



NEW HAMPSHIRE  
**Department of Justice**  
**Office of the Attorney General**

Report of the Attorney General

Milford Mustangs Youth Football and Cheerleading Association

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## **I. INTRODUCTION**

This report summarizes the findings and recommendations of the review of the Milford Mustangs Youth Football and Cheerleading Association (MMYFCA) and includes the Charitable Trusts Unit's recommendations for changes in board governance.

## **II. BACKGROUND**

The MMYFCA incorporated in the State of New Hampshire on December 6, 2005, and registered with the State of New Hampshire Charitable Trust Unit (CTU) on April 28, 2006. The organization is a subordinate of American Youth Football (AYF), a 501(c) (3) organization. The Articles of Agreement for the MMYFCA state that their purpose is "... to encourage youth to practice the ideals of sportsmanship, scholarship, and physical fitness by providing an organized and affiliated tackle football and cheerleading program, principally for the youth of the town of Milford, and if assigned, any adjoining communities..."

The CTU began receiving complaints about the MMYFCA in March of 2006. At that time, Board members complained about the number of friends and married couples who dominated the Board, making it difficult for dissenting views to be heard. Other grievances included improper voting procedures and attempts to remove directors who criticized the leadership. In addition, the Board refused to recognize its legal obligation to register with the CTU. In response to these complaints and issues, the CTU issued a letter informing the Board of its legal duty to register (March 28, 2006) and subsequently conducted a Board training (July 17, 2006).

Beginning in December 2009, the CTU once again received complaints, not only from current and past Board members, but from parents as well. Members complained that the original issues continued and new issues had developed. These new issues included violations of the MMYFCA's by-laws; failure of the Board to use Robert's Rules of Order; illegal Board votes; mismanagement of finances; and the exclusion of volunteer candidates from the ballot for Board members.

In February 2010, the CTU held a mediation session with the Board and the AYF. Few Board members attended with only three current and one former Board member present. In April 2010, the CTU held an open forum which nineteen people attended. Reports were made, prior to and during the open forum, of Board members resigning or being removed. Parents and Board members stated that voting was being done by secret ballots; fundraising was not happening; and there were on-going financial problems. Parents expressed disappointment that the MMYFCA could not hold a banquet for the children at the end of the season due to a lack of funds.

The complaints were summarized in a letter from the CTU to the Board of Directors, dated May 21, 2010. The list of grievances included many of the items mentioned above. It also highlighted member complaints about "bullying" by the Board. Parents told of intimidating emails and voicemails from Board members and worried that their children would face retribution if the parents spoke out against Board policies. Complaints about the Board continued throughout the spring and summer of 2010.

On May 27, 2010, the CTU sent a second letter to the Board of Directors. This letter questioned the changes that were made to the MMYFCA's by-laws and requested a response. To date, the Board has not responded to the questions posed.

Over the course of the organization's five year history, the CTU has logged over thirty complaints from eleven families. These complaints consistently point to problems with governance that impact the MMYFCA's ability to fulfill its charitable mission. As a result of these on-going complaints, the Director of the CTU issued a letter, on July 8, 2010, to the MMYFCA's Board of Directors initiating a review of the financial records in accordance with RSA 7:24. A second letter was sent to the Board encouraging the Board to execute requests for waivers in a timely manner. (The AYF requires the local team to sign a waiver before a child can play for another team.)

### **III. PROCESS**

The financial review was conducted with assistance from the Treasurer for the MMYFCA who served in this role from January 2009 through December 2010. An initial interview was conducted to document the organization's procedures for record retention, Board policies, Treasurer's duties, cash transactions, and fundraising efforts. Financial information for the prior three years was requested. Follow-up meetings and correspondence continued through the fall of 2010 in an effort to understand the current financial position and the issues causing the 2009 deficit. Federal form 990s, bank statements, and reports filed with the State of NH Charitable Gaming Commission were reviewed.

