

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

INFORMATION ITEM

September 7, 2010

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: First Reading-Waiver of Student Fees-4:140

This policy is updated to a different kind of format. The appeal process and the notification and eligibility are a bit different (they use the current year's eligibility in all cases) and the legal footnotes are all updated to the current date. The appeal process dates are more extended than in the past policy.

We ask that you use this as your first reading period and then put this on the next BOE meeting agenda for a second reading and approval.

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 for the loss of or damage to school books or other school-owned materials.

Fees for textbooks, other instructional materials, and driver education are waived for students who meet the eligibility criteria for a fee 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, the Superintendent will recommend to the Board which additional fees, if any, the District will waive for students who meet the eligibility criteria for fee waiver. ³ Students receiving a fee waiver are not exempt from charges for lost and damaged books, locks, materials, supplies, and equipment. ⁴

Notification

The Superintendent shall ensure that applications for fee waivers are widely available and distributed according to State law and ISBE rule and that provisions for assisting parents/guardians in completing the application are available.

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; 23 Ill.Admin.Code §1.245). State law provides that “[n]o discrimination or punishment of any kind, including the lowering of grades or exclusion from classes, may be exercised against a student whose parents or guardians are unable to purchase required textbooks or instructional materials or to pay required fees,” (105 ILCS 5/28-19.2). This policy concerns an area in which the law is unsettled (see footnotes 2 and 3).

² Districts must waive textbooks fees (105 ILCS 5/10-20.13) and driver education fees (105 ILCS 5/27-23) for students whose parents/guardians are unable to afford them. 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 implementing 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).

A school district may charge up to \$50 for district residents between 15 and 21 years of age who participate in the driver education course. The fee must be waived for any such resident who is unable to pay. When space permits, the district also may provide driver education for residents above age 55 who have never been licensed to drive and may charge a fee not to exceed actual costs of the course (105 ILCS 5/27-23).

Resident tuition fees are not permissible. Hamer v. Board of Education, School District No. 109, 292 N.E.2d 569 (Ill.App. 2, 1977); Polzin v. Rand, McNally & Co., 95 N.E. 623 (1911).

³ 105 ILCS 5/10-20.13(b) was added in 1983 to require districts to waive “other fees” in addition to the costs of textbooks (P.A. 83-603). 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. Alternatively a board may decide to waive all school student fees and substitute the following sentence for the first 2 sentences of this paragraph:

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

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

⁴ Districts in which a referendum was approved to provide students with free textbooks must have a policy on textbook care and preservation (105 ILCS 5/28-17). The textbook loan program operated by the ISBE is found at 105 ILCS 5/18-17.

Eligibility Criteria

A student shall be eligible for a fee waiver when 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. ⁵

The Superintendent or designee will give additional consideration where 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.

Verification ⁷

The Superintendent or designee shall establish a process for determining a student's eligibility for a waiver of fees in accordance with State law requirements. The Superintendent or designee may require family income verification at the time an individual applies for a fee waiver and anytime thereafter but not more often than once every 60 calendar days. The Superintendent or designee shall not use any information from this or any independent verification process to determine free or reduced-price meal eligibility.

If a student receiving a fee 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.

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

⁵ Required by 105 ILCS 5/10-20.13, amended by P.A. 96-360. The federal free meals program is found at 42 U.S.C. §1758; 7 C.F.R. Part 245. A board has a choice regarding verification – it may: (1) establish a process to determine eligibility for fee waivers that is completely independent of the federal free meals eligibility guidelines, or (2) tie the application for fee waivers to the free meals program and only ask for *verification* in accordance with the free or reduced-price meals program. This sample policy assumes that option #1 will be chosen but would allow for option #2 if the alternative is used in the *Verification* section. See footnote 7.

⁶ This paragraph is optional and may be omitted.

⁷ By using a process for determining eligibility for fee waivers that is completely separate from the process for determining eligibility for free meals, a district may require income verification at the time an application is submitted for a fee waiver and may do so thereafter, but not more than once every 60 calendar days. 105 ILCS 5/10-20.13, amended by P.A. 96-360; 23 Ill.Admin.Code §1.245(d). Income verification may include such things as payroll stubs, tax returns, or evidence of receipt of food stamps or Temporary Assistance for Needy Families.

An application for fee waivers that is completely separate from the application for free lunches 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. In the completely separate fee waiver application, 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 indicate if they meet the income guidelines used to determine eligibility for *fee waivers*. The independent fee waiver income guidelines should not be any higher than those for eligibility for free lunch (or reduced-price, if the district voluntarily provides fee 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 separate application process for fee waivers, the district may ask for verification, but cannot use any information it receives for fee waiver verification though this process for determining eligibility for free or reduced meals.

Alternatively, a board should replace both paragraphs in this section with the following alternative if it wants to use eligibility for free meals as the basis for waiving school fees:

The Superintendent or designee must follow the verification requirements of 7 C.F.R. 245.6a when using the free lunch or breakfast eligibility guidelines pursuant to The National School Lunch Act as the basis for waiver of the student's fee(s).

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 Illinois State Board of Education rule on waiver of fees.

LEGAL REF.: 105 ILCS 5/10-20.13, 5/10-22.25 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)

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

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 fee waiver. The board’s participation is avoided by the principal making initial fee waiver decisions and the superintendent or other main office administrator deciding the appeals.

Operational Services

Waiver of Student Fees

The Superintendent will recommend to the Board for adoption what fees, if any, will be charged for the use of textbooks, consumable materials, extracurricular activities, and other school fees. Students will pay for loss of school books or other school-owned materials.

Students shall not be denied educational services or academic credit due to the inability of parent(s)/guardian(s) to pay fees and charges.

Students whose parents are unable to afford student fees may receive a waiver of fees. However, these students are not exempt from charges for lost and damaged books, locks, materials, supplies, and equipment.

Applications for fee waivers may be submitted by a student's parent(s)/guardian(s) who have been assessed a fee on an application form available from the Building Principal.

A student shall be eligible for a fee waiver when:

1. The student is currently eligible for free lunches or breakfasts pursuant to 105 ILCS 125/1 et seq.; or
2. The student or student's family is currently receiving aid under Article IV of The Illinois Public Aid Code (Aid to Families with Dependent Children).

Additional consideration will be given by the Building Principal where one or more of the following factors are present:

- illness in the family;
- unusual expenses such as fire, flood, storm damage, etc.;
- seasonal unemployment;
- emergency situations;
- when one or more of the parent(s)/guardian(s) are involved in a work stoppage.

The parent(s)/guardian(s) shall submit written evidence of eligibility for waiver of the student's fee. A separate application form shall be submitted for each fee assessed to each student.

The Building Principal will notify the parent(s)/guardian(s) promptly as to whether the fee waiver request has been granted or denied. A Building Principal's denial of a fee waiver request may be appealed to the Superintendent by submitting the appeal in writing to the Superintendent within 14 days of the denial. The Superintendent or designee shall respond within 14 days of receipt of the appeal. The Superintendent's decision may be appealed to the Board of Education. The decision of the Board is final and binding.

Questions regarding the fee waiver request process should be addressed to the Building Principal's office.

LEGAL REF.: 105 ILCS 5/10-20.13 and 5/10-22.25.
23 Ill. Admin. Code § 1.245 [unenforceable].

ADOPTED: May 20, 2002