



## Raising Student Fees

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### Question:

Our Board is considering raising some of the student fees that are collected at registration. Typically these fees have been “classroom fees” (used for class events) and supply fees (for art, chemistry, piano, etc.). Our question is what kind of fees may the district charge? May we charge fees for common use items (such as copy paper)? If we charge fees, can they go into the general fund or must they be segregated in a separate fund?

### Answer:

There are only two sections in Idaho Code that have any implication regarding fees charged by a school. The first is Section 33-603, Idaho Code that permits the board of trustees of each school district to have the power and ability to require as a condition of graduation, as a condition of the issuance of a diploma or certificate or as a condition for issuance of a transcript, that any and all indebtedness incurred by a student be satisfied, or that all books, instructional materials etc. be returned. The title of the code section itself is “Payment of fees or returning of property”. There is a financial hardship exception that a school needs to apply. The second is Section 63-1311A, Idaho Code that requires a taxing district to hold a hearing prior to fee increases.

The third and primary legal issue that has to be considered when addressing student fees is the Idaho Constitution which states “. . . it shall be the duty of the Legislature of Idaho to establish and maintain a general, uniform and thorough system of public, free common schools.” There has only been a single decided case in Idaho interpreting this language in relation to fees charged to students in public schools. This case was *Paulson v. Minidoka School District* and the case was addressing student transcripts. In this case there was a discussion about fixed educational items and that schools may not charge for such items because common schools are intended to be free.

As to the final legal issue, there is currently a lawsuit in the District Court for the County of Ada where a patron has sued the Meridian Joint School District No. 2 on the issue of fees. This was initially an attempt at a class action against most of the school districts across the State, with only one or two charter schools included as defendants. All school districts have been dismissed from the suit with the exception of the Meridian School District. If the plaintiff manages to get things procedurally correct and gets to the substance of his complaint regarding fees adjudicated there may finally be some solid guidance to give schools on the issue of what they can and cannot charge students. In the meantime, ISBA can provide some general guidelines that we hope will keep everyone close to what is intended by the Idaho Constitution and keep the district from being involved in one of these lawsuits.

1. The district cannot charge a student simply for enrolling or attending the school.
2. The district cannot charge a student for basics - i.e. - their books, desk, the building, teachers - items that are necessities for the basic provision of an education of K-12 to reach graduation.
3. The district can charge a student for the costs of participating in extra-curricular activities as by statute extra-curricular activities are outside of or in addition to the regular academic courses and curriculum and are not part of a property, liberty or contractual right of a student.
4. Students can be charged for school lunches and related food they consume.

Unfortunately, anything after that is where it starts to get gray. There is no guarantee, one way or another, what any court will do if these fees are challenged, but they are matters for which the district can clearly craft a logical and articulable defense.

1. Don't charge a fee for any course that is a requirement for graduation. In other words, have at least one pathway to graduation where the student does not have to pay any fees. It would be better to have multiple fee-free ways to graduation.
2. Fees can be considered for materials for which the student will keep - i.e. a supplemental work book that becomes the student's property, wood /shop projects that the student gets to keep when completed, clay or pottery resources that a student would get to keep. However, if the district charges a fee for such materials make sure that it is for the actual cost of the materials, not just a shot in the dark or for amounts beyond what the materials will cost.
3. Fees are being charged around the State for courses where the student is utilizing disposable materials - i.e. bandages for an athletic training course, food in a culinary program, etc. Again, the same general rule that the fee for the material has to relate to the actual cost of what the student is using.
4. If you are going to charge fees, the district either wants them to be voluntary - and don't hide that fact - or if they are mandatory there is a system of scholarships or waivers for financial hardship put into place. This is a very protective step for any school should their fees be challenged.

As to "classroom fees" we suggest exercising great caution with those and if they are charged, specifically delineate what they are for and hold them in a separate account. For example, if you want to charge a third grade class fee indicate a breakdown of what it is all for - - i.e.

- Fieldtrip cost (\$ X),
- Art supplies that student will take home and keep (\$ XX),
- Food/Snacks beyond what is provided in lunch/breakfast at the school (\$ XXX), etc.

Clearly delineate that these are optional fees and that the student does not have to participate if they do not pay - as well as the waiver/ scholarship issues. The district cannot charge a flat classroom fee and then put that into the general fund to pay for things such as teacher salaries, books, technology etc.

As for “supplies fees”, again exercise caution in making sure that such fees are either for disposable items that the student uses and then either it becomes their property and they take it home (i.e. sheet music for piano), or it can never be used again (i.e. some chemicals in chemistry class). However, please exercise great caution in these types of fees in that if these classes are necessary for graduation, the district is going to have to find a way that it can be “free” to the student. While art and piano may be elective courses, are there enough other elective courses for which there are no fees that a student can take to earn those graduation requirements? Likewise with chemistry – are there enough other science courses that the student can take to meet their science requirements for graduation? If the district does not have enough of these other courses for graduation, I would either make it very clear that these fees are voluntary or that you have scholarship and waiver options available to students. With regard to the scholarships and waivers, a lot of families may feel uncomfortable asking for the assistance. The district must have a way to get this information out and to process requests that are confidential. The last thing the district wants to have is all but one student in the class doing the chemistry experiment and that one student is not participating because they could not afford the chemicals - and everyone knows it. Also, make sure that the fee is not paying for the piano class or paying for glass beakers that are going to be used for years - make sure it is truly for the disposable or kept items.

There are schools that have reached out to individuals and community members to provide funds for “scholarships” to pay for student fees as well as reaching out for individuals or organizations to pay the costs of what it would take to provide whatever material has an expense for a course. There are many fantastic people out there in booster clubs paying for student extracurricular fees the families cannot afford and/or who have quietly and privately sponsored a class by buying all the needed sheet music or chemicals or clay.

We do not recommend charging a fee for common use items such as paper, toner, paper towels, Kleenex etc. Even though these items have been on various teachers’ classroom lists they are the subject matter of the pending lawsuit with the Meridian District. If there are any fees, stick with personal use items -- their own paper, pens, tablets, calculators etc.

And finally, segregate any fees collected into a separate fund. Do not put them into the general fund so that the district can never be accused of using them to pay for teacher salaries or books or other items that are clearly the focus of the constitutional requirement of a free education. When the district puts these fees into a separate fund, make sure that any costs associated with those fees are pulled out of that segregated fund and that this is tracked regularly so that the school can justify the amount that they are charging in fees and adjust accordingly in subsequent years. The district does not want this separate fund to have a significant balance at the end of any school year as that may result in an accusation that the district is collecting excessive funds.

Unfortunately, this is a terribly confusing and subjective issue. However, your district is not alone as most of the districts throughout the State do have some type of fee structure. As indicated above, if the Meridian lawsuit actually ever gets to the merits of what fees can and cannot be charged, we are hopeful that we all will have some more black and white guidance to give to schools across the State. For now, all we can do is be in a position for which we can argue a solid defense, without knowing or guaranteeing what any given court will do with such an issue.

contact us with your question:



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