

Fundraisers

Guidance Document on School Fees



Overview:

The purpose of this document is to provide guidance to district and charter schools also known as Local Education Agencies (LEAs) in determining, and complying with, the laws and regulations that govern the various methods of school fundraising.

All LEA fundraising activities must be approved as described in the LEAs fundraising activity approval process. Each LEA may determine the specifics of the approval process but the approval process must be included in the LEAs board approved fundraising policy. See specific sections below for further guidance regarding approved fundraising activities.

School Sponsored:

First, an LEA must determine if an activity, camp, class, club, clinic, fundraising event, program, or other event is “provided, sponsored, or supported by a school” or LEA. To make that determination, the following questions must be considered: (R277-407-2(14)(a))

1. Is the activity, camp, class, club, clinic, fundraising event, program, or other event **authorized** by the LEA or school, according to local education board policy?
2. Is it **managed or supervised by an LEA, public school, or an employee** of an LEA or public school in the employee’s school employment capacity?
3. Does it **use**, more than inconsequentially, the LEA’s or school’s facilities, equipment, or other school resources?
4. Is it supported or subsidized, more than inconsequentially, **by public funds** including a public school’s activity funds or minimum school program dollars?

If **ANY** of the above are answered with a **yes**, the event is considered “provided, sponsored, and supported by a school” or the LEA. For activities that are determined to be non-school sponsored, see page 4.

Fundraising as a Fee:

If the activity, camp, class, club, or clinic, fundraising event, program, or other event is “provided, sponsored, or supported by a school” or LEA, any amount charged to students must meet the regulations outlined in Utah Code Annotated (UCA) 53G-7 Part 5, Part 6, Part 7, Part 8 and Board rule R277-407.

A fee is defined in UCA 53G-7-501(6):

- “(a) “Fee” means a charge, expense, deposit, rental, or payment:
- (i) regardless of how the charge, expense, rental, or payment is termed, described, **requested, or required** directly or indirectly;
 - (ii) in the form of money, goods, or services; and
 - (iii) **that is a condition to a student’s full participation in an activity, course, or program that is provided, sponsored, or supported by an LEA.**
- (b) “Fee” includes:
- (i) money or something of monetary value raised by a student or the student’s family through **fundraising;**”

Board rule R277-407-2(17) clarifies “Requested or required by an LEA as a condition to a student’s participation” as:

“something of monetary value that is **impliedly** or explicitly mandated or necessary for a student, parent, or family to provide so that a student may:

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- (a) **fully participate** in school or in a school activity, class or program;
- (b) successfully complete a school class for the highest grade; or
- (c) avoid a direct or indirect **limitation on full participation** in a school activity, class, or program, including limitations created by:
 - (i) peer pressure, shaming, stigmatizing, bullying, or the like; or
 - (ii) **withholding or curtailing any privilege that is otherwise provided to any other student.**

Fundraising is further defined in Board rule R277-407-2(5) as an “activity or event that is provided, sponsored, or supported by a school that **uses students to generate funds**” through:

1. the sale of goods;
2. the sale of services;
3. the solicitation of money from individuals or businesses; *or*
4. other lawful means or methods that use students to generate funds.

The funds generated through students must be used for:

1. financial support to a school;
2. financial support to any of the schools’ classes, groups, teams, or programs;
3. the benefit of a particular charity; *or*
4. other charitable purposes.

Fundraising “**does not** include an alternative method of raising revenue **without** students.” (UCA 53G-7-501(7)(b)).

Required Fundraising:

Fundraising that is required and affects a student’s grade or full participation in an activity, class, or program **is** considered a fee. Only group fundraisers can be required as allowed in Board rule R277-407-10. As a fee, the group fundraiser must follow all approval, notice, and waiver requirements outlined in UCA 53G-7 Part 5 and Board rule R277-407.

Voluntary Fundraising:

Voluntary group or individual fundraising that is **not** explicitly or impliedly required and does not affect a student’s grade or full participation in an activity, class, or program **is not** considered a fee. LEAs must ensure that students do not feel pressured into participating in the voluntary fundraising opportunities, otherwise the fundraiser is considered a fee because it is “impliedly or explicitly mandated” and all school fee regulations apply.

Fundraising Policy:

“An LEA governing board shall establish a fundraising policy that includes a **fundraising activity approval process**” as required per Board rule R277-407-10.

The LEA’s fundraising policy:

- may allow required group fundraisers;
 - shall include a requirement that a school notify parents of required group fundraising, including how and when specific details will be provided; and
 - that if a student chooses to not participate in the group fundraiser, the LEA may limit participation in the activity;
- may provide voluntary individual fundraising opportunities for students; and
- shall require compliance with the requirements of Board rule R277-113 when using alternative methods of raising revenue without students.

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The LEA's fundraising policy may not:

- allow for required individual fundraising; nor
- deny a student membership on a team or group for non-participation in a fundraiser.

