

## WAIVER OF SCHOOL FEES

*Anne's 5<sup>th</sup> grade daughter, Amanda, returned to the shelter from school in tears after being told by her teacher that she could not attend the traditional end-of-the-year field trip to the art museum because she had not paid the \$10 fee for the trip. Instead, Amanda would have to sit in the school office all day when her classmates were on the field trip. At the time of enrollment, Amanda was identified as homeless by the homeless education liaison and qualifies for free lunch.*

Consider:

- Should Amanda be allowed to participate in the class trip, even if Anne cannot pay the \$10 fee?
- What went wrong?
- What should be done?
- What could you do to prevent this from happening in your district?
- Is refusing to allow Amanda to attend the field trip a “barrier” to her enrollment, attendance or success in school?

### Relevant Law and Regulations

Almost all Illinois school districts charge students and their families annual mandatory fees for textbooks, instructional materials, and school activities. In addition, many schools collect fees throughout the school year for field trips, participation in extracurricular activities, graduation, and other events. Such fees can add up to a significant sum that poor families are unable to afford. However, low-income families are entitled to a waiver of many fees that schools impose. The Illinois School Code requires that one of the duties of local school boards in Illinois is “to waive all fees assessed by the district on children whose parents are unable to afford them . . .” See 105 ILCS 5/10-20.13. The School Code also prohibits discrimination of any kind against a student who is unable to pay required fees and imposes a criminal penalty on any person who discriminates against students who cannot pay fees. See 105 ILCS 5/28-19.2.

Illinois law further requires that the Illinois State Board of Education adopt regulations governing waiver of school fees and that such regulations shall require every school district in Illinois adopt written policies and administrative procedures regarding fee waivers. See 105 ILCS 5/2-3.96. The ISBE has, in fact, adopted such regulations that provide helpful direction on what schools must do to assist low-income families with school fees. See 23 Ill. Adm. Code § 1.245. A working knowledge of the law and regulations concerning school fees will give school personnel the opportunity to ensure that low-income children, including children experiencing homelessness, are able to fully participate in curricular and extra-curricular activities.

## **Who is entitled to receive a waiver of school fees?**

The law states that fees should be waived for all students “whose parents are unable to afford them, *including but not limited to* children eligible for free lunches or breakfasts . . . .” 105 ILCS 5/10-20.13. (emphasis added) Therefore, at a minimum, all students who qualify for free breakfast or lunch are entitled to have their fees waived. The ISBE regulations require school districts to adopt a written policy that includes standards to determine eligibility. Under the regulations, the standards must (1) waive fees for all students who qualify for free breakfast or lunch; and (2) describe other extenuating circumstances under which the district will waive fees. 23 Ill. Adm. Code § 1.245(d)(1)(A) & (B). Examples of extenuating circumstances listed in the regulations include:

- students who are eligible for reduced-price breakfast or lunch;
- very significant loss of income due to severe illness or injury in the family;
- unusual expenses such as fire, flood, or storm damage; or
- similar emergency situations that the district determines to include in its policy.

23 Ill. Adm. Code § 1.245(d)(1)(B).

It is important for homeless liaisons and others working with low-income children at the school level to be familiar with their district’s fee waiver policy. Each district’s policy should state the circumstances in which a child is eligible for a fee waiver. Further, homeless liaisons should encourage their districts to add homelessness or a housing crisis as an extenuating circumstance that would automatically entitle children experiencing a housing crisis to a fee waiver.<sup>1</sup> Similarly, since many families at risk of homelessness pay a significant portion of their income in rent, school districts should consider granting fee waivers to families who pay more than 30% of their income in housing costs.

## **What charges are considered to be “school fees” which can be waived?**

The technical definition of “school fees” is “any monetary charge collected by a public school . . . as a prerequisite for the student’s participation in any curricular or extracurricular program of the school.” 23 Ill. Adm. Code § 1.245 (b). “School fees” which must be waived for eligible students include, but are not limited to:

- all charges for required textbooks and instructional materials;
- all charges and deposits collected by a school for use of school property (e.g., locks towels, laboratory equipment);

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<sup>1</sup> It is important to note that that the United States Department of Agriculture has issued Updated Guidance for Homeless Children in the School Nutrition Programs (dated April 4, 2002). The Guidance states that documentation that a child is homeless is acceptable in lieu of a fee and reduced price meal application to ensure provision of free meal benefits as quickly as possible. Therefore, if such Guidance is properly implemented at the school level, all homeless children should be receiving free meals and thus should be granted a fee waiver.

- charges for field trips made during school hours, or made after school hours if the field trip is a required or customary part of a class or extracurricular activity (e.g. annually scheduled trips to museums, concerts, places of business and industry or field trips related to instruction in social studies, the fine arts, career/vocational education or the sciences);
- charges or deposits for uniforms or equipment related to varsity and intramural sports or to fine arts programs;
- charges to participate in extracurricular activity;
- charges for supplies required for a particular class;
- graduation fees (e.g. caps, gowns);
- school record fees;
- school health service fees; and,
- driver's education fees.

23 Ill. Adm. Code § 1.245(b)(1)(A)-(J).

However, not all charges imposed by a school are required to be waived as “school fees.” For example, requiring students to provide their own ordinary supplies or materials (e.g., pencil, paper, or notebooks) is not considered to be imposing a “school fee.” Similarly, the following charges are not considered to be “school fees” which must be waived:

- library fines and other charges made for the loss, misuse, or destruction of school property;
- charges for the purchase of class rings, yearbooks, pictures, diploma covers or similar items;
- charges for optional travel undertaken by a school club or group of students outside of school hours;
- charges for admission to school dances, athletic events or other social events;
- optional community service programs for which fees are charged.

