

Operational Services

Waiver of Student Fees ¹

The Superintendent will recommend to the School Board a schedule of fees, if any, to be charged students for the use of textbooks, consumable materials, extracurricular activities, and other school student fees. Students must also pay fines for the loss of or damage to school books or other school-owned materials.

Fees for textbooks, other instructional materials, and driver education, as well as fines for the loss or damage of school property are waived for students who meet the eligibility criteria for a waiver as described in this policy.² In order that no student is denied educational services or academic credit due to the inability of parents/guardians to pay student fees and fines, the Superintendent will recommend to the Board which additional fees and fines, if any, the District will waive for students who meet the eligibility criteria for a waiver.³

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State law requires this subject matter be covered by policy and controls its content. 105 ILCS 5/10-20.13, amended by P.A.s 102-1032 and 102-805, eff. 1-1-23; 23 Ill.Admin.Code §1.245. Though 105 ILCS 5/10-20.13 has been amended by P.A.s 102-1032 and 102-805, eff. 1-1-23, the Illinois State Board of Education (ISBE) has yet to update its implementing rules at 23 Ill.Admin.Code §1.245 in response. *Fees* are “any monetary charge collected by a public school, public school district, or charter school from a student or the parents or guardian of a student as a prerequisite for the student’s participation in any curricular or extracurricular program of the school or school district as defined [at 23 Ill.Admin.Code §1.245(1) and (2)].” 105 ILCS 5/1-3, amended by P.A. 102-805, eff. 1-1-23. State law provides that “[n]o discrimination or punishment of any kind, including, but not limited to: the lowering of grades, exclusion from classes, or withholding of student records, transcripts, or diplomas may be exercised against a student because the student’s parents or guardians are unable to purchase required textbooks or instructional materials or to pay required fees,” 105 ILCS 5/28-19.2, amended by P.A. 102-805, eff. 1-1-23. This policy concerns an area in which the law is unsettled (see footnotes 2 and 3). If the fee waiver policy and/or procedures are substantively amended, then parents/guardians must be notified in writing within 30 calendar days following the adoption of the amendments. 23 Ill.Admin.Code §1.245(e).

² Districts must waive textbooks fees and all fees and fines for the loss of school property for students whose parents/guardians are unable to afford them and for homeless children and youth. 105 ILCS 5/10-20.13, amended by P.A.s 102-1032 and 102-805, eff. 1-1-23. While districts are only required to waive fines for the *loss* of school property and not the *damage* of school property, this sample policy extends fine waivers to both for ease of implementation and to encourage students to return school property even if damaged (instead of claiming property is lost to avoid a fine).

In order to effectuate the law’s intent, the term “textbook” should be interpreted broadly to include fees for instructional materials, laboratory fees, and workbooks. The enforceability of 105 ILCS 5/10-20.13(b) and ISBE regulations (23 Ill.Admin.Code §1.245) requiring districts to waive “other fees” is questionable because they are unfunded mandates. ISBE regulations on school fees may not be enforceable because the General Assembly failed to make necessary appropriations. See the Weekly Message from State Superintendent Robert Schiller, 8-15-03 (contact a **PRESS** Asst. Editor for a copy).

The textbook block grant program operated by ISBE is found at 105 ILCS 5/2-3.155, amended by P.A. 101-227.

A school district may charge up to \$50 to students who participate in the driver education course. The fee may be increased up to \$250, provided the district completes the requirements in Section 27-24.2. The fee must be waived for any student whose parent/guardian is unable to afford it. 105 ILCS 5/27-24.2; 23 Ill.Admin.Code §252.30.

Resident tuition fees are not permissible, but a board’s authority under 105 ILCS 5/10-20.13 to charge for textbooks and towel fees does not violate the Ill. Constitution’s provision guaranteeing free public education through the secondary level. *Hamer v. Board of Ed., Sch. Dist. No. 109*, 9 Ill.App.3d 663 (2nd Dist. 1973).

³ 105 ILCS 5/10-20.13(b) was added by P.A. 83-603 in 1983 to require districts to waive “other fees” in addition to the costs of textbooks and then amended by P.A. 102-805, eff. 1-1-23, to waive “other fees and fines.” The General Assembly, however, never appropriated the necessary funds. Thus, the amendment may be unenforceable because it violated the State Mandates Act. 30 ILCS 805/1; see above footnote. Use the following alternative if the board wants to make a longstanding commitment to waive specific fees, amending the list of fees that will be waived as desired:

Notification

The Superintendent shall ensure that a notice of waiver applicability is provided to parents/guardians with every bill for fees and/or fines,⁴ and that applications for waivers are widely available and distributed according to State law and Ill. State Board of Education (ISBE) rule and that provisions for assisting parents/guardians in completing the application are available.

Eligibility Criteria

A student shall be eligible for a fee and fine waiver when: ⁵

1. The student currently lives in a household that meets the same income guidelines, with the same limits based on household size, that are used for the federal free meals program;
2. The student's parents/guardians are veterans or active-duty military personnel with income at or below 200% of the federal poverty line; or
3. The student is homeless, as defined in the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a).

The Superintendent or designee will give additional consideration when one or more of the following factors are present: ⁶

- Illness in the family;
- Unusual expenses such as fire, flood, storm damage, etc.;
- Unemployment;
- Emergency situations;
- When one or more of the parents/guardians are involved in a work stoppage.

