

## TO CHARGE OR NOT TO CHARGE – THAT IS THE QUESTION

Article IX, Section 5 of the California Constitution mandates a system of “free schools.” Therefore, pupils enrolled in public schools are not required to pay any fees for their education, unless a charge is **specifically authorized by law** for a particular program or activity. This constitutional requirement is implemented through Title 5, California Code of Regulations, Section 350, which states: “A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law.”

### SCHOOL SUPPLIES

In the past year, there have been several complaints filed with the Educational Equity Compliance Office regarding educators requiring instructional materials from their students. Educators are prohibited from requiring course materials on their syllabi.

California Education Code Section 49011(a)(1) requires that “All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge”; and Code Section 60070, states “No school official shall require any pupil...to purchase any instructional material for the pupils' use in the school.” This means that schools cannot require students to purchase supplies (e.g., paper, pens/pencils/crayons, protractors, rulers, binders, workbooks, etc.) to participate in an educational activity.

Schools may request donations from parents and develop and distribute lists of school supplies that are presented to parents as *voluntary* or *recommended*. For a school supply solicitation to be truly voluntary:

- It must be made clear to parents that donations of school supplies in any quantity are appreciated, **but under no circumstances are they required.**

Clear communication is essential from all District sources as they pertain to fees. It is important to ensure that the information above is also reiterated in oral presentations and any time these matters appear in print.

The California Department of Education (CDE) has prepared additional guidance on pupil fee issues, accessible [here](#). If you have any questions regarding student fees in this area, please contact the [Educational Equity Compliance Office](#) at (213) 241-7682.

## **SCHOOL CHARGING FEES: *DO'S AND DON'TS***

### **A. INTRODUCTION**

1. Pupil fees: charges, security deposits, field trips payments, reimbursements, etc.
  - a. Donation requests: school letters, teacher syllabus/letters, wish lists, etc.
  - b. Fundraising activities: schools, teachers, students, booster clubs, etc.
2. Law and District policy: FAPE

### **B. FREE AND APPROPRIATE PUBLIC EDUCATION**

1. General: California Constitution mandates that we provide FAPE<sup>1</sup>
2. Specific: For **educational or extracurricular activities**, students not required to pay a **fee**.<sup>2</sup>
  - a. Educational or extracurricular activities definition: any activity that constitutes an integral fundamental part of education<sup>3</sup> (e.g., classroom, books, school fieldtrips, sport uniforms)
  - b. Pupil fee definition: any fee, deposit or charge imposed on students/parents

### **C. 10 EXAMPLES WHERE FEES ARE PROHIBITED**

1. Class Fee: Fee to register for a class or an extracurricular activity.
  - a. Admission charge to an activity (e.g., zoo) if part of education program (e.g., field trip)
  - b. Charge as a condition of enrollment in any class, including summer/vacation school
2. Supplies: All material and equipment needed to participate in educational activities shall be provided free of charge (e.g., books, paper, pencils/pens, crayons, or other *necessary* supplies)<sup>4</sup>
3. Required Summer Reading: All material including books shall be provided free of charge.
4. Student I.D.s: If required by the school for admission or school activities.
5. Security deposit:
  - a. Any deposit to get a book, class material, lock, locker, musical inst., uniform, etc.
  - b. Any deposit to guarantee a reimbursement for damage to school property.
6. Student Body Card: A purchase that pupils must make to get material, equipment, or uniforms for an educational activity. For example, membership fees in a student body as a condition to participate in athletic or extracurricular activities sponsored by the school.<sup>5</sup>

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<sup>1</sup> Cal. Const. Art. IX, Sec. 5

<sup>2</sup> 5 Cal. Code of Reg., Sec. 350

<sup>3</sup> Ed. Code 49010

<sup>4</sup> Ed. Code 38118

<sup>5</sup> Ed. Code 49010

7. Athletic/Band/Cheerleading Uniforms: Any uniform needed to participate in educational activities shall be provided to pupils free of charge.<sup>6</sup>
8. Team Members and Spirit Packs: Spirit packs may be sold, but a school cannot require a student to purchase a spirit pack as a prerequisite to participate in a sport.<sup>7</sup>
9. Transportation: Fees for transportation to and from school is not permitted for special education students.<sup>8</sup>
10. Fee Waiver: A school cannot charge improper pupil fees to students who can afford them, and have a waiver process for those students who can't afford them.<sup>9</sup>

