



LOZANO SMITH ALERT

September 2010

Number 9

THE ACLU INITIATES CLASS ACTION LAWSUIT AGAINST THE STATE OF CALIFORNIA CHALLENGING STUDENT FEES

The American Civil Liberties Union recently initiated class action litigation entitled Doe v. State of California (click [here](#) to read the complaint) in the Los Angeles County Superior Court. The ACLU is challenging school districts' imposition of fees and charges upon students, alleging that such fees are in violation of the California Constitution's free school guarantee and related laws. The ACLU filed suit on behalf of two southern California minor students and their taxpaying parents. Named as defendants in the case are the State of California and Governor Arnold Schwarzenegger. Although several school districts around the state are identified in the plaintiffs' complaint as having schools that violate the free school guarantee, no school districts have yet been sued.

The basis of the ACLU's legal theory is that, ultimately, the State of California is responsible for ensuring a free public education. The complaint alleges that the state and the Governor have neglected their responsibility to uphold the free school guarantee by allowing school districts to charge unlawful fees. Examples of some of the allegedly improper fees identified in the complaint are lab fees for specific courses, fees for the purchase of textbooks or workbooks, and charges related to P.E. uniforms. (It should be noted that there are a number of fees and practices identified in the complaint for which there is no clear guidance in the law, and which may in fact be proper under the law.)

As relief, the plaintiffs seek declaratory and injunctive relief, not monetary damages. The plaintiffs seek a declaration from the court that the fees identified in the complaint are unlawful, and an injunction ordering the state to develop and enforce regulations "prohibiting the imposition of unconstitutional fees for courses for academic credit."

LOZANO SMITH ALERT

September, 2010

Number 9

Although no school districts are currently named as defendants in the lawsuit, it is possible that the state or the court might bring school districts into the litigation. Before that occurs, we recommend that districts proactively review their current policies regarding fees and donations.

LOZANO SMITH can assist with all issues related to school fees and charges, including training and performing a legal audit of district practices 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 fee/donation policies and practices, please do not hesitate to contact any one of our [seven](#) statewide offices.

Written by:

[Thomas Manniello](#)

Shareholder & Student Practice Group Co-Chair

Monterey Office

tmanniello@lozanosmith.com

[Sloan Simmons](#)

Associate & Student Practice Group Co-Chair

Sacramento Office

ssimmons@lozanosmith.com



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.