



# STATE OF INDIANA

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## STATE EXAMINER DIRECTIVE 2015-5

Effective Date: August 19, 2015

General Subject: School Fees and Textbook Assistance

Authority: IC 5-11-1-2; IC 5-11-1-10; IC 5-11-1-21; IC 20-33-5-3; IC 20-33-5-11

Application: This Directive applies to all public school corporations

Public school corporations may not charge and collect fees for curricular materials, supplies, and other class fees from a child whose parent meets the eligibility standard for financial assistance. Indiana Code § 20-33-5-3 states the following:

- (a) If a parent of a child or an emancipated minor who is enrolled in a public school, in kindergarten or grades 1 through 12, meets the financial eligibility standard under section 2 of this chapter, the parent or the emancipated minor may not be required to pay the fees for curricular materials, supplies, or other required class fees. The fees shall be paid by the school corporation that the child attends.
- (b) The school corporation may apply for a reimbursement under section 7 of this chapter from the department of the costs incurred under subsection (a).
- (c) To the extent the reimbursement received by the school corporation is less than the rental fee assessed for curricular materials, the school corporation may request that the parent or emancipated minor pay the balance of this amount.

Even if a parent fails to meet the eligibility standard for financial assistance, public school corporations cannot withhold curricular materials, supplies, grades, or any other benefit because of a parent's failure to pay required fees. Indiana Code § 20-33-5-11 explains:

- (a) A school corporation may not:
  - (1) withhold curricular materials and supplies;
  - (2) require any special services from a child; or
  - (3) deny the child any benefit or privilege;because the parent fails to pay required fees.

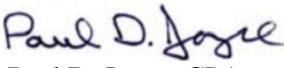
(b) Notwithstanding subsection (a), a school corporation may take any action authorized by law to collect unpaid fees from parents who are determined to be ineligible for assistance, including recovery of reasonable attorney's fees and court costs in addition to a judgment award against those parents.

The phrase "curricular materials" is defined broadly to encompass "systematically organized material designed to provide a specific level of instruction in a subject matter category." Ind. Code § 20-18-2-2.7. "Curricular materials" includes, but is not limited to, books; hardware that will be consumed, accessed, or used by a single student during a semester or school year (e.g., computers, iPads, notebooks, power cords, and other physical parts of electronic devices); computer software; and digital content. *Id.*

The Indiana Supreme Court has addressed whether certain fees violate the Education Clause in Article 8, Section 1 of the Indiana Constitution. *See, e.g., Nagy v. Evansville-Vanderburgh Sch. Corp.*, 844 N.E.2d 481 (Ind. 2006). The court explained, "Where the legislature--or through delegation of its authority the State Board [of Education]--has identified programs, activities, projects, services or curricula that it either mandates or permits school corporations to undertake, the legislature has made a policy decision regarding exactly what qualifies as a part of a uniform system of public education commanded by Article 8, Section 1 and thus what qualifies for funding at public expense." *Id.* at 492.

The accounts of each public school corporation should reflect the proper treatment of fees charged and/or collected for curricular materials, supplies, other class fees, and rental charges as required by IND. CONST. Art. 8, § 1; Ind. Code § 20-33-5-3; Ind. Code § 20-33-5-11; and this directive. Failure to comply with this directive may result in an audit finding, audit charge, and/or request for enforcement action pursuant to Ind. Code § 5-11-1-10 or Ind. Code § 5-11-1-21.

This directive may be amended from time to time and may be rescinded at any time in writing by the State Examiner or a Deputy State Examiner.

  
Paul D. Joyce, CPA  
State Examiner