



Fagen Friedman & Fulfroost LLP

Best Practices: Pupil Fees and Donations



San Dieguito Union High School District

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What We'll Cover Today

- Student fees
- Donations



Student Fees



Free Public Education

- California law requires school districts to provide a free public education to all students, unless the charge is specifically authorized by law (5 CCR § 350)
- Constitutional “Free School Guarantee”

The Legislature shall provide for a system of common schools by which **a free school** shall be kept up and supported in each district at least six months of every year, after the first year in which a school has been established.



Case Illustration

- Can a School Charge for Extra-Curricular Activities?
 - District experienced budget cut
 - District began charging students for participation in extracurricular activities (i.e., drama, music, and athletic programs) that did not yield credit
 - Fee waiver for student unable to pay



Hartzell v. Connell

(1984) 35 Cal.3d 899 (California Supreme Court)

■ Court held:

- Educational activities, curricular and extracurricular, fall within the “free school guarantee”
- Waiver and outreach do not equate with guarantee of free schools
- Budget hardship is not relevant to guarantee of free schools



Hartzell v. Connell

(1984) 35 Cal.3d 899 (California Supreme Court)

Must keep free activities which are an “integral fundamental part of the elementary and secondary education” and which are “necessary elements of any school’s activity”



Case Illustration: The ACLU Lawsuit

Facts:

- School districts charged fees for extra-curricular activities
- Fees went beyond extra-curricular activities, included necessary materials and supplies such as textbooks, workbooks, lab fees, and art materials

Outcome:

- ACLU and State of California reached a settlement, which called for several specific actions to be taken by the State

Case Illustration: The ACLU Lawsuit

Required Actions:

- State to issue specific guidelines and pass new legislation detailing which fees may or may not be charged
- State to review past practices of school districts as part of its annual audit
- Parents and students can use the Williams Uniform Complaint process to apply for reimbursement of previously charged fees

Assembly Bill 1575 (2012)

Added sections 49010 through 49013 to the Education Code

Codified existing student fees requirements and added new uniform complaint procedures

Still largely undeveloped and uncertain area of law

Pupil Fee

Any fee, deposit, or other charge imposed
as a condition of a student's participation in
an educational activity

No pupil shall "be required to pay a pupil fee
or participation in an educational activity"

Pupil Fee

Specifically includes:

- ❑ Charging pupil fees as condition for participation in class or extracurricular activity
- ❑ Requiring students to make payment to obtain a lock, locker, book, class apparatus, musical instrument, uniform, or “other materials or equipment”
- ❑ Requiring students to make a purchase to obtain materials, supplies, equipment, or uniforms associated with an educational activity

Educational Activity

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

atutory Mandates

Required

- All supplies, materials, and equipment needed to participate in educational activities must be provided free of charge

Prohibited

- Fee waivers or "opt-outs"
- "Two-tier" educational system
- Course credit or privileges in exchange for \$\$ or donations
- Removing course credit or privileges because pupil did not, or will not, provide \$\$ or donations

Permissible Student Fees



Impermissible Fees



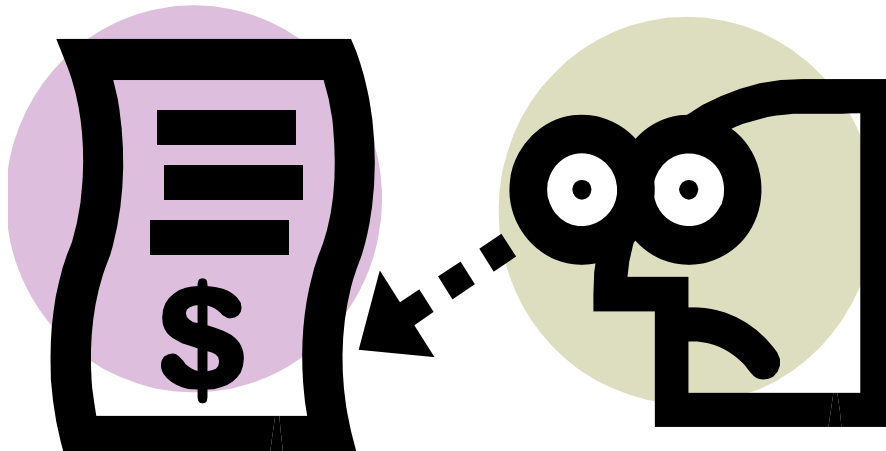
Fundraising and Donations

Permissible for school to:

