

## INSTRUCTIONAL FEES

R.C. 3313.642(C) (the statute that allows public school districts to withhold grades and credits when parents fail to pay legitimate and reasonable materials fees) is the sole exception to Ohio's provision of free education. Ohio boards of education are authorized to adopt a fee/charge schedule for "materials used in a course of instruction" and "for the loss, damage, or destruction of school apparatus, equipment, musical instruments, library material, textbooks ... damage to school buildings..." See R.C. 3313.642(C). To provide a means of collection, boards of education are vested with an enforcement authority to coerce such payment(s) from parents by "withholding the grades and credits" of students. See R.C. 3313.642 (C). While a board of education is authorized to exercise this enforcement authority (under strict circumstances) to withhold a student's transcript for the parent's failure to pay a materials fee or a lost/damaged textbook, etc., this particular enforcement authority begins and ends at R.C. 3313.642(C). Its enforcement authority may not be used, for example, to coerce the payment of any other fee that is not specifically allocated by R.C. 3313.642(C).

Because the authorization for school boards to charge fees under R.C. 3313.642 is the sole exception to Ohio's provision of free education (R.C. 3313.48) of all youth of school age, it must be strictly construed. For example, the enforcement authority in ORC 3313.642(C) is strictly limited to the collection of fees and charges for:

**"[M]aterials used in a course of instruction" and for the "loss, damage, or destruction of school apparatus, equipment, musical instruments, library material, textbooks required to be furnished without charge, and for damage to school buildings."**

Ohio public school districts can charge reasonable instructional fees under R.C. 3313.642 for materials used in the course of instruction with the exception of necessary textbooks, as long as the fees were used for classroom materials such as paper, paste, pencils, paint and items used by teachers to aid in their instruction of students. See *State ex rel. Massie v. Gahanna-Jefferson Pub. Schools Bd. of Edn.*, 76 Ohio St. 3d 584 (1996).

### Per Pupil Fees:

R.C. 3313.642 only authorizes a public school to withhold a student's grades and credits for failure to pay assessed fees for "materials used in a course of instruction" other than textbooks or electronic textbooks (which must be furnished without charge under R.C. 3329.06). Because free education is the general rule in Ohio and fees the exception, the Ohio Supreme Court declared that the statutory exception R.C. 3313.642 must be strictly construed. Fees charged under R.C. 3313.642 will be invalidated if not reasonable, or the item is not used in the course of educational instruction.

### Extracurricular fees:

Since fees for extracurricular activities fall outside the statute, its sanctions cannot be applied to force their collection. The attorney general, in 1984 Ohio Op. Att'y Gen. No. 84-027, determined that grades cannot be withheld from students who failed to account for items entrusted to them for extracurricular fund-raising programs, because the activity was not instructional and the items were not intended to become school property. See *Association for Defense of Washington Local School Dist. V. Kiger*, 42 Ohio St. 3d 116 (1989).

The "fees and charges" are strictly construed against the constitutional presumption of free education

The Ohio constitution creates a strong presumption in favor of making everything that is a necessary component to a public education cost-free; and when a board of education seeks to charge parents for their children's participation in public education, the board bears the heavy burden of rebutting this constitutionally based presumption.

Baldwin's Ohio Revised Code Annotated  
Title XXXIII. Education--Libraries  
Chapter 3313. Boards of Education (Refs & Annos)  
Administration of Schools

R.C. § 3313.642

3313.642 Materials for course of instruction; free materials; schedule of fees and charges for loss and damage; enforcement

Effective: September 29, 2011

Currentness

(A) Except as provided in division (B) of this section and notwithstanding the provisions of sections 3313.48 and 3313.64 of the Revised Code, the board of education of a city, exempted village, or local school district shall not be required to furnish, free of charge, to the pupils attending the public schools any materials used in a course of instruction with the exception of the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code. The board may, however, make provision by appropriations transferred from the general fund of the district or otherwise for furnishing free of charge any materials used in a course of instruction to such pupils as it determines are in serious financial need of such materials.

(B) No board of education of a school district shall charge a fee to a pupil who is eligible for a free lunch under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, for any materials needed to enable the pupil to participate fully in a course of instruction. The prohibition in this division against charging a fee does not apply to any fee charged for any of the following:

(1) Any materials needed to enable a pupil to participate fully in extracurricular activities or in any pupil enrichment program that is not a course of instruction;

(2) Any tools, equipment, and materials that are necessary for workforce-readiness training within a career-technical education program that, to the extent the tools, equipment, and materials are not consumed, may be retained by the student upon course completion.

(C) Boards of education may adopt rules and regulations prescribing a schedule of fees for materials used in a course of instruction and prescribing a schedule of charges which may be imposed upon pupils for the loss, damage, or destruction of school apparatus, equipment, musical instruments, library material, textbooks, or electronic textbooks required to be furnished without charge, and for damage to school buildings, and may enforce the payment of such fees and charges by withholding the grades and credits of the pupils concerned.

**Credits**

(2011 H 153, eff. 9-29-11; 2009 H 1, eff. 7-17-09; 1999 H 32, eff. 5-25-99; 1998 H 650, eff. 7-1-98; 1995 H 117, eff. 6-30-95; 130 v S 336, eff. 9-16-63; 129 v 470; 128 v 286)

Notes of Decisions (12)

R.C. § 3313.642, OH ST § 3313.642

Current through all 2012 laws and statewide issues of the 129th GA (2011-2012) and 2013 File 1 of the 130th GA (2013-2014).