

Fees and Charges

A. PURPOSE AND SCOPE

The Governing Board desires to furnish books, materials and instructional equipment as needed for the educational program. Because the needs of the district must be met with limited available funds, the Board may charge fees when specifically authorized by law.

B. GENERAL

The district shall charge only those fees specifically authorized by law.
(5 CCR 350) The following fees and charges are permitted by the Governing Board:

1. Insurance for athletic team members, with an exemption providing for the district to pay the cost of the insurance for any team member who is financially unable to pay (Education Code 32221) (cf. 5143 - Insurance)
2. Insurance for medical or hospital service for students participating in field trips and excursions (Education Code 35331)
3. Expenses of students' participation in a field trip or excursion within the state or to another state, the District of Columbia, or a foreign country, as long as no student is prohibited from making the field trip due to lack of funds (Education Code 35330) (cf. 6153 - School-Sponsored Trips)
4. Student fingerprinting program as long as the fee does not exceed the actual costs associated with the program (Education Code 32390) (cf. 5142.1 - Identification and Reporting of Missing Children)
5. School camp programs in outdoor science education, conservation education, or forestry operated pursuant to Education Code 8760-8774 provided that the fee is not mandatory and no student is denied the opportunity to participate for nonpayment of the fee (Education Code 35335) (cf. 6142.5 - Environmental Education)
6. Reimbursement for the direct cost of materials provided by the district to a student for the fabrication of nonperishable personal property the student will take home for his/her possession and use, such as wood shop, art, or sewing projects kept by the student (Education Code 17551)
7. Home-to-school transportation and transportation between regular, full-time day schools and regional occupational centers, programs or classes, as long as the fee does not exceed the statewide average non-subsidized cost per student and so long as exemptions are made for indigent and disabled students (Education Code 39807.5) (cf. 3250 - Transportation Fees)
8. An adult education or secondary school community service class in civic, vocational, literacy, health, homemaking, and technical and general education, not to exceed the cost of

- maintaining the class (Education Code 51810-51815) (cf. 6142.4 – Service Learning/Community Service Classes)
9. Transportation to and from their places of employment in connection with any summer employment program for youth (Education Code 39837)
 10. Sale or lease of personal computers or Internet appliance that allow a person to connect to or access the district's educational network, provided that the items are sold or leased to parents/guardians at no more than cost and the district provides network access for families who cannot afford it (Education Code 17453.1) (cf. 0440 – District Technology Plan) (cf. 6163.4 – Student Use of Technology)
 11. Deposit for school band instruments, music, uniforms and other regalia which school band members take on excursions to foreign countries (Education Code 38120)
 12. Eye safety devices worn in courses or activities involving the use of hazardous substances likely to cause injury to the eyes, when being sold to students and/or teachers or instructors to keep and at a price not to exceed the district's actual costs Eye safety devices, at a price not to exceed the district's actual costs (Education Code 32033) (cf. 3514.1 Hazardous Substances) (cf. 5142 - Safety)
 13. Actual cost of furnishing copies of any student's records, except that no charge shall be made for furnishing up to two transcripts or two verifications of a former student's records or for reproducing records of a student with a disability when the cost would effectively prevent the parent/guardian from exercising the right to receive the copies (Education Code 49065, 56504) (cf. 5125 – Student Records)
 14. Actual cost of duplication for copies of public records (Government Code 6253) (cf. 1340 - Access to District Records)
 15. Actual cost of duplication for reproduction of the prospectus of school curriculum (Education Code 49091.14) (cf. Government Code 6253)
 16. Food sold at school subject to free and reduced price meal program eligibility and other restrictions specified in law (Education Code 38084) (cf. 3550 – Food Service/Child Nutrition Program) (cf. 3551 - Food Service Operations/Cafeteria Funds) (cf. 3552 – Summer Meal Program) (cf. 3553 - Free and Reduced Price Meals) (cf. 3554 - Other Food Sales)
 17. As allowed in law, replacement cost or reimbursements for lost or willfully damaged district books, supplies, or property or for district property loaned to a student that he/she fails to return (Education Code 19910-19911, 48904) (cf. 3515.4 - Recovery for Property Loss or Damage)
 18. Tuition for district school attendance by an out-of-state and out-of-country resident (Education Code 48050, 48052, 52613; 8 USC 1184) (cf. 5111.2 - Nonresident Foreign Students)