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In order that no student is denied educational services or academic credit due to the inability of parents/guardians to pay student fees and fines, the following fees are also waived for students who meet the eligibility criteria for waiver: athletic participation fees, lock fees, towel fees, shop fees, laboratory fees, and registration fees.

Alternatively, a board may decide to waive all school student fees and fines and substitute the following sentence for this paragraph:

All school student fees and fines as defined by the Ill. State Board of Education (ISBE) are waived for students who meet the eligibility criteria for a waiver contained in this policy.

⁴ Required by 105 ILCS 5/10-20.13(b), as amended by P.A. 102-805, eff. 1-1-23.

⁵ Required by 105 ILCS 5/10-20.13(b), amended by P.A.s 102-1032 and 102-805, eff. 1-1-23, to add numbers 2 and 3 as eligibility criteria. 105 ILCS 5/10-20.13(b), as amended by P.A. 102-1032, does not specify whether the *income* at or below 200% of the federal poverty line is the household income or solely the income of the veteran/active-duty military parent/guardian. Consult the board attorney for guidance.

Though 105 ILCS 5/10-20.13(b) was amended by P.A. 102-805, eff. 1-1-23, to make homeless students statutorily eligible for school fee and fine waivers, non-regulatory ISBE guidance states that students who are homeless, migrant, in foster care, runaway, or participating in Head Start are categorically eligible for school fee waivers. See www.isbe.net/Documents/guidance_reg.pdf.

The federal free meals program is found at 42 U.S.C. §1758; 7 C.F.R. Part 245. See f/n 7.

⁶ This paragraph is optional and may be omitted.

Verification ⁷

The Superintendent or designee shall establish a process for determining a student's eligibility for a waiver of fees and fines in accordance with State law requirements.

If a student receiving a waiver is found to be no longer eligible during the school year, the Superintendent or designee shall notify the student's parent/guardian and charge the student a prorated amount based upon the number of school days remaining in the school year.

Determination and Appeal ⁸

Within 30 calendar days after the receipt of a waiver request, the Superintendent or designee shall mail a notice to the parent/guardian whenever a waiver request is denied. The denial notice shall include: (1) the reason for the denial, (2) the process and timelines for making an appeal, and (3) a statement that the parent/guardian may reapply for a waiver any time during the school year if circumstances change. If the denial is appealed, the District shall follow the procedures for the resolution of appeals as provided in the ISBE rule on waiver of fees.

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⁷ Districts have two income verification options to determine eligibility for fee and fine waivers: (1) establish an application process that is completely independent of a student's application for, eligibility for, or participation in the federal free meals program, or (2) tie the application process to the federal free meals program application and only ask for *verification* in accordance with the meals program. 105 ILCS 5/10-20.13(c), amended by P.A.s 102-1032 and 102-805, eff. 1-1-23. See www.isbe.net/Pages/School-Fee-Waivers.aspx for further explanation. For option #1, see exhibit 4:140-E1, *Application for Fee Waiver*. For option #2, see exhibit 4:140-E2, *Application for Fee Waiver Based on Federal Free Meals Program*.

By using option #1, a district may require income verification at the time an application is submitted for a waiver and may do so thereafter, but not more than once per academic year. 105 ILCS 5/10-20.13, as amended by P.A. 102-805, eff. 1-1-23. An application using option #1 cannot ask whether a student lives in a household that meets free lunch eligibility guidelines and request income verification with reference to *free lunch* eligibility guidelines. Instead, the district should supply its own income guidelines with the same limits based on household size that are used for the federal meals program and have the parents/guardians indicate if they meet the income guidelines used to determine eligibility for *fee and fine waivers*. The independent fee and fine waiver income guidelines should not be any higher than those for eligibility for free lunch (or reduced-price, if the district voluntarily provides fee and fine waivers for those students who qualify), but the district should not reference or indicate that the guidelines are for the free meals program. In this completely independent waiver application process, the district may ask for verification, but cannot use any information it receives through this process for determining eligibility for free or reduced meals.

By using option #2, the district must follow the verification requirements of the federal free meals program at 7 C.F.R. §245.6a. 105 ILCS 5/10-20.13(c), amended by P.A.s 102-1032 and 102-805, eff. 1-1-23.

Income verification may include such things as payroll stubs, tax returns, or evidence of receipt of food stamps or Temporary Assistance for Needy Families. 23 Ill.Admin.Code §1.245(d).

⁸ An ISBE rule requires that the policy state that the district will mail a copy of a denial notice within 30 calendar days after the receipt of the waiver request. 23 Ill.Admin.Code §1.245(c)(3). This rule also specifies timelines and procedures, including a requirement that "the person who decides the appeal shall not be the person who initially denied the fee waiver or a subordinate of this person." Thus, a board may be required to hear an appeal if the superintendent made the initial decision to deny a waiver. The board's participation is avoided by the principal making initial waiver decisions and the superintendent or other main office administrator deciding the appeals.

LEGAL REF.: 42 U.S.C. §11434a, McKinney-Vento Homeless Assistance Act.
105 ILCS 5/10-20.13, 5/10-22.25, 5/27-24.2, and 5/28-19.2.
23 Ill.Admin.Code §1.245 [may contain unenforceable provisions].

CROSS REF.: 4:130 (Free and Reduced-Price Food Services), 6:140 (Education of Homeless Children), 6:220 (Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct)