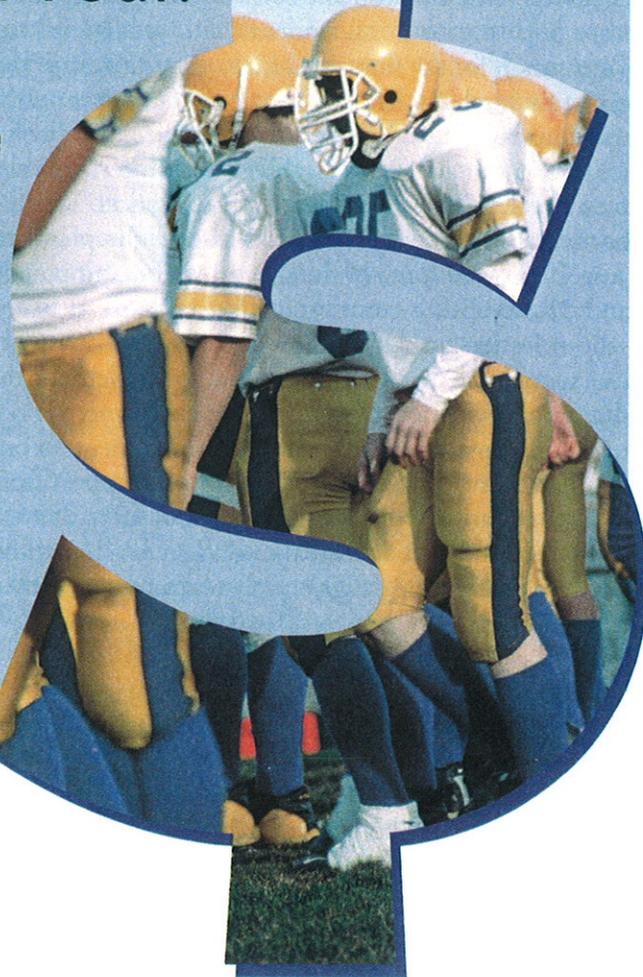


Pay-to-Play: Fair or Foul?

Confronted with rising costs and shrinking funding, districts have come up with the idea of charging students to participate in extracurricular activities. According to Ms. Hoff and Mr. Mitchell, there are much better ways for schools to make their programs affordable.

BY DIANNE L. HOFF AND SIDNEY N. MITCHELL



IMAGINE the exhilaration as high school students throughout the country suit up for their first practice, polish their instruments, and prepare for their upcoming games and events with high-fives all around. This excitement, however, is quickly replaced with anxiety, even dismay, as many of these same students learn that they must first pay a participation fee, which may mean they will not be able to take part after all. "Pay-to-play" is catching on across the country — sometimes with harsh consequences for students and schools.

No one doubts that the cost of running a school district is staggering. Fuel for heat and buses, salaries and benefits for employees, and ever-changing curricular demands combine to put enormous pressure on superintendents and school boards to cut spending and raise revenues. In many districts, state and local funding is shrinking, and extracurricular activities are often the first items to be put on the chopping block.¹

Extracurricular activities, particularly sports, have a long-standing tradition in public schools. School teams were originally seen as a means of giving boys a way to channel their energy in a positive direction while giving the entire

student body a rallying point for school pride. Over the years, both the scope and inclusiveness of such programs have expanded, and the benefits of sports and other activities have been well-documented by practitioners and scholars alike.²

Meanwhile, the cost of running extracurricular programs has risen steeply. The cost for transporting students to competitions or conferences has increased for all competitive clubs and activities, as have the stipends for club sponsors. Expenditures for sports, however, have increased the most dramatically. As competition and the potential for college scholarships have increased, so have the costs of maintaining competitive programs, which demand expert coaching, high-tech training equipment, and better facilities. In addition, the litigious nature of our society pressures schools into buying the best protective equipment for athletes, adding coaches for increased supervision, and paying for additional liability insurance. It is no wonder that many schools are looking for ways to offset the heavy

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costs of these extracurricular programs.