19. Adult education books, materials, transportation, and classes, except that no fee may be charged for classes in elementary subjects, classes for which high school credit is granted when taken by a person who does not hold a high school diploma, or classes in English and citizenship (Education Code 39801.5, 52612, 60410) (cf. 6200 - Adult Education)
20. Preschool and child care and development services, in accordance with the fee schedule established by the Superintendent for Public Instruction, unless the family qualifies for subsidized services or the program is for severely disabled children and the student is eligible to enroll in it (Education Code 8239, 8250, 8263) (cf. 5148 - Child Care and Development)
21. Participation in a before-school or after-school program that is funded as an After School Education and Safety (ASES) program, 21st Century Community Learning Center (21st CCLC), or 21st Century High School After School Safety and Enrichment for Teens program, provided that fees are waived or reduced for families with students who are eligible for free or reduced-price meals and, in regard to ASES and 21st CCLC programs, fees are not charged if the district knows the student is a homeless or foster youth (Education Code 8422, 8482.6) (cf. 5148.2 – Before/After School Programs) (cf. 6173 – Education for Homeless Children) (cf. 6173.1 Education for Foster Youth)
22. Advanced Placement and International Baccalaureate Diploma examinations for college credits, as long as the examination is not a course requirement and the results have no impact on student grades or credits in the course (cf. 6141.4 – International Baccalaureate Program) (cf. 6141.5 – Advanced Placement)
23. Parking on school grounds (Vehicle Code 21113)

Additional information is included in the attached guidelines for Permissible Student Fees.

C. FORMS USED AND ADDITIONAL REFERENCES

Various

Application for Bus Transportation (see BP & AR 3250)
 Student Body Fee Application Form

D. PROCEDURE

1. Exemption from Permissible Fees:

Eligibility for exemption from permissible fees shall be based on the income eligibility scales used for the free and reduced-price lunch program, registration as prescribed by the McKinney-Vento Homeless Assistance Act, and/or proof of receipt of Temporary Assistance to Needy Families (TANF). Designated School District officials may require proof of income to support the claim for eligibility.

Other proof of income may include paycheck stubs, a letter from an employer, social security or other pension benefits letters, unemployment letters or check stubs, court orders or agreements of support and tax returns voluntarily provided or if self-employed. However, if an applicant prefers not to provide tax information and the district representative believes

there is insufficient evidence to grant an exemption from permissible fees, the exemption may be denied.

All applications and records related to eligibility for exemption shall be confidential and open only for purposes directly connected with charging permissible student fees.

Students granted exemption from permissible student fees shall not be identified by the use of special passes, tickets, lines, seats or any other means. They shall in no way be treated differently from other students, nor shall their names be published, posted or announced in any manner or used for any other purpose than for eligibility for exemption from permissible fees.

Recipients of Aid for Families with Dependent Children may apply for exemption from permissible student fees by showing their monthly Medi-Cal or other subsidized insurance card rather than completing an application form.

2. Fee Schedule:

Unless exempted, the parents/guardians of students shall be charged permissible fees in accordance with Board-approved schedules.

Fees may be paid at applicable schools or offices. No money will be collected on school buses.

E. REPORTS REQUIRED

None.

F. RECORD RETENTION

Documentation provided as proof of income to support the claim for eligibility shall be shredded and destroyed once eligibility has been determined or denied.

G. RESPONSIBLE ADMINISTRATIVE UNIT

Various

H. APPROVED BY

Assistant Superintendent for Business Services

Tracy Unified School District Permissible Student Fees

July 1, 2017

Contents

Overview..... 2
General Rules..... 3
Permissible Student Charges and Fees 4
Impermissible Student Charges and Fees..... 10

Overview

This manual provides general guidelines and procedures regarding permissible and impermissible student fees, charges, and donations, as well as organizing fundraisers.

