
School Fees, Rule

The Background:

As local education agencies (LEAs) began implementing the revised rules on school fees in August 2009, it became apparent that the previous and current rules, in the context of State statutes, are confusing regarding fees for summer school or graduation ceremonies.

Board and Department counsel, together with counsel for the Tennessee Organization of School Superintendents, considered how to clarify which fees may be required and of whom, short of statutory revisions.

The State constitution and statutes clearly prohibit requiring payment of fees by any student, regardless of income, “as a condition of attending the public school, or using its equipment while receiving educational training.” T.C.A. § 49-2-110(c).

T.C.A. § 49-2-114 requires a waiver of more specifically defined school fees for students eligible for free or reduced price school lunches. Some of these fees would not seem to be covered by the general prohibition outlined in § 49-2-110(c). Fees for “activities occurring during regular school hours” or fees for “activities and supplies required to participate in all courses offered for credit or grade,” for example, fall clearly within the general prohibition stated in § 49-2-110(c), since they are part of the system of free public education required by the State constitution.

However, fees for summer school or for graduation ceremonies are arguably not something students have a right to, regardless of income. T.C.A. § 49-6-3003(b)(1) specifically allows LEAs to charge fees for “voluntary programs which occur outside the required one hundred eighty (180) instructional days, unless the state funds the entire cost of such instruction.” Courts have found that though students have a right to a diploma upon completion of high school, they do not have a property interest in participating in the graduation ceremony.

In an attempt to provide clearer guidance to LEAs while complying with the State constitution and statutes, the rules have been revised to have three sections on school fees, instead of just two. The first section outlines those fees that may not be required of any student, regardless of income. The second outlines those fees that may be required of some students, but must be waived upon request from students eligible for free or reduced price lunch. The definition of what school fees do not include has not changed.

The Master Plan Connection:

This item ensures that students have access to rigorous, relevant curricula and that sufficient resources are allocated for those curricula.

The Recommendation:

The SBE staff recommends approval of this item on final reading.

Proposed Rule Revision

Rule 0520-01-03-.03 Administration of Schools, Requirement B Paragraph (13) is amended by deleting the present language in its entirety and replacing it with the following:

(13) School Fees.

- (a) No fees or tuitions shall be required of any student as a condition of attending public schools or using its equipment while receiving educational training. All school fees must be authorized by the local board of education. Local board policy will determine activities during the school day and supplies that are required for participation in courses offered for credit or grade for which the board authorizes the requesting of fees.
- (b) The following school fees may be requested from but not required of any student, regardless of financial status (including eligibility for free or reduced price lunch):
 - 1. Fees for activities that occur during regular school hours (the required one hundred eighty (180) instructional days), including field trips, any portion of which fall within the school day; or for activities outside regular school hours if required for credit or grade;
 - 2. Fees for activities and supplies required to participate in all courses offered for credit or grade, including interscholastic athletics and marching band if taken for credit in accordance with local board policies; and
 - 3. Refundable security deposits collected by a school for use of school property for courses offered for credit or grade, including interscholastic athletics and marching band if taken for credit in accordance with local board policies.
- (c) LEAs shall establish a process by which to waive the following school fees for students eligible for free or reduced price school lunches:
 - 1. Fees or tuition applicable to courses taken for credit or grade during the summer by a student; except that non-resident students regularly enrolled in another school system may be required to pay fees or tuition for such summer courses; and
 - 2. Fees required for graduation ceremonies.
- (d) Fee waiver process for students eligible for free or reduced price lunch. At the beginning of the school year, at the time of enrollment, and/or at the time of requesting school fees, all students and their parents or legal guardians shall be given clear and prominent written notice of authorized fees that may be requested, and notice of the fee waiver process.
 - 1. The parent or legal guardian of a student shall be given the opportunity to pay all or any portion of the school fee if they desire. However, if the parent chooses not to pay a fee, the child may not be prevented from participating in the activity or course for which the fee is being requested.
 - 2. Local education agencies shall provide written notice to parents or legal guardians of approval or denial of requests for fee waivers. Any denial shall contain the specific grounds for denial and shall afford the parent or legal guardian the opportunity for a personal meeting with the appropriate school personnel to discuss the validity of the denial.

3. Local education agencies shall keep copies of any forms, notices and/or instructions used by schools in the waiver of fees and shall keep records of any denials, appeals of denials, and resolution of such appeals.

(e) LEAs are authorized to require payment of the following fees by all affected students:

1. Fines imposed on all students for late-returned library books; parking or other traffic fines imposed for abuse of parking privileges on school property; or reasonable charges for lost or destroyed textbooks, library books, workbooks or any other property of the school;
2. Debts incurred pursuant to Rule 0520-1-3-.03(14), Withholding of Student Grades for Debts Owed to the School;
3. Refundable security deposits collected by a school for use of school property for participation in extracurricular activities;
4. Costs for extracurricular activities occurring outside the regular school day including sports, optional trips, clubs or social events; and
5. Non-resident tuition charged of all students attending a school system other than the one serving their place of residence.