



STATE OF TENNESSEE  
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## MEMORANDUM

Date: September 27, 2010  
To: Directors of Tennessee Schools  
From: Christy Ballard, General Counsel, Department of Education  
Rich Haglund, General Counsel, State Board of Education  
Subject: School Fees – updated FAQ

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Since last year's memo regarding school fees, the State Board of Education rule (0520-01-03-.03(13), available [here](#)) was modified to clarify that fees for graduation ceremonies and voluntary summer school programs may be required of some students, based on their income. In light of that rule change, the answer to question number nine, below, has been changed.

Also, the State Attorney General [opined](#) this month that State statutes prohibit requiring any student, regardless of income, to pay fees for field trips, any part of which occur during the school day. Question number four, below, already addressed the concern that students attending extracurricular activities may be required to pay fees to travel to and attend such activities. This is the case even if students must leave school early to attend those extracurricular activities.

**1. What did the 2009 revisions to State Board rules change?’**

The revisions did not change the definitions of school fees. Nor did the revisions change the fact that fees may be requested, but not required of any students. The revisions cut out several paragraphs dealing with the waiver process for students on free and reduced price lunches. Those paragraphs appear to have led people to believe that only those students could have the fees waived. In fact, the State constitution, and State statutes as interpreted by the Tennessee Attorney General all 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.” Tenn. Code Ann. §49-2-110(c). See *also*, Tenn. Code Ann. §49-6-3001(a) (“The public schools shall be free to all persons above the age of five.”), and 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.”

**2. Must we notify all parents that the requested school fees are not required?**

Yes. Tenn. Code Ann. §49-2-114 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.” Because the State constitution and other statutes prohibit requiring any student to pay any fee “as a condition “to attending school or using its equipment while receiving educational training,” Tenn. Code Ann. §49-2-110(c)), the rule 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.”

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

The local board of education must authorize all fees before they may be requested of students. Tenn. Code Ann. §49-2-110(c).

**4. May a school require members of an extracurricular club (such as 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 rules currently (and as revised) note that schools 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 qualified to attend these events not 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.

**5. 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. Is the only criteria for the student to attend or participate in an event during regular school hours the payment of a fee? If so, then requiring such a fee probably violates the rules, statutes and the State constitution.

**6. 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, and/or raised a certain amount of money in a fundraiser?**

No, if this is a situation where the school is providing an activity “that occur[s] during regular school hours,” (Tenn. Code Ann. §49-6-114(b)(1)), where the key to participation is, essentially, the payment of a fee. A school could, however, offer a special lunch to those students during the lunch hour or after school.

**7. What about band instruments? Are they “supplies?” If a student wants to take band for credit, may the school require payment of a fee to use a saxophone?**

No. Tenn. Code Ann. §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.” So, if a student needs an instrument to participate in band class, then the school board may approve the request for fees for sax rental, but may not require that fee of any student.

**8. What about marching band?**

This is different than the class. The law prohibits requiring a fee “for activities and supplies required to participate in all courses offered for credit or grade.” Tenn. Code Ann. §49-2-114(b)(2).

**9. May students be required to pay fees for a cap and gown for graduation?**

**Yes.** But these fees must be waived, if requested, for poor students. Tenn. Code Ann. §49-2-114 and State Board 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 lunch.

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

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

**11. Are fees for parking permits “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 parking would not constitute a fee.

If you have further questions regarding this issue, please feel free to contact Christy Ballard at [christy.ballard@tn.gov](mailto:christy.ballard@tn.gov) or Rich Haglund at [rich.haglund@tn.gov](mailto:rich.haglund@tn.gov) .