

California Department of Education
Categorical Program Complaints Management Office
Decision of Appeal No. 2015-26

Appeal No. 2015-26

Appellar

Local Educational Agency: San Diego Unified School District

Date Appeal Received by the CDE: April 6, 2015

Subject of Appeal: Pupil fees — IB Fees

Report Mailed: June 4, 2015

APPEAL PROCEDURES

The Categorical Program Complaints Management (CPCM) Office reviewed the original complaint, the District's Decision, the appeal, the investigative file from the District, and the District's complaint procedures. The CDE finds the District complied with its local UCP policies and procedures.

The CDE requested and received additional information from the District regarding its IB program.

APPLICABLE LAW

Education Code (EC) 49010.

For purposes of this article, the following terms have the following meanings:

- (a) "Educational activity" means an activity offered by a school, school district, charter school, or county office of education that constitutes an integral fundamental part of elementary and secondary education, including, but not limited to, curricular and extracurricular activities.
- (b) "Pupil fee" means a fee, deposit, or other charge imposed on pupils, or a pupil's parents or guardians, in violation of Section 49011 and Section 5 of Article IX of the California Constitution, which require educational activities to be provided free of charge to all pupils without regard to their families' ability or willingness to pay fees or request special waivers, as provided for in *Hartzell v. Connell* (1984) 35 Cal.3d 899. A pupil fee includes, but is not limited to, all of the following:
 - (1) A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.

...

EC 49011

- (a) A pupil enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity.
- (b) All of the following requirements apply to the prohibition identified in subdivision (a):
 - (1) All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge.
 - (2) A fee waiver policy shall not make a pupil fee permissible.
 - (3) School districts and schools shall not establish a two-tier educational system by requiring a minimal educational standard and also offering a second, higher educational standard that pupils may only obtain through payment of a fee or purchase of additional supplies that the school district or school does not provide.
 - (4) A school district or school shall not offer course credit or privileges related to educational activities in exchange for money or donations of goods or services from a pupil or a pupil's parents or guardians, and a school district or school shall not remove course credit or privileges related to educational activities, or otherwise discriminate against a pupil, because the pupil or the pupil's parents or guardians did not or will not provide money or donations of goods or services to the school district or school.

...

EC 52922(a)

... The Superintendent shall annually allocate to each school district, on behalf of each high school or middle school within the district that offers an International Baccalaureate Diploma Program, the amount of up to twenty-five thousand dollars (\$25,000) for each participating high school and middle school to . . . help pay the test fees for low- and middle-income pupils in need of financial assistance . . .

ALLEGATION NO. 1

Appellant alleges:

... District ... mak[es] it mandatory to pay for IB fees ... there is not a choice for students as the school is specifically configured for an IB program and staff must schedule students into IB classes per the Master Schedule ... students cannot get out because they are informed by staff that they agreed to a 2 year program and must pay it.

The original complaint stated:

IB tests are part of the curriculum ... teachers instruct student to sign up for the [IB] tests. The Teacher ... wrote that no credit will be given for the course of the student does not pay for the exam ... the fee must be voluntary ...

District's Findings of Fact:

Participation in the IB program is **strictly voluntary**. For every school course that has the IB curriculum, an equal course without the IB curriculum is available to students. At the start of the 11th grade, students and parents who wish to participate in the IB program are advised of the two year commitment to the program, and the fee involved. The IBO, not the school and not the District, charges a registration fee, and a fee for each course. Parents are advised that they must pay that course fee unless they are eligible for a state subsidy available for low income students. The IBO invoices each parent who elects to participate in the IB program. The school collects the payments and transmits those payments to the IBO.

The IBO mandated IB coursework is a component of regular school courses. ... The IB Diploma **is not** the District issued high school graduation diploma. The IB Diploma is an IBO document reflecting achievement only on the IB component of the regular school courses. ...

Every student in a course with an IB component must complete the IBO prescribed work in that course in addition to the state/District prescribed work for that course. At the end of a semester, a student will receive a letter grade, A-F, for that state/District prescribed course work. That academic letter grade is the grade that is entered into the student's high

school transcript. The IBO numerical score (1-7) *is not shown* on a student's high school transcript or on a student's District issued high school diploma. There is no fee charged to a student for their regular course semester/end of year grade in any high school course with an IB component. [Emphasis in original.]

