

FAQ RE REFUNDABILITY OF FEES AND CONTRIBUTIONS

Prepared by Sims Mackin, LTD

Anthony Contente-Cuomo, Esq.
Kristin M. Mackin, Esq.

As a result of the school closures, many districts are asking to what extent they may refund fees or contributions made by parents for activities that have now been cancelled.

The purpose of this FAQ is to provide Arizona School Risk Retention Trust (“Trust”) members with general information on the current interpretation and understanding of the accounting and operational issues.

The Trust appreciates the following firms peer reviewing this document: Udall Shumway, DeConcini McDonald Yetwin & Lacy, Gust Rosenfeld, and Hufford, Horstman, Mongini, Parnell & Tucker. Please contact the Trust or local counsel if your District requires legal advice.

1. Can a school refund fees for activities for which parents paid but for which students were not able to participate this year?

It depends upon how the fee was received and receipted. If the school coded the fee as tax credit revenue and issued a tax credit receipt, the fee should not be refunded. As provided in Arizona Department of Revenue Publication 707, once a school issues a tax credit receipt, it may be used by that taxpayer to take a tax credit for up to five years. There is no current mechanism for a school to rescind or otherwise void a tax credit receipt after issuance.

If a tax credit receipt was not issued or the fee was not eligible for the tax credit, and the expense for which it was paid was either not made, or has been refunded to the District, the fee may be refunded in accordance with any restrictions on the account into which it was coded. For example, if the fee was paid for a recreational senior field trip, it is not eligible for a tax credit and may have been deposited into the Auxiliary Operations Fund. The school may be able to refund the field trip fee to the extent that the refunds issued do not exceed the expenses paid and not returned or refunded to the school. If the school has already paid a deposit on the trip and has not received or is not able to receive a refund of that deposit, the school should not refund fees paid by parents attributable to that deposit or other expenses paid. This will ensure a cash controlled fund does not result in a negative cash balance.

2. Can a taxpayer re-classify the purpose of monies paid to a school in support of extracurricular activities?

Yes, if the monies are reclassified to another activity within the same school. Re-classifying fees or contributions for another purpose – from band to choir – is possible but may present accounting challenges based upon the codes associated with the revenue and expenses already paid. Because tax credit revenue and receipts are school-specific, ECA funds should not be transferred between schools.

DISCLAIMER: THESE MATERIALS HAVE BEEN PREPARED FOR GENERAL INFORMATIONAL PURPOSES ONLY AND ARE NOT INTENDED AS LEGAL ADVICE OR A SUBSTITUTE FOR SUCH ADVICE. DISTRICTS SHOULD CONSULT THEIR SCHOOL ATTORNEY FOR ANSWERS TO SPECIFIC QUESTIONS ON THESE ISSUES.