



## **Know Your Rights - Free Public Education in California**

The California Constitution has guaranteed children in our state a system of free schools since 1879. (California Constitution, Article IX, Section 5.) As the California Supreme Court has explained, this “free school guarantee” means that students in public schools cannot be charged fees for participation in educational activities.

Despite this clear prohibition, an ACLU investigation in 2010 revealed that school districts throughout the state were illegally charging students for a range of items, including essential course materials like textbooks. We filed *Doe v. California* to stop these illegal practices and protect equal access to public education. In response to our suit, [the state Legislature passed, and Governor Brown signed, Assembly Bill 1575 \(AB 1575\) in 2012.](#)

**Now, starting March 1, 2013, you may file an AB 1575 complaint at your school if you have been charged an illegal fee.** If your complaint is valid, the fee should be eliminated and you and all other affected students and parents should receive full reimbursement. Information regarding this complaint process and the “free school guarantee” must be provided to students and parents at least once a year in all public schools in California, including charter and alternative schools.

This document explains how to use the AB 1575 complaint process to enforce your right to a free public education and where to find additional information and guidance regarding student fees.

### **AB 1575 Complaint Process**

#### **Filing a Complaint**

If you believe you have been charged an illegal fee or have been required to purchase materials that should have been provided by your school, you may file a complaint with the principal of the school. A sample complaint form is available at [www.aclu-sc.org/free-schools](http://www.aclu-sc.org/free-schools).

You may file an anonymous complaint, but if you do, the school will not be able to contact you to ask follow-up questions or to request additional information, so you should be certain that your complaint contains all of the information necessary to prove that the school charged an illegal fee.

## Investigation and Response Timeline

**Within 60 days** from the date the principal receives the complaint, the school and/or district must investigate and send you a written response.

The response should include the facts (based on evidence gathered during the investigation), the legal conclusion reached by the school or district, the reasoning for the decision, corrective actions taken, if any, and information about how to appeal. Please note that you will not receive a written report if you filed your complaint anonymously.

## Appeals

If you disagree with the school or school district's decision, you may appeal.

**Within 15 days** of receiving the decision, you may send a written appeal to the California Department of Education (CDE). In your appeal, you must explain why you are appealing by either describing why the facts included in the decision are incorrect and/or why the law was applied incorrectly.

You should receive CDE's decision regarding your appeal **within 60 days** of the Department receiving your appeal.

For more information on the Uniform Complaint Procedures and the appeals process, visit <http://www.cde.ca.gov/re/cp/uc/>.

## Remedy

If the school, district or CDE determine that you were charged an illegal fee or were required to purchase materials that should have been provided by your school, the remedy provided by the school and/or district must be provided to all affected students and parents, and where applicable, must include reasonable efforts to ensure full reimbursement to everyone affected.

## Frequently Asked Questions

- 1) May a school charge students for elective classes or extracurricular activities?

No, schools may not charge fees for participation in classes or extracurricular activities. It does not matter if the class or activity is compulsory or elective. Prohibited fees include required security deposits or required purchases of materials or equipment necessary for participation in the class or extracurricular activity.

- 2) Does AB 1575 prohibit any student fees that were previously legal?

No. AB 1575 explicitly states that it is “declarative of existing law and shall not be interpreted to prohibit the imposition of a fee, deposit, or other charge otherwise allowed by law.” (California Education Code Section 49011(e).) The goal of AB 1575 is to ensure all students’ constitutional rights are protected by improving awareness of existing law and providing a means for resolving concerns swiftly and without costly litigation.

- 3) May a school charge fees only to those students who can afford them and offer waivers for those who cannot?

No. A waiver process based on financial need or inability to pay does not make an otherwise impermissible fee permissible.

- 4) Are there any fees that a school may charge?

Yes. There are some specific fees, charges and deposits that are legally permissible because they are specifically authorized by state law and not otherwise prohibited by the state constitution. For example, schools may charge for:

- Optional attendance as a spectator at a school or district-sponsored activity (e.g., attending a school dance);
- Food served to students, subject to free and reduced price meal program eligibility and other restrictions;
- The cost of replacing school books or supplies loaned to a student that the student fails to return or willfully damages (up to an amount not to exceed \$10,000).

For information on other fees authorized by state law, see the guidance issued by the California Department of Education regarding student fees:

<http://www.cde.ca.gov/re/lr/fm/>

5) May a school request and receive donations from parents and guardians?

Yes, of course. Schools, districts, school programs, teachers and coaches can and do seek and accept voluntary donations of funds and property. The key point is that the donations must be truly voluntary. A student's participation in a class, program or activity cannot be conditioned upon receipt of a "donation."

To avoid any misinterpretations, AB 1575 includes a provision that states that the bill "shall not be interpreted to prohibit solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or school districts, schools, and other entities from providing pupils prizes or other recognition for voluntarily participating in fundraising activities." (California Education Code Section 49011(c).)

6) What can I do if I believe I am being charged an illegal fee?

You may raise your concern with school or district administrators and request reimbursement where appropriate. As described above, you now have the option of filing a complaint at your school and seeking reimbursement through the simple Uniform Complaint Process. If you wish to explore all of your legal options, you should consult with an attorney.

7) Where can I find more information about the "free school guarantee" and the legality of specific types of fees?

While we can offer no endorsement or assurances of accuracy, you may find the following resources useful:

The California Department of Education distributed a fiscal management advisory regarding pupil fees, deposits and other charges to all County and District Superintendents and Charter School Administrators on November 9, 2011: <http://www.cde.ca.gov/re/lr/fm/>.

California's Fiscal Crisis and Management Assistance Team (FCMAT) has posted Guidelines for Student Fees, published by the Tulare County Counsel, on its website: <http://wwwstatic.kern.org/gems/fcmat/StudentfeesguidelinesTulareC.pdf>.

Many school districts have information about student fees on their websites now. For example, San Diego Unified School District provides an overview of how the law regarding student fees has developed: <http://www.sandi.net/Page/3094>.

8) Where can I get a copy of Assembly Bill 1575?

The text of the bill is posted at: [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1551-1600/ab\\_1575\\_bill\\_20120929\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1575_bill_20120929_chaptered.pdf).

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