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MEMORANDUM

Date: November 18, 2019
To: Directors of Schools
From: Christy Ballard, General Counsel
Subject: Guidance and Frequently Asked Questions Regarding Public School Fees

Based on questions received regarding compliance with the law on school fees, the following guidance, including frequently asked questions, is provided to clarify any misunderstandings.

School fees are governed by the Tennessee Constitution, Tennessee law, Tennessee State Board of Education (SBE) Rule, and local board of education policy. Only those fees authorized by the local board of education may be requested, and payment of school fees may not be a condition to attending the public school or using its equipment. (T.C.A. § 49-2-110(c)).

T.C.A. § 49-2-114 and the SBE Rule 0520-01-03-.03(12) define school fees.

The SBE rule is available here: <https://publications.tnsosfiles.com/rules/0520/0520-01/0520-01-03.20190411.pdf>

In addition, please see the following Attorney General opinions regarding school fees:

- <https://www.tn.gov/content/dam/tn/attorneygeneral/documents/ops/2003/op03-027.pdf>
- <https://www.tn.gov/content/dam/tn/attorneygeneral/documents/ops/2003/op03-116.pdf>
- <https://www.tn.gov/content/dam/tn/attorneygeneral/documents/ops/2010/op10-096.pdf>

Please contact me at Christy.Ballard@tn.gov or 615-741-2921 if you need more information regarding school fees.

Frequently Asked Questions School Fees

1. *May public school students be required to pay fees for classes, supplies, or equipment as long as they are not receiving free or reduced price meals?*

No. Public school is free in Tennessee. Fees may be requested, but not required of any student. There is a common misconception that only those students receiving free or reduced price meals may have fees waived. In fact, the State constitution and State statutes prohibit schools from requiring any student, regardless of income, from being charged a fee “as a condition to attending the public school or using its equipment while receiving educational training.” T.C.A. § 49-2-110(c). See also, Tenn. Const. Art. XI § 12 which states, in part, “The General Assembly shall provide for the maintenance, support, and eligibility standards of free public schools.”

SBE Rule 0520-01-03-.03 provides that, “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.” In addition, a student’s school experience and/or grade may not be negatively impacted by the decision to not pay a requested fee. For example, a student may not be prohibited from attending a field trip or have points deducted from their grade for not paying a requested fee.

2. *May a teacher alter a student’s grade based on the student’s decision to pay a fee or participate in a school fundraising drive?*

No, a student’s school experience and/or grade may not be impacted by the decision to pay a requested fee or participate in a school fundraising drive. For example, a student may not be prohibited from attending a field trip or have points deducted from their grade for not paying a requested fee.

3. *Must schools notify all parents that the requested school fees are not required?*

Yes. SBE Rule 0520-01-03-.03 (12)(d) notes: “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.” T.C.A. § 49-2-114(a) says that “LEAs shall establish, pursuant to rules promulgated by the state board of education, a process by which to waive all school fees for students who receive free or reduced price lunches.” This does not mean that those students who are not on reduced priced meals must pay fees, it just means that the local education agency (LEA) must automatically waive all school fees for students who receive free or reduced priced meals.

4. *Who determines what fees may be requested?*

Local boards of education must authorize all fees before they may be requested of students. T.C.A. § 49-2-110(c).

5. *May a school hold pizza parties or other special events during regular school hours and limit attendance or participation to those students who participated in or raised a certain amount of money in a fundraiser?*

No, this is a situation where the school is providing an activity “that occur[s] during regular school hours,” (T.C.A. § 49-2-114(b) (1)), where the key to participation is, essentially, the payment of a fee. However, a school could offer a special lunch to those students during the lunch hour or after school.

6. *Are fees associated with dual-credit or dual enrollment courses permitted?*

Dual-credit courses are high school courses, taught by high school faculty. Students may be able to get college credit, and they may need to pass a specific exam to get post-secondary credit. Students may not be charged a fee by the school to enroll in such a course or to receive high school credit. The student may be charged a fee to take the exam to receive post-secondary credit. If, for example, the school requires that exam in order to receive the high school credit, the school may request, but not require the fee.

Dual-enrollment courses are post-secondary courses taken by students who have enrolled in the post-secondary institution. The LEA may, by local board policy, award concurrent high school credit. As long as the student has other, non-dual-enrollment means to earn the required credits for high school graduation, the student may be required to pay a fee for dual-enrollment courses.

7. *Are band instruments considered supplies? May a school require a fee to use an instrument if the student is taking band for credit?*

No. T.C.A. § 49-2-114 defines school fees as, among other things, “fees for activities and supplies required to participate in all courses offered for credit or grade.” Therefore, if a student needs an instrument to participate in band class, then the local school board may approve the request for fees for instrument rental. However, a school may not require that fee of any student.

8. *May a school charge a fee for marching band?*

Yes, if marching band is different than band as a class. The law prohibits requiring a fee “for activities and supplies required to participate in all courses offered for credit or grade.” T.C.A. § 49-2-114(b) (2)

9. *SBE rules allow students to substitute marching band or extracurricular sports for part of the required physical education credit. Does this mean that a student intending to do this must be allowed to participate in band or the sport without paying a fee that other students are paying?*

No. The student can still earn the required physical education credit without participating in the extracurricular activity. Thus, the fees for marching band or the extracurricular sports team are not fees required “as a condition to attending the public school, or using its equipment while receiving educational training.” T.C.A. § 49-2-110(c).

10. Are fees for parking permits considered school fees?

No. Fees to park are not required “as a condition of attending school or using its equipment while receiving educational training.” As long as students can travel to or from school using school-provided transportation, charging for a parking permit would not constitute a fee.

11. Are dues for extracurricular clubs (e.g., Chess Club) school fees?

No. Costs for extracurricular activities are not included in the definition of school fees.

12. May a school require members of an extracurricular club (e.g., FFA) to pay fees for travel to and registration fees for competitions, conventions, etc., when those events occur or require travel during regular school hours?

Yes. The SBE rules note that school fees do not include “costs for extracurricular activities occurring outside the regular school day including sports, optional trips, clubs, or social events.” Even though the travel or the competition may occur during regular school hours, the students did not qualify to attend these events by merely paying a fee. Instead, they joined an optional club or team and qualified for the competition. Thus, they may be charged a fee for travel or registration fees to such events.

13. May a school charge a fee for a school-sponsored trip to Europe that occurs mostly over spring break, but involves students being absent from two regular school days?

The school shall not charge a fee for the two days of the trip that occur on regular school days. Unlike the example above, the only qualification for this trip sponsored by the school is payment of a fee. This would qualify as a “field trip [a] portion of which falls within the school day.” This example highlights what may be a helpful guide in determining which fees a school may request, but not require. If the only criteria for the student to attend or participate in an event during regular school hours is the payment of a fee, then requiring such a fee probably violates the rules, statutes, and the Tennessee constitution.

14. May a student be required to pay fees for a cap and gown for graduation?

Yes, but these fees must be waived, if requested, for a student who cannot afford them. T.C.A. § 49-2-114 and SBE Rule 0520-01-03-.03(13) (c) require LEAs to have a waiver process for these fees for students eligible for free or reduced price meals. Fees associated with a cap and gown for graduation are an exception to the general rule in that this fee waiver process is only required for students who are eligible for free or reduced price meals.

15. May a student be required to pay a fee for voluntary summer school programs?

Yes. T.C.A. § 49-6-3003(b)(1) says, “Tuition and fees may also be charged by any county to all pupils for voluntary programs which occur outside of the required one hundred eighty (180) instructional days, unless the state funds the entire cost of such instruction.”