

# FEES AND DONATIONS IN PUBLIC SCHOOLS

Advice to PPTA members on the legal framework for fees and donations in state and integrated schools



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PPTA supports a free public education system, with adequate state funding of all schools to deliver a modern curriculum.

Until this becomes a reality we acknowledge the financial pressure schools are under and recognise the imperatives schools feel to seek additional funding from parents to deliver the curriculum expected by their communities.

This document provides information about fees and donations.

Ministry of Education advice can be found at [education.govt.nz/school/funding-and-financials/fees-charges-and-donations](https://www.education.govt.nz/school/funding-and-financials/fees-charges-and-donations)

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## DEFINITIONS FOR THIS ADVICE

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### DEFINING 'DONATIONS' AND 'DEBTS'

Most boards ask parents to give a sum of money to enable the board to provide additional services which directly benefit students. Schools variously described this as the "school donation", the "school fee", or "activity fee". Some use "activity fee" for payments for activities like school camps, concerts by visiting artists, class trips etc, and others use it for payments associated with the cost of materials in particular subjects.

The use of similar terms to describe different types of payment or different terms to describe the same type of payments contributes to confusion in interpreting which are legally enforceable and which are not.

In this advice any sum of money which parents may be asked to voluntarily contribute but of which cannot be legally enforced is referred to as a 'donation'.

In this advice any legally enforceable charge, levy or fee is referred to as a 'debt' or 'fee'.

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### DEFINING 'CURRICULUM', 'CO-CURRICULUM' AND EXTRACURRICULAR ACTIVITIES

Boards decide what constitutes their individual school curriculum, their co-curricular activities and their extracurricular activities.

Each board determines its own school's curriculum, and the individual components of that curriculum, (including options between and within learning programmes) in which students are required to participate.

An activity which is a prerequisite to participating in the curriculum at a later date, or which is part of the school (or student's programme for generating credits on the qualifications framework) is part of the curriculum.

Boards determine what co-curricular activities they expect or require students to participate in to enhance or extend their general curriculum.

Each board also determines what, if any, additional opportunities it may offer to students which are not part of its curriculum or co-curriculum. Parents decide whether their children participate in these 'extracurricular' activities. The voluntary nature of any activity which is considered to be extra-curricular should be clearly identified as such.

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## THE RIGHT TO FREE EDUCATION

Every person who is not a foreign student is entitled to free enrolment and free education at a State school from the person's 5th birthday until 1 January following the person's 19th birthday. (Section 3, Education Act 1989).

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### FREE EDUCATION

The 'school curriculum' equates with the right to 'education' in the Act. A board may not legally seek to impose any debt which would act as an actual or potential barrier to access to the school's curriculum.

Parents must not be required to pay fees for

- tuition
- materials used in the provision of the curriculum
- heat, light and water charges
- staff time

While it is not compulsory to attend school from 16, if a student keeps attending they retain the legal right to a free education.

If a school wants to offer a diverse range of subjects in the senior years, there should be no cost for these, other than for the exceptions detailed later in this document (eg for materials with take-home costs).

Any course, unit of learning or an activity which is identified by the school as part of its curriculum [or which is not offered by the school but is required by a student to complete their qualification] must be provided free.

Co-curricular activities are compulsory elements of a child's education. Boards cannot charge for activities they have designated 'co-curricular'.

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### FREE ENROLMENT

The right to free enrolment and free education means that payment of a fee cannot be a prerequisite for enrolment or attendance of a domestic student.

The only exception to this is the provision for integrated schools to charge attendance dues.

It is unlawful to charge for information about enrolment or for pre-enrolment parent interviews at the school.

It is also illegal to charge a fee for entering a selection ballot where an enrolment scheme exists.

A board can seek a bond from parents at the time of enrolment but not as a condition of enrolment. A bond is sometimes requested to cover breakages or losses for which the student is responsible. It is not compulsory and non-payment cannot be a barrier to enrolment. Any residue must be refunded when the student leaves.

