

Payments by Parents

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Agenda

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New Donations Scheme



- Government policy is to reduce expectation that parents should pay donations
- Budget 2019 makes provision for extra funding of \$150 per student per year in decile 1-7 schools
- Scheme in operation from January 2020

New Amendment Bill

The Education (School Donations) Amendment Bill enables the scheme to happen:

- allows Minister to make discretionary grants...
- ...subject to condition that a board does not ask parents/caregivers for donations...
- ...and subject to any other conditions the Minister decides
- Bill also allows for recovery of funding if a board fails to comply with conditions...
- ...by reducing a future grant to the school

Exemption - Camps

Schools in the scheme will still be able to ask for donations for camps

It still remains that:

- all donations are voluntary
- students entitled to go on camp even if no donations are paid
- it is unlawful to charge or require payment for a camp

Scheme Admin



- Boards will need to opt-in to the scheme by 14 November 2019
- Ministry will provide more information later this month about the process for this and about the scheme
- Note that some details won't be finalised until the Bill is enacted

Scheme – two key points

1. Boards are encouraged to:
 - consult with their school communities before deciding whether to opt-in to the scheme or not
 - let parents know the final decision.
2. Boards that opt-in to the donations scheme will still be able to
 - ask parents and guardians for other types of payments
 - fundraise



2018 Circular (1)

- Ministry of Education Circular 2018/01 *Payments by parents of students in schools*
- Replaces Circular 2013/06, which replaced 1998/25
- Explains the meaning of section 3
- It's advice about the meaning of the law

2018 Circular (2)

What changed?

- Substance hasn't changed – except for out-of-zone applications
- Restructured the document
- Redesigned the A3 summary
- Added more examples

Section 3 Education Act 1989

Right to free primary and secondary education

Except as provided in this Act, ...

... every person who is not an international student ...

... is entitled ...

... to free enrolment ...

... and free education ...

... at any State school ...

... during the period beginning on the person's fifth birthday and ending on 1 January after the person's 19th birthday.

Entitled

- Has a right
- Able to claim
- Cannot be refused or discouraged

[explored further in some examples]

Free enrolment

- It is ***unlawful*** to charge or compel any payment for anything associated with the enrolment process.

For example:

- charge parents for information about enrolment
- demand any form of payment to confirm enrolment
- charge an application fee
- charge for out-zone-ballot
- charge a deposit

Enrolment zones – donations (1)



- Even if the request is for a genuine donation, there is a risk that it will be perceived as an obligation to pay.
- If there is any ambiguity or uncertainty about the voluntary nature of the donation...
 - ...or the administrator implies an obligation to pay the donation...
 - ...then it is tantamount to a fee and is therefore unlawful.

Think about the context...

Enrolment zones – donations (2)

- The Ministry’s position was that it is *improper* under any circumstances to request donations for out-of-zone enrolment applications...
...and it will be *unlawful* if there is an express or implied obligation to pay.
- Amended the Secretary’s Instructions re pre-enrolment routines and ballots
- “No board may seek donations in respect of any application for out-of-zone enrolment (including a pre-enrolment ballot for out-of-zone students as provided for in section 11F(2) of the Education Act 1989) at its school.”
- *New Zealand Gazette* 13 July 2017– took effect next day



Education (1)

- Not defined in the Act
- Education = curriculum
- Curriculum means The National Curriculum composed of The New Zealand Curriculum and [Te Marautanga o Aotearoa](#).

*It's more than one subject plus another
~ maths + social studies (and so on)*

Education (2)

- For a “thing” –
 - expectation or requirement that all students will take part
 - generally, during school time
- It is ***unlawful*** to charge or compel any payment for anything associated with delivery of the curriculum.

USSR ice hockey team





CCCP

Government funding

- Not going to talk about it
- It's irrelevant re meaning of the law
- Imagine – one morning the Government gets out of bed and decides to double grants to schools...
...or cuts them by 25%

What happens to the advice in the circular?

