

# Board of Education Agenda Item

Item: F.

Date: June 19, 2008

Topic: Report on Fees and Charges in the Public School Divisions of Virginia

Presenter: Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications

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## Origin:

☒ Topic presented for information only (no board action required)

☐ Board review required by

☐ State or federal law or regulation

☐ Board of Education regulation

☐ Other: \_\_\_\_\_

☐ Action requested at this meeting

☐ Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

☒ No previous board review/action

☐ Previous review/action

date \_\_\_\_\_

action \_\_\_\_\_

**Background Information:** At its May 21, 2008 meeting, the Virginia Board of Education received public comments regarding fees that are charged to students in Virginia's public schools. In response to the comments received, the Board requested that the Superintendent of Public Instruction provide additional information at the June 2008 meeting of the Board. In response to this request, Department of Education staff conducted a survey of all Virginia school divisions regarding their student fees and charges.

A survey was developed requesting the following information from school divisions:

- Does the school division charge student fees and charges, such as class dues, instructional fees/charges, fees for consumables or materials, library fees, and fees for voluntary student activities?
- Does the division have policies regarding student fees and charges?

- If fees are charged, does the division have a policy regarding students and families with financial hardships?
  - If so, does the division provide a notice to parents regarding the financial hardship policy?
- Does the division have a policy that addresses payment schedules and the handling of unpaid student fees and charges?

On May 30, 2008, the Superintendent of Public Instruction sent an e-mail to all school divisions requesting that they complete the questionnaire and return it by June 6, 2008. As of June 10, 2008, 83 school divisions had responded. A report analyzing the responses was prepared and is attached.

**Summary of Major Elements:** The report contains background information regarding the issue of student fees and charges. This background information includes an overview of current Virginia Constitution, Virginia Code and Board of Education requirements, summaries of relevant Attorney General's Opinions and two Superintendent's Memoranda. These documents are included as appendices to the report.

The report also includes findings from the information provided by local school divisions in response to the department's survey. Based on an analysis of the information and data collected by the Department, recommendations for further action were made for the Board's consideration. These recommendations include the revision of the Board's *Rules Governing Fees and Charges*, 8 VAC 20-370-10, which were promulgated in or before 1980. It should be noted that JustChildren filed a petition under the Administrative Process Act requesting that these regulations be revised. Public comment is currently being received on that petition.

**Superintendent's Recommendation:** The Superintendent of Public Instruction recommends that the Board of Education accept the report.

**Impact on Resources:** None at this time.

**Timetable for Further Review/Action:** It is anticipated that no further action will be taken by the Board until the Department of Education begins the regulations revision process.

# **Report to the Board of Education on Student Fees and Charges**

## **Background**

At its May 21, 2008 meeting, the Virginia Board of Education received public comments regarding fees that are charged to students in Virginia's public schools. In response to the comments received, the Board requested that the Superintendent of Public Instruction provide additional information at the June 2008 meeting of the Board. In response to this request, Department of Education staff conducted a survey of all Virginia school divisions regarding their student fees and charges.

On May 30, 2008, the Superintendent of Public Instruction sent a superintendent's e-mail to all school divisions requesting that they complete a short questionnaire and return it by June 6, 2008. The survey asked school divisions the following:

- Does the school division charge student fees and charges, such as class dues, instructional fees/charges, fees for consumables or materials, library fees, and fees for voluntary student activities?
- If yes, does the school division have a schedule of fees and charges? (Please provide a copy of the schedule, if possible.)
- Does the division have policies regarding student fees and charges? Please provide a copy of the schedule, if possible.)
- If fees are charged, does the division have a policy regarding students and families with financial hardships?
  - If so, does the division provide a notice to parents regarding the financial hardship policy? (Please provide a copy of the schedule, if possible.)
- Does the division have a policy that addresses payment schedules and the handling of unpaid student fees and charges? (Please provide a copy of the schedule, if possible.)

As of June 10, 2008, 83 of the 132 local school divisions had responded to the survey for a 63% return rate.

## **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.”

In addition, certain Code of Virginia sections 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 22.1-251](#) 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.

In accordance with the Code, 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.

Additionally, Opinions of the Attorney General's Office have provided 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. To that end, an Attorney General's Opinion, 1964-65 Att'y Gen. Ann. Rep. 294, permits local school boards to charge students for the optional rental of school lockers and Opinion 149, issued on November 8, 1991 permits a student parking fee as long as it is approved by the local school board.

However, Attorney General's Opinion 144, issued on January 12, 1982, stated that it was impermissible for a school division to 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 more recent opinion, dated January 11, 2000, numbered 99-101, found that 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. In an opinion dated August 29, 2007, numbered 07-053, the Office of

the Attorney General found that local school boards may not charge for the transportation of students to and from school.

The Code of Virginia sections, Board regulations and two of the Opinions of the Attorney General's Office are all included in the appendices.

While not legal advice in nature, 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. These are also included in the appendices.

### Findings

Of the 83 school divisions that responded, 64 reported that they do charge fees. Of the 64 school divisions that responded that they do charge fees:

<u>38</u>	reported that they have a schedule of fees and charges
<u>51</u>	reported that they have a policy regarding fees and charges
<u>20</u>	reported that they have a policy regarding students and families with financial hardships
<u>9</u>	reported that they provide a notice to parents regarding the financial hardship policy
<u>15</u>	reported that they have a policy that addresses payment schedules and unpaid fees and charges

\*See appendices for a breakdown by school division.

The fees and charges differ from school division to school division. Many school divisions reported charging one or more of the following fees:

Assignment books, Agenda books, Journals	Incentives, awards, certificates
Band, choir, show choir (up to \$350.00)	Instructional fees
Band instrument rental	Library
Class dues or fees	Lockers – physical education and hall
Class dues to offset commencement costs	Locks and lock rental

Club dues	Materials
Class T-shirt	Parking
Damaged or lost books	Program costs that exceed state funding
Driver's education – ranging from \$60.00 to \$250.00	Specific course and lab fees
Field trips	Supply fees
Field trips or related educational programs not a required activity	Technology fees
Gym suits	Weekly readers, Virginia Studies Weekly, Scholastic News

These fees are compiled into categories in the appendices of this report.

School division policies also list various penalties for failure to pay fees. Some of these policies include penalties such as:

- Cannot participate in graduation
- Cannot participate in any field trips until fees are paid
- Will not receive new class schedule until fees are paid
- Senior class dues – Optional, but if do not pay them, not allowed to participate in class activities such as, prom or graduation
- Unable to participate in any extra-curricular activities
- Placed on Social Probation.

In order to help in preventing penalties for failure to pay fees, some school divisions have a policy or program whereby parents who cannot pay the fees can pay on an installment plan, or pay less or have the fee or fees waived to enable the student to participate in the activity.

## Summary

The difficulty with any survey is that recipients often interpret the words, phrases or questions differently, so their responses may not be exactly comparable. This report is based on the information provided by the school divisions in the surveys and in the schedules and/or policies provided. Since there is no way to determine if all of the school divisions interpreted the questions the same way, the numbers presented in this report may not precisely reflect the activities in all of the school divisions. Rather, this is a snapshot of what could be gleaned from the responses received from the 83 school divisions.

Many school divisions do not have fee schedules and or policies, which make it difficult for parents to know exactly what fees will be charged. In many cases, the fee policies are general and do not provide any concrete information. In addition, the fees may vary in different elementary schools, middle schools, or high schools within the same school division. Further, the majority of school divisions that responded stated they did not have a policy regarding students and families with financial hardship.

A review of the fees that are being charged revealed that many of the fees are permissible. However, it appears that some charges may not be permissible and are in need of further review.

## Recommended Next Steps

Based on these findings, the following recommendations are offered to the Board for its consideration:

- Using the data the department has already collected along with additional research, further study should be conducted of the fees that may and may not be charged in Virginia's public schools.
- In 1993 and 1994, Superintendent's Memoranda were issued by the Virginia Department of Education advising local school divisions regarding fees. A new Superintendent's Memorandum should be issued providing guidance to school divisions prior to the beginning of the 2008-2009 school year.
- The *Regulations Governing Fees and Charges*, 8 VAC 20-370-10 should be reviewed and revised.

