

Student Fees ~ A Brief Overview August, 2011

Legal Background:

1. 1879 Free school guarantee (CA Constitution, Article IX, Section 5)
2. 1940 "A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law." (Title 5, CA Code of Regulations CCR 350)
3. 1984 case of *Hartzell v. Connell* (35 Cal.3d.899 (1984)), the CA State Supreme Court concluded "that all educational activities carried on by public school districts, extra-curricular as well as curricular, must be without cost to the students who participate in such activities." This same ruling found that "mandatory fees for participating in such extra-curricular activities as drama, music, and athletic competition were illegal under the State Constitution." Furthermore, they also rejected the argument that "fees could be charged so long as the district waived fees for students who were financially unable to pay."
4. 2004 Williams Lawsuit – complaint addressed offering academic courses and extracurricular offerings in which the student cannot participate without paying a fee or obtaining a waiver
5. 2010 Doe vs CA Class Action Suit (ACLU) – "The settling parties agree that requiring public school students to pay fees or purchase materials for either curricular or extracurricular activities is prohibited by the CA Constitution."
6. November 9-10, 2010 – CA State Board of Education Item 17: Notification to School Districts Regarding Unlawful Charges of Mandatory Student Fees for Educational Activities, Supplies & Equipment – Voted 8-0 to approve motion to send a letter to school districts to:
 - a. Inform them that charging mandatory student fees for educational activities for curricular or extracurricular purposes, supplies, and equipment violates the California constitution and state laws; and
 - b. Request that they review their policies to ensure that no fees be charged in violation of the law.

What it Means

1. Cannot charge students fees for participation in curricular or extracurricular activities
2. Cannot establish a two-tier education system by defining some minimum educational standard as the requirement and then tell students that “there is also a second, higher standard which you can strive for, if you pay for rent or provide some specified additional supplies which the school does not provide”.
3. May ask for donations – Phrases suggested by FCMAT that can be inserted into existing forms:

California law does not allow school districts to charge fees to students for curricular and extracurricular activities. However, as you are aware, due to state budget cutbacks, schools can no longer afford to fund many of these activities. Therefore, we are requesting voluntary donations from parents to offset the costs of these programs. Parents are not required to make donations and all students may participate in extracurricular activities regardless of whether their parents make a donation.

 - a. You are not required to purchase any of these items.
 - b. Donations are voluntary and all students will be allowed to participate regardless of whether a donation is made.
 - c. A voluntary donation of \$___ is appreciated.
 - d. A _____ (\$20) donation to the art department is appreciated to help offset costs for this program and to maintain the quality of the art program that we have at _____ School.
 - e. Students who participate in the after-school athletic program are encouraged to support a one-time sports program donation of _____ (\$40), and a donation of _____ (\$25) per season for bus transportation. The program donation will help to cover the cost of uniforms, equipment, coaches, and officials for the year. The bus transportation donation will help to cover the cost of transportation to the away games during the season of sport.
 - f. We appreciate any donations made to this program.
4. May engage in fundraising – as long as a student who DOES NOT participate in the fundraising is not denied participation in the educational activity. MAY REQUIRE attendance at a fundraising event (ex. – choir presentation) – just as require attendance at rehearsals, practice or games.
5. There ARE exceptions to this rule, by law. (See attached for complete information – excerpts here) Schools may charge for:
 - Optional attendance as a spectator at a school/District activity
 - Food served to students (subject to free/reduced prices by law)
 - Replacement cost for books/supplies loaned to student
 - Fees for field trips/excursions so long as NO student is prevented from attending due to lack of funds
 - Medical/hospital insurance for field trips
 - Medical/accident insurance for athletic team members, so long as waiver for financial hardship
 - PE attire; however, school may NOT mandate purchasing from the school and no PE grade may be impacted based on failure to wear standardized apparel “arising from circumstances beyond the control” of the student.
 - Parking of vehicles on school grounds
 - Rent or lease of personal property needed for District purposes. Such as caps and gowns for graduation ceremonies

- Fees for school camp programs, so long as no student is denied opportunity to participate for nonpayment
- Reimbursement for the direct cost of materials for student projects that s/he keeps (wood shop, art, sewing, etc.)
- Costs of duplicating records
- Transportation to and from school
- Transportation for student to/from summer employment location
- Tuition for students whose parents are actual and legal residents of an adjacent foreign country or state
- Tuition fees from foreign students on F-1 visa
- Optional fingerprinting of students
- Community classes
- Deposits for band instruments, music, uniforms which school band members take to foreign countries
- Eye safety devices, at district's actual cost, for specified courses/activities

Attorney General Opinion:

1. Supplies must be furnished free of cost to students when the supplies are what might be termed school supplies and are necessary in order for the students to pursue a course of study.
2. Districts can recommend, and even make available, strictly optional materials for the students' personal benefit. (*Interpretation – for example - class lists of supplies*)
3. Teachers may make available a list of suppliers for tutorials, books, supplemental educational materials, or sell inexpensive quality paperback literature for leisure reading. (*Interpretation – for example - Book Fairs*)
4. Teachers may encourage students to use appropriate study aides as long as these purchases are strictly optional and in no way part of the regular instructional program....and there is no penalty for failure to use or purchase these materials.
5. May NOT charge a membership fee for student body as a condition for enrollment or participation in athletic or other curricular or extracurricular activities sponsored by the school (ASB cards may be sold to allow discounts or free entrance to games and social events.)
6. May NOT charge for CTE courses