Virtual Charter Schools, costs of student assessments

Number: AGO 2013-04

Date: March 28, 2013

Subject:
Virtual Charter Schools, costs of student assessments

Mr. Brady J. Cobb
South Florida Virtual Charter School
Board, Inc., and Florida Virtual
Academy at Palm Beach
642 Northeast Third Avenue
Fort Lauderdale, Florida 33304

RE: VIRTUAL CHARTER SCHOOLS – PUBLIC EDUCATION – SCHOOL DISTRICTS – payment of costs of state-wide assessments of virtual charter school students included within administrative fee retained by school district. ss. 1002.33 and 1002.45, Fla. Stat.

Dear Mr. Cobb:

On behalf of South Florida Virtual Charter School Board, Inc., and the Florida Virtual Academy at Palm Beach, you ask the following:

Must a virtual charter school pay for access to school district testing facilities and the technology for taking state-wide assessment tests for students enrolled in the virtual charter school which the school district has sponsored?

In sum:

The school district sponsoring a virtual charter school is required to provide certain administrative services to the school, including test administration services, which includes payment of the costs of state-required or district-required student assessments. The school district may withhold a fee of up to 5 percent of the funding from the Florida Education Finance Program and the General Appropriations Act to be received by a virtual charter school to cover the cost of the administrative services provided to the charter school, including the cost of virtual charter school students' access to and use of district testing facilities.

Initially, it should be acknowledged that this office has previously issued a legal opinion to a charter school. In Attorney General Opinion 2004-67, this office determined that charter schools are part of the state's program of public education and shall be funded "the same as" other schools in the public school system. In light of the subject matter of your request, this office sought, received, and considered the views of the School District of Palm Beach County on the question presented here.

Section 1002.33(1), Florida Statutes, authorizes a charter school to operate as a virtual charter

school. The sponsor of a charter school is required to provide certain administrative and educational services to a charter school, including "test administration services, including payment of the costs of state-required or district-required student assessments[.]"[1] Each student enrolled in a virtual charter school must "[t]ake state assessment tests within the school district in which such student resides, which must provide the student with access to the district's testing facilities."[2] (e.s.)

The sponsor of a virtual charter school is authorized to withhold a fee of up to 5 percent, which "shall be used to cover the cost of services provided under [section 1002.33(20),] subparagraph 1. . .or other technological tools that are required to access electronic and digital instructional materials."[3] This plain language requires no further interpretation in its directive that a school district, as the sponsor of a virtual charter school, may retain up to 5 percent of the funds payable to a virtual charter school and that such funds cover the provision of testing facilities for state-wide assessments. Where the Legislature has prescribed the manner in which something is to be accomplished, it in effect operates as a prohibition against its being done in any other manner.[4]

Accordingly, it is my opinion that the administrative services required to be provided by a school district sponsoring a virtual charter school include the payment of the costs of state-required or district-required student assessments, including the cost of virtual charter school students' access to and use of district testing facilities, and that such costs are contained within the fee of up to 5 percent retained by the school district.
Sincerely,

Pam Bondi
Attorney General

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[1] Section 1002.33(20)(a)1., Fla. Stat.

[2] Section 1002.45(6), Fla. Stat.

[3] Section 1002.33(20)(a)8., Fla. Stat.

[4] *See Alsop v. Pierce*, 19 So. 2d 799, 805 (Fla. 1944) (where Legislature prescribes the mode, that mode must be observed).