

# **PTA and the Law**

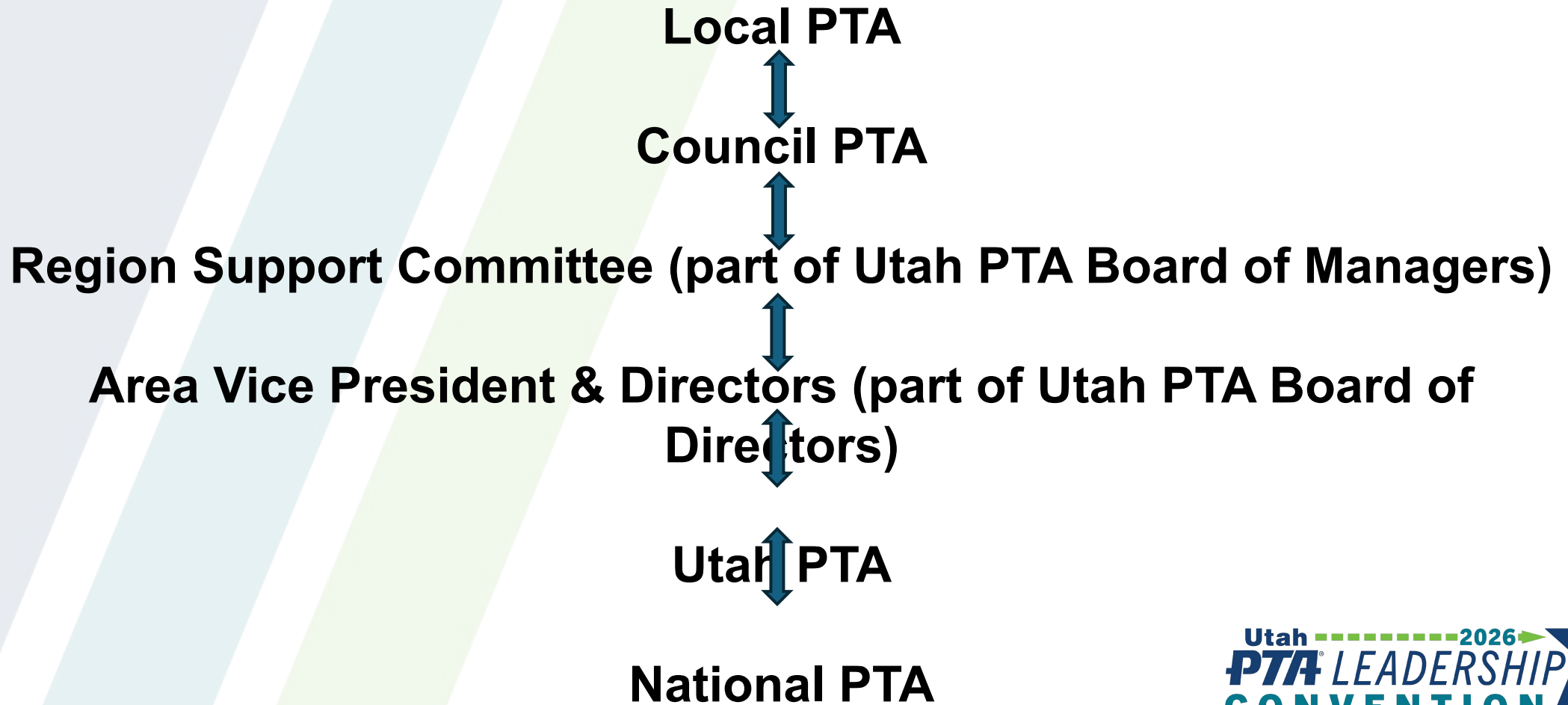
**Julie Cluff**  
**Utah PTA President**

**Karen Beebe**  
**Utah PTA Treasurer**

# Utah PTA Mission Statement

To make every child's potential a reality by engaging and empowering families and communities to advocate for all children.