## **APPENDICES**

General Survey Response Statistics.....	Appendix I
Summary of Responses.....	Appendix II
General Fee Information.....	Appendix III
Superintendent's E-mail and Survey Instrument.....	Appendix IV
Constitution of Virginia and Code of Virginia.....	Appendix V
Virginia Board of Education Regulations.....	Appendix VI
Attorney General's Opinions.....	Appendix VII



<b>Virginia Department of Education Summary Statistics - Survey of Student Fees For the 2007-2008 School Year</b>	
<b>Number of School Divisions Surveyed:</b>	<b>132</b>
<b>Number of Divisions Responding:</b>	<b>83</b>
<b>Response Rate:</b>	<b>63%</b>

<b>VIRGINIA DEPARTMENT OF EDUCATION SUMMARY OF SCHOOL DIVISION RESPONSES* TO SURVEY OF FEES FOR 2007-2008 SCHOOL YEAR</b>		
<b>Division Number</b>	<b>Division Name</b>	<b>Responded to Survey (Yes/No)</b>
001	ACCOMACK	Yes
002	ALBEMARLE	No
003	ALLEGHANY	No
004	AMELIA	Yes
005	AMHERST	Yes
006	APPOMATTOX	No
007	ARLINGTON	Yes
008	AUGUSTA	Yes
009	BATH	Yes
010	BEDFORD/BEDFORD CITY	No
011	BLAND	No
012	BOTETOURT	Yes
013	BRUNSWICK	Yes
014	BUCHANAN	Yes
015	BUCKINGHAM	Yes
016	CAMPBELL	Yes
017	CAROLINE	No
018	CARROLL	Yes
019	CHARLES CITY COUNTY	Yes
020	CHARLOTTE	Yes
021	CHESTERFIELD	Yes
022	CLARKE	Yes
023	CRAIG	Yes
024	CULPEPER	No
025	CUMBERLAND	No
026	DICKENSON	Yes
027	DINWIDDIE	No
028	ESSEX	No
029	FAIRFAX/FAIRFAX CITY	No
030	FAUQUIER	Yes

<b>VIRGINIA DEPARTMENT OF EDUCATION SUMMARY OF SCHOOL DIVISION RESPONSES* TO SURVEY OF FEES FOR 2007-2008 SCHOOL YEAR</b>		
<b>Division Number</b>	<b>Division Name</b>	<b>Responded to Survey (Yes/No)</b>
031	FLOYD	Yes
032	FLUVANNA	Yes
033	FRANKLIN	No
034	FREDERICK	No
035	GILES	Yes
036	GLOUCESTER	Yes
037	GOOCHLAND	Yes
038	GRAYSON	Yes
039	GREENE	Yes
040	GREENSVILLE/EMPORIA	Yes
041	HALIFAX	No
042	HANOVER	No
043	HENRICO	No
044	HENRY	Yes
045	HIGHLAND	Yes
046	ISLE OF WIGHT	Yes
048	KING GEORGE	Yes
049	KING AND QUEEN	Yes
050	KING WILLIAM	No
051	LANCASTER	No
052	LEE	No
053	LOUDOUN	No
054	LOUISA	No
055	LUNENBURG	Yes
056	MADISON	Yes
057	MATHEWS	Yes
058	MECKLENBURG	Yes
059	MIDDLESEX	Yes
060	MONTGOMERY	No
062	NELSON	Yes

<b>VIRGINIA DEPARTMENT OF EDUCATION SUMMARY OF SCHOOL DIVISION RESPONSES* TO SURVEY OF FEES FOR 2007-2008 SCHOOL YEAR</b>		
<b>Division Number</b>	<b>Division Name</b>	<b>Responded to Survey (Yes/No)</b>
063	NEW KENT	Yes
065	NORTHAMPTON	No
066	NORTHUMBERLAND	Yes
067	NOTTOWAY	Yes
068	ORANGE	Yes
069	PAGE	Yes
070	PATRICK	Yes
071	PITTSYLVANIA	Yes
072	POWHATAN	No
073	PRINCE EDWARD	No
074	PRINCE GEORGE	Yes
075	PRINCE WILLIAM	No
077	PULASKI	Yes
078	RAPPAHANNOCK	Yes
079	RICHMOND	Yes
080	ROANOKE	Yes
081	ROCKBRIDGE	Yes
082	ROCKINGHAM	No
083	RUSSELL	No
084	SCOTT	Yes
085	SHENANDOAH	Yes
086	SMYTH	Yes
087	SOUTHAMPTON	No
088	SPOTSYLVANIA	No
089	STAFFORD	No
090	SURRY	No
091	SUSSEX	Yes
092	TAZEWELL	Yes
093	WARREN	Yes
094	WASHINGTON	Yes

<b>VIRGINIA DEPARTMENT OF EDUCATION SUMMARY OF SCHOOL DIVISION RESPONSES* TO SURVEY OF FEES FOR 2007-2008 SCHOOL YEAR</b>		
<b>Division Number</b>	<b>Division Name</b>	<b>Responded to Survey (Yes/No)</b>
095	WESTMORELAND	Yes
096	WISE	No
097	WYTHE	Yes
098	YORK	Yes
101	ALEXANDRIA CITY	No
102	BRISTOL CITY	Yes
103	BUENA VISTA CITY	No
104	CHARLOTTESVILLE CITY	Yes
106	COLONIAL HEIGHTS CITY	Yes
107	COVINGTON CITY	Yes
108	DANVILLE CITY	No
109	FALLS CHURCH CITY	Yes
110	FREDERICKSBURG CITY	Yes
111	GALAX CITY	Yes
112	HAMPTON CITY	Yes
113	HARRISONBURG CITY	No
114	HOPEWELL CITY	Yes
115	LYNCHBURG CITY	Yes
116	MARTINSVILLE CITY	Yes
117	NEWPORT NEWS CITY	Yes
118	NORFOLK CITY	Yes
119	NORTON CITY	No
120	PETERSBURG CITY	No
121	PORTSMOUTH CITY	Yes
122	RADFORD CITY	Yes
123	RICHMOND CITY	No
124	ROANOKE CITY	Yes
126	STAUNTON CITY	Yes
127	SUFFOLK CITY	No
128	VIRGINIA BEACH CITY	Yes

## APPENDIX I

VIRGINIA DEPARTMENT OF EDUCATION SUMMARY OF SCHOOL DIVISION RESPONSES* TO SURVEY OF FEES FOR 2007-2008 SCHOOL YEAR		
Division Number	Division Name	Responded to Survey (Yes/No)
130	WAYNESBORO CITY	Yes
131	WILLIAMSBURG	No
132	WINCHESTER CITY	No
135	FRANKLIN CITY	Yes
136	CHESAPEAKE CITY	No
137	LEXINGTON CITY	No
139	SALEM CITY	Yes
142	POQUOSON CITY	No
143	MANASSAS CITY	No
144	MANASSAS PARK CITY	No
202	COLONIAL BEACH	No
207	WEST POINT	Yes

\*As of June 10, 2008

<b>Virginia Department of Education Response to Survey Questions Fee Survey for the 2007-2008 School Year</b>		
	<b>Number of Divisions Answering Yes</b>	<b>Number of Divisions Answering No</b>
<b>Survey Question 1: Does your school division charge student fees and charges?</b>	64	19
<b>Survey Question 2: If the school divisions answered Yes to question 1, Does the division have a schedule of student fees and charges?</b>	38	26
<b>Survey Question 3: If the divisions answered Yes to question 1, does the division have policies regarding student fees and charges?</b>	51	12
<b>Survey Question 4: If the division answered Yes to question 1, does the division have a policy regarding students and families with financial hardships?</b>	20	44
<b>Of those divisions responding Yes, does the division provide a notice to parents regarding the financial hardship policy?</b>	9	11
<b>Survey Question 5: If the division answered Yes to question 1, does the division have a policy that addresses payment schedules and the handling of unpaid student fees and charges?</b>	15	49

**VIRGINIA DEPARTMENT OF EDUCATION**  
**SUMMARY OF RESPONSES TO FEE SURVEY QUESTIONS**  
**FOR THE 2007-2008 SCHOOL YEAR**