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## DONATIONS

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### ANNUAL DONATIONS AKA “SCHOOL FEES”

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Government provides operational funding (including different types of supplementary funding) and staffing to state schools to run the school and deliver the curriculum.

### SCHEME BOARDS

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Scheme boards are boards which opt into the School Donations Scheme. They are paid \$150 per year per student and may not make requests or otherwise solicit for donations from parents, caregivers or students.

Scheme boards may still ask for donations towards overnight school camps. Payment is not compulsory and non-payment cannot be a barrier to attendance at camp.

Scheme boards may still seek sponsorship or donations from businesses or community groups and may accept unsolicited donations.

### BOARDS

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Boards which are not part of the school donations scheme (boards) may ask for a specific sum as payment for additional services which collectively benefit students.

Payment is not compulsory and non-payment cannot be a barrier to enrolment or participation.

When referring to this payment boards should not use the words

- fee
- cost
- levy, or
- any term implying that it is compulsory (eg. debt).

Parents should be advised that school donations (receipted as such) qualify for income tax rebate.

GST must not be included when the board suggests the amount of the annual donation. Boards do not pay GST on voluntary donations.

School donations become part of board funds and must be accounted for by the board in accordance with the Public Finance Act.

When specifying and collecting a school donation, boards should:

- Specify the recommended amount for the school donation in the prospectus or information letter to parents
- State that the donation is voluntary
- Describe how the donation will be used
- State how to make the payment
- State that a receipt will be issued
- Explain that it qualifies for income tax rebate
- Invite parents who wish to pay but are having trouble doing so in a lump sum to discuss the matter confidentially with the principal.

When specifying the amount of the school donation, a board may legally offer a rebate on the recommended amount for early payment.

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## DONATIONS FOR SPECIAL CURRICULUM PROJECTS

There should be no charge on parents for the cost of materials involved in the delivery of the curriculum.

A board may ask for voluntary donations for specific projects or for establishing facilities or courses. Payment is not compulsory and non-payment cannot be a barrier to a child's participation.

*For example, in setting up a computer suite a board might wish to involve parents in the purchase of the hardware or in helping to meet the cost involved in leasing arrangements. The board could ask for a donation but:*

*The board could not levy a compulsory charge on all or some parents for the implementation of an information technology plan in the school.*

*Once installed, students could not be barred from using the computers because their parents have not contributed to their purchase and/or maintenance.*

*Enrolment in a computer studies course could not be made conditional on parental contributions.*

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## BOARD ACTION IN CASES OF NON-PAYMENT OF DONATIONS

Boards cannot demand payment of donations.

In attempting to encourage the payment of school donations a board must not publicly harass any student or deny them information or privileges available to other students.

Boards may not withhold information such as reports and leaving certificates to encourage parents to pay the school donation.

When specifying the amount of the school donation, a board may not impose a penalty for late payment.

A board cannot invoice parents for unpaid donations.

A board cannot legally use a debt collecting agency to collect unpaid donations.

Some boards fund certain items or activities entirely from the school donation, eg the school magazine, student identity cards, subsidised travel for sports teams etc. Boards are within their rights to withhold those items from non-paying families but there are consequences in doing so:

- It implies that the school donation is not a voluntary donation but a payment for goods and services.
- Withholding an item can have flow on consequences eg if a student ID card is also a library card, the school may be denying the student access to core elements of a free education.

## SCHOOL SOCIAL EVENTS

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When parents do not pay the school donation boards should not refuse access to school social events (e.g the school ball).

In refusing access to an event which would otherwise be open to the student the board may be seen to be attempting to force parents to pay what is legally a voluntary donation.

If there is a cost to attendance which is covered by the school donation then this is a fee and should be itemised (and charged) separately for all students, if they choose to attend.

There are also potential implications in terms of human rights if a young person is refused access to attend the ball because the donation is not paid. That could be discrimination on the basis of family status, for example, and able to be taken to the Human Rights Commission.