# Structure of PTA



# Utah PTA is a Nonprofit Corporation

- ❖ Utah PTA is a legal entity, separate from its organizers and members.
- ❖ As a legal corporation, Utah PTA has a sense of permanence.
- ❖ Corporations are governed by Articles of Incorporation/Organization and Bylaws.
- ❖ Corporations protect individuals from personal liability.
- ❖ Nonprofit corporations enjoy certain tax advantages or exemptions.

# Utah PTA/Local PTA Relationship

- ❖ Utah PTA's nonprofit status extends to all units, in good standing, under its umbrella.
- ❖ For banking purposes, each local PTA has its own IRS EIN that is linked to Utah PTA's General Exemption Number.
- ❖ All units share a sales tax exemption number with the Utah State Tax Commission.
- ❖ All units share in the Utah PTA Charitable Solicitations Permit waiver.
- ❖ Local PTA units are NOT school-managed organizations, they are separate legal entities that partner with schools to fulfill the PTA mission.

# Tax-Exempt Status is an Asset!

## Maintain Tax Exempt Status:

- ❖ Always work toward stated charitable purpose (Mission Statement)
- ❖ Maintain active incorporation and follow internal controls
- ❖ File annual IRS informational returns
- ❖ Limit political activities and lobbying

## Jeopardize Tax Exempt Status:

- ❖ Private benefit and inurement, including benefits to members.
- ❖ “Lending” the PTA name or tax-exempt status to other organizations. (commingling)
- ❖ Substantial lobbying activities
- ❖ Political campaign involvement

# Advocacy vs Lobbying

## ADVOCACY

Informing members, the public, and decision makers about the issues but not asking for specific action.

Some forms of lobbying are okay – but they must be limited to an insignificant amount of the organization’s time and funds spent.

## LOBBYING

Contacting or urging others to contact members of a legislative body to influence decision makers on a specific piece of legislation or specific appropriation item.

# Fiduciary Responsibilities of Officers

**Duty of Care** – Attend board meetings, stay informed, and fulfill responsibilities.

**Duty of Obedience** – Follow the organization’s bylaws and comply with local, state, and federal laws.

**Duty of Loyalty** – Put the interest of the organization first and promote the organization’s mission rather than your own personal interests when representing PTA.

# Accountability and Transparency

- ❖ PTA officers must maintain accountability and transparency at all times.
- ❖ Each PTA unit is accountable to its members, sponsors, community, and governmental regulatory agencies.
- ❖ Accountability extends to maintaining the good reputation that PTA has earned over its long history.
- ❖ Transparency is crucial for all nonprofit organizations, and PTA is no exception.
- ❖ PTA officers are stewards, not owners of our organization.

# Members' Rights To Inspect Records

Articles of Organization

Board of Directors Info

Bylaws

Membership List

Standing Rules

Meeting Minutes

Financial/Tax Records

PTA maintains an “open door” policy regarding its public records. Any member wishing to review this information should schedule an appointment with the President and Treasurer.

# Bylaws and Standing Rules

- ❖ Bylaws are a legally binding set of rules that guide an organization, comparable to a constitution.
- ❖ Local unit and Council bylaws are renewed and approved by Utah PTA every three years; however, they may be amended at any time.
- ❖ Copies of local unit bylaws can be found at the Utah PTA website.
- ❖ Standing Rules are maintained by the local unit and offer guidelines specific to each local unit.
- ❖ Standing Rules may not be in conflict with the bylaws.

# Meeting Minutes

- ❖ Minutes are the written and legal record of a corporation.
- ❖ The IRS requires all nonprofit corporations to maintain meeting minutes.
- ❖ Minutes are permanent, historical records that document the business of the PTA; they should never be destroyed.
- ❖ All meetings should have minutes – General Membership, Board of Directors, Executive Committee, and Commission/Committees.