The California Constitution¹ provides for a free school system. Since 1874, the California Supreme Court has interpreted this to mean that this entitles students to be educated at public expense². The resultant free school guarantee specifies that “A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law³.” School districts may thus not levy students any fee, charge, or deposit for curricular, extracurricular, credit, or non-credit activities that are part of the District or a school site’s educational program⁴.

To determine if a fee may be charged, a simple test may be applied. “It should be determined whether a fee for a particular item is specifically authorized by statute. If not, it should be determined whether a particular item is required by law to be furnished free or whether it comes under the category of ‘necessary supplies.’ If it does, then the district must furnish the item without charge” (California Department of Education, FISCAL MANAGEMENT ADVISORY 97-02, SUBJECT: Fees, Deposits, and Other Charges at page 5 (October 30, 1997)). There are specific statutes in the Education Code and other laws which identify definite circumstances when fees and charges are permissible. Those specific situations are included in this manual.

Nothing in the law prohibits voluntary donations, contributions, and fundraising by students and their families to support District and school site programs, so long as monetary donations, contributions, and fundraising activities are not made mandatory for students and their families and there are no conditions placed upon the donation.

Charges by private businesses to students for services that are not integral parts of the District or a school site’s educational program are permissible, even if facilitated by the District or school site (e.g., school pictures or sports pictures).

To help our families and community understand how they can best support the programs their children are participating in, clear communication is critical. Should you have questions regarding student fees, charges, donations, or fundraisers, contact your child’s site principal or the Business Services Department at 830-3230.

¹ California Constitution, Article IX, Section 5.

² Wade v. Flood, 48 Cal. 36 at 51 (1874)

³ California Code of Regulations, Title 5, Section 350.

⁴ Ops. Cal. Atty. Gen., No. NS-4114 (1942) & NS-5031 (1943)

General Rules

| Rule | Authority |
|---|--|
| The free school guarantee under the California Constitution prohibits charging students any fee, charge or deposit for curricular, extracurricular, credit, or non-credit activities that are part of the District's or a school site's educational program. | <ul style="list-style-type: none"> • California Constitution, Article 9, § 5 • Hartzell v. Connell⁵ (1984) 35 Cal. 3d 899 • California Code of Regulations, Title 5, § 350 |
| Fees and charges are permissible where specifically authorized by the Education Code. | <ul style="list-style-type: none"> • California Code of Regulations, Title 5, § 350 |
| Voluntary donations, contributions, and fundraising by students and their families to support District and school site programs are always permissible, so long as donations, contributions, and fundraising activities are not made mandatory for students and their families. | <ul style="list-style-type: none"> • Ed. Code, §§ 41032, 41037 • Ed. Code, § 35160 et seq. • Ed. Code, §§ 51520, 51521 • 81 Ops. Cal. Atty. Gen. 153 (1998) |
| Charges by private businesses to students for services that are not integral parts of the District or school site's educational program are permissible, even if facilitated by the District or school site (e.g., school pictures or sports pictures). | <ul style="list-style-type: none"> • California Constitution, Article 9, § 5 • Hartzell v. Connell (1984) 35 Cal. 3d 899 |

⁵ In the landmark case of Hartzell v. Connell (35 Cal. 3d 899, (1984)), the California Supreme Court held that fees may not be charged for “educational activities,” even when such were considered “extra-curricular.” The court found that the imposition of fees for educational activities offered by public high school districts violates the free school guarantee of the California Constitution (California Code of Regulations, Title 5, Section 350). Both of these are “laws” within the meaning of the “permissive Education Code” (EC§ 35160) which allows school districts to carry on any activity or act in any manner “which is not in conflict with or inconsistent with, or preempted by, any law....”

The court decided that extracurricular activities were “an integral component of public education” and therefore fees could not be charged for extracurricular activities such as drama, cheerleading, singing, and athletics. Moreover, the court stated, “The constitutional defect in such fees can neither be corrected by providing waivers to indigent students nor justified by pleading financial hardship” (Hartzell v. Connell, 35 Cal. 3d 899, (1984)).

Exception: The court did state that fees may be charged for purely “recreational” activities, such as attending school dances. But note that even recreational activities may have an educational character in some circumstances.

