


PUPIL FEE WORKSHOP FOR BOOSTERS

for Participation in Extracurricular & Athletic Activities



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LOS ALAMITOS UNIFIED SCHOOL DISTRICT

AGENDA

- Legal Authority and Board Policy
 - Analysis - Critical Questions
 - Examples
 - Complaint Procedures
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CALIFORNIA CONSTITUTION

Article IX, Section 5 of the California Constitution: **“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 in every year, after the first year in which a school has been established.”**

Provision is known as the “Free School Guarantee.”

The Free School Guarantee encompasses all educational activities, whether curricular or extracurricular, and regardless of whether academic credit is awarded for the educational activity.



CALIFORNIA CODE OF REGULATIONS

Title 5, California Code of Regulations (CCR), § 350: “A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law.”

This regulation makes clear that fees are not to be imposed except where specifically authorized by law.



EDUCATION CODE SECTION 60070

No school official shall require any pupil, except pupils in classes for adults, to purchase any instructional material for the pupils' use in the school.

EDUCATION CODE SECTION 49011 (A)

“A pupil enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity.”



DEFINITION PUPIL FEE

Pupil Fee is defined as a fee, deposit or charge imposed on students or parents, including, but not limited to:

- A fee charged to a student as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.
- 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.
- A purchase that a pupil is required to make to obtain materials, supplies, equipment or uniforms associated with an educational activity.

Education Code section 49010 (b)



DEFINITION OF EDUCATIONAL ACTIVITY


Educational activity is defined as 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.

Education Code 49010(a)




EDUCATION CODE SECTION 49011 (B)

(b) All of the following requirements apply to the prohibition identified in subdivision (a):

- 1) All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge.
 - 2) A fee waiver policy shall not make a pupil fee permissible.
 - 3) School districts and schools shall not establish a two-tier educational system by requiring a minimal educational standard and also offering a second, higher educational standard that pupils may only obtain through payment of a fee or purchase of additional supplies that the school district or school does not provide.
 - 4) A school district or school shall not offer course credit or privileges related to educational activities in exchange for money or donations of goods or services from a pupil or a pupil's parents or guardians, and a school district or school shall not remove course credit or privileges related to educational activities, or otherwise discriminate against a pupil, because the pupil or the pupil's parents or guardians did not or will not provide money or donations of goods or services to the school district or school.
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EDUCATION CODE SECTION 49011 (C) – (E)


- c) This article shall not be interpreted to prohibit solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or school districts, schools, and other entities from providing pupils prizes or other recognition for voluntarily participating in fundraising activities.
 - d) This article applies to all public schools, including, but not limited to, charter schools and alternative schools.
 - e) This article is declarative of existing law and shall not be interpreted to prohibit the imposition of a fee, deposit, or other charge otherwise allowed by law.
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LOS ALAMITOS BOARD POLICY 3260

No student shall be required to pay any fees, deposits, or other charges for his/her participation in an educational activity which constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.

As necessary, the Board may approve fees, deposits, and other charges which are specifically authorized by law. For such authorized fees, deposits, and charges, the district shall consider students' and parents/guardians' ability to pay when establishing fee schedules and granting waivers or exceptions.

Whenever a student or parent/guardian believes that an impermissible fee, deposit, or other charge is being required of the student for his/her participation in an educational activity, the student or his/her parent/guardian may file a complaint with the principal or designee using the district's procedures in BP/AR 1312.3 - Uniform Complaint Procedures. (Education Code 49013)




ANALYSIS



CRITICAL QUESTIONS

The California Department of Education listed four critical questions to determine whether a fee is permissible:

1. Is the activity offered by a school, school district, charter school, or county office of education?
 2. Is the activity an integral, fundamental part of education?
 3. Is the fee charged as a condition for registering or a condition for participation in a class or extracurricular activity?
 4. Is the fee otherwise authorized by statute?
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IS THE ACTIVITY AN INTEGRAL, FUNDAMENTAL PART OF EDUCATION?

EC 49010: Educational activity is defined as 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.

Examples: Cheerleading, Choir, Football, etc.

“Activities that are purely recreational in character” are not considered an “educational activity.”

Schools and school districts may charge for optional attendance as a spectator at a school or District sponsored activity. (Hartzell, 35 Cal.3d. 899, 911, fn. 14). Examples include:

- Weekend dances
 - Athletic Events
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IS THE FEE CHARGED AS A CONDITION FOR REGISTERING OR A CONDITION FOR PARTICIPATION IN A CLASS OR EXTRACURRICULAR ACTIVITY?

Schools may not require team members or participants in educational activities to purchase Spirit Packs.

However, Spirit Packs may be sold so long as the school does not require a student to purchase a Spirit Pack as a prerequisite to participate in a sport or other educational activities.

If there are practice uniforms, which are required, they must be provided free of charge to any student who is a member of the school team or activity in question.



IS THE FEE OTHERWISE AUTHORIZED BY STATUTE?

The prohibition on “pupil fees” does not prohibit imposition of a fee, deposit, or other charge otherwise allowed by law.

The legislature has passed a number of laws authorizing specific fees. School may, but are not required to charge certain fees.



