

R277. Education, Administration.

R277-407. School Fees.

R277-407-1. Definitions.

A. Fee: Any charge, deposit, rental, or other mandatory payment, however designated, whether in the form of money or goods. Admission fees, transportation charges, and similar payments to third parties are fees if the charges are made in connection with an activity or function sponsored by or through a school. For purposes of this policy, charges related to the National School Lunch Program are not fees.

B. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

C. Optional Project: A project chosen and retained by a student in lieu of a meaningful and productive project otherwise available to the student which would require only school-supplied materials.

D. "Provision in Lieu of Fee Waiver" means an alternative to fee payment and waiver of fee payment. A plan under which fees are paid in installments or under some other delayed payment arrangement is not a waiver or provision in lieu of fee waiver.

E. Student Supplies: Items which are the personal property of a student which, although used in the instructional process, are also commonly purchased and used by persons not enrolled in the class or activity in question and have a high probability of regular use in other than school-sponsored activities. The term includes pencils, papers, notebooks, crayons, scissors, basic clothing for healthy lifestyle classes, and similar personal or consumable items over which a student retains ownership. The term does not include items such as the foregoing for which specific requirements such as brand, color, or a special imprint are set in order to create a uniform appearance not related to basic function.

F. "Supplemental Security Income for children with disabilities (SSI)" is a benefit administered through the Social Security Administration that provides payments for qualified children with disabilities in low income families.

G. "Temporary Assistance for Needy Families (TANF)," (formerly AFDC) provides monthly cash assistance and food stamps to low-income families with children under age

18 through the Utah Department of Workforce Services.

H. Textbook: Book, workbook, and materials similar in function which are required for participation in a course of instruction.

I. Waiver: Release from the requirement of payment of a fee and from any provision in lieu of fee payment.

R277-407-2. Authority and Purpose.

A. This rule is authorized under Article X, Sections 2 and 3 of the Utah Constitution which vests general control and supervision of the public education system in the State Board of Education and provides that public elementary and secondary schools shall be free except that fees may be imposed in secondary schools if authorized by the Legislature. Section 53A-12-102(2) authorizes the State Board of Education to adopt rules regarding student fees. This rule is consistent with the State Board of Education document, Principles Governing School Fees, adopted by the State Board of Education on March 18, 1994. This rule is also consistent with the Permanent Injunction, *Doe v. Utah State Board of Education*, Civil No. 920903376.

B. The purpose of this rule is:

(1) to permit the orderly establishment of a reasonable system of fees;

(2) to provide adequate notice to students and families of fee and fee waiver requirements; and

(3) to prohibit practices that would exclude those unable to pay from participation in school-sponsored activities.

R277-407-3. Classes and Activities During the Regular School Day.

A. No fee may be charged in kindergarten through sixth grades for materials, textbooks, supplies, or for any class or regular school day activity, including assemblies and field trips.

B. Textbook fees may only be charged in grades seven through twelve.

C. Fees may be charged to students in sixth grade only if the student attends a school that includes grades 7, 8, 9, 10, 11, or 12. All school and school district materials and information, including local board-approved fees and parent information, shall include

notice that fees may be charged to sixth graders and fee waiver requirements apply.

D. If a class is established or approved which requires payment of fees or purchase of materials, tickets to events, etc., in order for students to participate fully and to have the opportunity to acquire all skills and knowledge required for full credit and highest grades, the class shall be subject to the fee waiver provisions of R277-407-6.

E. Students of all grade levels may be required to provide materials for their optional projects, but a student may not be required to select an optional project as a condition for enrolling in or completing a course. Project-related courses must be based upon projects and experiences that are free to all students.

F. Schools shall provide school supplies for K-6 students. A student may, however, be required to replace supplies provided by the school which are lost, wasted, or damaged by the student through careless or irresponsible behavior.