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## WHAT SCHOOLS CAN AND CANNOT CHARGE TO PARENTS

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### CURRICULUM AND CURRICULAR ACTIVITIES

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With the exceptions identified in this advice, a board cannot legally charge parents for student participation in its school's curriculum or co-curricular activities.

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### SPECIAL SECONDARY CURRICULUM COURSES AND PROGRAMMES

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A board cannot charge for programmes in English for Speakers of Other Languages which occur within school time. Boards may charge for programmes it provides as a service outside the conventional curriculum, though parents cannot be required to enrol their children in such programmes as a condition of their enrolment at the school.

A board cannot charge for

- the delivery of special education programmes
- STAR courses, except for "take home" materials
- tuition from Itinerant Teachers of Music, except for the hire of musical instruments owned by the school and used by students outside the basic delivery of the music curriculum)
- Reading Recovery programmes in the school
- curriculum options at junior or senior level

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### TERTIARY LEVEL CURRICULUM COURSES

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There should be no charge for tertiary level courses that have been purchased as part of the school curriculum programme.

Where the school merely facilitates enrolment in a tertiary course for a student, the student will be subject to whatever fees are associated with the tertiary course.

Boards must ensure that a very clear distinction is made between the two types of tertiary level provision and that students understand the basis on which they are being enrolled in tertiary courses.

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## ATTENDANCE DUES AND PROPRIETORS 'LEVIES' (STATE-INTEGRATED ONLY)

Integrated schools may charge attendance dues if this is specified in the school's integration agreement at the rates and conditions approved by the Minister of Education.

Revenue from attendance dues can be used only to improve school buildings and facilities or for meeting debts and other charges associated with the school land and buildings.

Attendance dues must be accounted for separately, since they are the income of the proprietor, not the board of trustees. It must be made clear to parents that attendance dues and school donations are not the same thing.

An integrated school cannot legally require a proprietors' levy. Under the Private Schools Conditional Integration Act 1975, in addition to being able to charge attendance dues, the proprietors may fundraise. This means they may set a levy, but parents cannot be compelled to pay it, any more than they can be compelled to engage in any other fundraising activity.

All parents should be given clear information showing which payments are enforceable and which are voluntary.

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## MATERIALS/CONSUMABLES

In subjects with a practical component (e.g. clothing and workshop technology), a board may charge for materials where the end product belongs to the student and may, if paid for, be taken home by the student. Other subjects also offer opportunities for project work, which can involve considerable costs e.g. the production of a T-shirt in a design class. If the student takes ownership of the finished project then the parent could expect to bear the costs involved.

A board cannot charge parents for costs involved in project work unless the finished product is taken home. Boards cannot insist that students take the finished product home in order to charge the parents.

Teachers should avoid setting projects with a high cost unless a low cost alternative is also available.

At the beginning of a year, parents should be informed that charges for materials are a feature of courses in practical subjects if finished products are taken home.

A board cannot charge for photocopying. Photocopying should be seen as part of the normal business of curriculum delivery and should not be charged for, although there may be exceptional cases, such as when students produce and photocopy their own magazine.

Schools can ask parents to provide stationery (eg, exercise books, folders, pens, pencils etc.). Schools can charge for stationery if they supply it, but cannot require that parents or students buy it through the school.

A board cannot require the purchase of a workbook in particular subjects. In some subjects, the teaching programme may be based very closely on a particular course (available commercially or produced by the school) and students use the workbook which accompanies the course. Workbooks lie between textbooks, which are provided free to students, and stationery, which students are expected to provide for themselves. Answers could be written in an exercise book. The workbook could then be used by students in subsequent years. On the other hand, workbooks

can have ongoing usefulness to students. Because of the cost factor that is normally involved boards should explain the usefulness of workbooks and make purchase optional.

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## EQUIPMENT

Where students attend another school or centre to participate in the technology curriculum the client school will be required to pay a fee to the provider to cover wear and tear on equipment, but parents cannot be asked to cover this cost,.