# Financial Internal Controls

## Bank Account/Check Signers

- ❖ Three authorized signers are required.
- ❖ No two people who are related by blood or marriage or who reside in the same house may be signers on the account.
- ❖ The Admin VP, Teacher VP, and School Secretary can NOT be signers on the bank account. Other school employees should be avoided as signers as well. An exception may be made for PTA officers (parents) employed as paras.
- ❖ The Treasurer maintains custody of the checkbook, never the president.
- ❖ Two signatures are required on every check; preferably the treasurer and president.
- ❖ **Do not sign your own check!**

# Financial Internal Controls

- ❖ Traditional debit cards and credit cards are NOT allowed.
- ❖ Electronic transactions are NOT allowed (except for membership dues paid via Givebacks ACH and deposits of merchant transactions).
- ❖ Online banking access should be “read only” – used to download & print monthly bank statements.
- ❖ The Utah PTA eCommerce policy may be utilized (very cautiously!) for prefunded spending cards and traditional online banking access.

# Financial Internal Controls

- ❖ Money Counting/Depositing of Funds
  - ❖ Three (3) people must count all money, including verifying checks received.
  - ❖ Two (2) people take the deposit to the bank.
  - ❖ Deposits are made the same day, utilizing the night depository if necessary.
- ❖ Credit Card Platforms/Merchant Services are allowed (Givebacks, Square, PayPal, etc.)
- ❖ Monthly Bank Statement Review
  - ❖ Non-signer Board Member reviews/signs, President reviews/signs, Treasurer reconciles
- ❖ Create and follow a membership-approved budget.

# No Venmo!

- ❖ Peer-to-Peer platforms (Venmo, Cash App, Zelle, etc.) do not provide proper reporting for businesses.
- ❖ While Venmo allows small businesses and nonprofit organizations to use their platform (for a fee), it is not approved by Utah PTA and is not recommended by NPTA
- ❖ The nonprofit Venmo option must be linked to an individual's Venmo account through a cell phone number.
- ❖ The Venmo user agreement requires the bank account be owned by the user. PTA officers are authorized signers, not owners.
- ❖ PTAs using Venmo are in violation of the user agreement and are doing so fraudulently.
- ❖ Venmo could freeze the account or retract funds deposited if the account is used fraudulently.
- ❖ Leaders may not use their personal Venmo (or any other Peer-to-Peer platform) to collect funds and remit a lump sum to the PTA.

# Legal Contracts

- ❖ A signed contract is a legal document that binds the PTA and could result in legal liability if not fulfilled.
- ❖ All contracts must be in writing (digital okay); having been carefully read and understood before signed.
- ❖ The length of the contract must be limited to the term of the participating officers.
- ❖ All contracts must be approved by the Board of Directors.
- ❖ Only the president can sign a contract and should do so on behalf of the organization (*i.e. Utah PTA by Julie Cluff, President*).

# What is Good Standing?

A PTA unit in Good Standing is one that:

- ❖ Adheres to the purposes and policies of PTA
- ❖ Maintains a current EIN from the IRS on file with Utah PTA
- ❖ Enters current officers in Givebacks
- ❖ Renews bylaws every three years
- ❖ Remits national and state dues to Utah PTA by the 25<sup>th</sup> of each month
- ❖ Submits End-of-Year Compliance Documents by August 1<sup>st</sup>
- ❖ Submits Beginning-of-Year Compliance Documents by October 1<sup>st</sup>
- ❖ Follows other requirements as outlined in the Standards of Affiliation for Good Standing.

# Raffles versus Drawings

- ❖ Under Utah law, it is illegal to operate a scheme under which a person GIVES something of value in order to obtain a chance to GET something of value.
- ❖ A raffle, which requires the purchase of a ticket (or allows the purchase of additional tickets to increase the odds of winning), is illegal in Utah, even for charitable purposes.
- ❖ A drawing allows everyone in attendance an equal opportunity to win a prize with no monetary purchase required; therefore, it is legal to conduct a drawing.

# Game of Chance: Is it allowed?

- ❖ **YES:** A PTA can charge a fee for an event and give everyone in attendance a ticket for a drawing to win a door prize. The entrance fee is not directly associated with the ticket and everyone in attendance has an equal chance to win.
- ❖ **NO:** Holding a drawing where donors are given different amounts of tickets based on their level of donation.
- ❖ **YES:** Silent and live auctions are not considered as games of chance but rather a negotiation for the purchase of products or services.
- ❖ **YES (sort of):** A drawing of PTA membership for a door prize at Back to School Night (or other PTA event).