It is recommended that LEAs establish an LEA refund policy for times when events may be cancelled for outside circumstances. All LEAs should work closely with their legal counsel to ensure they are complying with existing federal (IRS) and state tax regulations when providing refunds.

Required Group Fundraising:

LEAs can require group fundraisers, which are defined in Board rule R277-407-2(6):

"Group fundraiser" or "group fundraising" means a fundraising activity where the money raised is used for the **benefit of the group, team, or organization**.

If LEAs choose to require group fundraising for students to participate in an activity, class, or program, they must comply with all requirements in UCA 53G-7 Part 5 and Board rule R277-407. Requirements include but are not limited to the following sections discussed below:

Fee Schedule:

As a fee, fundraising must be listed on the fee schedule per Board rule R277-407-6(2) - (4). The maximum fee amount must include amounts expected to be received, per student, through required group fundraising. In addition, an LEA may include on the fee schedule the following:

- **when** parents will be notified of fundraising requirements; and
- that if a student chooses to not participate in the fundraiser, the LEA may limit participation in the activity.

Notices:

As designated in the LEA's fundraising policy, an LEA or school shall notify parents and students of the estimated participation time and a description of the nature of the required group fundraiser, prior to the fundraising activity. (R277-407-10(2)(f) & (3)).

Use of Funds:

Funds raised in a required group fundraiser **must** benefit the group, team, or organization. (R277-407-2(6))

As group fundraising is required and considered a fee, funds raised must provide a benefit to all individuals on the group, team, or organization. This means that fundraising funds cannot be used to only cover the cost of fee waiver students. The costs for fee waiver students must be covered through other funding sources. (R277-407-8(2) & R277-407-7(3)) However, the fundraising funds can be used to reduce the cost of the activity fees for **all members** of the team, group, or organization.

Participation:

LEAs **must** maintain student and family confidentiality and avoid overtly identifying individual students' participation to circumvent peer pressure, shaming, stigmatizing, bullying or the like. (R277-407-2(17), R277-407-8(5) - (7))

The Permanent Injunction prohibits the use of sales quotas or individual awards/incentives thereby eliminating identification of sales of individual students. Instead, an LEA may designate a required number of hours for participants to show a good faith effort was made. The LEA may use awards/incentives for the group or team

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reaching a determined fundraising amount where everyone on the group or team receives the award/incentive. In addition, LEAs are encouraged to provide additional opportunities to participate for students whose circumstances conflict with the requirements of the fundraiser.

Board rule R277-407-10(2)(d) indicates that an LEA “may not deny a student membership on a team or group” for not participating in a required group fundraiser. If a student chooses to not participate in a required group fundraiser, the LEA may limit participation in the activity for which the funds are raised. However, the LEA or school **must** notify parents of any limit to participation due to non-participation in the required fundraiser at the time fundraising details are provided to parents. (R277-407-10(2)(f) - (3))

Individual Fundraising:

An LEA “may not authorize, establish, or allow for required individual fundraising” but may provide voluntary individual fundraising opportunities for students to raise money to offset the individual student’s fees. (R277-407-2(7) and R277-407-10(2)(a) & (b)).

Non-School Sponsored Activities:

The following regulations should be considered if the activity is determined as **NOT** “provided, sponsored, and supported by a school” or the LEA:

- Private, but Public Education-Related Activity: LEA employee participation in the activity shall be separate and distinguishable from the employee’s public employment. (R277-107)
- Revenues and expenditures from non-school sponsored events may not be co-mingled with public funds. An LEA shall conduct all transactions at arms lengths. (R277-113-9(7))
- Use of Public School Buildings and Grounds as Civic Centers: Use of the LEA equipment or facilities shall be managed through a facilities use written agreement, or a contract, as established by LEA policy. (UCA 53G-7-209, and UCA 53G-7-210)

Additional Fundraising Regulations:

There are additional regulations related to fundraising outside of UCA 53G-7 Part 5 and Board rule R277-407 that LEAs must consider when choosing to fundraise. Additional regulations include, but are not limited to, the following:

- [UCA 13-22](#) Commerce and Trade. Charitable Solicitations Act.
- [UCA 63G-6a](#) General Government. Utah Procurement Code.
- [UCA 59](#) Revenue and Taxation.
 - Using fundraiser sales tax-exempt proceeds only for purchases of equipment, materials, or to provide transportation. (UCA 59-12-102(52)(a)(ii))
- [Board rule R277-113](#) Local Education Agency (LEA) Fiscal and Auditing Policies.
 - R277-113-5(9)(e) LEA Fiscal Policies Regarding Fundraising
 - R277-113-6(1) LEA Governing Board Fiscal Responsibilities
- IRS regulations. <https://www.irs.gov/pub/irs-tege/eotopice96.pdf>
 - The URL is a general overview of case law regarding the deductibility of contributions to 501(c)(3) organizations; therefore, it may be applicable to LEA foundations and charter schools that meet the 501(c)(3) IRS requirements.

Questions, Comments, or Concerns? Contact the state School Fees team at schoolfees@schools.utah.gov.