### **IV. FINANCIAL REVIEW - SUMMARY OF FINDINGS**

#### **A. General**

The financial review was significantly hindered by a lack of historical financial records. The Treasurer could provide financial records only for 2009 and 2010. Records from prior years were held by former Treasurers and not maintained by the organization. There were historical inconsistencies between the internal reports and the Form 990's filed with the IRS. There were also inconsistencies between reported enrollment numbers and program revenue. Budgets, fundraising results, and other information were not available for multiple years to allow for a full review. Financial information is currently kept in QuickBooks, but was previously done using Excel spreadsheets. Recommendations to address these issues are noted in Section V. It is noted that the Treasurer was cooperative with all aspects of this review. During her tenure, she has worked diligently to improve the financial record keeping process for the organization.

The information provided did allow for some obvious conclusions. Enrollment (and thus program revenue) has declined steadily. In 2007, there were 195 youth enrolled; in 2010, there are 112, a 33% decrease. In 2009, the MMYFCA suffered a \$16,000 loss as a result of the decline in enrollments, the record number of scholarships awarded, and a decrease in fundraising efforts. (Note: some of the expenses included in 2009's losses may relate to the prior year.) In 2010, the organization was faced with the need to raise funds for the current year, as well as to cover the prior year's loss.

**B. Cost to Enroll/Scholarships**

The registration fee has been \$200 per student since at least 2007. In addition, parents are required to purchase \$30 to \$40 of raffle tickets for a mandatory fundraiser. Registration fee discounts exist for children of coaches and Board members. There is a 10% discount for families who have two or more children registered. Full and partial scholarships are also awarded. The number of scholarships awarded per year varies significantly (three in 2007; ten in 2008; 32 in 2009; and three in 2010). The record number of scholarships awarded in 2009 was due in part to the general economic downturn and the organization's need to fill teams.

**C. Fundraising**

In addition to the enrollment raffle, the Board raises money through events such as youth dances, car washes, and the sale of Yankee Candles. The most significant fundraiser is the River Card Room which has been held for the past three years. The net income from these games of chance was \$8,500 in 2008; \$8,700 in 2009; and \$10,800 in 2010.

**E. Theft/Embezzlement**

In the course of our review, we found no evidence of fraud, embezzlement, or theft. However the financial information was sparse, incomplete, and inconsistent. The organization has a history of weak internal controls and systems. It has many cash transactions, including a concession stand at games and fundraising events. These conditions, along with inconsistent and weak reimbursement procedures provide an opportunity for misuse of funds to occur. These types of weak controls can also affect the public's trust in the organization. Recommendations to address these issues are noted in Section V.

**V. RECOMMENDATIONS**

It is beyond the scope of this review to determine the validity of each complaint received by the CTU. Due to the organization's lack of record keeping and accounting systems, a full financial review was not possible. Based on the number of complaints received and the financial condition of the organization, it is reasonable to conclude that the Board of Directors should and must change and improve its policies and procedures used to govern the organization.

This report therefore focuses on recommendations for improvements in governance and financial record keeping and includes a timeline and monitoring. It is expected that improvements in governance will reduce the number of complaints from the public. It will also create a more transparent organization and an opportunity to gain community support for a stronger organization.

Recognizing the need for improved governance and for stronger community involvement, the Board of Directors must implement the following changes to the organization's structure, and adhere to the compliance reporting schedule to the CTU.

**A. Board Training**

The most important, immediate, and on-going requirement for any well-functioning Board of Directors is training. Nonprofit boards consist of volunteers who do not always understand the duties and responsibilities associated with serving as a director. This organization is no exception. The problems caused by a lack of training are magnified by Directors who have served for extended terms, thereby institutionalizing policies that do not necessarily continue to meet the organization's best interest.

To address this issue each Board members will:

1. Receive and read the "Guidebook for New Hampshire Charitable Nonprofit Organizations" by March 31, 2011.
2. Attend at least four hours of training for Board members of nonprofit organizations by July 31, 2011. The Board of Directors may choose the training but it must be pre-approved by the CTU. The CTU offers the MMYFCA two hours of targeted board training at no charge.
3. Develop and implement a plan for on-going annual training and development for new and incumbent Board members by July 31, 2011.

