

Clovis Unified School District

Manual of Standard Operating Procedures

Donations, Fundraisers, and Permissible Student Fees

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Contents

Overview	3
General Rules	4
Permissible Student Charges and Fees	7
Impermissible Fees and Charges	14
Donation Guidelines and Acceptance Letter (for Donations of \$250 and up).....	17
ASB and Foundation Accounts Flowchart	18
Matrix for Deposits to ASB or Foundation Accounts (updating).....	19
Field Trip Letter	21
Classroom Voluntary Donation of Supplies Letter	22
Elementary Concert Choir Uniforms	23
Physical Education Uniforms	25
Secondary Classroom Monetary Donations for Classroom Supplies Letter	26
Direct Cost Fabrication Purchase Fee Letter	28
Secondary Program or Sport, Fundraising and Donation Letter	30
Loan Agreement for Uniform and/or Other Items	31
Voluntary Uniform Purchase as Personal Property	32
Graduation Caps and Gowns.....	33
Voluntary Pledge to Donate Reminder Letter	35
Teacher Syllabi Secondary Recommended Supplies.....	36
Sierra Outdoor School Science Camp Letter.....	37

Overview

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

Under the California Constitution and Assembly Bill (AB) 1575 (Education Code §§ 49010 et seq.), the free school guarantee prohibits charging students any fee, charge, or deposit for any curricular, extracurricular, credit, or non-credit activity that is an integral fundamental 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, consistent with the ability to impose such fees or charges under title 5, § 350 of the California Code of Regulations. Those specific situations are included in this manual.

Nothing in the law prohibits solicitation of voluntary donations or contributions from students or their families, or 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 a voluntary donation.

Charges by the District, a school, school program, or private businesses to students for services or activities that are not integral fundamental parts of the District or a school site's educational program are permissible (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. Several template letters are provided to assist you in developing letters and flyers to use for your classroom, activity, program, or sport. Any written communication must be approved by your principal prior to distribution.

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 <i>Hartzell v. Connell</i> (1984) 35 Cal.3d 899 Ed. Code, §§ 49010-11 (AB 1575) 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 Ed. Code, § 49011, subd. (e) (AB 1575)
For purposes of "educational activities" for which student fees, charges and deposits cannot be imposed, such activities include "an activity offered by a school, school district, charter school, or county office of education that constitutes an integral fundamental part of elementary and secondary education, including, but not limited to, curricular and extracurricular activities."	Ed. Code, § 49010, subd. (a) (AB 1575)
<p>Prohibited fees, charges and deposits include, but are not limited to:</p> <p>(1) A fee charged to a pupil 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.</p> <p>(2) 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.</p> <p>(3) A purchase that a pupil is required to make to obtain materials, supplies, equipment, or uniforms associated with an educational activity.</p>	<p>Ed. Code, § 49010, subd. (b)(1)-(3) (AB 1575)</p> <p>Exception: If a student is not required to have a locker, and a student chooses voluntarily to maintain and use a school locker, a fee or deposit may be imposed for use of the locker because its use is not required or mandatory.</p>

<p>Under the free school guarantee AB 1575:</p> <p>(1) All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge.</p> <p>(2) A fee waiver policy shall not make a pupil fee permissible.</p> <p>(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.</p> <p>(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.</p>	<p>Ed. Code, § 49011, subd. (b)(1)-(4) (AB 1575)</p>
<p>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).</p>	<p>California Constitution, article IX, § 5 <i>Hartzell v. Connell</i> (1984) 35 Cal.3d 899</p>

<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. As such, students cannot be required to directly raise funds, solicit donations, or to raise a certain required amount of dollars as a condition for participation on the cheer and pep team or program.</p>	<p>Ed. Code, § 49011, subd. (c) (AB 1575) Ed. Code, §§ 41032, 41037 Ed. Code, § 35160 et seq. Ed. Code, §§ 51520, 51521 81 Ops. Cal. Atty. Gen. 153 (1998)</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>
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Permissible Student Charges and Fees