DIV	Division	DIVISION CHARGES STUDENT FEES/CHARGES (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A SCHEDULE OF FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICIES REGARDING FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY REGARDING STUDENTS AND FAMILIES WITH FINANCIAL HARDSHIP? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION PROVIDE A NOTICE TO PARENTS REGARDING THE FINANCIAL HARDSHIP POLICY? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY THAT ADDRESSES PAYMENT SCHEDULES AND THE HANDLING OF UNPAID STUDENT FEES AND CHARGES? (YES/NO)
001	ACCOMACK	Yes	No	No	No		No
002	ALBEMARLE	No Response					
003	ALLEGHANY	No Response					
004	AMELIA	Yes	No	Yes	Yes	No	No
005	AMHERST	Yes	Yes	Yes	No		No
006	APPOMATTOX	No Response					
007	ARLINGTON	Yes	Yes	Yes	Yes	Yes	Yes
008	AUGUSTA	Yes	Yes	Yes	Yes	Yes	Yes
009	BATH	Yes	No	Yes	No		No
010	BEDFORD AND BEDFORD CITY	No Response					
011	BLAND	No Response					
012	BOTETOURT	Yes	Yes	Yes	No		No
013	BRUNSWICK	Yes	No	Yes	No		Yes
014	BUCHANAN	No					
015	BUCKINGHAM	Yes	No	Yes	No		No
016	CAMPBELL	Yes	No	Yes	Yes	Yes	Yes
017	CAROLINE	No Response					
018	CARROLL	Yes	Yes	Yes	No		No
019	CHARLES CITY COUNTY	Yes	No	Yes	No		No
020	CHARLOTTE	Yes	Yes	Yes	No		No
021	CHESTERFIELD	Yes	Yes	Yes	Yes	No	No
022	CLARKE	Yes	No	No	Yes	No	No
023	CRAIG	No					
024	CULPEPER	No Response					



**VIRGINIA DEPARTMENT OF EDUCATION**  
**SUMMARY OF RESPONSES TO FEE SURVEY QUESTIONS**  
**FOR THE 2007-2008 SCHOOL YEAR**

DIV	Division	DIVISION CHARGES STUDENT FEES/CHARGES (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A SCHEDULE OF FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICIES REGARDING FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY REGARDING STUDENTS AND FAMILIES WITH FINANCIAL HARDSHIP? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION PROVIDE A NOTICE TO PARENTS REGARDING THE FINANCIAL HARDSHIP POLICY? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY THAT ADDRESSES PAYMENT SCHEDULES AND THE HANDLING OF UNPAID STUDENT FEES AND CHARGES? (YES/NO)
025	CUMBERLAND	No Response					
026	DICKENSON	Yes	No	Yes	Yes	Yes	No
027	DINWIDDIE	No Response					
028	ESSEX	No Response					
029	FAIRFAX AND FAIRFAX CITY	No Response					
030	FAUQUIER	Yes	Yes	Yes	Yes	Yes	Yes
031	FLOYD	No					
032	FLUVANNA	Yes	Yes		No		Yes
033	FRANKLIN	No Response					
034	FREDERICK	No Response					
035	GILES	Yes	Yes	Yes	No		No
036	GLOUCESTER	Yes	Yes	No	No		No
037	GOOCHLAND	Yes	Yes	Yes	No		No
038	GRAYSON	Yes	No	Yes	No		No
039	GREENE	Yes	Yes	Yes	No		No
040	GREENSVILLE AND EMPORIA	Yes	No	Yes	No		No
041	HALIFAX	No Response					
042	HANOVER	No Response					
043	HENRICO	No Response					
044	HENRY	Yes	No	Yes	No		No
045	HIGHLAND	No					
046	ISLE OF WIGHT	Yes	No	Yes	No		No
048	KING GEORGE	No					
049	KING AND QUEEN	No					

**VIRGINIA DEPARTMENT OF EDUCATION**  
**SUMMARY OF RESPONSES TO FEE SURVEY QUESTIONS**  
**FOR THE 2007-2008 SCHOOL YEAR**

DIV	Division	DIVISION CHARGES STUDENT FEES/CHARGES (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A SCHEDULE OF FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICIES REGARDING FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY REGARDING STUDENTS AND FAMILIES WITH FINANCIAL HARDSHIP? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION PROVIDE A NOTICE TO PARENTS REGARDING THE FINANCIAL HARDSHIP POLICY? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY THAT ADDRESSES PAYMENT SCHEDULES AND THE HANDLING OF UNPAID STUDENT FEES AND CHARGES? (YES/NO)
050	KING WILLIAM	No Response					
051	LANCASTER	No Response					
052	LEE	No Response					
053	LOUDOUN	No Response					
054	LOUISA	No Response					
055	LUNENBURG	Yes	Yes	Yes	No		Yes
056	MADISON	No					
057	MATHEWS	Yes	Yes	No	No		No
058	MECKLENBURG	Yes	Yes	Yes	No		No
059	MIDDLESEX	Yes	Yes	Yes	Yes	No	No
060	MONTGOMERY	No Response					
062	NELSON	Yes	Yes	Yes	No		No
063	NEW KENT	Yes	Yes	Yes	No		No
065	NORTHAMPTON	No Response					
066	NORTHUMBERLAND	Yes	Yes	Yes	No		No
067	NOTTOWAY	Yes	Yes	Yes	No		Yes
068	ORANGE	Yes	No	No	No		No
069	PAGE	No					
070	PATRICK	No					
071	PITTSYLVANIA	Yes	Yes	Yes	No		No
072	POWHATAN	No Response					
073	PRINCE EDWARD	No Response					
074	PRINCE GEORGE	Yes	No	No	Yes	No	No
075	PRINCE WILLIAM	No Response					

**VIRGINIA DEPARTMENT OF EDUCATION**  
**SUMMARY OF RESPONSES TO FEE SURVEY QUESTIONS**  
**FOR THE 2007-2008 SCHOOL YEAR**

DIV	Division	DIVISION CHARGES STUDENT FEES/CHARGES (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A SCHEDULE OF FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICIES REGARDING FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY REGARDING STUDENTS AND FAMILIES WITH FINANCIAL HARDSHIP? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION PROVIDE A NOTICE TO PARENTS REGARDING THE FINANCIAL HARDSHIP POLICY? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY THAT ADDRESSES PAYMENT SCHEDULES AND THE HANDLING OF UNPAID STUDENT FEES AND CHARGES? (YES/NO)
077	PULASKI	Yes	No	Yes	No		No
078	RAPPAHANNOCK	No					
079	RICHMOND	Yes	Yes	Yes	No		No
080	ROANOKE	Yes	No	Yes	Yes	No	No
081	ROCKBRIDGE	Yes	No	No	Yes	Yes	No
082	ROCKINGHAM	No Response					
083	RUSSELL	No Response					
084	SCOTT	No					
085	SHENANDOAH	No					
086	SMYTH	Yes	Yes	No	No		No
087	SOUTHAMPTON	No Response					
088	SPOTSYLVANIA	No Response					
089	STAFFORD	No Response					
090	SURRY	No Response					
091	SUSSEX	No					
092	TAZEWELL	Yes	Yes	Yes	Yes	No	Yes
093	WARREN	Yes	Yes	Yes	No		No
094	WASHINGTON	Yes	Yes	Yes	Yes	No	Yes
095	WESTMORELAND	No					
096	WISE	No Response					
097	WYTHE	Yes	No	Yes	No		No
098	YORK	Yes	Yes	Yes	Yes	No	No
101	ALEXANDRIA CITY	No Response					
102	BRISTOL CITY	No					

**VIRGINIA DEPARTMENT OF EDUCATION**  
**SUMMARY OF RESPONSES TO FEE SURVEY QUESTIONS**  
**FOR THE 2007-2008 SCHOOL YEAR**

DIV	Division	DIVISION CHARGES STUDENT FEES/CHARGES (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A SCHEDULE OF FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICIES REGARDING FEES AND CHARGES? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY REGARDING STUDENTS AND FAMILIES WITH FINANCIAL HARDSHIP? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION PROVIDE A NOTICE TO PARENTS REGARDING THE FINANCIAL HARDSHIP POLICY? (YES/NO)	IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY THAT ADDRESSES PAYMENT SCHEDULES AND THE HANDLING OF UNPAID STUDENT FEES AND CHARGES? (YES/NO)
103	BUENA VISTA CITY	No Response					
104	CHARLOTTESVILLE CITY	Yes	No	Yes	Yes	Yes	Yes
106	COLONIAL HEIGHTS CITY	Yes	No	Yes	No		No
107	COVINGTON CITY	Yes	No	No	No		No
108	DANVILLE CITY	No Response					
109	FALLS CHURCH CITY	Yes	No	Yes	Yes	No	No
110	FREDERICKSBURG CITY	Yes	Yes	Yes	No		No
111	GALAX CITY	No					
112	HAMPTON CITY	Yes	No	No	No		No
113	HARRISONBURG CITY	No Response					
114	HOPEWELL CITY	No					
115	LYNCHBURG CITY	No					
116	MARTINSVILLE CITY	Yes	No	Yes	Yes	Yes	No
117	NEWPORT NEWS CITY	Yes	Yes	Yes	Yes	Yes	No
118	NORFOLK CITY	Yes	Yes	Yes	No		Yes
119	NORTON CITY	No Response					
120	PETERSBURG CITY	No Response					
121	PORTSMOUTH CITY	Yes	No	Yes	No		No
122	RADFORD CITY	No					
123	RICHMOND CITY	No Response					
124	ROANOKE CITY	Yes	Yes	Yes	No		Yes
126	STAUNTON CITY	Yes	Yes	Yes	No		No
127	SUFFOLK CITY	No Response					
128	VIRGINIA BEACH CITY	Yes	Yes	Yes	No		Yes

