

Subject: Re: Selective Instrument Fee

From: Kelli MacMillan <macmillank@mokena159.org>

Date: 4/16/2025, 11:27 AM

To: Steve Stein <steins@mokena159.org>, "John E. Fester" <jfester@edlawyer.com>, Eric Bush <bushe@mokena159.org>

Steve,

Thank you for forwarding my email to John. Getting his professional legal opinion is a necessary step in the right direction, it should have happened over a year ago.

I want to clarify that as a sitting board member, my role includes ensuring district operations comply with state and federal law. When concerns arise, especially involving unlawful fees, it is both my duty and right to raise them and to conduct my own due diligence, aligned with my oath of office. I suggest my fellow board members do the same. Reminder I do not have access to consult with our attorney.

While I am happy to share the basis for my concern, which I have done multiple times over the past two years, the burden does not rest on me to prove illegality. Rather, the district must be able to justify the legality of any fees it imposes. I encourage the administration to brief Mr. Fester on the nature and justification for the fee in question, so that he is able to provide a proper legal opinion. This should have been over a year ago. If you would prefer to have me on the call with you, I can distill this down for John in a 15-20 min call to "make his work more effective and less costly". I can see why Mr. Fester needs additional context, which needs to come from the administration, perhaps Kristin and Teri might be best suited to do that if you aren't easily able to convey the information.

In the meantime, here are elements that I have highlighted previously in my correspondence to Supt and the BOE:

1. Student fees are serious business and they cannot and should not be arbitrary or selectively assessed
2. Other students are using district instruments that are not within selected categories and are NOT being assessed a fee. A district cannot pick and choose who to assess a fee to and who not, with similar situations.
3. The fee is not disclosed on our website for transparent communication to parents.
4. Schools must ensure fees do not exclude or penalize participation, which is exactly what this does.
5. That is what this is — from the days when parents paid music boosters what should have legally been remitted to the district and our Supt. had no idea what was being charged. From the days when parent volunteers had to act as collection agents to neighbors for "district fees" invoiced by the boosters. From the days when parents were charged over \$100 for their kids to participate in a club that now costs \$25. From when the music department was run by a teacher via a booster non-profit organization with little to no oversight by our administration. The fee never should have existed in the first place and instead of eliminating it like we should have, we've been spinning our wheels trying to find ways to justify it, it's obvious and it's a bad look. Square peg in a round hole. It doesn't fit because it should never have been charged in the first place

Example:

Student A plays percussion in 4th grade, it is the first year we offer band to students.

When the student is enrolled, parents are told they have to pay \$50 activity fee + rent/buy percussion set of instruments for home practice. The district also recommends weekly private lessons for percussion students, which parents need to seek out an instructor and pay for out of pocket. We can estimate that renting the kit costs about ~\$40/month.

When the student attends band practice every morning at school they cannot bring their entire percussion kit, like someone that plays the saxophone for example. The district has percussion sets in the band room that kids have used while at school.

During the school day, the student has a "sectional" which is a graded class with a certified teacher, and it is a special lesson specific to their instruments. If you are unfamiliar with the term, Google band sectional for a description and purpose. When the student has her sectional with the teacher, she plays the percussion set at school.

When the student enrolls in 5th grade band as a percussion player (same school), he/she will be assessed a new \$75 fee. This is a surprise fee, one that had not been previously disclosed to parents. Now the district is mandating the same student pay a second instrument rental: one for the set at home + 1 for the instruments used during their school lesson.

A student that plays the saxophone does not have two fees, nor does a flute player, nor does a trumpet player, etc. etc.

Student A has a friend, Student B that joins the percussion ensemble group. Student B pays a \$25 activity fee. The group plays percussion instruments at the school, they do not rent/buy their own kit. They are not assessed a rental fee for their use of district owned equipment.

Student A has a 5th grade friend that broke her arm, Student C, and she is unable to play her instrument. Luckily, the student is able to participate in a band by playing percussion in the meantime. Student C is not assessed a fee for using percussion instruments owned by the district.

Student A has a grandmother in a community band that practices at the school. She plays percussion instruments owned by the school. She is not assessed a \$75 fee.

Hope this helps. If you would like me to get on a call with John to help you get him up to speed, I can break this down for him in 15-20 min conversation.