# Insurance Requirements

Utah Tort Limit for governmental bodies is \$3.1M; however, per AIM a max of \$2M (General Liability) is sufficient for needs of the local PTA unit.

# Types of Coverage

- ❖ General Liability (required)
- ❖ Fidelity Bond/Crime (required for credit card processing/eCommerce Policy)
- ❖ Officers/Directors Liability
- ❖ Property

# High-Risk Activity Guidelines

- ❖ Bounce houses and other high-risk activities expose the PTA and its officers to significant liability and potential lawsuits.
- ❖ Per the Utah Office of State Risk Management, Utah school districts cannot cover or provide additional insurance for PTA-sponsored events, especially those with high-risk activities.
- ❖ Utah PTA **STRONGLY DISCOURAGES** the use of bounce houses and other high-risk activities at all PTA events.

# High-Risk Activity Guidelines

Any PTA that chooses to move forward with high-risk activities **MUST** comply with the following required guidelines:

- ❖ School District Approval – some districts will not allow high-risk activities
- ❖ Equipment Ownership – PTAs may not purchase equipment
- ❖ Equipment Rental – PTAs may not rent and manage equipment
- ❖ Use of Licensed and Insured Vendors is required
- ❖ Equipment Supervision – equipment must be set up and managed by the vendor, never PTA volunteers
- ❖ Vendor Insurance Requirements - \$1M/\$3M
- ❖ PTA General Liability Insurance Coverage - \$1M/\$2M (Utah PTA requires) or \$1M/\$3M (some school districts require)
- ❖ PTA Directors and Officers (D&O) Insurance is required

# Funds Spent on Hospitality (5% Rule)

- ❖ Hospitality expenses are defined as funds spent on meals, snacks, drinks, related supplies, and lodging.
- ❖ To be a legitimate expense of a nonprofit organization these expenditures must be ordinary and necessary and cannot be lavish or excessive.
- ❖ Hospitality expenses specifically related to board members or volunteers must be limited to a **nominal** amount (5%) of total *actual* expenditures.
- ❖ Hospitality expenses related to PTA programs and events are not subject to this restriction.

# Funds Spent on Teacher Support (20% Rule)

PTA is “Parents and Teachers working TOGETHER to carry out the PTA mission”. PTA is not “Parents supporting Teachers and Students.”

- ❖ A PTA should spend a majority of its budget on direct expenses that benefit children.
- ❖ Spending money to appreciate and support teachers IS within the realm of the PTA mission; however, it would be considered an INDIRECT expense.
- ❖ Per the IRS, only an **insignificant** amount (20%) of *actual* expenditures can be spent on expenses not considered directly related to the organization’s charitable mission.
- ❖ This includes teacher appreciation and support expenditures as well as general and administration expenditures (bank fees, merchant fees, office expenses, etc.), but not the training of PTA leaders as this would be considered a direct mission expense.
- ❖ This does not apply to Teacher Grants that directly support students.
- ❖ **The 5% Hospitality amount is part of the overall insignificant (20%) amount.**

# Policies & Procedures – Why?

- ❖ Strong financial internal controls are a necessary part of any business, even nonprofit organizations.
- ❖ Unaffiliated parent organizations (PTOs) should utilize these policies and procedures as well.
- ❖ Following the policies as outlined provides a safeguard of the assets of the organization.
- ❖ Rules are not meant to make the job hard – they are in place for the protection of the organization’s leaders.

***We are here to help you!***

# Questions?

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# Connect with us on social media



FACEBOOK

- Utah PTA
- Utah PTA Advocacy
- Utah PTA Super Secondary
- Utah PTA Excellent Elementary
- Utah PTA Treasurers
- Utah PTA Reflections
- Utah School Community Councils
- Utah PTA Teachers
- Utah PTA Battle of the Bands

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X - @UtahPTAOneVoice



PINTEREST - Utah PTA



YOUTUBE - Utah PTA One Voice



# UTAH PTA SPONSORS