**VIRGINIA DEPARTMENT OF EDUCATION  
SUMMARY OF RESPONSES TO FEE SURVEY QUESTIONS  
FOR THE 2007-2008 SCHOOL YEAR**

<b>DIV</b>	<b>Division</b>	<b>DIVISION CHARGES STUDENT FEES/CHARGES (YES/NO)</b>	<b>IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A SCHEDULE OF FEES AND CHARGES? (YES/NO)</b>	<b>IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICIES REGARDING FEES AND CHARGES? (YES/NO)</b>	<b>IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY REGARDING STUDENTS AND FAMILIES WITH FINANCIAL HARDSHIP? (YES/NO)</b>	<b>IF FEES AND CHARGES LEVIED, DOES THE DIVISION PROVIDE A NOTICE TO PARENTS REGARDING THE FINANCIAL HARDSHIP POLICY? (YES/NO)</b>	<b>IF FEES AND CHARGES LEVIED, DOES THE DIVISION HAVE A POLICY THAT ADDRESSES PAYMENT SCHEDULES AND THE HANDLING OF UNPAID STUDENT FEES AND CHARGES? (YES/NO)</b>
130	WAYNESBORO CITY	Yes	Yes	No	No		No
131	WILLIAMSBURG-JAMES CITY COUNTY	No Response					
132	WINCHESTER CITY	No Response					
135	FRANKLIN CITY	Yes	Yes	No	No		No
136	CHESAPEAKE CITY	No Response					
137	LEXINGTON CITY	No Response					
139	SALEM CITY	Yes	Yes	Yes	Yes	No	Yes
142	POQUOSON CITY	No Response					
143	MANASSAS CITY	No Response					
144	MANASSAS PARK CITY	No Response					
202	COLONIAL BEACH	No Response					
207	WEST POINT	Yes	Yes	Yes	No		No

<b>Virginia Department of Education Fees Schedule Information - 2007-2008 School Year Summary of Fee Categories</b>	
<b>General Category of Fee</b>	<b>Number of Divisions with Reported Fee/Charge in this Area</b>
Art	17
Supplies	6
Technology	12
Magazine, Journal, Activity and Assignment Books	11
Laboratory	7
Exploratory	6
Career & Technical Education	19
Advanced Placement/International Baccalaureate	6
Driver's Education (Behind the Wheel)	25
Locker	18
Parking	23
Class Dues	14
Activity	5
Lost or Damaged Textbooks	64
Club or Organization Dues	9
Physical Education (Locker/Uniform)	21
Music/Band Fees	20
Dual Enrollment	5
Other Miscellaneous*	24

**\*Charges include, but are not limited to: instructional fees, transcript fees, fees for drama and foreign language, and materials fees. Information derived from fee and charge schedule sent by some of the school divisions responding to the survey.**

## APPENDIX IV

### Superintendent's E-mail Sent on May 30, 2008

At its May 21-22 meeting, the Board of Education requested that I provide them with information about student fees and charges at the June meeting. In response to the Board's request, I ask you to complete the attached survey and return it, along with electronic copies of your school division's schedule of student fees and charges and policies about student fees and charges, if applicable.

Please send the completed survey and electronic copies of any fee schedules and policies to Policy@doe.virginia.gov not later than Friday, June 6 so that a report can be prepared for the June Board meeting. As this is a very quick turnaround time at an especially busy time of the school year, the survey is very short and easy to complete. Should you need additional information, please contact the Office of Policy at Policy@doe.virginia.gov or (804) 225-2403.

When opening the survey instrument, which is in the form of an Excel worksheet, you must click on the "ENABLE MACROS" button before using the spreadsheet. If you are prompted with a Microsoft Visual Basic error or are unable to enable macros, please follow these steps to ensure that macros are enabled in the spreadsheet:

1. Select the "Tools" menu from the drop-down options at the top of the spreadsheet.
2. Select "Macro"; then select "Security."
3. Set the security level to "Medium." This will give you the option to disable or enable macros.
4. You must exit out of the spreadsheet and Excel and then reopen the file for the macro security changes to take effect.

When you have finished answering the five questions in the survey, please save your Excel file and e-mail it along with all pertinent attachments to the address noted above. Thank you for your assistance.

Your assistance with this request is greatly appreciated.

**VIRGINIA DEPARTMENT OF EDUCATION**  
**Survey of Local School Divisions - Student Fees and Charges**  
**For the 2007-2008 School Year**  
**Due June 6, 2008**

Please choose your school division from the drop down box below and the survey will automatically populate your school division name and number. After you have made your selection, please answer the questions below and attach any pertinent documentation. When you have completed your survey, please save the Excel file to your computer and e-mail the Excel file and any attachments to the following address: [policy@doe.virginia.gov](mailto:policy@doe.virginia.gov). Should you have any questions, please e-mail this same address or call the Division of Policy and Communications at (804) 225-2403. Thank you for your assistance.

< SELECT DIVISION > ▼

Name of School Division:

Division Number:

1. Does your school division charge student fees and charges, such as class dues, instructional fees/charges, fees for consumables or materials, library fees, and fees for voluntary student activities? (PLEASE NOTE: If you answer Yes to this question, please go on to questions 2 through 5. If you answer No to question 1, you have completed the survey and can now e-mail the Excel file to the department following the instructions above.)

Yes,  
please  
enter the  
number 1.

No,  
please  
enter the  
number 2.

2. If you answered Yes to question 1, does your division have a schedule of student fees and charges?

Yes,  
please  
enter the  
number 1.

No,  
please  
enter the  
number 2.

(If yes, please attach an electronic copy of the student fee and charge schedule when you submit the survey. If possible, please send this version in a format other than Adobe PDF.)

3. If you answered Yes to question 1, does your division have policies regarding student fees and charges?

Yes,  
please  
enter the  
number 1.

No,  
please  
enter the  
number 2.

(If yes, please attach an electronic copy of all of your policies regarding student fees and charges when you submit the survey. If possible, please send this version in a format other than Adobe PDF.)

4. a) If you answered Yes to question 1, does your division have a policy regarding students and families with financial hardships?

Yes,  
please  
enter the  
number 1.

No,  
please  
enter the  
number 2.

b) If you answered Yes to question 4 a), does your division provide a notice to parents regarding the financial hardship policy?

Yes,  
please  
enter the  
number 1.

No,  
please  
enter the  
number 2.

(If yes, please ensure that the policy and notice are either 1) included with all of the fees and charges policies requested in questions two or three or 2) included as separate electronic attachments to this survey. If possible, please send any attachments in a format other than Adobe PDF.)

5. If you answered Yes to question 1, does your division have a policy that addresses payment schedules and the handling of unpaid student fees and charges?

Yes,  
please  
enter the  
number 1.

No,  
please  
enter the  
number 2.

(If yes, please ensure that the policy is either 1) included with all of the fees and charges policies requested in questions two or three or 2) included as a separate electronic attachment to this survey. If possible, please send any attachments in a format other than Adobe PDF.)



## APPENDIX V

### CONSTITUTION OF VIRGINIA

#### ARTICLE VIII

##### Education

###### **Section 1. Public schools of high quality to be maintained.**

The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained.

### CODE OF VIRGINIA

§ [22.1-6](#). Permitted fees and charges.

Except as provided in this title or as permitted by regulation of the Board of Education, no fees or charges may be levied on any pupil by any school board. No pupil's scholastic report card or diploma shall be withheld because of nonpayment of any such fee or charge.

(Code 1950, §§ 22-197, 22-198, 22-199; 1977, c. 204; 1980, c. 559.)

§ [22.1-176](#). Transportation of pupils authorized; when fee may be charged; contributions; regulations of Board of Education.

A. School boards may provide for the transportation of pupils, but nothing herein contained shall be construed as requiring such transportation except as provided in § [22.1-221](#).

B. When a school board provides transportation to pupils for extracurricular activities, other than those covered by an activity fund, which are sponsored by the pupils' school apart from the regular instructional program and which the pupils are not required to attend or participate in, the school board may accept contributions for such transportation or charge each pupil utilizing such transportation a reasonable fee not to exceed his pro rata share of the cost of providing such transportation. A school board may waive such fees for any pupil whose parent or guardian is financially unable to pay them.