#### **D. 10 EXAMPLES WHERE FEES ARE AUTHORIZED**

1. Lost/Damaged Property: Subject to due process procedures, payment for the replacement cost for district books, supplies or property loaned to a pupil that is not returned, or damaged.<sup>10</sup>
2. Food: Charges for food to pupils, subject to free and reduced price meal eligibility.<sup>11</sup>
3. Copying Records: Fees for the actual costs of copying student/public records, that is, 25 cents for the first page and 10 cents thereafter.<sup>12</sup> However, there are two exceptions:
  - a. No charge for furnishing up to two transcripts of former pupils.<sup>13</sup>
  - b. No charge if the cost would prevent special education parent from exercising the right to receive copies of student records.<sup>14</sup>
4. Materials: Reimbursement for direct cost of materials provided to a pupil for something the pupil has made to take home for his/her own, such as, wood shop, art, or sewing projects.<sup>15</sup>
5. AP Exam: Fees for AP exam for college credit, so long: (1) taking exam is not a course requirement; (2) the exam has no impact on grade or credit in a course; and (3) economically eligible students who receive District funding towards the exam shall pay 5 dollars of the fee.<sup>16</sup>
6. Parking on School Grounds: Fees to park on campus is permitted (e.g., student parking lot).<sup>17</sup>

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<sup>6</sup> Ed. Code 38118; 5 Cal. Code of Reg., Sec. 350

<sup>7</sup> Ed. Code 49010

<sup>8</sup> Ed. Code 39807.5(b), (d), and (f)

<sup>9</sup> Hartzell v. Connell, 35 Cal. 3d 899

<sup>10</sup> Ed. Code 19911 and 48904; BUL-5509.1

<sup>11</sup> Ed. Code 38082 and 38084

<sup>12</sup> Ed. Code 49063(h) and 49091.14; Gov. Code 6253; Parent/Student Handbook

<sup>13</sup> Ed. Code 49065

<sup>14</sup> Ed. Code 56504

<sup>15</sup> Ed. Code 17551

<sup>16</sup> Ed. Code 52240-52244, 52920-52922

<sup>17</sup> Ed. Code 35160; Vehicle Code 21113

7. Team Sport Insurance: Charges for required medical/accident insurance for athletic team members that are not paid by the District so long as there is a waiver for financial hardship.<sup>18</sup>
8. Medical Insurance/Field Trip: Medical or hospital insurance for field trips that is made available by the District.<sup>19</sup>
9. Transportation: With one exception (i.e., Special Education), charging fees for transportation to and from school is permitted.<sup>20</sup>
10. Books for Adult Classes:
  - a. The cost of books or refunded deposit for loaned books.<sup>21</sup>
  - b. The fees for course and books for adults but not for English or citizenship courses.<sup>22</sup>

### **E. 10 MISCELLANEOUS MATTERS**

1. Gym/P.E. Clothes: If gym clothes with the school's logo are *required*, the school must provide unless the pupil voluntarily purchases the gym clothes.
  - a. If the gym clothes do *not* require the school's logo (e.g., generic white shirt/black shorts), the school does not need to purchase them. Pursuant to District policy, however, the school will provide them if the failure to wear the gym clothes is beyond the student's control.<sup>23</sup>
  - b. The pupil's grade cannot be adversely affected for failing to wear the gym clothes if the failure is beyond the student's control.<sup>24</sup>
2. Cap and Gown: The high school graduation ceremony is an integral part of the educational process. Thus, the graduation ceremony is an educational activity under the law.<sup>25</sup>
  - a. Law: Schools cannot require students to purchase or rent a cap and gown.
  - b. Policy: If required at graduation, schools will provide "rental" caps and gown free of charge. Parents will have the option of purchasing a cap and gown as a keepsake.
3. Graduation Tickets: High school graduation ceremony is an integral part of the educational process. Thus, the graduation ceremony is an educational activity under the law.
  - a. Student: The student cannot be charged a fee to attend the ceremony.
  - b. Family: In general, a student's family cannot be charged a fee to attend the ceremony. Although not decided by any court, schools have been allowed to charge for tickets if they have supplied a reasonable amount (e.g., 4 to 8) of free tickets to the student's family.
4. Cheerleading Uniforms: Any cheerleading uniform needed to participate must be provided free of charge.<sup>26</sup> A parent, however, may purchase the uniform for their student as a keepsake.