- Solicit voluntary donations
- Solicit voluntary participation in fundraising activities
- Provide students with “prizes or other recognition” for voluntarily participating in fundraising activities

Bottom Line

If it's necessary for participation in the school-sponsored program or activity, you may not charge (unless authorized by law)

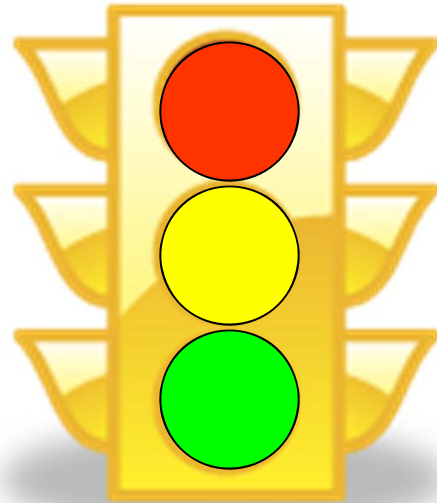


undraising



Fundraising Avenues

- Fees/Charges
- Parent Group Fundraising
- Education Foundations



Fundraising

- Permissible, as long as raising of funds is voluntary
- Not allowed: requiring that students raise funds or pay fee themselves

Understand that cheer is an expensive sport. To assist you in paying the fees we will be offering fundraisers where the extra money earned can be applied directly to squad member's individual fees. We need parents to be in charge of the various fundraisers. Please be ready to sign up and

Fundraising (cont.)

- Allowed: requiring a student to attend a fundraising event in same way as attendance at games, rehearsals, performances
- Example:
 - Requiring members of choir to perform at a school fundraising concert

Fundraising Always Needs A Disclaimer

“Not related in any way to
student participation in
activity or program”

Where appropriate → “Not an
activity of school district”



Donations

- Schools, foundations, booster clubs may solicit donations from students, parents, community
- “As long as process is voluntary” and in “no way prerequisite to participation in program or activity”

a list of uniform pieces that are *required for the season and the approximate “donation” needed for
expense. It does not include tax or shipping. If you cannot afford these required uniform pieces, please
with one of us privately regarding this issue so we can accommodate your son/daughter’s needs as

Donations (cont.)

- Any statement or explanation related to a donation that could lead a reasonable person to believe that the donation is not truly voluntary should be avoided
- Examples:
 - Specified minimum amount of donation
 - Date by which donation is due
 - Lesser donation amount if funds are received early

Donations (cont.)

- Any statement or action that exerts explicit or implicit pressure on students or parents to make donation should be avoided
- Examples:
 - Reprimanding player for failure to make donation
 - Barring player from tryouts for not paying fee to attend summer camp
 - Requiring a “donation” for required part of cheerleading uniform

Donations (cont.)

Not violation: positively recognizing players
and families who donate

Donations/Fundraising Strategy

■ District Policy Initiative

- Shift from individual requirement to group fundraising
- Approach from program-needs standpoint



Donations/Fundraising Suggestions

■ Not allowed: Parent letter stating that the “required donation” is \$180 for uniform

■ Allowed:

- Selling *optional* spirit packs (make it clear)
- Sending letter soliciting *voluntary* parent donation to program (again, make it clear)
- Providing *option* of keeping items students willing to pay for

B 1575: Consequences for Non-Compliance

A complaint may be filed under the District's Uniform Complaint procedures

If complaint has merit, District must provide a remedy to all persons affected, including reasonable efforts by the school to ensure full reimbursement



B 1575: Consequences for Non-compliance

Right to appeal to CDE if unsatisfied with local district decision

CDE must respond within 60 days of appeal receipt

If CDE finds merit in complaint, the school will be required to remedy the situation to all parties affected, including reasonable efforts to ensure full reimbursement

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3 student



awards

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