

**Opinion No. 132.****Schools and School Districts—  
Student Fees.**

HELD: 1. No fee can be charged or required to be deposited by students for admission to the high school or any of its courses.

2. No fee can be charged, or required to be deposited, for the use of the high school facilities or equipment.

3. Fees may be charged, when breakage occurs and when excessive supplies are used by students taking specified courses but not as a condition precedent to entrance to such courses.

4. Non-compulsory fees may be charged students attending athletic games.

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September 12th, 1939.

Mr. Claude A. Johnson  
County Attorney  
Red Lodge, Montana

Dear Mr. Johnson:

You have submitted the question as to whether or not a fee of \$3.50 charged to each high school student is a valid charge. It appears that the fee comprises a fifty-cent locker deposit, half of which is returned to the student when the locker is surrendered. The charge is not compulsory and the student need not take a locker unless he elects to do so. One dollar constitutes a non-compulsory athletic fee. Two dollars constitute a deposit from each student covering school equipment, and are returned to him at the end of the year, after deducting for breakage and excessive supplies used.

The laws of Montana (Sec. 1, Article XI of the Constitution; Section 1262.83, R. C. M., 1935, as amended by

Chapter 207, Laws of 1939) guarantee the right of free attendance to all eligible high school students residing in the county, to the high school therein. This right includes the right to the use of all school facilities used in the operation and maintenance of the school. Such use of the school property, as well as the free admittance to the school, cannot be curtailed by the imposition of any charges, direct or indirect.

If the locker is the property of the school no authority exists authorizing a charge for the use of the same. Rules and regulations (Sec. 1262.10) can be made relating to the proper use of the school equipment, but such rules do not authorize the payment or deposit of a fee. All students desiring the use of the lockers should have uniformity and equality in the use of the same, without the payment or deposit of a fee, whether optional or not.

No objection is had to the one-dollar fee charged for attendance at athletic games so long as the charge is made without compulsion. Attendance at such activities does not constitute a part of the school curriculum, and deprivation in attending the same does not abridge the student's right to school facilities.

No authority exists permitting the collection of a two-dollar fee as a deposit or otherwise to cover loss from the usage of the school equipment, except as hereinafter specified. If the property is damaged from causes other than an ordinary use of the same, under authority of Section 1262.84, the student may at that time be required to pay a reasonable fee to cover the actual cost. If the student receives excessive supplies he may at that time be required to deposit or pay a reasonable fee to cover the actual cost. Such fees shall apply only to pupils in the commercial, industrial arts, music, domestic science, scientific or agricultural courses.

None of these fees shall be paid or deposited as a condition precedent to admittance to the high school or to any of its courses, and when paid or deposited shall be paid or deposited only in the manner and to the extent as herein specified.