G. An elementary school or teacher may provide to parents or guardians a suggested list of supplies. The suggested list shall contain the express language in Section 53A-12-102(2)(c).

H. Secondary students may be required to provide their own student supplies, subject to the provisions of Section R277-407-6.

R277-407-4. School Activities Outside of the Regular School Day.

A. Fees may be charged, subject to the provisions of Section R277-407-6, in connection with any school-sponsored activity which does not take place during the regular school day, regardless of the age or grade level of the student, if participation is voluntary and does not affect a student's grade or ability to participate fully in any course taught during the regular school day.

B. Fees related to extracurricular activities may not exceed limits established by the LEA. Schools shall collect these fees consistent with LEA policies and state law.

R277-407-5. General Provisions.

A. No fee may be charged or assessed in connection with any class or school-sponsored or supported activity, including extracurricular activities, unless the fee has been set and approved by the LEA and distributed in an approved fee schedule or notice

in accordance with this rule.

B. Fee schedules and policies for the entire LEA shall be adopted at least once each year by the LEA in a regularly scheduled public meeting of the LEA. Provision shall be made for broad public notice and participation in the development of fee schedules and waiver policies. Minutes of LEA meetings during which fee and waiver policies are developed or adopted, together with copies of approved policies, shall be kept on file by the LEA and made available upon request.

C. Each LEA shall adopt procedures to reasonably ensure that the parent or guardian of each child who attends school within the LEA receives written notice of all current and applicable fee schedules and fee waiver policies, including easily understandable procedures for obtaining waivers and for appealing a denial of waiver, as soon as possible prior to the time when fees become due. Copies of the schedules and waiver policies shall be included with all registration materials provided to potential or continuing students.

D. No present or former student may be denied receipt of transcripts or a diploma for failure to pay school fees. A reasonable charge may be made to cover the cost of duplicating or mailing transcripts and other school records. No charge may be made for duplicating or mailing copies of school records to an elementary or secondary school in which the student is enrolled or intends to enroll.

E. To preserve equal opportunity for all students and to limit diversion of money and school and staff resources from the basic school program, each LEA's fee policies shall be designed to limit student expenditures for school-sponsored activities, including expenditures for activities, uniforms, clubs, clinics, travel, and subject area and vocational leadership organizations, whether local, state, or national.

F. Donations or contributions may be solicited and accepted in accordance with LEA policies, but all such requests must clearly state that donations and contributions are voluntary. A donation is a fee if a student is required to make a donation in order to participate in an activity.

G. In the collection of school fees, LEAs shall comply with statutes and State Tax Commission rules regarding the collection of state sales tax.

R277-407-6. Waivers.

A. An LEA shall provide, as part of any fee policy or schedule, for adequate waivers or other provisions in lieu of fee waivers to ensure that no student is denied the opportunity to participate in a class or school-sponsored or supported activity because of an inability to pay a fee.

The LEA fee waiver policy shall include procedures to ensure that:

(1) at least one person at an appropriate administrative level is designated in each school to administer the policy and grant waivers;

(2) the process for obtaining waivers or pursuing alternatives is administered fairly, objectively, and without delay, and avoids stigma and unreasonable burdens on students and parents;

(3) students who have been granted waivers or provisions in lieu of fee waivers are not treated differently from other students or identified to persons who do not need to know;

(4) fee waivers or other provisions in lieu of fee waivers are available to any student whose parent is unable to pay the fee in question; fee waivers shall be verified by a school or LEA administrator consistent with requirements of Section 53A-12-103(5);

(5) the LEA requires documentation of fee waivers consistent with Section 53A-12-103(5);

(6) schools and the LEA submit fee waiver compliance forms consistent with *Doe v. Utah State Board of Education*, Civil No. 920903376 that affirm compliance with provisions of the Permanent Injunction and provisions of Section 53A-12-103(5);

(7) the LEA does not retain required fee waiver verification documentation for protection of privacy and confidentiality of family income records consistent with 53A-12-103(6);