23 Ill. Adm. Code § 1.245(b)(2)(A)-(E).

### **What must school districts do to notify parents of its policy for the waiver of school fees?**

The parents of all students must be notified in writing of the school district's policy for the waiver of school fees upon enrollment.<sup>2</sup> A fee waiver application may be included in the notice. The notice must be in English or the home language of the parents and must describe the:

- district's policy, including the criteria and other circumstances in which the district will waive fees;

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<sup>2</sup> For unaccompanied youth, the homeless liaison should ensure that the youth is given notice of the fee waiver policy and should assist the youth in obtaining a fee waiver. Similarly, the homeless liaison should ensure that a homeless child's guardian or other enrolling adult is given notice.

- fees subject to waiver;
- procedure to be used to apply for a fee waiver, including forms to be used;
- procedure to be used by parents in resolving disputes.

23 Ill. Adm. Code § 1.245 (d)(2)(A).

In addition, the first bill or notice sent to parents who owe fees shall state that the district waives fees for those unable to afford them pursuant to its policy. The bill or notice shall also describe the procedure for applying for a fee waiver and the name, address and phone number of the person to contact for information regarding a fee waiver. 23 Ill. Adm. Code § 1.245(d)(2)(B). Finally, any substantive changes to the district's fee waiver policy or procedures must be communicated in writing to parents within 30 days of the changes. 23 Ill. Adm. Code § 1.245(e).

### **What are the procedures for resolving disputes about fee waivers?**

If a district denies a request for a fee waiver, the district must mail a copy of its decision to the parents within 30 days of the request. The decision shall state the reason for the denial and shall inform the parents of their right to appeal, including the process and timeline for an appeal. The decision should also inform parents that they may re-apply for a waiver of school fees at any time during the school year if their circumstances change. 23 Ill. Adm. Code § 1.245(d)(3)(A).

Any appeal of a district's denial of a request for a fee waiver shall be decided within 30 days of the request for an appeal. Parents shall have the opportunity to meet with the person deciding the appeal to explain why they should receive a fee waiver. The person who decides the appeal shall not be the person who initially denied the fee waiver (or a subordinate of that person). If the appeal is denied, a copy of the decision should be mailed to the parents and should state the reason for the denial of the appeal. 23 Ill. Adm. Code § 1.245(d)(3)(B).

During the time a request for a fee waiver and/or appeal is being decided, no fee shall be collected from the parent. 23 Ill. Adm. Code § 1.245(d)(3)(C).

### **Is information collected in the fee waiver process confidential?**

Any school records that identify students as having applied for or having received a fee waiver is confidential. Such information may be disclosed only subject to the Illinois School Student Records Act. 23 Ill. Adm. Code 1.245(f); 105 ILCS 10/1 et. seq.

### **Can students whose parents cannot pay fees be excluded from activities?**

Schools cannot impose discrimination or punishment *of any kind* (including lowering grades or excluding students from classes) on a student whose parents or guardians are unable to pay school fees. 105 ILCS 5/28-1.2; 23 Ill. Adm. Code §

1.245(g). Any person – including school district employees – who violate Section 28-19.2 of the School Code (prohibiting discrimination and punishment of students unable to pay school fees) is guilty of a petty offense. 105 ILCS 5/28-19.2(b).

Return to the problem at the beginning of this section and consider the questions raised.

**Should Amanda be allowed to participate in the class trip, even if Anne cannot pay the \$10 fee?**

Clearly yes. First, fees should be waived for students who qualify for free lunch, as Amanda does. Second, the charge for the field trip is clearly a “school fee” as it is made during school hours. Even if it was not during school hours, the charge would still be considered a “school fee” because it is a customary part of a class, i.e. an annually scheduled trip to a museum. Finally, schools are prohibited from punishing or discriminating against a student – such as excluding the student from classes or activities – because the parent is unable to pay the fees.

**What went wrong?**

The school district did not notify Anne of its fee waiver policy as it should have upon enrollment. The homeless liaison or another school district employee should have granted a fee waiver at that time since Amanda qualifies for free lunch. Amanda should not have been told directly by the teacher that she could not participate in the field trip; rather, efforts should have been made to communicate directly with Anne. The field trip charge is a school fee subject to waiver so Amanda should not have been excluded from the trip. No information about resolving fee waiver disputes was provided to Anne. Amanda should not have been stigmatized by the prospect of sitting in the office all day when her classmates were on the field trip.

**What should be done?**

Amanda should be allowed to attend the field trip without paying the \$10 fee. The school should grant a fee waiver for this field trip as well as other charges. If Anne has already paid other fees, those fees should be refunded since she was eligible for a fee waiver. The school should communicate sensitively with the family.

**What could you do to prevent this from happening in your district?**

This situation could be prevented by notifying all parents of the district’s fee waiver policy at the time of enrollment. In particular, the homeless liaison should make sure homeless families are aware of the fee waiver policy, give the families an application for a fee waiver, and, ensure that they are granted a fee waiver. Procedures should be in place to automatically grant fee waivers to those students who qualify for free lunch and/or meet other criteria contained in the district policy. Procedures should also be put in place (and followed) to resolve disputes and to inform parents of their right to appeal.

Schools should never exclude children from classes or activities based on an inability to pay fees.

**Is refusing to allow Amanda to attend the field trip a “barrier” to her enrollment, attendance or success in school?**

Yes, excluding Amanda from the traditional end-of-the-year field trip can be considered a “barrier.” She is being stigmatized and singled out to sit in the office while her classmates participate in the enriching experience of attending a field trip at an art museum. She is, in effect, missing school for a day. She will be deprived of the learning that takes place at the museum which may be connected to the curriculum.