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MEMORANDUM

DATE: January 17, 2008

TO: Chuck Greenough, Director Accounting Services
State Board for Community and Technical Colleges

FROM: David A. Stolier, Sr. Assistant Attorney General 
Chief, Education Division

SUBJECT: **Fee Charges to Running Start Students**

You have asked me to summarize our advice on the question of whether the colleges may charge Running Start students various fees. Over the course of the last seventeen years, a number of colleges have asked their assigned assistant attorney general to evaluate whether a specific fee or charge may be charged to Running Start students. However, colleges that have *not* asked the question may not be aware of the general rule that fees may not be charged to Running Start students. Accordingly, I have set forth below the principles that we have used to opine on various specific fees and charges from time to time. Any proposed charge to Running Start students must be analyzed consistent with the principles set forth below. Please feel free to disseminate as you deem appropriate.

ANALYSIS.

The Running Start legislation was enacted in 1990. It provides an option for eleventh and twelfth grade high school students to enroll at institutions of higher education for dual high school and college credit. Rather than having the student pay tuition and fees, state basic education apportionment monies are diverted from the resident school district to the college where the student enrolls. RCW 28A.600.310(2). Because colleges are intended to receive basic education funding in lieu of tuition or other fees for Running Start enrollments, the statute expressly provides the following:

The institution of higher education shall not require the pupil to pay any other fees.

The Superintendent of Public Instruction, State Board for Community and Technical Colleges, and the Higher Education Coordinating Board were tasked with jointly developing

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administrative rules to further flesh out the details of the program. The rules were to be written to “encourage the maximum use of the program” and “shall not narrow the options” set forth in the statute. RCW 28A.600.390.

The joint rules further define the term “fee” for purposes of the prohibition on charging fees.

A running start student shall not be required by an institution of higher education to pay any tuition or other fee *as a condition to the student's full participation* in running start college or university course work and related activities, or as a condition to the award of credit therefor: Provided, That requiring a running start student to *provide and pay for consumable supplies, textbooks, and other materials to be retained by the student does not constitute the assessment of tuition or a fee for purposes of this section*

WAC 392-169-060 (emphasis added). Thus a narrow exception permits the college to require a Running Start student to provide and pay for consumable supplies, textbooks, and other materials to be retained by the student. Charges for such consumables are deemed not to be fees. Further, if a charge does not constitute a condition on the student’s full participation in Running Start course work and related activities, it apparently is not deemed to be a fee for these purposes.

A useful way to approach the analysis of any particular charge is to first ask whether the Running Start student can participate as fully and as effectively as other students in the educational program if the student does not receive the services and materials supported by the charge or special fee. It will often be difficult to make this judgment by simply relying on the name of a fee. Many fees are conglomerations that support multiple services. Thus I stress that it is vital to review the specific services and materials that are supported by the particular charge. If failure to receive such services or materials would result in no burden to the student’s full participation in course work and related activities at the college, the charge may be passed on to the student. I would expect such cases to be rare. In the vast majority of cases where the fee supports a service that is necessary for full participation, then the second part of the analysis is to determine whether the charge supports only consumable supplies or materials that the student retains. If so, the charge may be passed on to the student. It is important to remember that the consumable materials must be items that the student *is required to provide*. Thus, fees that support consumable items provided to the student such as informational mailings, handbooks or planning materials, would not fit into this exception.

Although it is impossible to set down a bright line that definitively covers every conceivable fee or charge, the principles set forth above should give colleges the tools to evaluate each on its own merits where the college contemplates passing the charge on to Running Start students. In view of the general rule and the narrowly tailored exceptions, colleges that are contemplating passing any particular fee or charge to Running Start students should consult with their assigned assistant attorney general before doing so.