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<sup>18</sup> Ed. Code 32220-32224

<sup>19</sup> Ed. Code 35331(b)(2)

<sup>20</sup> Arcadia Sch. Dist. v St. Dept. of Ed. 2 Cal. 4<sup>th</sup> 251

<sup>21</sup> Ed. Code 60410

<sup>22</sup> Ed. Code 52612

<sup>23</sup> BUL-6494.1

<sup>24</sup> Ed. Code 49066(c)

<sup>25</sup> Ed. Code 49010(a)

<sup>26</sup> Ed. Code 38118; 5 Cal. Code of Reg., Sec. 350

5. After-school Dance or Sporting Events: In general, if it is not an educational or extracurricular activity and attendance is optional, a school can charge a fee.<sup>27</sup> Thus, charging fees for optional attendance at school sponsored activities that are recreational (rather than educational) in nature, such as a weekend dance or an athletic event is legal.
6. Grad Night and Proms: If school sponsored, students may be charged for these activities under the same rationale to after-school dances.
7. Necessary Supplies: All necessary supplies needed to participate in educational activities shall be provided free of charge (e.g., paper, pencils/pens, crayons, or other *necessary* supplies).<sup>28</sup> If required, additional necessary supplies may include course workbooks, science lab manuals, graphing calculators, flash drives for courses, and academic planners.
  - a. Parent Purchases: In general, the law allows parents to purchase necessary supplies so long as the purchases are voluntary.<sup>29</sup>
  - b. Enrichment Literature/Material: In general, enrichment material is not part of the adopted curriculum. If enrichment material, however, is used as supplemental instruction material for a class or extra-curricular activity then it is a necessary supply which must be provided or loaned free of charge.
8. Optional Supplies: Schools can recommend or make available optional material for the student's benefit. For example, teachers may make a list of tutorials, books, study aids, or other supplemental material so long as they are not part of the regular instructional program.
9. School Uniforms: If required, it must be voluntary and must identify financial resources for students who are not able to comply due to financial hardship.<sup>30</sup>
10. Charter Schools: In general, as with public schools, the above prohibitions on pupil fees applies to charter schools.<sup>31</sup>

## **E. DONATIONS AND FUNDRAISING**

1. Schools can solicit voluntary donations of funds or property and request voluntary participation in fundraising activities.<sup>32</sup>
  - a. Donation or fundraising activities cannot be a prerequisite to an educational or extracurricular program.
2. See Attachment "A" for sample language as to the following: syllabus, wish lists, donation letters, P.E. uniforms, and lockers.

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<sup>27</sup> Ed. Code 40010-49013

<sup>28</sup> Ed. Code 38118

<sup>29</sup> Ed. Code 60310

<sup>30</sup> Ed. Code 35183

<sup>31</sup> Ed. Code 49010(a) and 49011(d)

<sup>32</sup> Ed. Code 49011(c)

## Pupil Fees Quick Guide

### What is a free public school system?

- The California Constitution provides for a free school system; this provision entitles students to be educated at public expense. “A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law.”

### What is an educational activity?

- An activity offered by a school or school district that constitutes an **integral fundamental part** of elementary and secondary education, including, but not limited to, **curricular and extracurricular** activities.