Parents may be charged for the hire of musical instruments owned by the school and used by students outside the basic delivery of the music curriculum, including their use in lessons with ITMs.

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## LEARNING-RELATED TECHNOLOGIES

Where learning-related technology (including computers, software, i-pads, e-notebooks, laptops, smartphones etc.) are integral to the delivery of the curriculum schools cannot require parents to buy or rent these. Parents may be advised to do so, but if they are essential to the participating in the curriculum the school must make available alternatives or otherwise ensure that all students have access to these technologies.

A board cannot legally levy a charge on parents for the use of learning–related technology at the school. There should be no charge on parents for the cost of materials involved in the delivery of the curriculum. For example, a board cannot levy a compulsory charge on all parents for the implementation of an information technology plan in the school, the purchase of hardware or for the cost of leasing arrangements when setting up a computer suite.

A board could ask for a voluntary donation in the same way as it does for the general school donation.

Once the technology has been installed, students cannot be barred from using it if their parents have not contributed to the purchase and/or maintenance, nor can enrolment in a course which uses the technology be conditional on parental contributions.

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## UNIFORMS

Many schools have a policy that all enrolled students must wear a school uniform. Parents can be expected to pay for the uniform. If parents cannot afford a uniform, the child cannot be punished. Schools can accept payment by instalments.

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## ACTIVITIES OUTSIDE THE CLASSROOM

A board cannot charge fees for attendance at school camps if attendance at the camp is a compulsory part of the school's total curriculum or part of the content of a particular course at the school.

Many schools include an outdoor education camp as part of the curriculum, and outdoor education experiences form part of certain subjects at secondary schools in particular (eg fieldwork in geography and biology and outdoor education programmes). The right to free education guaranteed by Section 3 of the Education Act 1989, means that there should be no charges

associated with the delivery of the curriculum. Parents should not be charged for outdoor education camps which their children are required to attend.

This includes staffing costs (e.g. relief costs, overnight allowance payments, etc.) for which the school is funded by the state.

Where a school uses an external provider to deliver a course which is part of the school's curriculum the school must meet the costs of using the provider and this must not be charged back to parents.

If a school uses volunteers to assist at school camps which are part of the curriculum, costs related to those volunteers cannot be charged back to parents.

Parents may be asked by non-scheme boards and by scheme boards to make a donation towards the travel costs, accommodation and meal costs which are connected with such activities. Every effort should be made to minimise costs by ensuring that the activities are held as close to the school as possible.

Students must not be excluded from such trips because of non-payment of fees.

Boards must ensure that parents are made aware of the situation at the beginning of the year, in particular where field work is an integral part of the course requirement in a subject at senior secondary school level. For example, a note could be sent out to students in terms of the compulsory parts of their education – to say how much the camp would be, that they will be asked to make a donation towards food and/or accommodation and/or and travel. Or the school could reassess the inclusion of the camp as a compulsory element of the curriculum.

Examples of school camps are:

- Education Outside the Classroom camp
- Junior induction camp
- Senior school leadership camp
- Overnight field trip as part of senior assessment (eg Year 13 geography field trip)
- An overnight trip to visit key places such as the Tiwai Point aluminium smelter, Te Papa, Parliament, or Waitangi

In cases where attendance at an outdoor or recreational activity is an additional, voluntary extracurricular event, parents may be expected to meet the costs involved if they agree to their children's participation.

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## EXTRACURRICULAR ACTIVITIES

A non-curriculum school activity may come at a cost to parents whose children are involved.

Parents have the right to be advised of the activities which are not part of the school's curriculum, that they are not compulsory and that alternatives are available, including non-participation.

Boards may charge for activities designated 'additional' or 'extracurricular'.

Boards can charge "activity fees" for extra-curricular activities, including most sports activity. Payment cannot be enforced, but schools can exclude those who don't pay. These activities must be voluntary and identified as additional to the required curriculum activities.