Permissible Student Charges and Fees

| Permissible Charge | Authority |
|--|---|
| Fabrication-Purchase Fees | <p>Education Code § 17551</p> <p>(Students may be charged a fabrication purchase fee for the direct costs in purchasing a project/property fabricated in a class such as a bookcase in woodshop. The charge is limited to the direct costs for the project. Absent purchase of the project for its direct costs, the school site may keep the project as its own personal property. Distinct from a fabrication/purchase fee for direct costs, up front general fees for supplies are <i>not</i> permissible.)</p> |
| Charge for damaged school property of failure to return school property on loan to student | <p>Education Code § 48904, subd. (b)(1) (“Any school district ...whose real or personal property has been <i>willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee of the district...</i>authorized to make the demand may, after affording the pupil his or her due process rights, <i>withhold the grades, diploma, and transcripts of the pupil responsible for the damage</i> until the pupil or the pupil’s parent or guardian has paid for the damages thereto, as provided in subdivision (a).”).</p> |
| Science Camp Fees | <p>Education Code §§ 35335 and 8760</p> <p>(While the Education Code allows for this fee, it cannot be mandatory, and a student cannot be denied the opportunity to participate in science camp for nonpayment of the fee.)</p> |

Permissible Student Charges and Fees (cont.)

| Permissible Charge | Authority |
|--|--|
| <p>Transportation Fees for transporting students to and from school⁶, or between school and occupational training courses</p> | <p>In <i>Arcadia Unified School District v. State Dept. of Ed.</i> (1992) 2 Cal. 4th 251, the California Supreme Court held that the free school guarantee applies only to “educational activities” and, as a result, transportation fees under Education Code section 38907.5 were permissible.</p> <p>(The fee shall not be greater than the statewide average non-subsidized cost of providing this transportation to a student on a publicly owned or operated transit system, and no fee shall be charged indigent or handicapped children).</p> |
| <p>Field Trip Transportation Fees⁷ and Extra-Curricular Activities</p> | <p>Education Code § 35330 allows for charging a fee for the direct transportation costs for field trips, <i>students cannot be denied the opportunity to participate in the field trip for lack of sufficient funds.</i></p> |

⁶ Transportation to and from school has been held by California Supreme Court as “non-educational.” The court said, “Although in *Hartzell* we adopted a broad understanding of what activities are protected as educational, we did not extend that expansive understanding of the free school clause beyond the realm of educational activities to noneducational supplemental services. Transportation is simply not an educational activity. It is not protected by the reasoning of *Hartzell*” (*Arcadia Unified School District v. State Department of Education*, 2 Cal. 4th 251 at 262-263 (1992)).

⁷ The ruling in *Arcadia Unified School District v. State Dept. of Ed.* (1992) 2 Cal. 4th 251, held that the free school guarantee applies only to “educational activities” and, as a result, transportation fees under Education Code section 38907.5 were permissible. Furthermore, Education Code § 35330 states, in part, that the governing board may conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or school band activities to and from places in the state, any other state, the District of Columbia, or a foreign country for pupils enrolled in elementary or secondary schools. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for pupils. Though the district may conduct these trips, it must ensure that no pupil shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end, the organizer of the event shall coordinate efforts of students, parents, booster clubs, community service groups, and other interested parties to supply funds to cover the cost of transportation to extra-curricular and co-curricular activities. Stated differently, transportation to these types of activities shall be funded exclusively from donations and fund-raising activities. No fee shall be charged to fund transportation to these events, and no group shall be authorized to take a field trip or excursion if a pupil who is a member of an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

Within these parameters, no expenses of pupils participating in a field trip or excursion to another state, the District of Columbia, or a foreign country authorized by this section shall be paid with school district funds. No transportation allowances shall be made by the Superintendent for expenses incurred with respect to field trips or excursions that have an out-of-state destination.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district and the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All

Permissible Student Charges and Fees (cont.)