**B. Advisory Committee**

The MMYFCA shall work with an advisory committee consisting of parents, an AYF representative, and community members experienced in working on nonprofit boards. The CTU will define the duties and scope of authority of the committee and will select its members from suggestions submitted by interested parties (including Board members and parents). The committee will have a limited term, and will advise the Directors as they develop and modify their operations, by-laws, and governance procedures. This committee will be in place by April 15, 2011.

**C. Election Procedures**

Many of the complaints from the public focused on the manner in which Board members and officers are elected. An effective board is open and diverse and incorporates regular turn-over for both officers and directors. The current By-Laws allow for unlimited board terms. Serving Board members determine which names will be on the ballot based on arbitrary "secondary qualifications."

Steps shall be taken to amend the By-Laws to establish term limits for all directors and officers, and to remove or modify the secondary qualifications for candidates listed under Article 4, section B. Related by-laws concerning probationary periods, and removal from office shall also be reviewed and modified.

The proposed amendments to the By-Laws regarding the election of directors and officers shall be submitted to the CTU for review by June 30, 2011.

**D. By-laws**

The By-Laws were modified and accepted by the Directors in March, 2010. A letter was sent from the CTU in May 2010 requesting clarification and explanations of terms. The questions posed in this letter must be considered by the Board and its Advisory Committee. A response to the questions, along with proposed changes to the by-laws shall be submitted to the CTU by May 31, 2011.

**E. Financial Reporting/Internal Controls**

The directors of any charitable organization have a fiduciary duty to operate in a fiscally responsible manner. Every board of directors must approve an annual budget. Equally important is its duty to monitor actual results against that budget. To accomplish these duties, the organization must have accurate historical financial records, realistic projections for the coming year, and the ability to produce regular, reliable financial reports. Record retention, timely filing of accurate IRS reports, control of expenditures and reimbursements, and monitoring cash transactions are also inherent in this fiduciary duty.

Financial reporting and internal controls must be institutionalized so that changes in board leadership do not impact the organization's ability to provide financial oversight. The MMYFCA's By-Laws address Board member transitions (Article 4, section 4); however, the policies have not been enforced. This must become a priority for the organization. To underscore the importance of financial reporting and internal controls, the Board of Directors of the MMYFCA shall present an annual budget approved by the Board and quarterly statements to the CTU thirty days after the close of each quarter beginning with the quarter ending March 31, 2011. (*See Attachment A for sample report*).

The MMYFCA has a history of weak and inconsistent financial reporting because each new Treasurer may change the computer, the software, or the procedures used to maintain the financial records. To address this issue, this report recommends that the MMYFCA purchase a computer and a financial software package so that the recordkeeping function will be owned and controlled by the organization.

**F. Fundraising**

The organization's By-Laws allow for a Fundraising Director position whose duties include submitting an annual plan for the Board's approval, coordinating fundraising events, and reporting to the full Board on the results of such events.

These duties are appropriate and will serve the organization well when the Board follows its By-Laws. The CTU will monitor compliance with these By-Laws by requiring a Fundraising Report to accompany the quarterly financial report due thirty days after the close of each quarter beginning with the quarter ending March 31, 2011 (*See Attachment A*). Accompanying the first report will be a plan adopted by the Board of Directors stating how it will include parents and members in the planning and execution of fundraising activities.

**G. Policies and Procedures for Scholarships/Waivers/Refunds**

Many of the complaints received by the CTU focused on the MMYFCA's procedures for approving waivers. The discretionary nature of a decision to award a scholarship, or approve a waiver or a refund makes the decision a target for public scrutiny and ill will. The MMYFCA shall work with the Advisory Committee to review and document the application and approval procedure for each of these actions. The result will be policies that are open to the public for scrutiny, and allow each individual applicant an opportunity for a fair, unbiased and timely review. These procedures will be presented to the CTU no later than May 15, 2011.

**H. Monitoring**

The CTU will receive and review the above reports and monitor complaints and activities of the MMYFCA through March 31, 2012. The changes identified in this report will strengthen the MMYFCA's ability to fulfill its charitable mission and to work effectively with its members and the larger community. Monitoring of the organization beyond this date should not be necessary. However, in the event that the prescribed actions and reports are not completed in a satisfactory manner, the CTU reserves the right to extend the oversight period.