Boards cannot charge for activities it has designated as 'co-curricular' and which it requires students to participate in.

Some sporting or cultural activities (eg Kapa Haka) may generate NCEA credits for some participants. The principle of the Act of free access to the curriculum would indicate that no charges should be levied for participating in such an activity (other than the general exceptions identified in these guidelines) if the school is using the activity either as the only way or as an optional way to generate credits for the student, and even if the activity is not formally required or directed.

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## OUTSIDE ACTIVITIES WITHIN THE SCHOOL

Parents may be asked to pay for their children to attend in-school activities such as performances by visiting drama groups only if attendance at such activities is voluntary.

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## EXAM FEES

Boards cannot charge charges fees associated with NCEA examinations.

Boards cannot charge school administration fees for entering students in exams.

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## METHODS OF PAYMENT OF DEBTS

In attempting to improve administrative efficiency, boards may seek a "once only" payment from parents at the start of the year to avoid the inconvenience of seeking sums throughout the year. Such a payment may cover items as varied as class trips, the cost of take home materials in practical subjects such as workshop technology, swimming lessons, visiting drama groups etc. All the activities and their costs must be itemised and apply to those children who will be involved in the activities.

If a parent prefers the "pay as you go" method of payment, a board cannot insist on payment in advance.

Boards cannot demand payment in advance to confirm enrolment at the school.

Boards can legally invoice parents for debts owed to the school but the invoice should not show the school donation as a compulsory payment or imply that it is. A board may invoice parents for unpaid debts incurred for such things as lost or damaged library books, concerts attended but not paid for, stationery provided by the school (in agreement with the parents) but not paid for.

The school donation should not be included on the invoice - or if it is, it should be very clearly marked as a voluntary donation. The problem with an invoice is that it implies that the listed amounts are compulsory, and this is particularly so if the words "fee" or "levy" are used instead of donation. To invoice parents for "school fees" at the start of the year is particularly misleading.

When specifying the amount of a debt, a board may legally offer a rebate for early payment.

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## BOARD POLICIES

Boards should have policies covering requests for and collection of money and should ensure that teachers are aware of these. This will help to ensure that clear information is provided to parents at the time of enrolment.

Board policies cannot override the legal requirements around donations and debts nor lawfully require employees to seek to enforce the payment of donations.

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#### GST IMPLICATIONS FOR BOARDS

Voluntary donations/payments are not subject to GST payments.

Charges for take home components of projects are subject to GST payments.

Charges for voluntary activities are subject to GST payments.

Charges for stationery or uniforms purchased from the school are subject to GST.

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#### TAX IMPLICATIONS FOR PARENTS

