests for donations from District employees must be presented" to Deputy Superintendent.

Request denied: "Our non-profit organization cannot ... turn over ... approval authority to any public school district...."

The CUSD Foundation

- Interim Measures
 - Principal for the Day program
 - Instrument Program
 - Reviewing the programs run by CUSD Foundation

The CUSD Foundation

- Additional interactions:
 - Multiple meetings between District Administrators and Foundation Board Members
 - Email exchanges reiterating demands for information, donations, accounting, etc.

The CUSD Foundation

- CUSD Foundation was informed that:
 1. Trustees would remain fully informed
 2. Consent to raise money in the name of the Capistrano Unified School District could be withdrawn
 3. The public would be informed of other donation opportunities

Next steps:

- Receive direction from Trustees on how to proceed.
- Educate stakeholders on options for donations:
 1. Directly to the District for uses that can be restricted by the individual making the donation.
 2. Directly to the site, through the District, for uses that can be restricted
 3. No funds donated to the District are appropriated for uses other than those specified by the donors
 4. All funds donated to the District are tax deductible

Recent Developments

- Bylaws
- 990 forms brought current
- Agreed to provide District copies of financial documents (redacted)
- Communication with quasi-boosters for permission to share financial data