

GUIDELINES REGARDING THE ASSESSMENT OF STUDENT FEES

This document is intended to summarize a discussion held by the Public Charter School Commission (PCSC) in October 2011 on the subject of student fees in public schools. Because the topic of student fees arises during the PCSC's reviews of individual schools' budgets, the PCSC sought a better understanding of whether and when it is appropriate for public schools, including public charter schools, to assess student fees.

Below is a summary of the PCSC's discussion, which we hope will be helpful to schools as they endeavor to operate in full compliance with the terms of the law:

- I. Article 9, Section 1 of Idaho's Constitution specifically requires that public schools in the state be free.
- II. In a 1970 case, *Paulson v. Minidoka County School District*, the Idaho Supreme Court ruled that the portion of a fee designated for student activities contravened the constitutional mandate that public schools be "free" because the fee was imposed generally upon all students whether they participated in the extra-curricular activities or not, thereby making the fee a charge on attendance at the district schools.

The court noted that the constitution would not prohibit schools from setting fees to cover the costs of extra-curricular activities that were not necessary elements of a school career, as long as such fees were imposed only on students choosing to exercise the option of participating in those particular activities.

The court further held that the portion of a fee designated for textbooks was unconstitutional because textbooks are a necessary element of any school's activity and are indistinguishable from other, fixed educational expenses like school building maintenance and teacher salaries – all items for which students cannot be charged in a free public school.

- III. The key phrase is "necessary elements of school activity." When considering the assessment of student fees, public charter school leaders should ask:
 - a. Is the student afforded any choice in the item or activity for which the fee is being charged, and
 - b. Does the fee, in essence, comprise a fee for attendance at the school or for a necessary element of school activity?

If the answer to either question is "yes," it is likely that the fee is inappropriate.