

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 10-96

School Fees

QUESTION

Do the State Constitution and statutes allow a school to require students to pay fees for field trips, any portion of which occur during regular school hours (the required 180 instructional days)?

OPINION

No. Requiring a fee for a field trip would be in violation of Tenn. Code Ann. § 49-2-110(c).

ANALYSIS

Article XI, § 12, of the Tennessee Constitution states, “The General Assembly shall provide for the maintenance, support and eligibility standards of a system of free public schools.” To that end, the General Assembly has enacted the system of laws contained in Title 49 of the Tennessee Code. Tenn. Code Ann. § 49-2-110(c) specifically addresses school fees: “The school shall not require any student to pay a fee to the school for any purpose, except as authorized by the board of education, and no fees or tuitions shall be required of any student as a condition to attending the public school or using its equipment while receiving educational training.” Both the current State Board of Education rule and the proposed rule on school fees reflect the provisions of this statute. *See* Tennessee Comp. R. & Regs. 0520-01-03-.03(13)(b)(l).¹ The proposed rule, which will take effect on August 29, 2010, states as follows:

The following school fees may be requested from but not required of any student, regardless of financial status . . . 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.

¹Tenn. Code. Ann. § 49-2-110, Tennessee Comp. R. & Regs. 0520-01-03-.03(13), and proposed rule are attached.

Both the proposed rule and its predecessor state that a public school may request but not require school fees for field trips, any portion of which fall within the school day. Requiring such a fee would constitute “a condition to attending the public school” as it impacts a student’s access to education. In instances where a school bus is utilized, the students would be using school equipment while receiving educational training.

This office has previously considered the subject of school fees in Op. Tenn. Atty. Gen. No. 03-116 (Sept. 15, 2003). In that opinion, the question concerned whether a public school could require students to pay a locker maintenance fee. Unlike field trips, locker fees are not specifically listed in the State Board of Education rules. This office examined the three requirements of the statute in determining whether a locker fee was a legal school fee: (1) was the fee approved by the board of education; (2) does the fee affect the student’s access to education; and (3) does the fee concern use of school equipment used while receiving educational training. The same analysis can be applied to field trips. Requiring a fee for a field trip would affect the student’s access to education because it would constitute a condition to attending school, and the fee could involve using school equipment.

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