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**TESTIMONY ON H-5138, RELATING TO PAYMENT  
FOR PARTICIPATION IN SCHOOL ACTIVITIES  
February 6, 2013**

The ACLU of Rhode Island appreciates the fiscal difficulties that many school districts are facing, but we strongly oppose any effort to address them through the imposition of fees on students to participate in extracurricular activities.

The notion of a free public education is heavily ingrained in our concept of the public school system. The fact that the fee would be imposed for extracurricular activities is insignificant, for many of these activities have become a very important part of the educational system, and help further the goals of a public education in innumerable ways.

There is also an obvious concern about the impact this fee will have on poorer families in the district. We understand that the proposal exempts certain students from payment and allows hardship considerations, but this fails to take into account the practicalities of the situation. Whether out of pride or embarrassment, it is not difficult to imagine many students from low-income families refusing to apply for a waiver, and thus sacrificing their participation in an activity. Though unintended, the effect of a school district's implementation of this law could be to unnecessarily harm innocent children.

The significant issues underlying the imposition of a school fee were perhaps best summarized in an opinion of the California Supreme Court in ruling extracurricular fees unconstitutional in that state. The court noted:

“[I]t can no longer be denied that extracurricular activities constitute an integral component of public education. . . . In addition to the particular skills taught, group activities encourage active participation in community affairs, promote the development of leadership qualities, and instill a spirit of collective endeavor. These results are directly linked to the constitutional role of education in preserving democracy.”

In reasoning with which we concur, the court concluded that any program that was important enough to be offered by public schools should be offered free of charge:

“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. Nor may a student's participation be conditioned upon application for a special waiver. The stigma that results from recording some students as needy was

recognized early in the struggle for free schools.” *Hartzell v. Connell*, 679 P.2d 35 (1984).

The R.I. Commissioner of Education has consistently found school-imposed fees, including those for extra-curricular activities, to violate state law’s guarantee of a free public education. In those decisions, the Commissioner’s office has also concisely explained why the potential availability of fee waivers is insufficient:

“In a free school system it does not suffice to waive a fee when a student cannot afford to pay it. This is because the ‘evil’ to be avoided is the charging of a fee in the first place.” *Sullivan v. Cumberland School Committee*, January 10, 2001.

Although we recognize that it is up to each school district to decide whether to impose fees under this bill, ultimately, extracurricular activities are too integral a part of a public school education to be turned into opportunities to help balance school district budgets. We therefore urge rejection of this legislation.