Enter the concept of pay-to-play, which shifts some of the financial burden of extracurricular activities to students and their families. At the low end of the price spectrum, some school districts in Maine recently enacted policies to charge fees ranging from \$15 to \$50 a year for any student who wishes to participate in any number of extracurricular activities. At the high end, a high school on the West Coast charges students for each sport or activity, with fees of \$1,500 for cheerleading, \$1,000 for football, and \$800 for marching band.³ And in the states in between, fees range widely but are clearly becoming more and more common. A poll taken in 2004 showed that 34 states had at least some schools charging fees for extracurricular participation.⁴

Whether the fee is large or small, however, is beside the point. Once established, fees tend to increase as the costs of programs escalate and as parents become desensitized to the policy. More crucial are what these fees represent for our "public" school system and the potentially negative consequences for students — particularly those from underprivileged families, for whom fees can represent significant barriers to participation. Some schools make the argument that they have "fee waivers" for those who cannot afford to pay. While such concessions are well meant, we believe that pay-to-play remains a bad idea. Whether priced high or low, with or without fee waivers, the policy is indefensible from a legal perspective, from a student's perspective, and from a societal perspective. The negative consequences are not offset by the limited revenues generated.

LEGAL CONSIDERATIONS

State constitutions across the nation include guarantees of "free public education." Simply put, that means that school programs may not charge fees for participation. The legal debate focuses on whether extracurricular activities are integral parts of the school program or whether they fall outside the bounds of a free education because they are voluntary in nature. Let's examine this issue.

First, extracurricular activities are an outgrowth of the school's curriculum. Whether it be the French club, the marching band, the quiz bowl team, or the basketball team, all these activities have their roots in curricular and school goals. Students enhance their skills, learn about teamwork and cooperation, and come to value hard effort through participation in extracurricular activities, just as they do in academic classes.

Second, extracurricular activities are governed and sup-

ported by public schools. Students must meet academic requirements for participation, and the facility in which they meet or play is supported by tax dollars. This is in contrast to such organizations as Little League and Girl Scouts, which have their own governance, finance structure, and rules. Once school activities become fee-based, schools begin to lose oversight, and numerous conflicts arise over such issues as playing time ("I've paid for my child to play, and I don't want him on the bench"), uniforms and safety ("As paying parents, we think we have the right to select the uniforms, and we think these helmets are safer"), academic minimums ("If I'm not concerned that my child is failing algebra, the band director shouldn't be either"), the selection of coaches and directors ("We're coming up with the salary, and we won't pay if the coach is Jolinda"), and even the composition of the team. In other words, charging fees for participation may undermine a school's authority to make decisions with regard to extracurricular activities, and decisions unduly influenced by laypeople can open schools to later claims of negligence or discrimination.

Third, this policy creates a slippery slope. If schools are allowed to charge fees for clubs and sports because they are "extra and voluntary," is it a very big stretch to say the policy could be applied to other school programs? A school in Ohio, for example, is charging \$260 for programs such as National Honor Society, the school newspaper, and student government.⁵ Are Advanced Placement classes next? Such classes are voluntary and only affect certain students. Should they have to pay a fee to support this form of "extra" instruction? Once we head down this slope, the line becomes so murky that any program is vulnerable to becoming fee-based. As the number of programs with fees goes up, the greater the risk becomes of further stratifying schools along socioeconomic lines, thereby undermining our entire concept of free public schooling.

But where do the courts stand on the issue? Although pay-to-play has not been widely challenged (for reasons to be discussed below), there have been cases in which the practice has been ruled unconstitutional. Perhaps the most famous and widely cited of these is *Hartzell v. Connell*, in which the Supreme Court of California ruled that fees for curricular or extracurricular programs violate the state's constitutional guarantee of free public education. In writing the opinion, Chief Justice Bird relied not "on the formalities of credit, but upon the educational character of the activities in question." She stated clearly that extracurricular activities are educational and that a school "which conditions a student's participation in educational activities upon the payment of a fee clearly is not a 'free

school.” She added: “Once the community has decided that a particular educational program is important enough to be offered by its public schools, a student’s participation in that program cannot be made to depend upon his or her family’s decision whether to pay a fee or buy a toaster.”⁶

To the school’s argument that a court ruling against fees would force it to drop programs, Justice Bird said that financial hardship is not an excuse to violate the state’s constitution. And she specifically made the point that waivers do not mitigate the unconstitutionality of the practice.

Other states also have rulings that support the premise that extracurricular activities are as important to the school program as academic classes. An Ohio judge, for example, ruled that extracurricular activities are “an integral and complementary part of the total school program.”⁷ However, not all rulings have agreed with this interpretation. An appeals court in Michigan ruled that extracurricular activities are not “a fundamental part of the education process rising to the level that would require them to be provided at no cost.”⁸ Thus there can be wide differences in the language and interpretation of state constitutions on this issue. It is clearly ripe for further litigation.

