



Susana Martinez
Governor

Jeffrey S. Landers
Board Chair

January 29, 2013

VIA U.S. MAIL

**Sally Marquez, Executive Director
New Mexico Activities Association
6600 Palomas Avenue NE
Albuquerque, NM 87109**

RE: Licensing Requirements Under the Bingo & Raffle Act

Dear Ms. Marquez:

We at the New Mexico Gaming Control Board (hereafter "Board") understand that there are many "educational organizations" throughout New Mexico that are associated with our public, private and charter schools that use bingo and raffles as a means to raise funds. However, it has also come to our attention that many of these organizations are unaware of the New Mexico Bingo & Raffle Act 60-2F-1, Sections 60-2F-1 through 60-2F-26 NMSA 1978, (hereafter "Act"). By raising such awareness, the Board is not attempting to prevent such activity, but merely seeking to ensure that educational organizations are in compliance with rather inexpensive and fairly simple licensing requirements.

Only "qualified organizations" can be licensed under the Act. Section 60-2F-4(Y) of the Act reads,

"Y. "qualified organization" means a bona fide chartered branch, lodge or chapter of a national or state organization or any bona fide religious, charitable, environmental, fraternal, educational or veterans' organization operating without profit to its members that has been in existence in New Mexico continuously for a period of two years immediately prior to conducting a raffle or making an application for a license under the New Mexico Bingo and Raffle Act and that has had a membership engaged in carrying out the objects of the corporation or organization. A voluntary firefighter's organization is a qualified organization and a labor organization is a qualified organization for the purposes of the New Mexico Bingo and Raffle Act if they use the proceeds from a game of chance solely for scholarship or charitable purposes;" (Emphasis added)

Additionally, Section 60-2F-4(I) of the Act reads,

“I. "educational organization" means an organization within the state, including recognized student organizations, not organized for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction;” (Emphasis added)

Based on the above, the Act gives the Board the authority to regulate qualified organizations (including “educational organizations” and “recognized student organizations”). For qualified organizations to be in compliance with the Act; school districts, schools, and recognized student organizations, must adhere to the following requirements:

- 1) A qualified organization must have “been in existence in New Mexico continuously for a period of two years immediately prior to conducting a raffle or making an application for a license.” (See §60-2F-4(Y)).
- 2) A qualified organization must file quarterly reports, (See §60-2F-19(A)).
- 3) A qualified organization must maintain a separate bingo and raffle operating account, (See §60-2F-19(C)).

Additionally, school districts should be aware that the Act may exempt from our authority those qualified organizations that choose not to be licensed, but limit the number of gaming events they conduct. By way of example, Section 60-2F-26(A)(2) of the Act reads,

“60-2F-26. Exemptions.

A. Except as provided in Subsection B of this section, nothing in the New Mexico Bingo and Raffle Act shall be construed to apply to:

- (2) a bingo or a raffle held by a qualified organization that holds no more than one bingo occasion or one raffle in any three consecutive calendar months and not exceeding four occasions in one calendar year.”

Nonetheless, if a qualified organization is unlicensed, yet exceeds the permitted number of exemptions, I would offer the following advisory opinion as to how public schools, private schools and recognized student organizations may be violating the act and/or criminal code:

In the opinion of the Board, a public high school basketball team’s booster club, varsity club, drill team or other sports team would be an educational organization under the Bingo & Raffle Act. However, if such organizations were to hold a raffle at every home game, including but not limited to a “50-50” raffle, they would exceed the exemption limit set forth in Section 60-2F-26 of the Act.

Therefore, if an educational organization is unlicensed and exceeds the maximum exemptions, the organization may be subjecting itself to criminal penalties. This letter is an attempt to help the State of New Mexico Public Schools and private schools from violating the law. For instance, the New Mexico Criminal Code requires any magistrate that receives a written affidavit of a suspected gambling activity from any citizen, to dispatch peace officers to investigate.

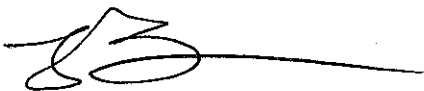
Even though the above example would be viewed by the Board as extreme, to alleviate any appearance of impropriety, the public schools, private schools and recognized student organizations should take certain measures to be in compliance with the Act and to avoid any potential violation of the criminal code. For instance, the following options would allow your school district, schools and/or recognized student organizations to comply with the Act:

- 1) A district or school decides to apply for a license and umbrellas ALL raffles/clubs under one license; or
- 2) A district or school decides to apply for a license and umbrellas some raffles/clubs, but not all; the remaining clubs can choose to get a license or may decide that they are exempt due to the frequency (less than 4 per year); or
- 3) A district or school decides NOT to apply for a license and decides to require each of its clubs to determine whether they need a license or can be exempt (due to frequency of 4 or less per).

We very much appreciate your assistance in getting the word out to the many helpful educational organizations that strive to make our children's educational experience more complete.

If you have any questions or concerns, please do not hesitate to contact me or Scott Osta. Additionally, Kira Frazier could also assist any educational organization that has further questions with the licensing application. She can be reached at Kira.Frazier@state.nm.us or (505) 795-2196.

Sincerely,



Frank Baca, Acting NMGCB Executive Director/General Counsel

cc: Legal Division file
Enforcement Division file
Licensing Division file