| Permissible Charge | Authority |
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| Transportation Fees for transporting students to and from their places of employment during the summer in connection with any summer employment program for youth. | Ed. Code, § 39837 (“The governing board of any school district may use and operate any bus owned or under lease to the district for the transportation of pupils to and from their places of employment during the summer in connection with any summer employment program for youth. The governing board shall require the payment of a reasonable charge for transportation so furnished....”) |
| Parking Fees | Consistent with the ruling in <i>Arcadia Unified School District v, State Dept. of Ed.</i> (1992) 2 Cal. 4 th 251, and transportation fees under Education Code section 39807.5, Vehicle Code section 21113 gives the District authority to limit and impose conditions on parking on school grounds, and parking on school grounds is not an educational activity. Therefore, high schools may impose a reasonable parking fee. |
| Insurance for Athletic Team Members | Ed. Code, § 32221 (If a member of the team is financially unable to pay the cost of insurance, the district must cover the cost.) |
| Insurance for Medical or Hospital Service for students participating in excursions and field trips | Ed. Code, §§ 35330, subd. (b)(1), 35331 (No student may be prevented from making the excursion or field trip because of lack of sufficient funds.) |

adults taking out-of-state field trips or excursions and all parents or guardians of pupils taking out-of-state field trips or excursions shall sign a statement waiving all claims.

Notwithstanding these legal findings and educational code citations, it is the legal opinion of the California Department of Education that school districts may not charge students a fee for transportation to and from extra-curricular activities. The Department believes “Transportation to and from after-school/extra-curricular activities is an integral part of some extra-curricular activities. However, the opinion also notes that if transportation to and from extra-curricular activities is purely for transportation purposes, and is not truly a part of the extra-curricular activity itself, then it is constitutionally possible to charge fees for that transportation.

Based on legal findings and explicit authorization in the education code, Tracy Unified School District will continue to charge authorized fees for the direct transportation costs for field trips, including trips associated with courses of instruction or school-related social, educational, cultural, athletic, or school band activities to and from places in the state, any other state, the District of Columbia, or a foreign country for pupils enrolled in elementary or secondary schools. *Students shall not be denied the opportunity to participate in the field trip for failure to pay the fee.*

| Permissible Charge | Authority |
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| Student Fingerprinting Program | Ed. Code, § 32390 (The fee shall be calculated to reimburse the district only for the actual costs of the fingerprinting program.) |
| Deposits for school band instruments, music, uniforms, and other regalia that the band members take with them on excursions to foreign countries | Ed. Code, § 38120 (As described below in Impermissible Fees, such a fee or deposit is not permitted for band instruments, music, uniforms, and other regalia when not for the specific use on excursions to foreign countries.) |
| Fees for Community Service Classes | Ed. Code, § 51815 (The fees may not exceed the cost of maintaining such classes.) |
| Eye Safety Devices | Ed. Code, § 32033 (“eye protective devices may be sold to the pupils and teachers...at a price that shall not exceed the actual cost of the eye protective devices to the school or governing board.”) |
| Copies of Public Record | Gov. Code, § 6253 (The charge is limited to the direct costs of duplication.) |
| School Curriculum Prospectus | Ed. Code, § 49091.14 (“When requested, the prospectus shall be reproduced and made available. School officials may charge for the prospectus an amount not to exceed the cost of duplication.”) |
| Food Sold at School | Ed. Code, § 38084 (This is limited by and subject to free and reduced price meal program eligibility and other restrictions specified in law.) |
| Tuition for students whose parents are actual and legal residents of any adjacent state or adjacent foreign country | Ed. Code, §§ 48050, 48052, 52613 8 U.S.C. § 1184 |
| Childcare and Development Services | Ed. Code, § 8263, subd. (g)(1) |
| Yearbooks | The sale of yearbooks is an ASB fundraising activity, and possession of a yearbook is not an integral part of the educational process. |

Permissible Student Charges and Fees (cont.)

