**VENTURA COUNTY OFFICE OF EDUCATION**

Stanley C. Mantooth, County Superintendent of Schools

November 12, 2008

**TO:** District Chief Business Officials

**FROM:** Ken Prosser, Associate Superintendent *KP*  
Fiscal and Administrative Services  
Ventura County Office of Education

**SUBJECT:** *Advisory on Conducting Raffles*

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We have recently received a number of questions regarding a school district's ability to conduct raffles as a fund-raising activity, and therefore felt it would be helpful to review the guidelines regarding these efforts.

In July 2000, the California State Legislature added Section 320.5 to the Penal Code to authorize, under defined circumstances, eligible organizations to conduct raffles which require the payment of a fee for a chance to win a prize so long as a substantial amount of the proceeds of the raffle support "beneficial or charitable purposes". Under this law, public schools are not considered "eligible organizations". However, a typical school support foundation (if tax exempt under Section 32701(d) of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code) is an eligible organization and may conduct such raffles. The proceeds for such raffles may be used to support any public school program, as such programs are by law "beneficial or charitable".

In addition, before an eligible organization may conduct fund-raising for public schools through raffles that require a fee, it must first register with the Department of Justice and then annually thereafter. Each year, the organization is then required to submit an annual report that includes the aggregate gross receipts from the operation of raffles, the cost incurred from the operation of raffles, and the charitable or beneficial purposes for which the raffle proceeds were used. In addition to these requirements, qualifying non-profit organizations, parent groups and/or foundations must also adhere to the following conditions:

- ❖ At least 90 percent of the proceeds must benefit the charitable purpose.
- ❖ Detachable coupons with identifying numbers must be used.
- ❖ The drawing must be supervised by a person 18 years of age or older.
- ❖ It may not be conducted in any manner over the Internet.

Having said all this, is there any way that a school district may legally conduct a raffle? Yes, Penal Code Section 320.5(m), enacted in 2001, makes public schools eligible to sponsor raffles contingent upon satisfaction of the following three requirements:

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1. It involves a general and indiscriminate distributing of the tickets.
2. The tickets are offered on the same terms and conditions as the tickets for which a donation is given.
3. **The scheme does not require any of the participants to pay for a chance to win.**

For further clarification, attached you will find copies of Penal Code Section 320.5, as well as excerpts from the Office of the Attorney General's website relative to this issue. Hopefully, this information will help you maintain legal compliance when conducting these types of fund-raising activities and thereby avoid potential legal and financial problems for the district. **We would also ask that you share this information with your Superintendent, School Site Principals, ASB and Athletic Directors, and Booster Groups as appropriate.** In the event that further clarification is required, we suggest that you consult with legal counsel and/or the Attorney General's Office.

KP:sw

Attachments: (2)

cc: Stanley C. Mantooh, County Superintendent of Schools

### Penal Code Section 320.5. Charitable Raffles

(a) Nothing in this chapter applies to any raffle conducted by an eligible organization as defined in subdivision (c) for the purpose of directly supporting beneficial or charitable purposes or financially supporting another private, nonprofit, eligible organization that performs beneficial or charitable purposes if the raffle is conducted in accordance with this section.

(b) For purposes of this section, "raffle" means a scheme for the distribution of prizes by chance among persons who have paid money for paper tickets that provide the opportunity to win these prizes, where all of the following are true:

(1) Each ticket is sold with a detachable coupon or stub, and both the ticket and its associated coupon or stub are marked with a unique and matching identifier.

(2) Winners of the prizes are determined by draw from among the coupons or stubs described in paragraph (1) that have been detached from all tickets sold for entry in the draw.

(3) The draw is conducted in California under the supervision of a natural person who is 18 years of age or older.

(4) (A) At least 90 percent of the gross receipts generated from the sale of raffle tickets for any given draw are used by the eligible organization conducting the raffle to benefit or provide support for beneficial or charitable purposes, or it may use those revenues to benefit another private, nonprofit organization, provided that an organization receiving these funds is itself an eligible organization as defined in subdivision (c). As used in this section, "beneficial purposes" excludes purposes that are intended to benefit officers, directors, or members, as defined by Section 5056 of the Corporations Code, of the eligible organization. In no event shall funds raised by raffles conducted pursuant to this section be used to fund any beneficial, charitable, or other purpose outside of California. This section does not preclude an eligible organization from using funds from sources other than the sale of raffle tickets to pay for the administration or other costs of conducting a raffle.