With pay-to-play on the increase and few (and somewhat conflicting) court rulings on this issue, it is surprising that pay-to-play policies are not challenged more frequently. We posit four explanations. First, some parents, not realizing that schools sometimes engage in practices that may not be legally sound, believe that schools have the right to impose fees. They pay because they are unaware that they have any other recourse. Second, whether true or not, parents have the perception that there will be retribution toward their child (peer hazing, loss of playing time, etc.) if they bring suit over this issue. Some parents fear that even raising the question or speaking privately to the principal will somehow lead to negative treatment of their child. Third, and related to the previous fear, parents may decide to postpone a decision about bringing a lawsuit until after their child has graduated. When that time comes, it is just easier to move on, or they discover they no longer have “standing” with the court to bring the suit.

And, finally, because state constitutions are typically vague regarding which school programs would be considered “integral,” parents may feel that bringing legal action regarding the constitutionality of fees for extracurricular activities is just too risky. The lack of clear constitutional language, combined with the factors above, may cause parents to believe that a lawsuit would be more costly and time-consuming

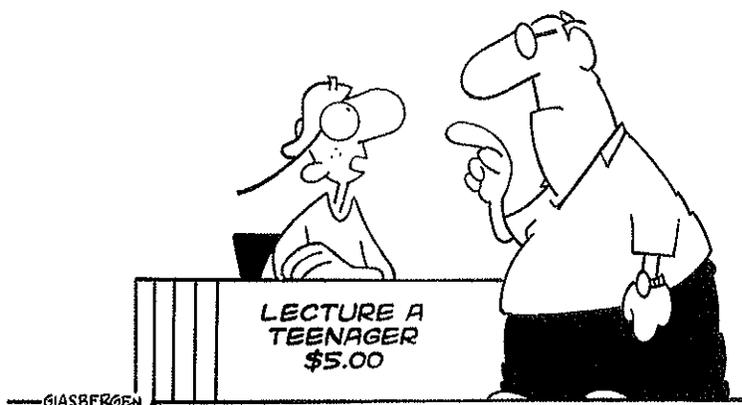
than simply paying the fee. However, neither the low number of lawsuits to date nor the fact that “other schools have enacted similar policies” should be taken as a clear indication that pay-to-play policies would be upheld in your state.

STUDENT CONSIDERATIONS

For students, the benefits of extracurricular activities go well beyond the specific skill acquired through participation. Students who participate in extracurricular activities achieve higher grades, are more intrinsically motivated, have fewer discipline problems, are less likely to drop out of school, and are more likely to graduate and apply to college.⁹ The benefits are particularly significant for poor and minority students, for whom extracurricular activities have been found to reduce juvenile crime, provide a sense of connectedness to the school, increase self-esteem, and create positive social networks they might otherwise not have.¹⁰ In addition, participation in extracurricular activities is a factor in the college admissions process.

Meanwhile, many families in the U.S. live near or below the poverty line, which means that fees for extracurricular activities can be out of reach for a large number of students. The Federal Interagency Forum on Child and Family Statistics reports that, in 2004, 18% of children in the U.S. lived in poverty.¹¹ The poverty rate in the United States is higher than in any other industrialized nation. Not included in these figures are the families who make up the working poor and live just above the poverty line.

That poverty has several negative effects on children’s school readiness, academic achievement, and mental and physical health is well documented.¹² Children from low-income homes not only score lower on tests of achievement (both classroom assessments and standardized tests)



"I used to have a lemonade stand. But this pays better."

but also are at greater risk of dropping out of school.¹³ Playing in sports and participating in extracurricular activities often mitigates the effects of poverty on achievement and can help keep students engaged and motivated in school. Why then would any educator or school board support a policy that puts up additional barriers to participation?

Some argue that the majority of fees associated with pay-to-play are minimal and that fees in the \$15 to \$50 range are affordable for most families. However, families living near or below the poverty level have little or no disposable income. Although the fraction of household income spent on food has decreased from one-third to one-fifth in recent years, this decrease has been offset by increased costs for maintaining basic housing.¹⁴ When it comes down to buying food, paying household bills, or spending money on extracurricular activities, the choice is simple: the school activity will be cut. Fifteen dollars may not seem like a lot of money for many people, but for people living in poverty it represents 10 loaves of bread or four gallons of milk. Imposing fees for school activities, even when these fees are relatively small, penalizes our poorest students and their families. The very students who are most at risk academically and have the least enrichment and opportunities in their lives are hurt the most by this policy.

Waivers or "scholarships" seem to make the practice acceptable to school policy makers. On closer examination, however, these can do more harm than good, because high school students are very resistant to seeking help. Though it might seem counterintuitive that students would not seek assistance when they need it, in fact, this is what frequently occurs. The social stigma attached to admitting need, particularly during the adolescent years, can create feelings of being "devalued, spoiled, or flawed in the eyes of others."¹⁵ Ironically, lower fees actually heighten the stigma attached to seeking help.