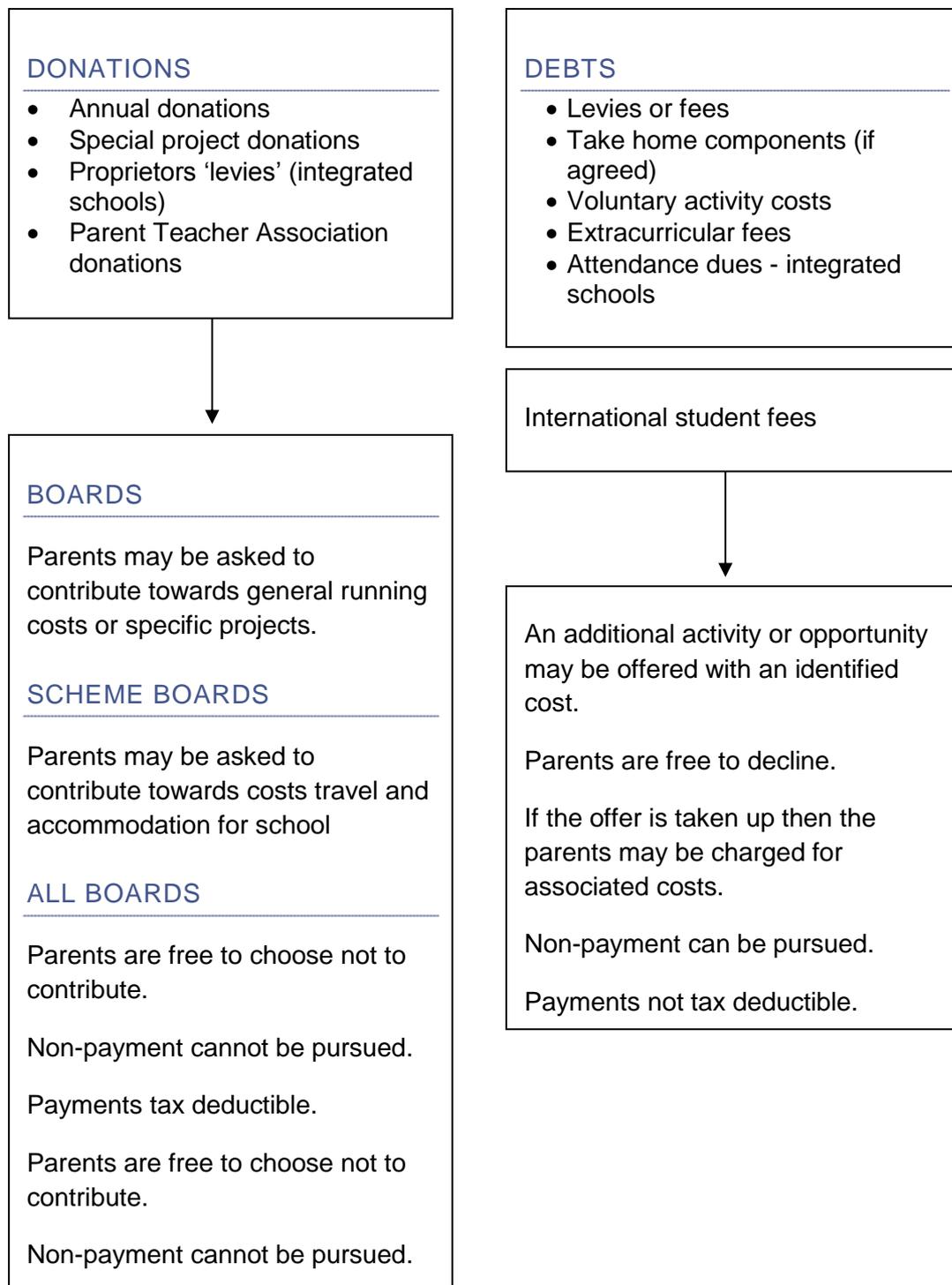
Voluntary donations/payments are tax deductible

Charges for take home components of projects are not tax deductible

Charges for voluntary activities are not tax deductible

Charges for stationery or uniforms purchased from the school are not tax deductible.

## SUMMARY OF DONATIONS AND DEBTS



SUMMARY OF LEGAL FRAMEWORK FOR FEES AND DONATIONS

MAY CHARGE	NO CHARGES	COMPULSORY
<p>Alternatives must exist, including non-participation</p> <ul style="list-style-type: none"> <li>Stationery</li> <li>'Visiting' activities in school</li> <li>Voluntary additional activities</li> <li>Extracurricular activities</li> </ul>	<p>Donations: voluntary, not enforceable - personal decision to contribute</p> <p><b>CURRICULUM/LEARNING ACTIVITIES/CO-CURRICULAR</b></p> <p>No charge for materials, school facilities, equipment, staffing (including relief costs), etc.</p> <p><b>EXCEPTIONS</b></p> <ul style="list-style-type: none"> <li>School camps: food, reasonable accommodation and travel. Request for donation only</li> <li>Individual music tuition: rental of instruments only</li> <li>Projects: take-home component costs only</li> </ul>	<ul style="list-style-type: none"> <li>Integrated schools attendance</li> </ul>

## CURRICULUM DEFINITION AS DETERMINER OF LEGITIMATE DEBTS