EXAMPLES OF PUPIL FEES




SCHOOL SUPPLIES

PROHIBITED

California Education Code section 38118 states: “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.” Attorney General has said “school supplies” include the following:

- Art material for art classes and mechanical drawing sets
- Cloth for use in dressmaking classes
- Wood for carpentry classes
- Gym clothes if required with a specific school logo for physical education classes


Attorney General’s definition of “school supplies” exclude items or materials that are essential regardless of whether the person is a student, for example: District is not obligated to provide corrective lenses or clothes because these items are needed regardless of whether the person is a student.



FIELD TRIPS OR EXCURSIONS **Authorized**

Fees for field trips or excursions in connection with courses of instruction or school related social, educational, cultural, athletic, or school band activities, as long as no student is prevented from making the field trip or excursion because of lack of sufficient funds. (EC 35330(b)).

Medical or hospital insurance for field trips that is made available by the school district. (EC 35331(b)92).



UNIFORMS

PROHIBITED

Any uniform needed to participate must be provided free of charge.

HOWEVER, uniforms may be purchased if students want to keep them as a keepsake or have them personalized.

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. So, 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 permissible.


Authorized




LOS ALAMITOS

ADMINISTRATIVE REGULATION 3260


The district shall not require any district student to pay any fees, deposits, or charges except as specifically authorized by law. When approved by the Governing Board, the Superintendent or designee may impose a fee for the following:

1. Insurance for athletic team members, with an exemption for financial hardship (Education Code 32221)
 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 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)
 4. Student fingerprinting program (Education Code 32390)
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AR 3260 (CONTINUED)

5. **School camp programs operated pursuant to Education Code 8760-8773 provided that the fee is not mandatory and no student is denied the opportunity to participate for nonpayment of the fee** (Education Code 35335)
 6. Personal property of the district fabricated by students, as long as the cost of the property does not exceed the cost of the materials provided by the district (e.g., wood shop, art, or sewing projects) (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 nonsubsidized cost per student and as long as exemptions are made for indigent and disabled students** (Education Code 39807.5)
 8. Transportation to and from summer employment programs for youth (Education Code 39837)
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AR 3260 (CONTINUED)

9. **Deposit for band instruments, music, uniforms, and other regalia which school band members take on excursions to foreign countries** (Education Code 38120)
 10. Fees for community service classes (Education Code 51815)
 11. Eye safety devices, at a price not to exceed the district's actual costs (Education Code 32033)
 12. Actual cost of furnishing copies of any student's records except, if he/she is a former student, up to two transcripts or two verifications of his/her various records (Education Code 49065)
 13. Actual costs of duplication for copies of public records (Government Code 6253)
 14. Actual costs of duplication for reproduction of the prospectus of school curriculum (Education Code 49091.14)
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AR 3260 (CONTINUED)

15. Food sold at school subject to free and reduced-price meal program eligibility and other restrictions specified in law (Education Code 38084)
 16. Fines or reimbursements for lost or damaged district property or damage to library property (Education Code 19910-19911, 48904)
 17. Tuition for district school attendance by an out-of-state and out-of-country resident (Education Code 48050, 48052, 52613; 8 USC 1184)
 18. Adult education books, materials, and classes as specified in law (Education Code 52612, 60410)
 19. Preschool and child care and development services (Education Code 8239, 8263)
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COMPLAINTS



UNIFORM COMPLAINT PROCEDURES


Complaints regarding unlawful pupil fees are subject to the Uniform Complaint Procedures as written in the California Code of Regulations, Title 5 sections 4600-4694.

A complaint may be filed anonymously if the complaint provides enough evidence or information to support an allegation of noncompliance.

If, upon investigation, the District finds merit in the complaint, the District must provide a remedy to all affected students and parent/guardians that, where applicable, includes **reasonable efforts** by the public school to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.

PUPIL FEES REMEDY

5 CCR 4600 (t): **"Reasonable efforts" means a public school's good faith attempts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint.**

- (1) Reasonable efforts to identify pupils who paid a pupil fee include but are not limited to researching existing school records, contacting pupils who were enrolled in or participating in the educational activity during the time the pupil fee was charged, and considering submissions of proof of payment of the pupil fee.
 - (2) Reasonable efforts to fully reimburse all pupils, parents and guardians who paid a pupil fee include but are not limited to crediting the pupil's school financial account and sending reimbursement by first class mail to the pupil's last known primary address as contained in school or LEA records. If the school has knowledge that a pupil's last known address as contained in school or LEA records is no longer valid, the school may attempt to obtain a more recent address from any notices returned to the school or local educational agency by the United States Postal Service.
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APPEAL TO CDE

Education Code section 49013(c): A complainant not satisfied with the decision of a public school may appeal the decision to the department and shall receive a written appeal decision within 60 days of the department's receipt of the appeal.

TAKE-AWAY 'S



WHAT DOES THIS MEAN FOR BOOSTERS?

- Nothing is MANDATORY, but a transportation fee = Everything is a voluntary donation/contribution
- You can expect a voluntary donation/contribution, but you cannot exclude any student from participation
- Coaches and booster members should NEVER KNOW who donated/fundraised; list of accounting of donations should only be for a very small group (Treasurer/President/Ways & Means); no email communication or posted list to multiple people unless BCC
- Fundraising should not be tracked per pupil but for the overall group
- You can have fundraising expectations, but there is no "teeth for accountability"