### What is a pupil fee?

- A fee, deposit, or charge imposed on pupils, or a pupil's parents or guardians, including:
  1. A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.
  2. A security deposit, or other payment, that a pupil is required to make to obtain a lock, locker, book, class apparatus, musical instrument, uniform, or other materials or equipment.
  3. A purchase that a pupil is required to make to obtain materials, supplies, equipment, or uniforms associated with an educational activity.

### What are the critical questions to consider regarding pupil fees?

- Is the fee specifically authorized by statute?
  - If so, the fee **can be** charged.
- If the fee is not specifically authorized by statute, does it relate to an activity that is an integral component of public education?
  - If so, the fee **cannot be** charged.

### What are some examples of prohibited pupil fees?

- “Necessary supplies” (e.g., paper, pens/pencils/crayons, protractors, rulers, binders, workbooks, etc.)
- Art and woodshop class materials (unless brought home)
- Gym clothes with school logo, if required
- Uniforms for sports and cheerleading
- Lab materials, including safety glasses
- Student IDs, if required for use on campus or for admission to school activities
- Required summer reading material
- Locks for lockers, if required
- Musical instruments (deposits for loss/damage are illegal)
- Admission to activity that is part of an educational program
- Summer school
- Membership in ASB as a condition for enrollment in school-sponsored activities
- Participation in athletic teams, theatre, music group
- Band instruments
- Deposit in the nature of a guarantee that district would be reimbursed for damaged school property
- Admission to fair/theatre when a visit is part of educational program
- Tuition or fee as a condition of enrollment in any class, including exam fee, fee for diploma or late registration fee
- Charges for textbooks or workbooks (except for classes for adults)
- Fees for processing inter-district transfer requests
- Reimbursement for lost ADA revenue for school absence

### Can a school solicit donations?

- Schools can solicit **voluntary** donations of funds or property, and **voluntary participation** in fundraising activities.

### Are there any fees authorized under California law?

- The legislature has passed a number of laws authorizing specific fees. Schools may, but are not required to charge the following fees:
  - ❖ **Materials and equipment:**

- Reimbursement for the direct cost of materials provided to a pupil for property the pupil has fabricated from such materials to take home for his/her own possession and use, such as wood shop, art, or sewing projects kept by the pupil.
- Charges for safety glasses, for a pupil to keep, so long as the school provides them free of charge for use in specified courses or activities involving the use of hazardous substances likely to cause injury to the eyes.
- Deposits for instruments for use on an excursion to a foreign country
- ❖ **Food:**
  - Charges for food served to pupils, subject to free and reduced price meal program eligibility and other restrictions specified in law.
- ❖ **Lost or damaged property:**
  - Payment for the replacement cost for district books, supplies or property loaned to a pupil that the pupil fails to return, or that are willfully cut, defaced or otherwise damaged, up to an amount not to exceed \$10,000, adjusted annually for inflation.
  - Lost student ID
- ❖ **Athletic team insurance:**
  - Charges for required medical and accidental insurance for athletic team members that are not paid by school district or student body funds, so long as there is a waiver for financial hardship.
- ❖ **Generic gym clothes that are a school's adopted colors:**
  - Schools may require students to buy their own gym clothes of the same color and design provided that they are the type sold for general wear outside of school and provisions are made to provide the uniform at no cost if failure to have or wear appropriate apparel arises from circumstances beyond the control of the student.
  - **DON'T:**
    - Charge students for gym clothes with a specific logo that is not found in general wear.
    - Require students to purchase clothes from school.
    - Grade students on failure to wear uniform "arising from circumstances beyond the control" of the student.
  - **DO:**
    - Provide free of charge specific logo gym clothes if they are the *required* uniform.
- ❖ Field trips, camps, and athletic/band activities, **provided no student is excluded due to inability to pay**
- ❖ Before and after school care **provided no student is excluded due to inability to pay**
- ❖ Voluntary fingerprinting of students
- ❖ Community services classes
- ❖ Transportation to and from school
- ❖ Parking on school grounds
- ❖ Sale or lease of internet appliances to parents to provide student access to school's educational network
- ❖ AP exams if exam is not a course requirement, results have no impact on grade, and economically disadvantaged students only pay \$5