

Clovis Unified School District

Donations, Fundraisers, and Permissible Student Fees

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Overview

Under the California Constitution, the free school guarantee prohibits charging 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 program.

There are, however, 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 document.

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 site principal or the Business Services department 327-9127.

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 sites' educational program.	California Constitution, article IX, § 5 Hartzell v. Connell (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350
Fees and charges are permissible where specifically provided for by the Education Code.	Cal. Code Regs., tit. 5, § 350
<p>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.</p> <p>Exception: In certain instances, a student may be required to attend/participate in a fundraising event or activity to support a team or program, such as to attend a spaghetti feed or car wash to support an athletic team or program on which the student participates. Such participation does not require or obligate a student or family to make a monetary contribution to the program, and merely requires the student to participate in a team event such as practice.</p>	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).	California Constitution, article IX, § 5 Hartzell v. Connell (1984) 35 Cal.3d 899

Permissible Student Charges and Fees

Permissible Charge	Authority
Direct Cost 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 or 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, <i>it cannot be mandatory</i>, and a student cannot be denied the opportunity to participate in science camp for nonpayment of the fee.)</p>
Field Trip Fees	<p>Education Code § 35330</p> <p>(Although the Education Code allows for the charge of a fee for the direct costs for field trips, <i>students cannot be denied the opportunity to participate in the field trip for failure to pay the fee.</i>)</p>
Transportation Fees for transporting students to and from school, or between school and occupational training courses	<p>In Arcadia Unified School District v. State Dept. of Ed. (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 be no 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>

Permissible Student Charges and Fees (con't)

Permissible Charge	Authority
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 Arcadia Unified School District v. State Dept. of Ed. (1992) 2 Cal.4th 251, and transportation fees under Education Code section 38907.5, 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.)
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 <i>that the band members take with them on excursions to foreign countries</i>	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.”)

Permissible Student Charges and Fees (con't)

Permissible Charge	Authority
Copies of Public Records	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 a fundraising activity, and possession of a yearbook is not an integral part of the educational process.
Adult Education Classes, Books, and Materials, as specified in law	Ed. Code, §§ 52612, 60410 (There exist limitations to such fees and charges under Education Code section 52612, which are discussed below under Impermissible Fees.)
Certain Adult Education Instruction for Nonimmigrant Aliens	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”)
Adult education classes in English and citizenship for foreigners	<i>Effective January 1, 2012 until July 1, 2015</i> AB 189 Ed. Code, § 52612 Cal. Code Regs., tit. 5, § 350

Permissible Student Charges and Fees (con't)

Permissible Charge	Authority
Physical Education Uniforms	<p>Ed. Code, § 49066 CDE Fiscal Management Advisory 97-02 (“CDE Fiscal Advisory 97-02”)</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, where the failure to wear the uniform arises from circumstances beyond the student’s control.)</p>
Workbooks or other instructional packets, if such materials are also available free of costs, under specific conditions	<p>So long as workbooks and 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 that would require students to either purchase the workbook or expend funds to copy the workbook materials on loan in order to turn in the assignment).</p>
Library Late Fees or Fines	<p>Ed. Code, §§ 48904, 19910, 19911</p>

Impermissible Fees and Charges

Impermissible Charge	Authority/Explanation
Instructional Materials	Education 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	Education 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 boards of the school districts.”)
Band Instruments, Band and Choir Uniforms	Education Code § 38111 (There is an exception to this rule discussed above in Permissible Fees for purposes of excursions to foreign countries.)
Athletic, Cheer or Like Uniforms	Education Code § 38111
Participation in any District or school site athletic or other extracurricular offering such as band, choir, or drama	California Constitution, article IX, § 5 Hartzell v. Connell (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350
Student body membership fees as a condition for enrollment or participation in curricular or extracurricular activities sponsored by the school	Hartzell v. Connell (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350 CDE Fiscal Advisory 97-02 CDE Fiscal Management Advisory 11-01 (“CDE Fiscal Advisory 11-01”)
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 (outside of the exception provided for in Education Code section 48904), or a lodging fee	Hartzell v. Connell (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350 CDE Fiscal Advisory 97-02 CDE Fiscal Advisory 11-01
Adult education classes in English and citizenship for foreigners or adult classes in an elementary subject	<i>Effective until December 31, 2011, AND after July 2, 2015</i> AB 189 Ed. Code, § 52612; Cal. Code Regs., tit. 5, § 350

Impermissible Fees and Charges (con't)

Impermissible Charge	Authority/Explanation
CAHSEE Intensive Instruction and Services	<p>California Constitution, article IX, § 5 Hartzell v. Connell (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350 Ed. Code, § 37254 (The bar to fees for fees or charges for this purpose applies whether the District provides such instruction or services through its secondary or adult education programs.)</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>California Constitution, article IX, § 5 Hartzell v. Connell (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350 CDE Fiscal Advisory 97-02 CDE Fiscal Advisory 11-01</p>
Adults taking classes for high school credit and who have not obtained a high school diploma	<p>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”) (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>
* Unless specifically authorized and stated in 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.	<p>California Constitution, article IX, § 5 Hartzell v. Connell (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350</p>