

**CALIFORNIA COMMUNITY COLLEGES
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November 22, 2005

Teresa M. Scott
Executive Vice Chancellor
Yosemite Community College District
P.O. Box 4065
Modesto, CA 95352

Re: Transportation Costs of Voluntary Field Trips
Legal Opinion L 05-12

Dear Dr. Scott:

In a letter dated October 6, 2005, you requested our assessment of whether the Yosemite Community College District (District) may charge students for transportation costs associated with voluntary field trips. These field trips are not required by any class, participation is purely optional, and apportionment is not generated for any field trip time.

Your question cites in part to a portion of the Student Fee Handbook concerning transportation fees. Those provisions are not applicable, because they address fees for transportation services in the nature of common carriers or transit systems under Education Code section 76361 or 82305.6, rather than "ad hoc" transportation costs associated with a particular field trip.

The Modesto Junior College Business Office asserts that title 5, section 55450 prohibits a fee, even for a voluntary field trip, because section 55450 provides "No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds."

The Curriculum Committee Review Specialist counters that if a person who does not participate in the field trip can still achieve the course objectives, the fee is not a condition of success and should be allowed. He also notes that the Student Fee Handbook acknowledges the general principle that fees can be charged under the permissive code for optional services.

As discussed below, we conclude that the Business Office is correct and that the District may not charge a mandatory fee for the proposed field trips unless it exempts students who do not have sufficient funds to pay the fee.

We begin our analysis by noting that the "permissive code" allows community college districts to act in any manner which "is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established." (Ed. Code, § 70902(a).) Thus, where there is no statute or regulation addressing a particular subject, districts have broad latitude to act. For example, there is no law regulating the use of telephone registration, so if a district elects to offer telephone registration as an option it may charge a fee for this service; provided that students continue to have the option of registering in-person without being subject to the fee.

However, there is a regulation, title 5, section 55450, which governs the conduct of field trips by community colleges. Accordingly, we must determine whether the fee your District is considering would be inconsistent with or in conflict with section 55450.

As noted above, section 55450 prohibits a field trip if any student who is a member of "an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds." In this case, the field trips are tied to specific courses because they are open only to students who are "enrolled in any given section." Accordingly, there is an "identifiable group" of students, so this restriction on field trips applies. As a result, a district may not charge a mandatory fee unless it exempts students who do not have sufficient funds to participate in any given field trip.

The fact that the contemplated field trips are "optional" does not change this result. Section 55450 draws no distinction between field trips which are required to satisfy the objectives of a course and those which are not. Indeed, the very first subdivision of the section is written broadly to address "field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities." This seems to cover both "required" or "optional" field trips and excursions which are offered "in connection" with a course as well as other types of field trips which may have no connection with any course of instruction.

Aside from waiving the fee for students who cannot afford it, there is one other approach your District might consider. The District could conduct the optional trip and offer an optional fee. That is, the students could be given the option of taking transportation the District provides, with the associated fee that covers its costs, or of providing their own transportation.

Sincerely,

Steven Bruckman
Executive Vice Chancellor and General Counsel

SB:RB:sj