C. When a school board provides transportation to pupils for field trips which are a part of the program of the pupils' school or are sponsored by such school, the school board may accept contributions for such transportation.

D. The Board of Education shall promulgate such regulations as shall be in the public interest to effect the intent of this section.

(Code 1950, §§ 22-72.1, 22-97.1; 1954, c. 291; 1956, Ex. Sess., c. 60; 1959, Ex. Sess., c. 79, § 1; 1968, c. 501; 1970, c. 156; 1971, Ex. Sess., c. 161; 1972, c. 86; 1975, cc. 308, 328; 1976, c. 99; 1978, cc. 430, 527; 1980, c. 559.)

§ [22.1-205](#). Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Department of Motor Vehicles. The program shall include instruction concerning (i) alcohol and drug abuse, (ii) aggressive driving, (iii) distracted driving, (iv) motorcycle awareness, and (v) organ and tissue donor awareness. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Mental Health, Mental Retardation and Substance Abuse Services, as appropriate. Such program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. In addition to the fee approved by the Board of Education pursuant to the appropriation act that allows local school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may authorize a local school board's request to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may waive the fee or the surcharge in total or in part for those students it determines cannot pay the fee or surcharge. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § [46.2-335](#) shall be entitled to participate in the distribution of state funds appropriated for driver education.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the

school board, the Commonwealth Transportation Board shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commonwealth Transportation Board shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, (ii) from a driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § [22.1-254.1](#) or subdivision B 1 of § [22.1-254](#), from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

(Code 1950, § 22-235.1; 1962, c. 482; 1966, c. 208; 1968, c. 433; 1974, c. 154; 1980, c. 559; 1988, c. 105; 1989, c. 392; 1998, c. 96; 1999, c. 928; 2000, cc. 82, 651; 2001, cc. 659, 665; 2002, cc. 177, 386; 2003, c. 951; 2007, c. 278.)

§ [22.1-251](#). Free textbooks, etc., for eligible children.

Each school board shall provide, free of charge, such textbooks and workbooks required for courses of instruction for each child attending public schools. The cost of furnishing such textbooks and workbooks may be paid from school operating funds or the textbook fund or such other funds as are available. The Board of Education shall promulgate regulations governing these systems.

(Code 1950, §§ 22-72, 22-97; 1954, cc. 289, 291; 1956, Ex. Sess., c. 60; 1959, Ex. Sess., c. 79, § 1; 1966, c. 691; 1968, c. 501; 1970, c. 71; 1971, Ex. Sess., c. 161; 1972, c. 511; 1975, cc. 308, 328; 1980, c. 559; 1993, c. 654.)

§ [22.1-327](#). Fees.

The Board may establish fees and the methods for collecting such fees for schools as it deems necessary to carry out the provisions of this chapter. All fees shall be nonrefundable.

(Code 1950, § 22-330.25; 1970, c. 665; 1977, c. 444; 1980, c. 559; 1988, c. 574; 1993, c. 351.)

# VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

## CHAPTER 663

*An Act to amend and reenact §§ 22.1-238, 22.1-239, 22.1-241, 22.1-242, and 22.1-243 of the Code of Virginia and to repeal §§ 22.1-240, 22.1-244 through 22.1-251, and 22.1-253 of the Code of Virginia, relating to textbook purchasing.*

[H 354]

Approved March 27, 2008

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-238, 22.1-239, 22.1-241, 22.1-242, and 22.1-243 of the Code of Virginia are amended and reenacted as follows:**

§ 22.1-238. Approval of textbooks.

A. The Board of Education shall *have the authority to* approve textbooks suitable for use in the public schools and shall have authority to approve instructional aids and materials for use in the public schools. *The Board shall publish a list of all approved textbooks on its website and shall list the publisher and the current lowest wholesale prices of such textbooks.*

B. Any school board may use textbooks not approved by the Board provided the school board selects such books in accordance with regulations promulgated by the Board.

B. ~~In approving basal textbooks for reading in kindergarten through first grade, the Board shall report to local school boards those textbooks with a minimum decodability standard based on words that students can correctly read by properly attaching speech sounds to each letter to formulate the word at seventy percent or above for such textbooks.~~

C. *For the purposes of this chapter, the term "textbook" means print or electronic media for student use that serves as the primary curriculum basis for a grade-level subject or course.*

§ 22.1-239. Basal textbooks.

No textbook approved by the Board for use in the public schools shall be changed until such book has been in use for a period of not less than six years, subject to renewal from one to four years, unless such book becomes obsolete or unless a change would result in a material decrease in price. The Board may, by agreement with the publisher, permit the substitution of a revised edition of any adopted book at the lowest price such revised edition is offered for sale anywhere in the United States. Whenever such book is so changed, the Board of Education may permit the use of the old books for a period of at least three years from the date of such change.

*In approving basal textbooks for reading in kindergarten and first grade, the Board shall report to local school boards those textbooks with a minimum decodability standard based on words that students can correctly read by properly attaching speech sounds to each letter to formulate the word at 70 percent or above for such textbooks.*

§ 22.1-241. Contracts with publishers.

A. ~~The Board of Education~~ *Local school boards* shall either enter into written term contracts or issue purchase orders on an as-needed basis with publishers of textbooks approved by ~~it~~ *the Board* for use in the public schools. *Such written contracts or purchase orders for textbooks approved by the Board shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).*

B. The contract price shall not exceed the lowest wholesale price ~~free on board publisher~~ at which the book or books involved in the contract are currently bid under contract anywhere in the United States. ~~The Board shall stipulate the price at which school boards may sell the book or books, which price shall in no case exceed fifteen percent added to the wholesale price.~~

C. ~~If, subsequent to the date of any contract entered into by the Board~~ *a local school board*, the prices of books named in the contract are reduced or the terms of the contract are made more favorable to purchase anywhere in the United States or a special or other edition of any book named in the contract is sold outside of Virginia at a lower price than ~~bid contracted in this the Commonwealth~~, the publisher shall, ~~in the discretion of the Board of Education~~, grant the same reduction or terms to the ~~Board~~ *local school board* and give the ~~Board~~ *local school board* the option of using such special or other edition adapted for use in Virginia and at the lowest price at which such special edition is sold elsewhere and the contract shall so state.

D B. The publisher shall furnish sample copies of all books mentioned in the contract with the Board of Education and shall guarantee that the books bid in the contract are equal in all respects to such ~~sample copies~~. *Contracts and purchase orders with publishers of textbooks approved by the Board shall require the publisher to furnish an electronic file of the textbook in the National Instructional Materials Accessibility Standards (NIMAS) format that will then be deposited in the National Instructional Materials Access Center (NIMAC) from which accessible versions of the particular textbook may be produced for students with print disabilities, as defined in 20 U.S.C. § 1474. Publishers shall deliver the*

*NIMAS file of the textbook on or before the date of delivery of the regular text version.*

~~E. When such technology is available or by January 1, 1998, whichever is earlier, contracts with publishers of textbooks adopted by the Board shall require the publisher to furnish electronic text from which Braille versions of the particular textbook may be produced.~~

*C. Every school board shall order directly from the respective publishers the books needed to supply the public schools in the school division. The publishers shall ship the books to the school board. The purchase price of such books shall be paid directly to the publishers by the school board.*

*D. With the approval of the local school board and the publisher, any private school within the school division that so requests may purchase from the local school board's contract with the publisher. Such private school shall be fully responsible for ordering, purchasing, and receiving shipments of books to be provided from the publisher pursuant to this section. The local school board shall be immune from any civil liability as a result of a private school purchasing from the local school board's contract.*

§ 22.1-242. State Board to adopt regulations.

Each contract made by the Board with the publisher of textbooks shall be accompanied by a bond with good and sufficient surety in the penal sum of not less than \$1,000 nor more than \$20,000. Such bond shall be approved by the Board and shall be conditioned upon the performance by the publisher of all of the terms and conditions of the contract and payment of liquidated damages as provided for in ~~§ 22.1-243~~ and any damage in excess thereof which may be proved to be sustained by reason of the violation of such terms and conditions.

*The Board shall adopt regulations governing (i) the purchase of textbooks approved by it for use in the public schools directly from the publishers by school boards and (ii) the distribution of such textbooks for the use by children attending public schools in Virginia.*

§ 22.1-243. Distribution of textbooks and consumable materials.

In the case of any misrepresentation of fact in the contract or upon the violation of any of the terms and conditions required by the provisions of this article, the publisher shall, upon the demand of the Board, pay as liquidated damages the sum of \$1,000 to the Commonwealth of Virginia to the credit of the Literary Fund; and, in the case of any such violation, the Board may, in addition, declare the contract null and void.

