

Funding a Cause for Your Classroom: When Good Intentions Lead to Unforeseen Liabilities

By [Leighann Fink](#), Attorney

On July 11, 2018, David Yost, the Ohio Auditor of State, issued a “Special Report” regarding some possible legal implications for school districts if their teachers and staff engage in crowdfunding without appropriate board policies in place. ([Click to read the Special Report](#)). Auditor Yost defined crowdfunding as “online fundraising that helps teachers and schools solicit donations of money and supplies to enhance classrooms and enrich the education of their students.” It is evident that crowdfunding for classrooms is pervasive in Ohio, and school districts must adopt policies to protect themselves against liability. According to Yost’s research, the DonorsChoose website “showed 943 fundraising projects for classrooms across Ohio,” and the AdoptAClassroom website “showed more than 901 fundraisers for Ohio schools.”

As identified in Yost’s report, possible legal implications of crowdfunding include: (1) violation of certain federal laws, such as FERPA and the IDEA, due to the inadvertent disclosure of students’ identities and confidential information without appropriate consent; and (2) violation of certain State laws, such as R.C. 3319.321, R.C. 9.38, R.C. 3313.51, and R.C. 2921.43, which relate to student confidentiality, financial controls and accounting requirements, and the prohibition against public employees soliciting or accepting any compensation for performance of their official duties, or to supplement their public compensation.

To minimize liability, some school districts may adopt a policy banning crowdfunding altogether. However, in instances where school districts wish to allow crowdfunding, the following guidelines may be considered:

- Require Board approval for all crowdfunding campaigns and that all donations be used for the stated purpose;
- Require all crowdfunding campaigns to be listed in the district’s name and indicate that all funds or goods received are district property;
- Require review and approval of campaign text and pictures by principal or superintendent before it is published on crowdfunding website in order to protect students’ identities and confidential information, and to prevent any inadvertent harm to the reputation of the district;
- Require that teacher obtain written consent for the use of any student photographs from parent, legal guardian, or student if they are over the age of 18; and
- Require Treasurer’s office to directly collect all money/goods from the campaign, inventory all goods, and deposit all money in an appropriate district bank account in order to preserve an accurate accounting. This requirement protects both the district and the teacher from accusations of private use of the funds collected.

Please contact any of the listed attorneys regarding the development and/or review of a crowdfunding policy for your school district, and the creation or review of any relevant administrative regulations. We welcome any questions.

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