

GUIDANCE ON FEES AND CHARGES IN PUBLIC SCHOOLS

Legal Basis for Fees

[Article VIII, § 1](#) of the Constitution of Virginia requires the General Assembly to “provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth” and to “seek to ensure that an educational program of high quality is established and continually maintained.”

Certain sections of the Code of Virginia and the Appropriation Act govern the charging of fees in the public schools of Virginia:

- [Section 22.1-327](#) authorizes the Board of Education to establish fees and methods for collecting them for the public schools.
- [Section 22.1-6](#) of the Code states that except as provided by Title 22.1 and Board of Education regulations, no fees or charges may be levied against any pupils by any school board.
- [Section 22.1-6](#) also prohibits the withholding of any student’s scholastic report card or diploma because of nonpayment of any fee or charge.
- [Section 22.1-251](#) of the Code requires each school board to provide, free of charge, such textbooks and workbooks as required for instruction.
- [Section § 22.1-176](#) permits the charging of a fee to a student for his pro rata share of the cost of providing transportation for voluntary extracurricular activities.
- [Section 22.1-205](#) states that in addition to the fee approved by the Board of Education pursuant to the Appropriation Act for the behind the wheel portion of the driver’s education program, the Board of Education may authorize school divisions to assess additional charges to recover program costs that exceed state funds. Both Code sections permit local school divisions to waive such fees for any pupil whose family cannot afford them.
- [Section 22.1-243](#), effective July 1, 2008, permits local school boards to provide consumable materials, such as workbooks, writing books and drawing books to students free of charge or to charge students a retail price not to exceed seven percent added to the publisher’s price but, requires them to develop a policy to ensure that students who cannot afford the consumable materials may receive them at a reduced price or free of charge.
- [Item 140 C.11.f.2\) of the Appropriation Act](#) requires school divisions that charge tuition for summer high school credit courses to give consideration to students from households with extenuating financial circumstances who are repeating a class in order to graduate.

Additionally, Opinions of the Attorney General’s Office provide guidance regarding the permissibility of school fees. For example, opinions have concluded that:

- the Virginia Constitutional requirement for a free public school system bars local school boards from imposing fees as a condition of enrollment, but does not prohibit the charging of fees for optional or ancillary services or activities

- local school boards may charge students for the optional rental of lockers
- schools may charge students a parking fee as long as it is approved by the local school board

Attorney General's Opinions have also determined some fees are impermissible:

- a school division may not offer students a substance abuse counseling program at a local Substance Abuse Services Agency as an alternative to expulsion and then charge the student the agency's fee. This was seen as a required payment of fees for continued enrollment which is impermissible under the Virginia Constitution.
- a school board lacked authority to require parents to pay for a testing and treatment program as a condition of granting excused absences to students who had been suspended for substance abuse.
- local school boards may not charge for the transportation of students to and from school.

The Board of Education promulgated [*Rules Governing Fees and Charges, 8 VAC 20-370-10*](#), in approximately 1980. These regulations have not been revised since that time and are out of date. The regulations provide that local school divisions may charge fees for:

1. Class dues;
2. Voluntary student activities;
3. Night school classes;
4. Postgraduate classes;
5. Summer school;
6. Rental textbooks;
7. Musical instruments used in regularly scheduled instructional classes; and
8. Library fees.

The regulation also permits local school boards to make supplies, services, or materials available to pupils at cost, and to charge for a field trip or an educational related program that is not a required activity. Further, deposits may be required when return of the item used results in a return of the fees deposited.

The Superintendent of Public Instruction has sent two informational memoranda to local school divisions, No. 171 on September 3, 1993 and No. 95 on May 13, 1994 regarding the charging of fees. Supts. Memo No. 95 specifically alluded to an expectation that each school division had policies for the waiver of all required fees for each child attending school whose parent or guardian was financially unable to pay such fees.