*A. Each school board shall provide, free of charge, such textbooks required for courses of instruction for each child attending public schools.*

*B. Consumable materials such as workbooks, writing books, and drawing books may be purchased by school boards and either provided to students at no cost or sold to students at a retail price not to exceed seven percent added to the publisher's price. If sold, the local school board shall develop a policy ensuring that workbooks, writing books, and drawing books are furnished to students who are unable to afford them at a reduced price or free of charge.*

**2. That §§ 22.1-240, 22.1-244 through 22.1-251, and 22.1-253 of the Code of Virginia are repealed.**

## APPENDIX VI

### VIRGINIA BOARD OF EDUCATION REGULATIONS

#### CHAPTER 370

#### RULES GOVERNING FEES AND CHARGES

##### **8VAC20-370-10. Fees and charges.**

No fees or charges as noted below may be levied on any pupil by any school board unless authorized by the Board of Education; further, no pupils' scholastic report card or diploma shall be withheld because of nonpayment of any such fee or charge.

Fees may be charged 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.

Nothing in this chapter shall be construed to prohibit the school board of any county, city, or town from making supplies, services, or materials available to pupils at cost. Nor is it a violation to make a charge for a field trip or an educational related program that is not a required activity.

Deposits may be required when return of the item used results in a return of the fees deposited.

This chapter is not intended to cover operations of school stores or other fund raising activities. These activities are covered by opinions of the Attorney General and certain practices which may be approved by auditors.

Statutory Authority

§§[22.1-6](#) and [22.1-16](#) of the Code of Virginia.

Historical Notes

Derived from VR270-01-0036 §1, eff. September 1, 1980.



## **APPENDIX VII**

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF EDUCATION  
P.O. BOX 2120  
RICHMOND, VIRGINIA 23218-2120

SUPTS. MEMO NO. 171  
September 3, 1993

INFORMATIONAL

TO: Division Superintendents

FROM: Joseph A. Spagnolo, Jr.  
Superintendent of Public Instruction

Edward W. Carr  
Deputy Superintendent for Administration

SUBJECT: Instructional Fees

The 1993 Session of the General Assembly passed HB 728 which amended Section 22.1-251 of the Code of Virginia to require school divisions to make textbooks and workbooks available to all students free of charge. The amendment becomes effective on July 1, 1994, provided the General Assembly appropriates funds sufficient to cover the state share of such textbooks and workbooks.

Due to the myriad of arrangements in operation by LEAs to account for textbook purchases, the Department made a survey of all divisions last fall to determine the actual cost of textbooks over the last three years. Based on this information, the Board of Education has included in its biennial budget request, additional funds for the state share of textbook costs. For the current school year, the state payment is based on \$26.73 per pupil. The requested amount for 1994-95 is \$43.45 per pupil.

The deliberations by the General Assembly when this bill was passed centered a great deal around the right of each student to receive a free education in the Commonwealth. It was stated that textbooks and workbooks are fundamental to the education process, and therefore, should be provided at no charge. These discussions led the Board of Education to question the current practice of many

school divisions to charge an "instructional" or "material" fee.

Section 22.1-6 of the Code provides that no fees may be charged unless permitted by the Code or by regulation of the Board of Education. The enumeration of permitted fees and charges contained in the Board regulations contains no mention of "instructional" fees. The Office of the Attorney General has rendered several opinions concerning fees. Those opinions have consistently concluded that under the Virginia Constitution, fees may not be charged as a condition of school enrollment, but may be charged for ancillary or optional services. Several of these opinions are attached for your information.

Based upon the statutes and regulations, school divisions have no authority to charge instructional or material fees in general. Individual fees for art, music, library, parking, gym lockers, etc. do appear to be allowable under the current statutes, regulations, and opinions. While such an opinion may have an adverse effect on some local school board budgets, local school boards should take appropriate action during the budget process for 1994-95 to ensure they are in compliance with the statutes and regulations governing fees and charges.

If you have questions or need additional information, please contact Mrs. Kathryn S. Kitchen, Division Chief, Administrative Support Services, at (804) 225-2025, Or Mrs. June F. Eanes, Budget Director, at (804) 225-2060.

JASJr./EWC/kk  
Attachment

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF EDUCATION  
P.O. BOX 2120  
RICHMOND, VIRGINIA 23216-2120

SUPTS. MEMO NO. 95  
May 13, 1994

INFORMATIONAL

TO: Division Superintendents

FROM: William C. Bosher, Jr.  
Superintendent of Public Instruction

SUBJECT: General School Fees

I have heard from many of you regarding your concerns about funding the local share of the proposed free textbook system and the matter of school fees. Let me address these issues separately. The General Assembly has provided funding for a free textbook system as specified in section 22.1-251 of the Code of Virginia (1993), effective 1994-95. The projected entitlements from state funds were provided to you in Supts. Memo. No. 4 (Regulatory), dated March 15, 1994.

The issue of fees, aside from textbook fees, is a more complicated matter. Approximately one half of the divisions in the state report that they charge some form of user fee to students. Most of these fees have been in place for many years and represent local school board and community budgetary decisions.

A review of previous Supts. Memos., Code of Virginia provisions, and Board of Education regulations regarding this matter is somewhat confusing. Informational Supts. Memo. No. 171 (September 3, 1993) states that local school divisions have no authority to charge general instructional or material fees, based on opinions of the Attorney General and Board regulations; however, Board regulation VR 270-01-0036 states that a local school board can make supplies, services, and materials available to pupils at cost. In addition, 22.1-253 of the Code of Virginia permits local school boards to charge a user fee for consumable materials and 22.1-28 vests the supervision of schools in each division in a local school board.

I know that each of you work very hard to provide the best possible education for each child at the lowest feasible cost. I know that each of you favor a free system of public education. I also know that you face real and immediate 1994-95 budget issues which can only be solved at the local level. For that reason, I have asked the Board to forego any discussion of the elimination of user fees at the current time. I trust that each of you, in association with your board, will work conscientiously to keep fees as low as possible. I cannot say at this time that this issue will not be revisited in the future by the Board of Education and/or the General Assembly.

It is important, given the General Assembly's position on the free textbook issue, that local boards not place themselves in the position of replacing textbook rental fees with general instructional fees. If such a trend were to develop, I believe the final decision regarding the appropriateness of charging instructional fees would be decided in the halls of the General Assembly, rather than with each local board.

I trust that each of you have policies and regulations in place which will make provision for the waiver of all required fees for each child attending school whose parent or guardian is financially unable to pay such fees (Children who are receiving public assistance in the form of aid to dependent children, general relief, supplemental security income, foster care, or who are eligible for free or reduced price meals under the National School Lunch program).

Please give me a call at (804) 227-2755, or talk with Ms. Kathy Kitchen (804) 225-2025 if you have questions about this matter.

Thank you.

WCBJr/EWM/cp

1981-82 Va. Op. Atty. Gen. 144, 1981-82 Va. Rep. Atty. Gen. 144, 1982 WL 175630 (Va.A.G.)

Office of the Attorney General  
Commonwealth of Virginia  
\*1 January 12, 1982

**DRUGS. SUBSTANCE ABUSE COUNSELING PROGRAM. FEES UNAUTHORIZED FOR PUBLIC SCHOOL STUDENTS TO AVOID EXPULSION.**

The Honorable John H. Chichester  
Member  
Senate of Virginia

You ask whether it is legally permissible for a local **school** board to offer students subject to expulsion for substance abuse infractions, a counseling program operated by the local Substance Abuse Services Agency (the "Agency"), as an alternative to expulsion. The program is, I understand, an educational and counseling regimen which involves both the child and the parents. A fee is charged by the Agency which is scaled to the income level and ability of the parents to pay. Those who are below a certain minimum income level are charged nothing for the service.

Under the plan envisioned by the local **school** board, no fee would be charged by the **school** board for reference to the Agency. The only fee imposed would be the Agency fee noted above. Failure to pay the fee by those whom the Agency determined were able to pay would result in their exclusion from the program and, therefore, their expulsion from **school**. Consequently, although the charge for the counseling program is not levied directly by the local **school** board, it must be scrutinized as an indirect charge by the board.

The General Assembly has the responsibility of providing a system of free public elementary and secondary education. See Art. VIII, § 1 of the Constitution of Virginia (1971). To effectuate this provision, the General Assembly has provided that **fees** may not be charged by **school** divisions except in specified circumstances. Section 22.1-6 of the Code of Virginia (1950), as amended, currently provides:

"Except as provided in this title or as permitted by regulation of the Board of Education, no **fees** or **charges** may be levied on any pupil by any **school** board. No pupil's scholastic report card or diploma shall be withheld because of nonpayment of any such fee or charge."