| Permissible Charge | Authority |
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| <p>Adult Education Classes, Books, and Materials, as specified in law</p> | <p>Ed. Code, §§ 52612, 60410</p> <p>(There exist limitations to such fees and charges under Education Code section 52612, which are discussed below under Impermissible Fees.)</p> |
| <p>Certain Adult Education Instruction for Nonimmigrant Aliens</p> | <p>Ed. Code, § 52613 (If the District offers “classes for adults that issues a Certificate of Eligibility for Nonimmigrant (F-1) Student Status – For Academic and Language Students, Form I-20AB, or completes Form I-20AB for a nonimmigrant alien, for the purposes of enrolling the nonimmigrant alien in a class in English and citizenship for foreigners or a class in an elementary subject, shall charge the nonimmigrant alien a fee to cover the full costs of instruction, but in no case shall the fee exceed the actual cost of the instruction...”)</p> |
| <p>Physical Education Uniforms⁸</p> | <p>Ed. Code, § 49066 CDE Fiscal Management Advisory 97-02 (“CDE Fiscal Advisory”)</p> <p>(The design and color must be of a type sold for general wear outside school, and the student’s grade may not be adversely affected due to the fact that the student does not wear the uniform arises from circumstances beyond the student’s control.)</p> |

⁸ Although grades are normally determined by the teacher, “No grade of a pupil participating in a physical education class, however, may be adversely affected due to the fact that the pupil does not wear standardized physical education apparel when the failure to wear such apparel arises from circumstances beyond the control of the pupil” (EC§ 49066). The latter circumstances may include a lack of funds, or merely an unwillingness by the family to pay for specialized apparel. Furthermore, school districts “shall provide for the annual cleaning, sterilizing, and necessary repair of football equipment” (EC§§ 17578 & 17579). School districts may, however, provide for the required annual cleaning and repair of athletic uniforms without using school funds when donations are voluntarily given to cover such expenses. The attorney general stresses that “The ‘voluntariness’ of the donation is the critical factor...otherwise the district would have the duty to pay for these expenses” 81 Ops. Cal. Atty. Gen. 153 at 155-156 (1998).

Permissible Student Charges and Fees (cont.)

| Permissible Charge | Authority |
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| <p>Workbooks or other instructional packets, if such materials are also available free of costs, under specific conditions</p> | <p>So long as workbooks and the instructional materials are provided free of costs, the District may impose a direct costs fee for the voluntary purchase of the workbook or instructional materials. The materials must be made available free of costs to students who do not wish to purchase them, and actual ownership of the materials cannot be required to success or completion of the curriculum (e.g., students cannot be required to turn in assignments taken directly from a workbook or expend funds to copy the workbook materials on loan in order to turn in the assignment.)</p> |

Impermissible Student Charges and Fees

| Impermissible Charge | Authority/Explanation |
|---|--|
| Instructional Materials ⁹ | Ed. Code, § 60070 (“No school official shall require any pupil...to purchase any instructional material for the pupil’s use in the school.”) |
| Necessary School Supplies ¹⁰ | Ed. Code, § 38118 (“Writing and drawing paper, pens, inks...crayons, lead pencils, and other necessary supplies for the use of the schools, <i>shall be furnished</i> under direction of the governing board of the school district.”) |
| Band Instruments, band and choir uniforms | Ed. Code, § 38111 (There is an exception to this rule discussed above in Permissible Fees for purposes of excursions to foreign countries.) |
| Participation in any District or school site athletic or other extracurricular offering such as band, choir, or drama | <ul style="list-style-type: none"> • California Constitution, Article 9, § 5 • Hartzell v. Connell (1984) 35 Cal. 3d 899 • California Code of Regulations, Title 5, § 350 |
| Student body membership fees as a condition for enrollment or participation in curricular or extracurricular activities sponsored by the school | <ul style="list-style-type: none"> • Hartzell v. Connell (1984) 35 Cal. 3d 899 • California Code of Regulations, Title 5, § 350 • CDE Fiscal Advisory |

⁹ “No school official shall require any pupil, except pupils in classes for adults to purchase any instructional material for the pupil’s use in the school” (EC§ 60070). “Instructional materials” include “all materials that are designed for use by pupils and their teachers as a learning resource and help pupils to acquire facts, skills, or opinions or to develop cognitive processes. Instructional materials may be printed or non-printed, and may include textbooks, technology-based materials, other educational materials, and tests” (EC§ 60010). If an instrumental music program is offered, clearly musical instruments would be included as instructional materials which must be provided without charge.

