



Public education is free – or is it?

October 8, 2018

With increasing costs and decreasing revenues, many school districts are faced with difficult decisions about how to allocate available resources. Districts have to make difficult decisions about which programs to fund and which ones to cut. Often on the chopping block are extracurricular activities and nonacademic programs. “Pay-to-play” fees, once a novel concept in public schools, are regularly imposed to fill the funding gaps and keep programs up and running. In addition, many districts charge fees for instructional materials and participation in non-athletic extracurricular activities. This publication provides a reminder on what public schools can and can’t do when charging student fees.

What kinds of fees can a public school charge?

Generally, all children of school age in Ohio are entitled to attend the public schools within the district of their school residence without charge.¹ However, this does not mean that certain kinds of fees cannot be imposed.²

1. Instructional materials. Districts are expressly permitted by statute to charge fees for materials used in a course of instruction, with certain exceptions.
 - A public school district cannot charge fees for textbooks (including electronic textbooks).³
 - Instructional material fees charged may not include a per-student fee for copy paper, student tests or record-keeping supplies.⁴
 - Students who are eligible for a free lunch under the “National School Lunch Act” and the “Child Nutrition

Act of 1966” cannot be charged a fee for materials needed to participate fully in a course of instruction.⁵ This means that districts participating in the Community Eligibility Provision, which provides free lunch to all students in the district based on alternative data collection, cannot charge fees for instructional materials to any of its students, because they are all eligible for a free lunch.⁶

2. Fines. A district may impose charges for loss, damage or destruction of school apparatus, equipment, musical instruments, library materials and even textbooks.⁷
3. Participation or “pay-to-play” fees. Because extracurricular activities and non-instructional programs are not required to be provided as part of the “free public education” to which students are entitled, districts are permitted to charge fees for student participation in these kinds of programs.

Is there a limit on the amount of fees charged?

As the Ohio Supreme Court has explained, free public education is the rule; fees are an exception which must be strictly construed.⁸ Accordingly, although there is no specific statutory limit of fees charged for instructional materials or for extracurricular participation, it follows that any fee charged must be reasonable. In analyzing extracurricular participation fees specifically, the Attorney General also has opined that the fee must be reasonable in amount.⁹

A district choosing to impose fees for instructional materials may waive those fees for students in “serious financial need.”¹⁰ Guidance from the Attorney General encourages boards of education to consider the circumstances of indigent students when imposing fees for extracurricular activities.¹¹ If a fee waiver program is established, it should be based on objective criteria and uniformly applied.

What can a district do if a student doesn’t pay the required fees?

If a student doesn’t pay the required fees for instructional materials, the district can withhold the student’s grades and credits.¹² This only applies to fees imposed for instructional materials or fines for loss/damage/destruction of school property but does not apply to fees for participation in extracurricular or non-instructional programs.¹³ The recourse against a student who fails to pay the required participation fees is to deny participation, not to withhold grades and credits.

It is important to note that only a student’s grades and credits may be withheld for non-payment. A district cannot withhold IEPs, Section 504 Plans, progress reports or other student records.

Lastly, there is a catch-all exception that precludes a district from withholding grades and credits of any student if a complaint has been filed in juvenile court alleging that student is abused, neglected or dependent (or if that student has been adjudicated the same).¹⁴

When charging fees for instructional materials, imposing fines for loss/damage/destruction of school property, charging participation fees for extracurricular activities or non-instructional programs, or withholding grades and credits for non-payment, be sure to review your district policies.

This article was reprinted from the “Legal Update” distributed to Ohio Association of Secondary School Administrators (OASSA members).

¹ R.C. 3313.64; see also R.C. 3313.48 (first sentence).

² R.C. 3313.642

³ R.C. 3313.642(A) and R.C. 3329.06

⁴ See Assn. for the Defense of the Washington Local School Dist. v. Kiger, 42 OS 3d 116, 537 NE2d 1292 (1989).

⁵ R.C. 3313.642(B)

⁶ This restriction against collecting fees from students eligible for a free lunch only applies to fees charged for materials needed to enable the student to participate fully in a course of instruction; it does not apply to fees charged for extracurricular or non-instructional programs. (R.C. 3313.642(B)(1)). In addition, fees may be charged for non-consumable tools, equipment and materials necessary for workforce-readiness training within a career-technical education program if those items may be retained by the student upon completion of the program. (R.C. 3313.642(B)(2)).

⁷ R.C. 3313.642(C)(2)

⁸ See Assn. for the Defense of the Washington Local School Dist. v. Kiger, 42 OS 3d at 118.

⁹ 1982 OAG No. 14

¹⁰ R.C. 3313.642(A)

¹¹ 1982 OAG No. 14

¹² R.C. 3313.642(C)

¹³ 1984 OAG No. 28

¹⁴ R.C. 3313.642(D)

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