Research indicates that people living in poverty are not only stigmatized by their poverty but actively shunned by people who are not poor.¹⁶ Thus they tend to avoid activities that risk further isolation or labeling. This resistance to seeking fee waivers can further be explained by applying the research on approach and avoidance behaviors, which have a long history in psychology. In essence, people will approach things they consider desirable and avoid things they find undesirable. In many situations, however, approach and avoidance are linked. A case in point is asking someone for a date. The date is desirable, but the chance of rejection is undesirable. With pay-to-play, the benefits of participation are desirable, but asking for a waiver and risking public embarrassment are undesirable.

Educators are no doubt familiar with students who will forgo eating lunch in order to avoid being identified as poor and needy by taking part in the free and reduced-price lunch program. Secondary school students are particularly sensitive to asking for help, as evidenced by the much smaller number of high school students than elementary school students who apply for free or reduced-price lunch.¹⁷ It is logical to conclude that the same phenomenon would hold for activity fee waivers.

Finally, fees to participate may have a negative effect on a variety of students, not just those from low-income families. When fees run into the hundreds or even thousand of dollars, it does not take poverty for parents to think twice about affordability. Multiple children, overextended credit, volatile employment, and other factors may negatively affect a parent's ability to pay. In fact, a recent study reveals that, when fees exceed \$300, the participation rate in school activities drops by a third or more.¹⁸ Further, educators know that many students have inattentive parents who take little interest in their child's activities and will never produce the required funds, even if the money is of no consequence. The bottom line is that helping students achieve and keeping them motivated and involved in school is a difficult enough task without unnecessary barriers. Pay-to-play represents one more obstacle to engaging students, and it is one that is likely to have a negative effect on attendance, achievement, discipline, and graduation.

SOCIETAL CONSIDERATIONS

Two societal issues are particularly significant for this discussion. The first relates to the rising costs of schools and the reality that superintendents and boards face in trying to balance their annual budgets. Does financial exigency make charging for extracurricular activities acceptable, even necessary, if the only other perceived alternative is canceling these programs? Our answer is a resounding no! Schools devote a large portion of their budget each year toward programs designed to enhance attendance, graduation rates, and test scores. Research has shown that extracurricular activities can improve outcomes in these areas. These activities are important to students and help shape them, "contributing to what they know and the character of who they are, fulfilling the vision to graduate smart students who are good people."¹⁹ The absence of free access to extracurricular activities will increase other problems in schools and enhance the risk that high school sports and other activities will become the exclusive province of our wealthiest students. The level playing field of competition will be destroyed.

Underlying the concerns about pay-to-play policies, then, is the danger that they mark the beginning of an erosion of free public schooling. Today, we charge for sports; tomorrow, for foreign language classes; and then, world history. Where do we draw the line? School boards and school leaders must continually evaluate their decisions by asking themselves, "What is in keeping with the purpose of public schooling?" If sports (indeed, any program) are deemed central to this core purpose, they must be free to all students. It is the responsibility of school leaders entrusted with protecting this ideal to uphold the public nature of public schools and hold open this space for everyone.

ALTERNATIVE APPROACHES

As John Herbert Roth writes, "If the fundamental task of the school is to prepare children for life, the curriculum must be as wide as life itself."²⁰ Even in times when resources are shrinking and student needs are increasing, schools must remember that extracurricular activities are an important part of education, integral to school goals and student development. As tempting as revenue generated by pay-to-play might seem, the practice may be subject to legal challenge and constitutes bad social policy that further widens the gap between advantaged and disadvantaged students. Simply stated, pay-to-play is not in keeping with the spirit or intent of a free public education system.

So what are schools to do? First, we suggest that school leaders avoid the temptation of resorting to threats that, without fees, school sports will have to be canceled. Instead, schools should look for solutions that will evaluate the central purpose of schooling and support those programs accordingly. Generating alternative sources of revenue is also an option, though an increasingly challenging one, because so many organizations are turning to the private sector for support.

Perhaps the most promising approach is working together as a profession to establish cost-saving policies across conferences and within states, such as sharing transportation costs, eliminating team travel to expensive training camps and conventions, emphasizing intramural activities, and capping the number of interschool competitions. Keeping the programs focused on the educational benefits, rather than on winning at all costs, will lower expenditures and reinforce core curricular values. Cost containment and a level playing field can be achieved if school districts unite to establish reasonable ground rules. Only with such a pro-student approach can we uphold our public school ideals and maintain viable and successful extracurricular pro-

grams in times of financial exigency. In doing so, everyone wins.

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