Certain **charges**, such as those for the cost of consumable materials and workbooks, are permitted by law. See § 22.1-253. Also, the Board of Education (hereafter "Board") by regulation permits **school** boards to charge **fees** for certain ancillary and optional services or items. [FN1] These regulations reflect prior Opinions of this Office which have held that it is permissible to charge **fees** for optional instruction in the use of musical instruments and for the optional rental of student lockers. See Reports of the Attorney General (1976-1977) at 248; (1964-1965) at 294. See, also, Annot., 41 A.L.R.3d 752 (1972).

Nothing in Title 22.1 or the regulations of the Board permit **charges** by local **school** divisions for substance abuse counseling. Instruction concerning drugs and drug abuse is required by law to be given in the public **schools**. See § 22.1-206. The Board has promulgated regulations to effectuate this requirement in the health education program which, among other things, oblige the public **schools** to:

\*2 "Create a climate whereby students may seek and receive counseling about substance abuse and related problems without fear of reprisal." Regulations Regarding Substance Abuse, State Board of Education, p. 105.

It is my opinion, based on the absence of statutory or regulatory authority for the **charges** envisioned in your request, that the payment of such **charges** may not be made a condition to the continued **school** enrollment of a student who is otherwise entitled under Art. VIII, § 1 to a free public education.

This does not mean that local **school** divisions are powerless to refer students subject to expulsion for substance abuse infractions to counseling. It may be that a student subject to expulsion voluntarily decides to commence counseling at an agency specializing in substance abuse problems. Also, § 22.1-279 provides that when a student under the age of 18 is expelled, the **school** board shall notify the appropriate officer or employee of the **school** the student attended. That officer then may develop a plan of services for the expelled student and contact any public agency where the student resides to determine if the agency can provide appropriate services for the student.

Current statutory provisions encourage **school** divisions to refer students expelled for substance abuse to a counseling agency. However, the proposed counseling program and payment of **fees** may not be imposed unless and until authorized by statute or the Board.

John Marshall Coleman  
Attorney General

[FN1] Current regulations of the Board regarding student **fees** and **charges** provide:  
"No **fees** or **charges** except as noted below may be levied on any pupil by any **school** board unless authorized by the Board of Education; further, no pupil's scholastic report card or diploma shall be withheld because of non-payment of any such fee or charge.

**Fees** may be charged for:

Class dues

Voluntary student activities

Night **school** classes

Postgraduate classes

Summer **school**

Rental textbooks

Musical instruments used in regularly scheduled instructional classes

Library **fees**

Nothing in this regulation shall be construed to prohibit the **school** board of any county, city, or town from making supplies, services or materials available to pupils at cost. Nor is it a violation to make a charge for a field trip or any educational related program that is not a required activity. Deposits may be required when return of the item used results in a return of the **fees** deposited." Regulations Regarding **Fees** and **Charges**, State Board of Education.

1981-82 Va. Op. Atty. Gen. 144, 1981-82 Va. Rep. Atty. Gen. 144, 1982 WL 175630 (Va.A.G.)  
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1991 Va. Op. Atty. Gen. 149, 1991 Va. Rep. Atty. Gen. 149, 1991 WL 531109 (Va.A.G.)

Office of the Attorney General  
Commonwealth of Virginia  
\*1 November 8, 1991

Mr. David T. Stitt  
County Attorney for Fairfax County  
4100 Chain Bridge Road  
Fairfax, Virginia 22030

My dear Mr. Stitt:

You ask whether the Fairfax County **School** Board lawfully may charge a \$100 annual parking fee to students who wish to park their cars on **school** property.

#### I. Applicable Constitutional and Statutory Provisions

Article VIII, § 1 of the Constitution of Virginia (1971) 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." Article VIII, § 7 vests supervision of public **school** divisions in local **school** boards.

Section 22.1-6 of the Code of Virginia provides that, "[e]xcept as provided in this title [Title 22.1] or as permitted by regulation of the Board of Education, no **fees** or **charges** may be levied on any pupil by any **school** board."

Section 22.1-79(A) provides:  
A **school** board shall:

\* \* \*

3. Care for, manage and control the property of the **school** division...."

Section 22.1-131 also provides that "[a] **school** board may permit the use, upon such terms and conditions as it deems proper, of such **school** property as will not impair the efficiency of the **schools**."

#### II. **School** Board May Charge Fee for Optional Student Parking on **School** Property

Prior Opinions of this Office conclude that the requirement for a free public **school** system in Article VIII, § 1 bars local **school** boards from imposing student **fees** as a condition of **school** enrollment, but not from charging **fees** for optional or ancillary services or activities. See, e.g., 1981-1982 Att'y Gen. Ann. Rep. 144, 145 (**school** board may not condition student's continued enrollment on paid participation in drug counseling program).

Sections 22.1-79 and 22.1-131 give local **school** boards broad authority over the use of **school** property. Another prior Opinion of this Office concludes that charging for rental of student lockers, an optional service to students, is within the scope of a local board's authority. 1964-1965 Att'y Gen. Ann. Rep. 294. Still another Opinion concludes that a **school** division superintendent may not impose a student parking fee without the approval of the local **school** board. 1971-1972 Att'y Gen. Ann. Rep. 356. That Opinion does not question the authority of the local board to charge for student parking. *Id.* at 357.

Current regulations of the Board of Education ("State Board") adopted as permitted under § 22.1-6 provide that

[f]ees may be charged for:  
Class dues



Voluntary student activities

Night **school** classes

Postgraduate classes

Summer **school**

Rental textbooks

Musical instruments used in regularly scheduled instructional classes

Library **fees** Nothing in this regulation shall be construed to prohibit the **school** board of any county, city, or town from making supplies, services, or materials available to pupils at cost. Nor is it a violation to make a charge for a field trip or an educational related program that is not a required activity.

\*2 Bd. Educ., Regulations of the Board of Education of the Commonwealth of Virginia 21 (1980). In appropriate circumstances, a charge for parking can be considered both a payment for a "[v]oluntary student activit[y]" and a charge for a service made "available to pupils at cost" by a local board. Id.

Obviously, no student is required to drive a car to **school** or to park it on **school** property. Fairfax County offers free transportation to students who live beyond walking distance from their **schools**. Parking is, therefore, an optional use of **school** property that the Fairfax County **School** Board may provide as a service to its students who are licensed drivers. In my opinion, based on the above, the Fairfax County **School** Board is authorized to require students to pay a fee reasonably related to its cost for this optional privilege. Whether a charge of a particular amount is reasonable is a determination of fact to be made in the first instance by the **School** Board.

With kindest regards, I am

Sincerely,

Mary Sue Terry  
Attorney General

1991 Va. Op. Atty. Gen. 149, 1991 Va. Rep. Atty. Gen. 149, 1991 WL 531109 (Va.A.G.)  
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**EDUCATION: SYSTEM OF PUBLIC SCHOOLS; GENERAL PROVISIONS — PROGRAMS, COURSES OF INSTRUCTION, ETC. — BOARD OF EDUCATION — PUPILS — DISCIPLINE.**

**CONSTITUTION OF VIRGINIA: EDUCATION.**

**Fairfax County School Board lacks authority to require parents to pay for testing and treatment program as condition to granting excused absences to pupils suspended for substance abuse. Board of Education may not authorize local school board to establish program that conditions suspended student's participation in program on parents' payment of costs of participation.**

The Honorable Joseph V. Gartlan Jr.  
Member, Senate of Virginia  
January 11, 2000

You ask whether, as a condition to granting excused absences to a pupil suspended for substance abuse, a local school board may require the pupil to participate in a testing and treatment program and impose the costs of the program on the pupil's parents.

You explain that the Fairfax County School Board wishes to adopt a policy requiring students suspended for substance abuse on school property to undergo testing and assessment with parental participation and, if recommended after the testing and assessment, to undergo treatment. You state that the policy would permit the student to undergo the testing, assessment and treatment through either the local public mental health agency or a private practitioner. Whether provided by the local mental health agency or by a private practitioner, the parents are to pay the costs of the testing, assessment and treatment. If the treatment is provided by a local mental health agency, the fee may be based on a sliding scale. Only upon satisfying the testing and treatment requirements would a student be granted excused absences for the suspension and thus be allowed to make up work missed.