# ATTACHMENT A

**Milford Mustangs**  
**Statement of Activities**  
For Fiscal Year Ending December 31, 2010

ATTACHMENT A

	Quarter Ending 12/31/10			YTD as of 12/31/10		
	Actual	Budget	Variance fav/(unfav)	Actual	Budget	Variance fav/(unfav)
<b>I. Income &amp; Enrollment</b>						
<b>A. Fundraising Events</b>						
<b>Gross Revenue from Fundraising Events:</b>						
Games of Chance - (per gaming reports)			\$0.00			\$0.00
Yankee Candle			\$0.00			\$0.00
Youth Dances			\$0.00			\$0.00
Carwash			\$0.00			\$0.00
Other -			\$0.00			\$0.00
<b>Total Gross Revenue from Fundraising</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Fundraising Expense:</b>						
Games of Chance (per gaming reports)			\$0.00			\$0.00
Yankee Candle			\$0.00			\$0.00
Youth Dances			\$0.00			\$0.00
Carwash			\$0.00			\$0.00
Other -			\$0.00			\$0.00
<b>Total Expenses related to Fundraising</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>NET FUNDRAISING REVENUE</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>B. Registration Data</b>						
Full registration fee per child						
Mandatory raffle fee per child						
Fee/child for coaches/BoD (incl raffle fee)						
Partial tuition scholarships - total gross rec'd						
# of registrants paying full fee						
# of registrants paying partial fees						
# of full scholarship registrants (pay \$0 fees)						
# of registrants of coach/board families						
<b>Total # Registrants</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Registration Income</b>			\$0.00			\$0.00
<b>Cost of scholarships &amp; coach/BoD discounts</b>			\$0.00			\$0.00
<b>C. Concession Income (Gross)</b>			\$0.00			\$0.00
<b>D. Interest Income</b>			\$0.00			\$0.00
<b>E. Other Income (Identify)</b>			\$0.00			\$0.00
<b>Total Income</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

**Milford Mustangs**  
**Statement of Activities**  
**For Fiscal Year Ending December 31, 2010**

	Quarter Ending 12/31/10			YTD as of 12/31/10		
	Actual	Budget	Variance fav/(unfav)	Actual	Budget	Variance fav/(unfav)
<b>II. Expense</b>						
Prof fees/pymnts to indep contractors (identify)			\$0.00			\$0.00
Occupancy, rent, utilities, maintenance			\$0.00			\$0.00
Printing, publications, postage, shipping			\$0.00			\$0.00
Insurance/D&O			\$0.00			\$0.00
Football & Cheerleading Equipment			\$0.00			\$0.00
Uniforms			\$0.00			\$0.00
Field Fees			\$0.00			\$0.00
Equip rental/maintenance			\$0.00			\$0.00
Concession Expense (food/apparel/supplies)			\$0.00			\$0.00
Fines (explain)			\$0.00			\$0.00
Annual banquet/trophies			\$0.00			\$0.00
Competition expense & travel			\$0.00			\$0.00
PayPal expense			\$0.00			\$0.00
Advertising			\$0.00			\$0.00
Bank fee			\$0.00			\$0.00
Condolence			\$0.00			\$0.00
Supplies/Other (explain)			\$0.00			\$0.00
<b>Total Expense</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Net Income/(Loss)</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income/(Loss) Per Form 990 EZ <i>Variance (explain)</i>				\$0.00		
<b>III. ASSET/LIABILITY REPORTING</b>						
Cash Balance per balance sheet						
Cash Balance - total per bank						
Variance	\$0.00			\$0.00		
Other Assets: (Identify)						
Accounts Payable (provide detail listing)						
<b>IV. Additional information requested:</b>						
Provide copy of year end Form 990.						
Provide copies of all quarter-end/year-end bank statements						
Provide copy of board approved budget						
Provide copy of full balance sheet and income statement						
Provide list of accounts payable as of quarter end and year end						
Provide copies of all gaming reports filed with State of NH Gaming Commission						