

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 03-116

School Fees: Rental Fee for Locker

QUESTION

May a school require a student to pay a locker maintenance rental fee in order to be assigned a school locker?

OPINIONS

A school may not require a student to pay a locker maintenance rental fee because the board of education has not authorized this fee. Further, the school may be barred from charging the fee if the Commissioner of Education or a court of competent jurisdiction considered the fee a condition of attending school or a condition of using school equipment in violation of Tenn. Code Ann. §49-2-110(c).

ANALYSIS

A school charges students an annual locker rental maintenance fee of two dollars (\$2.00).¹ The school does not require a student to rent a locker. The school has a policy, which reads “There will be a \$2 rental/maintenance charge for those students unable to pay fees. During the first two weeks of school, lockers will be assigned only to students who have paid at least \$25 towards their school fees.” The school waives fees for students approved for free or reduced lunch who have a fee waiver on file. During the first two weeks of school, no student is affected by the lack of a locker. Students make take their backpacks and their jackets and coats to every class. The school has a policy that reads, “Coats and jackets may be worn to school in cold weather but must be taken off upon entering the school. No coats or jackets may be worn inside building.” After the two week grace period, the student who has not rented a locker will have to leave her book bag at home and will not be allowed to wear her coat inside the building or carry it to her classes.

¹ The information in this paragraph comes from materials supplied by the requestor and from the school’s web site.

For a school to require payment of a fee,² the fee must be authorized by the board of education. Payment of the fee cannot be a condition of attending public school. Payment of the fee also may not be a condition of using school equipment while receiving educational training. Tenn. Code Ann. § 49-2-110(c).

State Board of Education rules define “school fees” and “non-school fees.” Tenn. Admin. Rules, *State Board of Education*, Rule 520-1-3-.03(14)(c) and (d). A locker rental fee is not specifically listed under either category. Deciding in which category the fee falls would be the prerogative of the Department of Education or of a court of competent jurisdiction.

Under no circumstances, however, could either the Commissioner or a court allow a school to require a fee if it is a condition of attending school or using school equipment. In this instance, students do not have to rent a locker and thus it does not require the payment of a fee to attend school. The consequences, however, for the student who does not rent a locker may be burdensome and may affect the child’s access to her education.

Finally, “equipment” is something with which a person, organization or thing is equipped; furnishings. “Equip” means to supply with material necessities such as tools, gear, provisions or furnishings. A “locker” is an enclosure that may be locked, especially one used by a person at a gymnasium or public place, for the safekeeping of clothing and valuables. *See* The American Heritage Dictionary of the English Language. If the school does not allow students to carry book bags or coats to class, it would seem that a locker is a necessary piece of equipment to a student.

In sum, the board of education has not authorized a locker rental fee “as a school fee.” Therefore, the school may not require fee payment as a condition of having a locker. The school also may not require the student to pay the locker rental and maintenance fee if requiring the fee affects a student’s access to education or if a “locker” is equipment used while receiving educational training. Tenn. Code Ann. § 49-2-110(c).

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² We enclose a copy of a recent opinion on school fees. Op. Tenn. Atty. Gen. 03-027 (March 14, 2003).

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Requested by:

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