¹⁰ California law (EC§ 38118) provides “Writing and drawing paper, pens, inks, blackboards, blackboard erasers, crayons, lead pencils, and other necessary supplies for the use of the schools, shall be furnished under direction of the governing boards of the school districts.” Based on this section, the Attorney General (39 Ops. Cal. Atty. Gen. 136, 1962) has concluded that materials for art classes, wood for carpentry classes, gym suits and shoes for physical education classes, and bluebooks necessary for examinations must be furnished by school districts without charge as “necessary supplies.” Such supplies “appear to be supplies that must be available to students in order to participate in regular classroom work in the particular subjects involved.” The State Department of Education supports this view (Fiscal Management Advisory 87-03, dated September 11, 1987 and Fiscal Management Advisory 97-02 dated October 30, 1997). In addition, if the school is required to furnish necessary supplies, it is also responsible for regular upkeep and maintenance of those supplies. Attempts to impose an unconditional obligation on pupils to maintain and repair school district equipment is too broad. However, a pupil may be charged for damage of personal property loaned to a pupil when he or she “willfully cuts, defaces, or otherwise injures” the property as a result of pupil misconduct (EC § 48904). This law allows the district to impose requirements for proper care and usage, and consequent liability for mishandling, but not liability where damage may result from normal wear and tear, or from an intervening cause or third party. For example, a student may be held liable where damage results from mishandling of the equipment due to failure to follow proper operating or storage procedures, but not simply because parts wear out, an annual cleaning is needed, or because the property is destroyed in a catastrophic accident (such as a house fire or automobile accident).

Impermissible Student Charges and Fees

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| <p>Admission to an exhibit, fair, theater, or similar activity for instruction or extracurricular purposes when a visit to such places is part of the District’s educational program</p> | <ul style="list-style-type: none"> • California Constitution, Article 9, § 5 • Hartzell v. Connell (1984) 35 Cal. 3d 899 • California Code of Regulations, Title 5, § 350 • CDE Fiscal Advisory |
| <p>Any class or course of instruction, including summer or vacation school, examination fees, late registration or program change fees, a fee for a diploma or certificate, or a lodging fee</p> | <ul style="list-style-type: none"> • Hartzell v. Connell (1984) 35 Cal. 3d 899 • California Code of Regulations, Title 5, § 350 • CDE Fiscal Advisory |
| <p>CAHSEE Intensive Instruction and Services</p> | <ul style="list-style-type: none"> • California Constitution, Article 9, § 5 • Hartzell v. Connell (1984) 35 Cal. 3d 899 • California Code of Regulations, Title 5, § 350 • Ed. Code, § 37254 <p>(The bar for fees charged for this purpose applies whether the District provides such instruction or services through its secondary or adult education programs.)</p> |
| <p>Tests, passage of which will result in high school credits, even if the class and course work proceeding test are provided for free</p> | <ul style="list-style-type: none"> • California Constitution, Article 9, § 5 • Hartzell v. Connell (1984) 35 Cal. 3d 899 • California Code of Regulations, Title 5, § 350 • CDE Fiscal Advisory |
| <p>Adults taking classes for high school credit, and who have not obtained a high school diploma</p> | <ul style="list-style-type: none"> • Ed. Code, § 52612 (“No fee charge shall be made for a class designated by the governing board as a class for which high school credit is granted when the class is taken by a person who does not hold a high school diploma....”) <p>(This includes adults returning to school after dropping out if they have not obtained a high school diploma and are taking the class for high school credit.)</p> |
| <p>Adult education classes in English and citizenship for foreigners or a class in an elementary subject</p> | <ul style="list-style-type: none"> • Ed. Code, § 52612 <p>(There is a small exception to this limitation under Education Code section 51613, which is discussed above under Permissible Fees.)</p> |

Impermissible Student Charges and Fees (cont.)

Unless specifically authorized and stated by the Legislature, the grant of flexibility in the use and spending of categorical funding, for example for adult education, does not affect the free school guarantee requirements and bar to non-statutory student fees and charges described herein.

- California Constitution, Article 9, § 5
- Hartzell v. Connell (1984) 35 Cal. 3d 899
- California Code of Regulations, Title 5, § 350