



American Civil Liberties Union Settlement on Student Fees

March 22, 2011

Jane A. Russo, Superintendent

Cathie Olsky, Ed.D., Deputy Superintendent

Michael P. Bishop, Sr., CBO, Associate Superintendent, Business Services

Dr. Tony Wold, Ed.D., Director, Program Quality Analysis

Christeen Betz, Assistant Director, Fiscal Services



1. ACLU Lawsuit Regarding Student Fees
2. Settlement Requirements
3. Allowable Fees
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Free School Guarantee

The Santa Ana Unified School District and the Board of Education believe that regardless of financial status and or the ability to pay, all students shall receive a free and appropriate education.



Since its adoption in 1879, the California Constitution required the State to provide a system of free public schools. The Constitution states the following:

“The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district.”

In a 1984 case, *Hartzell v. Connell*, 35 Cal.3d 899,91, the Supreme Court of California upheld a provision that prohibits public schools from charging students mandatory fees for educational activities. Educational activities includes both curricular and extra-curricular. The Supreme Court also rejected the idea of a fee-waiver policy.



During their investigations of 2009 and 2010 the ACLU found more than 50 public schools that charged illegal fees to students. Some of the fees charged were for:

- PE Uniforms
- Core curriculum textbooks and work books
- Lab fees
- Materials for fine arts classes
- School sponsored extra-curricular activities



- The American Civil Liberties Union (ACLU) sued the State of California in September 2010 for allowing public school districts to charge fees for books and other essential educational supplies
- 32 school districts including six in Orange County were named in the suit
- The lawsuit sought an injunction directing the State government to publicize and enforce regulations prohibiting districts from imposing unconstitutional fees for courses for academic credit



On December 9, 2010, the ACLU and the State of California reached a settlement in the case. As part of the settlement, the ACLU requested four specific changes to the Administration.

1. Guidance Letter
2. The State must clarify permissible and impermissible fees (AB 165)
3. Uniform complaint procedures (AB 165)
4. Audit requirements



- Deposits for band instruments if they are taken off campus individually
- Replacement fees for items the school has provided
- Replacement fees for lost or damaged books
- Duplication of records charge
- Transportation fees for supplemental field trips (as long as no student is denied participation)
- Finger printing
- Fees for items created by a student in class. The materials fee only applies if the student chooses to take the completed project home



Fees for non-mandatory materials are permissible as long as no pupil's grade is adversely affected for not purchasing the items and no pupil benefits unfairly from the purchase of the materials.

Permissible fees for optional materials include:

- Specialized paper, pens, or work books
- ASB cards that offer discounts to school events such as dances
- PE uniforms with the school logo or mascot (students must be able to wear uniforms without the logo or mascot)
- School gear, yearbooks, and other items
- Food (must meet wellness policy and cannot compete with the cafeteria)



- Fees may be charged for field trips and science camps as long as they are on a donation basis and no pupil is denied the opportunity to participate.
- Fees for extra-curricular camps/clinics are allowed as long as it meets the following requirements:
 - 1) The camp/clinic is open to all students
 - 2) The camp is not mandatory and pupils are not adversely affected for not participating
 - 3) It is not a requirement for being a member of an athletic team or extra-curricular club such as cheer or band



Even before the lawsuit was filed by the ACLU, the District conducted reviews of fees being charged to pupils.

The following are steps taken to assure that the District is in compliance with the free school guarantee:

- Meetings are held with all affected parties as to what are allowable fees
- Each site is provided a FCMAT manual with guidance on fees
- School sites and departments have been advised to call Business Services with all fee-related questions
- Contracts signed by pupils are first reviewed by Business Services
- Business Services is currently establishing a guide book in regard to student fees that will be posted on the District web site and available at every school site



Backup Materials



The State must provide guidance regarding student fees and existing laws to all K-12 county and district superintendents and charter school administrators reminding them that public education will be provided to all students without regard to their families ability or willingness to pay fees.

Status: This has been implemented by the State.



- K-12 districts and charters will be provided a detailed list of permissible and impermissible fees
- Boosters and other clubs collecting fees on behalf of the school must also comply with the rules
- The settlement agreements are to be implemented through legislation and regulations. Enforcement and remedies for violations will be incorporated into the uniform complaint process

Status: In progress at the State level. AB 165 was introduced on January 20, 2011, and referred to the Assembly Education Committee on February 3, 2011. No hearing has been scheduled yet.



- The uniform complaint process allows for enforcement by students and parents utilizing the Williams Complaint process
- Education Code section 35186 adds the fee prohibition to the required classroom notice
- When a violation is found, districts must “fully reimburse all affected pupils, parents or guardians with interest”

Status: In progress (Included in AB 165).



- “Free school guarantee” was added to the annual audit requirements
- These new compromised audit guidelines were agreed upon between the ACLU and the State Controller meeting the spirit of the lawsuit

Status: In progress. Formal audit guidelines are currently being written which will require annual certification that impermissible fees are not being charged by the District.



- The following list is an example of some of the activities that must be provided free of charge. As a rule, if a fee is not on the allowable list, then the activity must be provided to students free of charge
- Fees for joining an athletic team or a student club
- Fees imposed by boosters
- Fees for uniforms pertaining to extra-curricular activities
- Fees for classes such as art or home economics
- Fees for mandatory PE uniforms not available for purchase elsewhere
- Fees for joining school-sponsored competitions such as CIF
- Fees for mandated ID cards and agendas for students
- Fees for mandatory testing such as SAT or AP