

Lost Or Damaged Instructional Material Liability

Information from *California Education Code (EC)* regarding damage to student-issued instructional materials.

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EC Section 60010 (h) defines instructional materials:

"Instructional materials" means all materials that are designed for use by pupils and their teachers as a learning resource and help pupils to acquire facts, skills, or opinions or to develop cognitive processes. Instructional materials may be printed or nonprinted, and may include textbooks, technology-based materials, other educational materials, and tests.

EC Section 60119(c)(1) defines sufficient textbooks or instructional materials as follows:

each pupil, including English learners, has a standards-aligned textbook or instructional materials, or both, to use in class and to take home.

EC Section 48904(a)(1) holds parents or guardians responsible for the cost of replacing a textbook that is **willfully** defaced or not returned:

...the parent or guardian of any minor...who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee, shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed ten thousand dollars (\$10,000). The parent or guardian shall also be liable for the amount of any reward not exceeding ten thousand dollars (\$10,000) paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the district or private school authorized to make the demand.

Thus wear or damage to instructional materials through ordinary use, or from manufacturing defect, would not apply.

EC Section 48904 (b)(1) allows schools to withhold student grades, diploma and transcripts:

Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee of the district or private school authorized to make the demand may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil's parent or guardian has paid for the damages thereto...

EC Section 48904 (b)(2) provides the process:

The school district or private school shall notify the parent or guardian of the pupil in writing of the pupil's alleged misconduct before withholding the pupil's grades, diploma, or transcripts pursuant to this subdivision. When the minor and parent are unable to pay for the damages, or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of the voluntary work, the grades, diploma, and transcripts of the pupil shall be released.

EC Section 48904(b)(3) requires school districts to establish local policy:

The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision...

In regards to a district specific policy, it's important to remember that a student must have access to textbooks both in the classroom and at home, thus withholding textbooks from a student or restricting textbook use to the library would be problematic. Also, please note the requirements of EC 48904(b)(2) requiring parent notification and the necessary opportunity for the student to be able to "work off" the cost of the instructional materials.

Please also be aware of EC Section 60070 which states:

No school official shall require any pupil, except pupils in classes for adults to purchase any instructional material for the pupils' use in the school.

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Questions: [David Almquist | dalmquist@cde.ca.gov](mailto:dalmquist@cde.ca.gov) | 916-319-0444