

Education Enrichment and Investment: To Fee or Not to Fee There Can Be No Question



Fagen Friedman & Fulfroost LLP

The California Constitution guarantees students a free public education and prohibits charging “fees” for participation in activities, and for supplies, that are an integral part of that public education. Fundraising is still a viable activity by schools, districts, and fundraising groups such as booster clubs and foundations, but care must be taken to avoid fund raising that appears to condition participation in a school program on a financial contribution.

These suggested approaches/language are provided to help guide the well-intentioned and greatly appreciated fund raising efforts of staff and parent leaders, as they strive to provide enrichment activities for our students. Please consider providing this information to:

- All site administrators
- Teacher leaders
- All teachers
- Members of the Teacher/Staff Advisory Council
- Parent Advisory Counsel
- Parent/Teacher Presidents
- Athletic Advisors
 - Coaches
 - Walk-on coaches
- Adjunct/enrichment staff
- Specialists, such as music, P.E., art
- Student government leaders

Remember the increased importance of your role in helping to ensure that all donation requests and legitimate fees are properly solicited.

Establish a practice that requires all notices requesting a donation or fee to be reviewed by the principal or designee. If you are unclear on the appropriate language regarding a donation or (when appropriate) fee, be sure to check with school district staff.

Strictly avoid the words fee, required donation, per-student donation or mandatory participation fee. When reviewing school-to-home materials on behalf of your department or club/group, please remember that these words are not to be used. Make a note that when you see these words, you should take a moment to kindly educate the author of the document.

Help educate and sensitize the “newcomers.” Students, and their parents, move through the public schools and this means school sites and districts must manage a volunteer base that is constantly changing.



In partnership with the law firm of Fagen Friedman & Fulfroost, ACSA is pleased to offer this crucial information to its members.

THIS GUIDE IS A SUMMARY ONLY AND NOT LEGAL ADVICE. WE RECOMMEND THAT YOU CONSULT WITH LEGAL COUNSEL TO DETERMINE HOW THIS MAY APPLY TO YOUR SPECIFIC FACTS AND CIRCUMSTANCES.

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Add this suggested language to all flyers/letters/notices soliciting funds:

"We always appreciate and recognize voluntary donations from our parents and community members. Your generosity helps support our educational goals and programs and services for students. Please understand that any donations are truly voluntary and your student's ability to participate in a school activity is never conditioned on making a donation. All donations are optional; none are required."

Remember to regularly review such venues as your website or club/association Facebook page to help ensure that fund raising messages are appropriate.

FAQs:

Q: May a parent group hire instructors?

A: Parent groups can donate funds to the district with a specific purpose in mind, however it is ultimately the district's discretion as to how these funds are allocated. Moreover, the employee should be hired and paid by the district, with the parent group donating funds to cover related costs, as this helps ensure the employee is cleared through the district's hiring/screening/fingerprinting practices.

Q: Is it acceptable to require that students furnish their sports equipment?

A: No. Court decisions have deemed that extracurricular activities constitute an integral component of public education, thus prohibiting the imposition of a fee or requirement of an expenditure as a condition of participation.

Q: Can a district charge for lost or damaged property?

A: Yes. According to Education Code § 48904(a)(1) a district can require payment for the willful loss or destruction of school property. Additionally, as more and more districts begin providing technology teaching devices, such as iPads, it is particularly important to make sure your board policies clarify that the Education Code allows districts to withhold grades, transcripts and/or diplomas, after providing the affected student with due process rights, until damaged property is replaced or paid for.

Q: Can a district charge for workbooks, lab supplies, calculators and other learning tools?

A: No. School districts may not charge students for supplies required in any class. This rule applies whether the class is considered part of the core curriculum, an elective, or an advance placement class.

Q: May the parent booster group provide the site leader with funds and a checking account to be used at his/her discretion?

A: No. In order to avoid potential liability exposure, funds raised by support groups should remain segregated from school district funds, accounts, and staff access unless/until the support group has made a donation to the school or district that is accepted consistent with district policies.

HELP YOUR SCHOOL AVOID...

Listing in newsletters and on websites the names of parent donors in a manner that is created to "expose" those who have not yet given.

Listing the names of students whose families have not yet "contributed."

The words purchase, fee, mandatory/required contribution, per-student contribution.

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