CDE's Determination as to District's Findings of Fact:

While the scope of the appeal appears to somewhat exceed the scope of the original complaint, the CDE nevertheless followed up and sought clarification from the District. The District's responses to further inquiries by the CDE indicate that in actual practice the program operates somewhat differently than is described above. The evidence showed that students can enroll in, attend, and fully participate in a course with an underlying IB component, including both regular coursework and IB prescribed coursework, and receive full course credit towards a high school diploma without paying any fee of any kind and without registering for, paying for or taking any end-of-course IB exams. Fees are involved only if a student chooses to register for and take end-of-course IB exams, which can lead to a separate IB designation on the transcript and a separate "IB diploma." Students who do not complete the end-of-course IB exams receive a regular course designation on the transcript that is equal in grade point average weighting to the IB course designation. The District ultimately ensures that all students who wish to participate in end-of-course of exams are permitted to do so regardless of their financial situation.

The CDE finds that the District's findings of fact are partially supported by the evidence.

District's Conclusions of Law:

The foregoing statutory provisions [EC sections 52240-52244, 52920-52922] authorize California public high schools to offer regular high school courses with IBO prescribed and regulated course content, on a voluntary basis, and for a fee paid to the IBO. The District's practice of passing IBO invoices on to students for IBO fees is authorized by Education Code sections 52920 through 52922. The fees are paid to the IBO, in part, to pay persons who grade student IB component work in order to determine the numerical IB score a student will receive on their certificate for their IB course. The fees are not paid to the school or the District as a condition for receiving a letter grade for the course, for including the letter course grade on their high school transcript, or for receiving their high school diploma. The District's practice of collecting IBO fees is statutorily authorized and does not violate Education Code sections 44910 or 44911.

The above cited statutes and CDE communications and publications clearly contemplate that: students voluntarily participating in IB programs would be charged registration and course fees by IBO; students would be required to comply with IBO course standards and requirements; one of those requirements is that students complete IB components of courses and have that component work graded; school districts have the authority to collect those fees; such practices by school districts do not violate the school fee statutes.

The complaint is denied as to Complaint Item 1.

CDE's Determination as to District's Conclusions of Law:

The District's findings and its written communications to parents and students state that the District has communicated that there is a fee for each course with an underlying IB component, that all parents who elect to have their students participate in the IB program receive an invoice, and that the fees pay at least in part for IB personnel to grade IB coursework. The District's responses to further inquiries by the CDE, however, clarify that in actual practice the school's IB program operates differently than is indicated in the District's findings of fact and the written communications to parents and students. That is, students can enroll in, attend and fully participate in a course with an underlying IB component without paying any fee of any kind and without registering for, paying for or taking any end-of-course IB exams. The fee-based IB end-of-course exams are not a course requirement and the exam results do not impact a student's grade or course credit towards a high school diploma.

While the evidence of actual practice indicates a mandatory fee was not charged for participating in an IB course, the District's written communications are noncompliant as they could lead a reasonable parent to believe that for all students enrolled in an IB course, participation in fee-based exams is mandatory. Accordingly, to the extent the District made an implied conclusion that the District's written communications are compliant, the District's conclusion is not consistent with law.

CONCLUSION:

The appeal has merit with respect to the District's written communications. Corrective actions are assigned below.

[REDACTED], Appellant

June 4, 2015

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CORRECTIVE ACTIONS:

By July 31, 2015, the District must provide the CDE with evidence that its written communications to current and prospective IB students and parents contain the following specific statement: "A student can enroll in, attend, and fully participate in a course with an underlying IB component, including both regular coursework and IB prescribed coursework, and receive full course credit towards a high school diploma, without paying any fee of any kind and without registering for, paying for or taking any end-of-course IB exams." The District's written communications to current and prospective IB students and parents must further be revised, as necessary, to ensure that they do not contain any statements that are inconsistent with the above statement.