Payment types

Three types of payments by parents to schools:

1. Donations
2. Purchase of goods and services
3. Attendance dues

Donations

- Voluntary
- They can be for general purposes, or for a specific purpose
- They can be requested, but payment cannot be compelled or enforced
- Parents are always free to pay requested amounts in full, in part, or not at all
- GST is not payable
- Donation tax credits can be claimed

Purchase of goods and services



- All purchases/sign ups are voluntary, and cannot be compelled
- If purchase is agreed, payment can be enforced
- GST is payable
- Donation tax credits cannot be claimed

Attendance dues

State-integrated schools only

- Compulsory
- Payable to the proprietor of a state-integrated school
- Payment can be enforced
- GST is payable
- Donation tax credits cannot be claimed

Item categories

There are four categories of items

1. Enrolment
2. Curriculum
3. Goods and services
4. Compulsory

Enrolment

- It is *unlawful* to charge or compel any payment for anything associated with the enrolment process.
- Schools that do not have an enrolment scheme may seek donations towards enrolment costs...
...but care needs to be taken that parents do not perceive that the donation is a necessary part of the enrolment process.
- Schools with enrolment schemes cannot seek donations towards enrolment costs.

Curriculum

- It is *unlawful* to charge or compel any payment for anything associated with delivery of the curriculum.
- Donations may be sought for curriculum items.

Goods and services

- These are items outside of the curriculum.
- There is no general expectation or requirement to purchase/sign up.

Compulsory

- Attendance dues are the only compulsory payment in the school system.

Inland Revenue's Public Ruling

It's about GST treatment in schools

- Issued June 2018
- Confirms earlier version (2014)
- Developed in consultation with the Ministry
- Commissioner's view of life is the same as the Ministry's.
- Key concept: **statutory entitlement**

Inland Revenue on donations

- Two new guidance documents –
 - donations in state non-integrated schools
 - donations in state-integrated schools
- Issued June 2018
- Again -
 - developed in consultation with the Ministry
 - Commissioner's view of life is the same as the Ministry's.



Financial management (1)

- Schools are compelling parents to make payments for which there should be no compulsion.
- One of the consequences is that the tax treatment of such payments is likely to be wrong.
- Some parents may be missing out on tax credits.

Financial management (2)

Donations are not owed

Unpaid donations:

- are not a debt
- do not form an asset
- cannot be recorded as “Accounts receivable”

Donations become a cash asset – once they are received.

Financial management (3) - invoices

- Donations cannot form part of “Total due” or “Amount owing” – (it’s unlawful to invoice parents for donations in such a way that they appear to be owed)
- State how and to whom payment is to be made
- State how and when a receipt will be provided
- Advise how parents can pay for donations and charges – whether by cash, cheque, credit card, automatic payment, internet banking or eftpos; in lump sum or monthly, fortnightly or weekly payments, or via payroll giving

GST example

Swimming lessons



Financial management (4) – state-integrated schools

- Identify clearly whether the payment is
 - compulsory, voluntary, charge for purchase
 - for the Proprietor or BoT
- Keep Proprietor's funds separate from BoT funds

Examples – unlawful practice (1)



- describe voluntary contributions or donations as “fees”, “charges”, or “levies”
- demand payment of any bonds, insurance, membership fees or levies
- demand a fee to cover the cost of either tuition or materials used in the provision of the curriculum
- levy parents for any operational costs like heat, light and water charges

Examples – unlawful practice (2)



- withhold information or privileges because a parent has not paid a donation
- exclude students from trips or activities that are part of curriculum delivery because of their parents' inability or unwillingness to pay a requested donation
- ask parents to sign an agreement that payments will be made
- charge for tertiary-level courses that are purchased by the school and then offered as part of the school programme for senior students

Examples – unlawful practice (3)



- Donations
 - surcharges if not paid
 - “owing”
 - debt collection
 - tags on students’ bags
 - mufti day
- Ball tickets
 - surcharging
 - refusing to sell

Tax alert!

Examples – bad practice

- mislead parents in any way as to the nature of amounts included in invoices or reminder notices
- alienate students because parents have not paid a donation
- pressure parents into making a voluntary purchase or donation.

Examples – good practice (1)



Boards of Trustees should:

- clearly indicate to parents that payment of any requested donation is voluntary in nature
- ensure that prior agreement is sought before any charges are made for supplying goods or services
- inform parents that they may claim an income tax credit from Inland Revenue in relation to donations made to the school

Examples – good practice (2)

Boards of Trustees may find it useful to take the following steps:

- specify the amount of a donation in the school prospectus or in an information letter to parents
- state that the donation is voluntary
- describe the uses to which the donation(s) will be put

Examples – specific items

- Special programmes (mathletics)
- Curriculum delivery modes (Montessori, Arrowsmith, Samoan immersion)
- Subject fees
- Lunches for day students
- Parent-Teachers' Association
- Camps
- Trips
- Swimming