(8) textbook fees are waived for all eligible students in accordance with Sections 53A-12-201 and 53A-12-204 of the Utah Code and this Section;

(9) parents are given the opportunity to review proposed alternatives to fee waivers;

(10) a timely appeal process is available, including the opportunity to appeal to the LEA or its designee;

(11) any requirement that a given student pay a fee is suspended during any period

during which the student's eligibility for waiver is being determined or during which a denial of waiver is being appealed; and

(12) the LEA provides for balancing of financial inequities among schools so that the granting of waivers and provisions in lieu of fee waivers do not produce significant inequities through unequal impact on individual schools.

B. A student is eligible for fee waiver as follows:

(1) income verification consistent with Section 53A-12-103(5);

(2) the student receives (SSI) Supplemental Security Income (ONLY THE STUDENT WHO RECEIVES THE SSI BENEFIT QUALIFIES FOR FEE WAIVERS);

(3) the family receives TANF (currently qualified for financial assistance or food stamps);

(4) the student is in foster care (under Utah or local government supervision);

(5) the student is in state custody.

C. In lieu of income verification, supporting documents shall be required for each special category of fee waiver-eligible students:

(1) For TANF, a letter of decision covering the period for which fee waiver is sought from Utah Department of Workforce Services;

(2) For SSI, a benefit verification letter from Social Security;

(3) For state custody or foster care, the youth in custody required intake form and school enrollment letter or both provided by the case worker from the Utah Division of Child and Family Services or the Utah Juvenile Justice Department.

D. CASE BY CASE DETERMINATIONS MAY BE MADE FOR THOSE WHO DO NOT QUALIFY UNDER ONE OF THE FOREGOING STANDARDS but who, because of extenuating circumstances such as, but not limited to, exceptional financial burdens such as loss or substantial reduction of income or extraordinary medical expenses, are not reasonably capable of paying the fee.

E. Expenditures for uniforms, costumes, clothing, and accessories (other than items of typical student dress) which are required for school attendance, participation in choirs, pep clubs, drill teams, athletic teams, bands, orchestras, and other student groups, and expenditures for student travel as part of a school team, student group, or other school-approved trip, are fees requiring approval of the LEA, and are subject to the provisions of

this section, consistent with *Doe v. Utah State Board of Education*, Civil No. 920903376, p. 43.

F. Student Records

(1) An LEA or school may pursue reasonable methods to collect fees, but shall not exclude students from school or withhold official student records, including written or electronic grade reports, diploma, or transcripts, for fees owed.

(2) An LEA or school may withhold the official student records of a student responsible for lost or damaged school property consistent with Section 53A-11-806, but may not withhold a student's records that would prevent a student from attending school or being properly placed in school.

(3) Consistent with Section 53A-11-504, a school requested to forward a certified copy of a transferring student's record to a new school shall comply within 30 school days of the request.

G. Charges for class rings, letter jackets, school photos, school yearbooks, and similar articles not required for participation in a class or activity are not fees and are not subject to the waiver requirements.

R277-407-7. Fee Waiver Reporting Requirements.

Beginning with fiscal year 1990-91, each LEA shall attach to its annual S-3 statistical report for inclusion in the State Superintendent of Public Instruction's annual report the following:

(1) a summary of the number of students in the LEA given fee waivers, the number of students who worked in lieu of a waiver, and the total dollar value of student fees waived by the LEA;

(2) a copy of the LEA's fee and fee waiver policies;

(3) a copy of the LEA's fee schedule for students; and

(4) the notice of fee waiver criteria provided by the LEA to a student's parent or guardian.

(5) consistent fee waiver compliance forms provided by the Utah State Office of Education and required by *Doe v. Utah State Board of Education*, Civil No. 920903376.

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-12-102; 53A-12-201; 53A-12-204; 53A-11-806(2); Doe v. Utah State Board of Education, Civil No. 920903376