



School Law FYI

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Legal Issues Regarding Student Fees

LIMITED AUTHORITY TO CHARGE SUMMER SCHOOL FEES

With summer school right around the corner, districts should be aware of the legal limitations in collecting and refunding summer school fees. If districts receive summer school state aid for a class or if a summer school class is required or credited toward graduation, districts cannot charge fees for the class other than for individual use-items and books. However, districts must provide supplies and books for indigent students. For other summer school classes for which the district does not receive state aid or that are not credited toward graduation, such as recreational classes, a district may charge a fee that is based on the actual cost of providing the class (“allowable costs”). These fees cannot subsidize other classes. Districts can also charge non-resident tuition for summer school classes to students from other school districts. However, according to DPI guidelines, students attending a non-resident district under Open Enrollment have access to tuition-free summer school in the non-resident district following their first year of full-time attendance at the non-resident district, even if these students do not intend to continue attending the non-resident district in the fall. [Tuition-free summer school does not apply to part-time Open Enrollment or Course Options].

REFUNDING EXCESS SUMMER SCHOOL FEES

There are two common situations where a district might collect excess summer school fees and have to consider refunding those fees. One, a student registers for a recreational summer school class but cancels registration in time to receive a refund for the summer school fee. Two, a student participates in a summer school class, but after auditing the costs for the class, a district learns that it charged slightly more in student fees than the allowable costs for the class. In this situation, the student would be entitled to a refund for this surplus amount, which is, oftentimes, de minimis (a dollar or less).

DPI has recently indicated that excess summer school registration fees should be reimbursed by vouchering a check to the student’s family. This represents a change in DPI’s position from 2014 when it indicated that reimbursement for excess summer school fees could take the form of crediting the student’s food account or providing a consumable good like a T-shirt to a student. Further, when claiming summer school state aid, districts are required to complete a PI 1804 W-2 Fee Reconciliation Worksheet, which calculates any surplus owed to students if a summer school class fee exceeded allowable costs. The instructions for this worksheet state that excess costs must be refunded to students by October 1st, or a district might receive an aid penalty.

Additionally, when a district collects a summer school fee, its authority to do so is limited to using the money for summer school, consistent with the legal restrictions summarized above. If a family cancels a student's registration prior to the start of summer school, the district no longer has the authority to charge that student for summer school registration fees. The student would be due a prompt refund. If the district kept that money and applied it to other debts on the student's account (lunch fees, overdue library book fees, field trip costs, etc.), the district would, in effect, be using its authority to charge summer school registration fees to subsidize other activities of the student. Such subsidizing is likely improper. A district does not have the authority to charge fees for one purpose and then apply them to another purpose without a family's consent.

As a result, the default refund option for districts should probably be to issue a check to the parent or credit back the parent's credit card/debit card. If a district wants to apply the refund to other balances on the student's account, the district should first obtain written parental consent. In this way, it is the parents that are controlling the use of the fee, and the district is merely implementing the parents' wishes. This could be done via a simple form.

With respect to the district having very small amounts left over after auditing a summer school class at the end of the summer, a district likely does not have the authority to apply this surplus to other debts for the same reasons explained above. With such small amounts, there may be somewhat less risk of a parent filing a complaint or in the district's auditors noticing the potentially improper allocation. Nevertheless, even applying small amounts of surplus to balances on the student's account could create legal and fiscal risks for a district. A district could avoid these risks by refunding the surplus amounts back to parents, unless the parents authorize the district in writing to apply the surplus to the student's account.

STUDENT MEAL ACCOUNT DEBTS AND STUDENT FEE REFUNDS

Finally, the United States Department of Agriculture, Food and Nutrition Service (FNS) has specific requirements regarding the collection of delinquent meal charge debt. Delinquent student meal accounts are often the main student debt of concern to a district. The FNS requires districts to have a written meal charge policy regarding the collection of delinquent meal charge debt. See *Unpaid Meal Charges: Local Meal Charge Policies*, USDA SP 46-2016 (July 8, 2016).

Additionally, districts should be aware that, if a student qualifies for reduced price meals and the student's family chooses to have a refund applied to the student's meal account, a district cannot use this money to offset the student's other fees, like field trips and library fees. Instead, the district must track this meal money and ensure that the student receives all the meals for which the student prepays or must refund any excess directly to the family. Even for students that do not qualify for reduced price meals, parents may have the expectation that, if they are giving money to their student's meal account, that money will not be used for other purposes.

CONCLUSION

Districts should be aware that their authority to charge student fees is limited. Given this limitation, districts should not use money received from student fees charged for one purpose for another purpose, such as paying down a student's delinquent meal account, without the written consent of the parent. Districts should consider adopting a fee refund form that provides parents with three options: (1) applying the refund to the student's meal account; (2) applying the refund to the student's general (non-meal) account; or (3)

refunding the money directly to the parents either by issuing a check or crediting back the credit card/debit card that paid the initial fee. In the event that parents do not select one of these options, districts should make issuing a refund the default.

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