



CLIENT NEWS BRIEF

December 2010

Number 60

PROPOSED SETTLEMENT AGREEMENT REACHED IN STUDENT FEES LAWSUIT

Pending court approval, the American Civil Liberties Union (“ACLU”), the State of California, and Governor Arnold Schwarzenegger recently settled a [class action lawsuit](#) by the ACLU, in which the ACLU alleged that local school districts were illegally charging fees to students and their families for educational activities and materials in violation of the free school guarantee under the California Constitution.

The [settlement agreement](#) requires the state to send an agreed-upon letter to all county and district superintendents and charter school administrators regarding the obligation to provide a public education to all students without regard to their families’ ability or willingness to pay fees, and which includes guidance on permissible and impermissible student fees. The settlement also provides for a model notice regarding student fees, which would be posted in classrooms.

Additionally, the settlement calls for the state, the Governor, and the ACLU to engage in good faith efforts to pass proposed legislation and regulations regarding student fees. The proposed legislation would require audits of local educational agencies to include a review of school district practices to ensure against the charging of impermissible student fees. If an auditor discovers that a school district has imposed illegal student fees, the district would be required to reimburse families the amount charged plus interest. Further, the proposed legislation under the settlement would allow students and parents to use the Williams complaint process to challenge allegedly improper student fees. Finally, the settlement’s proposed regulations include a list of permissible student fees intended to provide guidance to school districts as well as to auditors reviewing district fee practices. The list of permissible student fees appears consistent with previously existing guidance issued by the California Department of Education and other authorities on this issue.

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LOZANO SMITH can assist with all issues related to school fees and charges, including conducting trainings for staff and performing a legal audit to determine whether district practices regarding the charging of fees, solicitation of donations, and fundraising comply with existing law.

If you have any questions regarding this litigation or would like assistance in conducting an audit of your district's policies and practices, please do not hesitate to contact one of our [seven offices](#) located statewide or consult our [website](#).

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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.