Permissible Charge	Authority
Direct Cost Fabrication-Purchase Fees	<p>Ed. 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> <p>(A “direct costs, fabrication purchase fee” <i>should not</i> be imposed for “fabricated” projects that are perishable, e.g., food in a cooking/home economics course or a flower bouquet in a horticulture course.)</p> <p>(Direct Cost Fabrication-Purchase fees, pursuant to Education Code section 17551, may be imposed in the following classes:</p> <ul style="list-style-type: none"> • Advanced Art (Grades 7-8) • Advanced Ceramics (Grades 7-8) • Art 2 (Grades 9-12) • Art 3 (Grades 9-12) • A.P. Art (Grades 9-12) • Advanced 2D Design (Grades 9-12) • 3D Design (Grades 9-12) • Ceramics 1 (Grades 9-12) • Ceramics 2 (Grades 9-12) • Ceramics 3 (Grades 9-12) • Videography (Grades 9-12) • Basic Woodworking (Grades 9-12) • Furniture as Art (Grades 9-12) • Photography 1 (Grades 9-12) • Photography 2 (Grades 9-12) • Photography 3 (Grades 9-12) <p>For courses like those listed herein, in which an instructor believes a fee under section 17551, the instructor must seek and obtain written approval to impose such fees from Coordinator of Visual and Performing Arts. (Approval <i>must</i> be obtained <i>in advance</i> of seeking to impose such a fee.)</p>
Charge for damaged school property or failure to return school property on loan to student	<p>Ed. Code, § 48904 CDE Fiscal Management Advisory 16-01</p> <p>Note the following points under this provision:</p> <ol style="list-style-type: none"> 1. Section 48904 allows for imposition of a charge where

District property has been “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...”

2. After a student/student’s family has been asked to pay the relevant charge for damaged or lost school property, the student’s family may pay the charge or complete a voluntary work program in lieu of paying the charge.
3. If a the required charge is not paid, the District may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss, so long as the student is afforded the same procedural due process rights as received in an expulsion hearing under Education Code section 48918 before the withholding, and until the pupil or the pupil’s parent or guardian has paid for the damages.)

According to the CDE’s most recent Fiscal Management Advisory on student fees, under Education Code section 48904(a)(1), a school district can charge a fee (not to exceed \$10,000) when a student “willfully” cuts, defaces, or otherwise injures any real or personal property belonging to a school district, or personal property of a school employee. It appears, based on rules of construction, that the word “willfully” modifies each of the phrases -- “cuts, defaces or otherwise injures” -- that follows. Therefore, school districts should analyze, on a case-by-case basis, whether property has been willfully damaged. A blanket policy that charges fees for any damage to property may be inconsistent with the statute.

Permissible Student Charges and Fees (con't)

Permissible Charge	Authority
Science Camp Fees	<p>Ed. 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>Ed. Code, § 35330</p> <p>(Fees for field trips include those for field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or school band activities. 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 <i>Arcadia Unified School District v. State Department of Education</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 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>
Fees for Advanced Placement and International Baccalaureate Diploma examinations	<p>CDE Fiscal Management Advisory 12-02 (“CDE Fiscal Advisory 12-02”)</p> <p> (“Fees for Advanced Placement and International Baccalaureate Diploma examinations for college credit, so long as (1) taking the exam is not a course requirement and (2) the exam results have no impact on a pupil’s grade or credit in a course. An LEA may fund all or part of the cost of the AP test fee for an economically disadvantaged high school pupil or the IB test fee for a low- or middle-income pupil. (EC Sections 52240-52243; 52920-52922.)”)</p>
Fees for After School Education and Safety Programs	<p>CDE Fiscal Management Advisory 12-02 Ed. Code, § 8482.6</p> <p> (“[S]o long as no eligible student is denied the ability to participate because of an inability to pay the fee. (EC Section 8482.6).”)</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”)
Child Care and Development	CDE Fiscal Management Advisory 12-02 (“Fees for child care and development services, except that no fees shall be assessed to students enrolled in the program for severely disabled children as stated in EC Section 8250(d) or families receiving CalWORKS cash aid. Fees for state preschool, except that no family fees shall be assessed to students placed in state preschool by an IEP or families receiving CalWORKS cash aid. (EC Sections 8239, 8250(d)(3), 8263(g),(h), 8265, 8447(g), 56000.) Fees for supervision of children before and after school, except that no child who desires to participate shall be denied the opportunity to participate because of inability to pay the fee. (EC Sections 8487 and 8488.)”)
Parking Fees	Consistent with the ruling in <i>Arcadia Unified School District v. State Department of Education</i> (1992) 2 Cal.4th 251, and transportation fees under Education Code § 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 CDE Fiscal Advisory 12-02 (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.)

Permissible Student Charges and Fees (con't)

Permissible Charge	Authority
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.”)
Copies of Public Records	Gov. Code, § 6253 (The charge is limited to the direct costs of duplication.)
Copies of Student Records	Ed. Code, § 49065 (Current students may be required to pay the direct costs for furnishing of copies of any student record. <i>Note, this charge does not apply and is impermissible where a former student seeks up to two copies of transcripts, as the statute provides that “no charge shall be made for furnishing . . . up to two transcripts of former pupil’s records”</i>)
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) CDE Fiscal Advisory 12-02
Yearbooks	The sale of yearbooks is a fundraising activity, and possession of a yearbook is not an integral part of the educational process.

Permissible Student Charges and Fees (con't)

Permissible Charge	Authority
Adult Education Classes, Books, and Materials, as specified in law	<p>Ed. Code, §§ 52612, 60410 CDE Fiscal Advisory 12-02</p> <p>(There exist limitations to such fees and charges under Education Code section 52612, which are discussed below under Impermissible Fees.)</p>
Certain Adult Education Instruction for Nonimmigrant Aliens	<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>
Physical Education Uniforms	<p>Ed. Code, § 49066 CDE Fiscal Management Advisory 97-02 CDE, Student Fee Appeal Decision, Appeal No. 2013-82</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 Charge, 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> <p>Before imposition of library late fine or fee, students must be notified <i>in writing</i> that the book or other library property is past due, and be given 30 days to return the past-due book</p>

	or other library property.
Sale or Lease of Internet appliances or personal computers to parents	Ed. Code, § 17453.1 CDE Appeal Decision 2016-39 (For the purpose of providing access to the school district's educational computer network, at no more than cost, so long as the district provides network access for families who cannot afford it.)

Impermissible Fees and Charges

Impermissible Charge	Authority/Explanation
Instructional Materials and Other Necessary School Supplies	<p>Ed. Code, § 49011, subd. (b)(1) (AB 1575) (“All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge.”)</p> <p>Ed. Code, § 60070 (“No school official shall require any pupil . . . to purchase any instructional material for the pupil’s use in the school.”)</p> <p>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 boards of the school districts.”)</p>
Band Instruments, Band and Choir Uniforms	<p>Ed. Code, § 38111 Ed. Code, § 49011, subd. (b)(1) (AB 1575) (“All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge.”)</p> <p>(There is an exception to this rule discussed above in Permissible Fees for purposes of excursions to foreign countries.)</p>
Athletic, Cheer or Like Uniforms	<p>Ed. Code, § 38111 Ed. Code, § 49011, subd. (b)(1) (AB 1575) (“All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge.”)</p>
Participation in any District or school site athletic or other extracurricular offering such as band, choir, or drama	<p>California Constitution, article IX, § 5 <i>Hartzell v. Connell</i> (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350 Ed. Code, §§ 49010-11 (AB 1575) CDE Fiscal Advisory 12-02</p>

Impermissible Fees and Charges (con't)

Impermissible Charge	Authority/Explanation
Student body membership fees as a condition for enrollment or participation in curricular or extracurricular activities sponsored by the school	California Constitution, article IX, § 5 <i>Hartzell v. Connell</i> (1984) 35 Cal.3d 899 Ed. Code, § 49010, subd. (b)(1) Cal. Code Regs., tit. 5, § 350 CDE Fiscal Advisory 12-02
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	California Constitution, article IX, § 5 <i>Hartzell v. Connell</i> (1984) 35 Cal.3d 899 Ed. Code, §§ 49011-10 (AB 1575) Cal. Code Regs., tit. 5, § 350 CDE Fiscal Advisory 12-02
Adult Education Classes in English and Citizenship for Foreigners	Ed. Code, § 52612 (See exception under Education Code § 51613, which is discussed above under Permissible Fees.)
Adult Education Classes in “an elementary subject”	Ed. Code, § 52612 (See exception under Education Code § 51613, which is discussed above under Permissible Fees.)
CAHSEE Intensive Instruction and Services	California Constitution, article IX, § 5 <i>Hartzell v. Connell</i> (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350 Ed. Code, §§ 49011-10 (AB 1575) 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.)
Tests, passage of which will result in high school credits, even if the class and course work proceeding test are provided for free	California Constitution, article IX, § 5 <i>Hartzell v. Connell</i> (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350 Ed. Code, §§ 49011-10 (AB 1575) CDE Fiscal Advisory 12-02

Impermissible Fees and Charges (con't)

Impermissible Charge	Authority/Explanation
<p>Adults (or Minors) Taking Classes for High School Credit and Who Have Not Obtained a High School Diploma</p>	<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”)</p> <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>* 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>	<p>California Constitution, article IX, § 5 <i>Hartzell v. Connell</i> (1984) 35 Cal.3d 899 Cal. Code Regs., tit. 5, § 350</p>