

FAQs FOR IMPLEMENTATION OF CHAPTER 8-57

Restitution for Damaged and Lost Instructional Materials

The following FAQs are updates to the February 14, 2001, *“Hawaii Administrative Rules (HAR), Title 8, Chapter 57 - Restitution for Damaged and Lost Books, Equipment, Supplies, and Outstanding Financial Obligations”* memo are meant to assist schools with consistent implementation of the administrative rules regarding instructional materials.

What is Chapter 57?

The Hawaii State Department of Education (Department) is responsible for providing students with appropriate instructional materials. When students do not return the loaned materials and resources, other students are deprived of these materials and the Department is expected to purchase replacement copies. Chapter 57 requires that students be responsible for paying required fees and for restitution of school property that is lost through their negligence. It further allows consequences for students who do not make restitution or pay required fees. Schools have had varying degrees of success in collecting money from students for damaged or lost instructional materials. While Chapter 57 allows schools to restrict students from participating in athletics and co-curricular activities if they have outstanding financial obligations, the following guidelines are provided to aid schools in applying these restrictions with consistency. Statewide application of these guidelines will ensure that students are treated with fairness and equity when it is found that they are responsible for the loss, destruction, breakage, or damage of instructional materials.

Please note that these guidelines apply only to participation in athletics and student activities for which no credit is given. Schools should continue to allow students to participate in field trips since field trips are intended to be an extension of the classroom.

What is the school’s responsibility for lost and damaged instructional materials?

1. **Keep accurate records.** It is the responsibility of the school to keep accurate, written and/or digital records of books or supplies that belong to the school but are loaned to individual students and staff. It is recommended that schools subscribe to the electronic library management system coordinated through School Library Services to aide in the tracking of library book inventory, outstanding obligations, and payment of fees. This system provides easier tracking of student obligations between schools.
2. **Determine allowable costs.** Chapter 57 as well as the Hawaii Revised Statutes (HRS) Section 302A-1130 (a) allow for the collection of the replacement costs of items that are lost or damaged. If the replacement cost for an item is not available, schools should not charge more than the original costs of items plus 10%. The original cost is the cost when the item was new or first acquired. Depreciation should not be considered.
3. **Develop clear procedures.** It is the responsibility of the school to set up procedures for the inventory, assignment, documentation, distribution, and collection of all textbooks, library materials, and supplies.

- a. Schools should develop appropriate inventory and sign-out forms. An accurate electronic database of inventory will insure that any outstanding textbooks, library books and supplies can be tracked to an individual for follow-up. The written/electronic inventory shall be maintained and updated by the appropriate staff member.
 - b. Teachers should assign textbooks and instructional materials to individual students and secure a signature and date as proof of assignment or loan.
 - c. Acknowledgement forms may be sent home to parents for a signature as further assurance that the student is responsible for the instructional materials to which she or he has been assigned. It is recommended that schools also indicate the student's responsibility in returning the items in good condition, the replacement cost of the item, and the timelines for restitution, if applicable.
 - d. It is also the responsibility of the school to setup procedures that allow for athletic directors, coaches, and student activity coordinators, club and class advisors and other sponsors of official school co-curricular activities to obtain names of those students with outstanding obligations prior to the announcement of the activity. As much as possible, this responsibility should be shared, and not reside with only one staff person.
 - e. Schools shall inform all students about Chapter 57 and the scheduled dates by which all outstanding obligations must be paid in order to participate in upcoming athletic and student activities. It is recommended that the "cut dates" for athletics should occur at the time of team tryouts. For student activities, the "cut date" should be at the time the student registers to join a club or at the time a student signs up to participate in events such as winter ball, proms, and other special events.
4. **Establish a work program.** Schools shall establish procedures for students who wish to participate in a work program as a means of restitution. The work program must be agreed to in writing by the principal, the student and parents or guardians.
- a. Student restitution based on a work program should be "calculated" no less than the current Hawaii minimum wage.
 - b. Work programs shall maintain the dignity of the individual student.
 - c. Work programs shall be appropriately supervised and documented.
 - d. If the student and parent or legal guardian does not agree with the determination made by the principal, the principal shall report to the complex area superintendent the determination and the findings made by the principal, including all the records and documents regarding the investigation, for further action.
5. **Determine a collection procedure.** Schools should determine a schedule for collection of fees for losses or damage and communicate this schedule to teachers, students, and parents. In general, money may be collected at any time the student reports a loss or by the last day of the school year.
- a. The WIZ receipt (Form 239) shall be the official receipt of payment.

- b. Collected fees shall be deposited in the school's Lost Textbook and Equipment Account (Prog ID 15109).
 - c. The collected fees shall be used to purchase replacement or equivalent resources needed by the school.
- 6. **Determine a refund policy.** If the student has made restitution but subsequently finds the item, the student needs to return the item to the school where payment was made. Schools may establish a refund policy and notify students and parents of the school's refund policy. It is recommended that the refund window be no later than the end of the current school year. This refund window will allow for timely purchases of replacement resources needed by the school.
 - a. Full refunds should be given to the student by the school where payment was made provided the following criteria are met: a) the item is returned in accordance with the school's refund policy, b) the item is in the condition it was borrowed, and c) the item is still needed by the school.
 - b. Students should provide a copy of the WIZ receipt (Form 239) at the time of a refund request.
- 7. **Transfer of obligations.** Every effort should be made by the current school to clear a student's financial obligations prior to a student transferring out of the school. Should the student transfer to another public school within the state, the financial obligation will continue to exist and will transfer with the student.
 - a. The school shall forward a copy of the "bill" along with the student's records. The receiving school is responsible for collecting the outstanding obligation.
 - b. If the student's new school collects the restitution, the "collecting school" keeps the funds.

What is a student's responsibility for lost and damaged instructional materials?

A student who is found to be responsible for the loss, destruction, breakage or damage of school books and supplies shall make restitution to the school [Auth: HRS302A-1112, 302A-1130]. Failure to do so will result in the loss of privileges to participate in athletics and student activities until restitution is made.

What if a student is unable to pay for the lost or damaged instructional material?

A student who has not paid the required fees by the school deadline is considered to have a financial obligation to the school and must make restitution to the school before being allowed to participate in athletics or student activities.

Students who are unable to pay for lost books and instructional materials may participate in a work program, with parental and administrative approval.

What is restitution?

Restitution includes payment or participation in a work program as outlined in HAR 8-57-6 if the student is unable to pay. Failure to clear financial obligations will result in a student being prohibited from participation in any activity as defined in HAR 8-57-2.

What if the damage was due to willful negligence?

Special procedures for treatment of negligence are outlined in HAR 8-57-8 and penalties may be applied if a student is found to be willfully negligent.