

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