(B) An employee of an eligible organization who is a direct seller of raffle tickets shall not be treated as an employee for purposes of workers' compensation under Section 3351 of the Labor Code if the following conditions are satisfied:

(i) Substantially all of the remuneration (whether or not paid in cash) for the performance of the service of selling raffle tickets is directly related to sales rather than to the number of hours worked.

(ii) The services performed by the person are performed pursuant to a written contract between the seller and the eligible organization and the contract provides that the person will not be treated as an employee with respect to the selling of raffle tickets for workers' compensation purposes.

(C) The name and title of a responsible fiduciary of the organization.

(2) The department may require an eligible organization to pay an annual registration fee of ten dollars (\$10) to cover the actual costs of the department to administer and enforce this section. The department may, by regulation, adjust the annual registration fee as needed to ensure that revenues will fully offset, but do not exceed, the actual costs incurred by the department pursuant to this section. The fee shall be deposited by the department into the General Fund.

(3) The department shall receive General Fund moneys for the costs incurred pursuant to this section subject to an appropriation by the Legislature.

(4) The department shall adopt regulations necessary to effectuate this section, including emergency regulations, pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(5) The department shall maintain an automated data base of all registrants. Each local law enforcement agency shall notify the department of any arrests or investigation that may result in an administrative or criminal action against a registrant. The department may audit the records and other documents of a registrant to ensure compliance with this section.

(6) Once registered, an eligible organization must file annually thereafter with the department a report that includes the following:

(A) The aggregate gross receipts from the operation of raffles.

(B) The aggregate direct costs incurred by the eligible organization from the operation of raffles.

(C) The charitable or beneficial purposes for which proceeds of the raffles were used, or identify the eligible recipient organization to which proceeds were directed, and the amount of those proceeds.

(7) The department shall annually furnish to registrants a form to collect this information.

(8) The registration and reporting provisions of this section do not apply to any religious corporation sole or other religious corporation or organization that holds property for religious purposes, to a cemetery corporation regulated under Chapter 19 of division 3 of the Business and Professions Code, or to any committee as defined in Section 82013 that is required to and does file any pursuant to the provisions of Article 2 (commencing with section 84200) of Chapter 4 of Title 9, or to a charitable corporation organized and operated primarily as a religious organization, educational institution, hospital, or a health care service plan licensed pursuant to Section 1349 of the Health and safety Code.

(i) The department may take legal action against a registrant if it determines that the registrant has violated this section or any regulation adopted pursuant to this section, or that the registrant has



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# Raffles

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In California, charities and certain other private nonprofit organizations may conduct raffles to raise funds for beneficial or charitable purposes in the state.

This exception to the general constitutional prohibition against lotteries requires that at least 90 percent of the gross receipts from these raffles go directly to beneficial or charitable purposes in California.

Unless specifically exempted, a nonprofit organization must register with the Attorney General's Registry of Charitable Trusts prior to conducting the raffle and file financial disclosure reports on each raffle event. Forms for registering and reporting activities are provided on this web page.

Using the Registry's new search feature, you can now view information regarding raffles held by nonprofits in California. The information available includes registration and raffle report data (such as the amount of money collected), and dates on which a charity intends to hold a raffle. To look at information regarding raffles use the new [search feature](#).

What organizations qualify and how the raffles must be conducted are governed by Penal Code section 320.5, which was added by Senate Bill 639 (McPherson, Chapter 778, Stats. of 2000). For details, view the Frequently Asked Questions, Statutes and Regulations.

A review of charitable lottery activity in California is available in the publication Nonprofit Raffle Program Report to the Legislature.

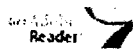
## FAQs Raffles

### FORMS

- [Nonprofit Raffle Registration Form - CT-NRP-1](#)  
 [PDF 208 kb / 1 pg]  
 Each nonprofit organization that intends to conduct a raffle during a year (September 1 through August 31) must complete and submit a raffle registration form.
- [Nonprofit Raffle Report - CT-NRP-2](#)  
 [PDF 241 kb / 2 pg]  
 A nonprofit organization that has registered to conduct a raffle must file a separate nonprofit raffle report for each raffle held during the year (September 1 through August 31).

### LAWS/REGULATIONS

- [Penal Code Section 320.5. Charitable Raffles](#)  
 [PDF 12 kb / 4 pg]
- [Non-Profit Raffle Program Regulations](#)  
 [PDF 79 kb / 6 pg]



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