You ask whether the Fairfax County School Board has the authority to condition the granting of excused absences on the parents' obtaining, at their own expense, substance abuse testing, assessment and treatment for the student. Section 22.1-6 of the *Code of Virginia* restricts the authority of a school board to impose fees on pupils. The section provides that "[e]xcept as provided in [Title 22.1] or as permitted by regulation of the Board of Education, no fees or charges may be levied on any pupil by any school board." No regulation or statute permits a local school board to impose the type of charge you describe.<sup>1</sup> It is accordingly my opinion that the Fairfax County School Board lacks authority to require parents to pay for substance abuse testing and treatment as a condition to a pupil's being granted excused absences for a suspension. This result is consistent with a 1982 opinion of the Attorney General which concludes that a local school board may not make participation in a substance abuse counseling program, for which the parents must pay, an alternative to expulsion.<sup>2</sup>

You also ask whether the Board of Education may grant the Fairfax County School Board the authority to impose a charge for the type of program you

describe.<sup>3</sup> No statute or regulation expressly authorizes the Board of Education to approve such a program or charge by a local school board. In addition, § 22.1-209.1:9, which establishes the Community-Based Intervention Program for Suspended and Expelled Students (the "Program") and establishes a mechanism for funding the Program,<sup>4</sup> indicates that the General Assembly intends programs of the nature you describe to be administered in accordance with the statute.

The 1999 Session of the General Assembly enacted § 22.1-209.1:9.<sup>5</sup> The purpose of the Program is "to provide interim instructional programs, intervention, and supervision for students in the public schools who have been suspended, excluded or expelled from school attendance."<sup>6</sup> The Program is to "consist of five regional projects located throughout the Commonwealth."<sup>7</sup> Students are eligible to attend the Program if recommended by the local school board, ordered by a court in the Commonwealth, or enrolled in the Program by a parent.<sup>8</sup> The Department of Education is to administer the Program and is authorized to establish a fee schedule based on a parent's ability to pay, with waivers to be granted if the parent cannot afford the costs.<sup>9</sup>

Section 22.1-209.1:9 indicates a legislative intent that programs providing intervention and supervision for students who have been suspended or expelled are to be administered by the Department of Education, with any charge for a student's participation in the program imposed in accordance with the fee schedule established by the Department. It is thus my opinion that, under current law, the Board of Education may not authorize a local school board to establish a program that conditions a suspended student's participation in the program on the parents' payment of the costs of the participation.

<sup>1</sup>Section 22.1-206 requires the public schools to provide instruction concerning drugs and drug abuse but does not authorize a fee for this instruction.

<sup>2</sup>1981-1982 Op. Va. Att'y Gen. 144; *see also* 1973-1974 Op. Va. Att'y Gen. 316 (in absence of statute, local school board may not require children to have dental examination as prerequisite to school attendance; school board has implicit power only to extent necessary to protect health of other children or to enable child to benefit from education).

<sup>3</sup>Under its general power to "promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of [Title 22.1]," the Board of Education has by regulation authorized local school boards to impose certain fees on pupils. Section 22.1-16; *see* 8 VAC 20-370-10 (Law. Coop. 1996) ("Fee and charges" regulation). Whether the imposition of fees conflicts with the mandate of Article VIII, § 1 of the Constitution of Virginia (1971) that all children of the Commonwealth be provided a "free" public education depends on the nature of the particular fee. *See* Op. Va. Att'y Gen.: 1977-1978 at 364, 365 (Constitution does not require that all materials and supplies be provided free to every student); 1976-1977 at 248 (fee for activity that is not required part of curriculum does not conflict with Constitution).

<sup>4</sup>*See also* § 22.1-209.1:10 (creating Community-Based Intervention Program for Suspended and Expelled Students Fund).

<sup>5</sup>1999 Va. Acts ch. 440, at 600, 600 (appearing in act as § 22.1-209.1:6).

<sup>6</sup>Section 22.1-209.1:9(A).

<sup>7</sup>Section 22.1-209.1:9(C).

<sup>8</sup>Section 22.1-209.1:9(B).

<sup>9</sup>Section 22.1-209.1:9(A)-(B). Section 22.1-277.03(B) requires that the notice to parents of a student's suspension or expulsion is to provide information "concerning the availability of community-based educational, alternative education, or intervention programs."



# **COMMONWEALTH of VIRGINIA**

## **Office of the Attorney General**

**Robert F. McDonnell**  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
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7-1-1

August 29, 2007

The Honorable John S. Reid  
Member, House of Delegates  
P.O. Box 29566  
Richmond, Virginia 23242

Dear Delegate Reid:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

### **Issue Presented**

You ask whether a local school board may charge a fee to transport students on a school bus to and from school.

### **Response**

It is my opinion that local school boards may not charge for the transportation of students to and from school.

### **Background**

You state that a local school board, in considering its budget, has asked whether it may charge a fee to transport students on a school bus to and from school. You note that the board would not charge a fee for students whose transportation is required by § 22.1-221.

### **Applicable Law and Discussion**

Article VIII, § 1 of the Constitution of Virginia directs the General Assembly to "provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth." In § 22.1-3(A), the General Assembly has responded and directs that "[t]he public schools in each school division shall be free to each person of school age who resides within the school division."

With one exception, I find no provision of the Virginia Constitution or the *Virginia Code* that requires local school boards to provide transportation for the pupils it serves. Section 22.1-176(A) authorizes "[s]chool boards [to] provide for the transportation of pupils, but nothing herein contained shall be construed as requiring such transportation except as provided in § 22.1-221." Section 22.1-221(A) requires school boards to provide free transportation to students with disabilities so they may obtain the "benefit of educational programs and opportunities."

Section 22.1-176(B) is a single purpose statute that authorizes a school board to charge fees for the transportation of pupils in a *single* circumstance:

When a school board provides transportation to pupils for extracurricular activities, other than those covered by an activity fund, which are sponsored by the pupils' school apart from the regular instructional program and which the pupils are not required to attend or participate in, the school board may accept contributions for such transportation or *charge each pupil utilizing such transportation a reasonable fee not to exceed his pro rata share of the cost of providing such transportation.* [Emphasis added.]

Section 22.1-176(B) further authorizes a school board to waive such fees for pupils whose parents or guardians are unable to afford them.<sup>1</sup>

It is a standard rule of statutory construction that when a statute creates a specific grant of authority, the authority exists only to the extent specifically granted in the statute.<sup>2</sup> In this matter, the General Assembly has authorized local school boards to charge fees for transportation only when it provides the transportation for optional extracurricular activities.

Local school boards are not permitted to levy fees or charge any pupil except as provided in Title 22.1 or by regulation of the Board of Education.<sup>3</sup> Such regulation, 8 VAC § 20-370-10, provides that “[n]othing in this chapter shall be construed to prohibit [a local school board] from making supplies, services, or materials available to pupils at cost. Nor is it a violation to make a charge for a field trip or an educational related program that is not a required activity.” An argument could be advanced that transportation to and from school is a “service” for which school boards may charge. However, if that were correct, the additional statement in § 20-370-10 permitting a school board to charge for field trips or other educational-related programs would be unnecessary as they would be “services” for which fees could be charged. I note that the exception in § 20-370-10 for charging fees for field trips corresponds to the authority in § 22.1-176 to accept contributions for such transportation. Ultimately, the argument relating to an administrative regulation cannot overcome the clear rule of statutory construction regarding specific grants of authority.<sup>4</sup> Therefore, for the reasons stated, bus transportation to and from school is not a “service” within the meaning of 8 VAC § 20-370-10.

### Conclusion

Accordingly, it is my opinion that local school boards may not charge for the transportation of students to and from school.

---

<sup>1</sup>I note that § 22.1-176(C) authorizes school divisions to accept contributions to transport pupils on field trips that are part of the school program or sponsored by the school. In my opinion, the authority to accept contributions does not confer the authority to charge fees.

<sup>2</sup>2006 Op. Va. Att’y Gen. Ann. 29, 30 and opinions cited therein.

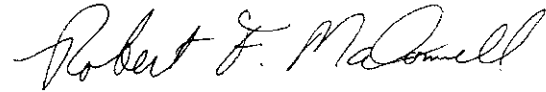
<sup>3</sup>VA. CODE ANN. § 22.1-6 (2006). I note, however, that local school boards may enter into cost-sharing arrangements with nonpublic schools. See § 22.1-176.1 (Supp. 2007).

<sup>4</sup>See *supra* note 2 and accompanying text.

The Honorable John S. Reid  
August 29, 2007  
Page 3

Thank you for letting me be of service to you.

Sincerely,

A handwritten signature in cursive script that reads "Robert F. McDonnell". The signature is fluid and elegant, with the first letters of the first and last names being capitalized and prominent.

Robert F. McDonnell

1:61; 1:941/07-053