Kelli

On Wed, Apr 16, 2025 at 8:05 AM Eric Bush <bushe@mokena159.org> wrote:

Good morning Board. Please see Mr. Fester's response regarding Kelli's comments on music fees.

Regards

Eric

----- Forwarded message -----

From: **John E. Fester** <jfester@edlawyer.com>

Date: Tue, Apr 15, 2025 at 1:48 PM

Subject: RE: Selective Instrument Fee

To: Steve Stein <steins@mokena159.org>

CC: Eric Bush <bushe@mokena159.org>

My first response is rather than having Board members do their own research, I would ask Kelli:

1. To share the legal opinion(s) she received, including who they were from as well as the facts that were presented to form the basis of the opinion(s).
2. To identify the agencies she consulted with, including who at each agency.
3. To identify the “multiple laws” that are being violated, and how each is being violated.

Since these three should all be easy to identify for the Board, and since they apparently are the foundations for all the conclusions set forth below, I think it would be helpful if they were shared with the full Board so the Board can decide if it would like me to invest time in researching this matter and responding to it. No doubt it would make my work more efficient and therefore less costly.

JOHN E. FESTER



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From: Steve Stein <steins@mokena159.org>
Sent: Tuesday, April 15, 2025 11:44 AM
To: John E. Fester <jfester@edlawyer.com>
Cc: Eric Bush <bushe@mokena159.org>
Subject: Fwd: Selective Instrument Fee

John,

Let me know your thoughts. I can fill you in on some of her numbered comments.

Steve

----- Forwarded message -----

From: Kelli MacMillan <macmillank@mokena159.org>
Date: Mon, Apr 14, 2025 at 11:32 PM
Subject: Selective Instrument Fee
To:

Student fees: based on my research, which includes legal / agency consultation, this fee is not compliant with multiple laws governing education in IL. This statement should garner your attention.

It is discriminatory, exclusionary and unsupported, which cannot be the case with fees we charge students as a public institution . Student fees are serious business and they cannot and should not be arbitrary or selectively assessed.

I hope everyone understands the situation as it is, below factors, to name a few:

1. Essentially the district is making some students pay to rent (or buy) an instrument for their home use **AND** pay the district for using a second of the same, owned by the district, for during their class sectional during school = selectively making ONLY certain families incur expenses for TWO of the same instrument. I personally know multiple families impacted by this.
2. Other students are using these aforementioned instruments as part of co-curricular and extra-curricular activities are NOT being assessed the fee. Using the same instruments, not getting a fee. I can tell you first hand, my own child plays the same instruments and tools other parents are being assessed a fee for and the fee was NOT assessed to my daughter.
3. Other students are using district instruments that are not within selected categories and are NOT being assessed a fee. A district cannot pick and choose who to assess a fee to and who not, with similar situations.
4. The fee is exclusionary, and arbitrary which is not compliant with school code.
5. The fee is not disclosed on our website for transparent communication to parents.
6. School must ensure fees do not exclude or penalize participation, which is exactly what this does.

The board is not being provided all the relevant information regarding this fee by the administration. It is unclear if admin truly understands the full scope of music department operations since the district was not administering any of this before last year, and it was being done by a district employee using an outside, non-profit organization. That is when this fee was developed, along with other arbitrary and exorbitant fees like \$125 to participate in a musical, "pay to play" is what Mark Cohen called it, but it only applied to some students back then too. The lucky ones got their invoices deleted from the system.

It feels like the administration and board do not care about the injustice of the fee or risk to the district.

I implore the board to do your own research into what our district can and cannot charge legally to students.

To date, the board of education has not been briefed by the admin on the legalities of this fee. It is unclear if our attorney has been consulted, but a quick google search will produce ample information to support what I've laid out.

It is absolutely ridiculous parents and board members have had to fight for two years against unjust arbitrary fees being assessed to certain students left over from a time when even more were. It is morally and ethically wrong and it is legally not allowed. This should not be a fight. We have over \$100k budgeting for the band programs this year and we are nickel and diming only kids playing certain instruments to collect a couple thousand dollars. We cannot continue to sit idle, the fee needs to be deleted so we can move on.

Happy to discuss.

Kelli

--

Steve Stein

Superintendent

Mokena School District 159

(708) 342-4910



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