February 21, 2002

James R. Rough, Executive Director
State Board of Cosmetology
101 Southland Mall
3700 South High Street
Columbus, Ohio 43207-4041

SYLLABUS: 2002-007

The authority of the State Board of Cosmetology under R.C. 4713.10 and R.C. 4713.13 to charge and collect fees from schools of cosmetology seeking licensure or renewal of their license does not empower the Board to charge and collect such fees from a city, exempted village, local, or joint vocational school district that operates a school of cosmetology as part of its vocational education program. A public school district must, however, comply with all other requirements of R.C. Chapter 4713 in the operation of its school of cosmetology, except as provided in R.C. 4713.15(E). (1934 Op. Att'y Gen. No. 2715, vol. I, p. 735, approved and followed.)

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OPINION NO. 2002-007

James R. Rough, Executive Director
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101 Southland Mall
3700 South High Street
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Dear Executive Director Rough:

You have asked whether public school districts that operate schools of cosmetology are required to pay the licensure fees as set forth in R.C. 4713.10 and R.C. 4713.13.

Licensure of Schools of Cosmetology

We turn first to an examination of the statutory scheme regulating the practice of cosmetology. R.C. 4713.13 requires every person who wishes to conduct or operate a school of cosmetology to apply to the State Board of Cosmetology (Board) for a license.[1] *See generally* R.C. 4713.01(H) (defining "[s]chool of cosmetology" to mean "any premises, building, or part of a building in which students are instructed in the theories and practices of cosmetology, manicuring, and esthetics"); R.C. 4713.15 (requirements for schools of cosmetology); R.C. 4713.20(A)(1) (prohibiting any person from conducting or operating a school of cosmetology without a license). Upon receiving an application, "accompanied by the required fee," the Board will issue a license to "the person so applying and otherwise qualifying." R.C. 4713.13. *See generally* R.C. 4713.02(D)(2) (requiring the State Board of Cosmetology to issue licenses to applicants who meet the requirements of R.C. Chapter 4713) and (D)(3) (requiring the Board to register schools of cosmetology). R.C. 4713.13 also provides that the licenses of schools of cosmetology expire on the last day of January of each odd-numbered year unless renewed, and that "[n]o license shall be renewed until the applicant therefor has paid to the treasurer of state the required renewal fee." R.C. 4713.10 sets forth a schedule of fees to be charged and collected by the Board, including a fee of two hundred fifty dollars "[f]or the issuance or renewal of a cosmetology school license." R.C. 4713.10(E). *See also* R.C. 4713.22 (the Board, "subject to

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[1] The Board also licenses and regulates cosmetologists, manicurists, estheticians, managing cosmetologists, cosmetology instructors, managing manicurists, manicurist instructors, managing estheticians, and esthetics instructors, all of whom are required to complete a specified number of hours in a school of cosmetology licensed in this state. (In some instances, experience may substitute for the hours of instruction.) *See* R.C. 4713.04. For ease of discussion, our references to cosmetologists will include these other practitioners as appropriate.

the approval of the controlling board, may establish fees in excess of the amounts provided by section 4713.10 of the Revised Code, provided that any fee increase does not exceed the amount permitted by more than fifty per cent").

Vocational Education

We turn now to the operation of vocational education programs by public school districts. Pursuant to R.C. 3313.90(A), every city, local, and exempted village school district is required to provide vocational education to its pupils. R.C. 3313.90 has been interpreted as imposing a "'mandatory duty' upon each school district, without exception, to establish and provide vocational education." 1972 Op. Att'y Gen. No. 72-081 at 2-325. *Accord* 1971 Op. Att'y Gen. No. 71-026; 1967 Op. Att'y Gen. No. 67-063. It may do so by establishing its own vocational education program, being a member of a joint vocational school district, or contracting for vocational education with another school district. R.C. 3313.90(A). *See* R.C. 3311.16-.218 (establishment and operation of vocational school districts); *Mercure v. Board of Education*, 49 Ohio App. 2d 409, 361 N.E.2d 273 (Columbiana County 1976) (finding R.C. 3311.18 and R.C. 3313.90 to be constitutional, and upholding the General Assembly's authority to create joint vocational school districts and require the inclusion of job training courses as part of the curriculum of high schools); 1978 Op. Att'y Gen. No. 78-040 at 2-94 ("R.C. 3313.90 vests in the board of education broad discretion to carry out this legislative mandate [to establish a vocational education program] provided that any specific statutory limitations on the board's power are not exceeded and that the specific elements of any particular program do not go beyond that which is reasonably necessary to fulfill the requirements of the vocational education curriculum"). *See also* 1971 Op. Att'y Gen. No. 71-068 (syllabus, paragraph one) ("[t]hrough the implementation of vocational education programs authorized under [R.C. 3313.90], a school may engage and compete in private enterprise, even at a profit, so long as such program is reasonably necessary to fulfill the requirements of the school's curriculum"). A school district may, as part of its duty to provide vocational education, operate a school of cosmetology.

Balancing Test

In presenting your question, whether school districts which operate schools of cosmetology are required to pay the licensure fees as set forth in R.C. 4713.10 and R.C. 4713.13, you have asked us specifically to reconsider 1934 Op. Att'y Gen. No. 2715, vol. I, p. 735. This opinion concluded that public schools which taught cosmetology, as well as private schools, could be licensed as approved schools of cosmetology if they met the requirements of what is now R.C. 4713.15 [then G.C. 1082-17], and that once a school was licensed, its students would be eligible for examination and licensure by the State Board of Cosmetology. *Id.* at 739.[2] The

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[2] In 1965 the General Assembly enacted language explicitly recognizing that students of public schools are eligible for licensure by the Board. *See* 1965 Ohio Laws 1180, 1182 (Am. Sub. S.B. 108, eff. Oct. 15, 1965). Division (G) of R.C. 4713.04 reads: "Every person who completes a course in cosmetology given in a vocational program conducted by a city, exempted

opinion went on to conclude, however, that because there was no statute authorizing public schools to pay a licensure fee to the State Board of Cosmetology, they had no power do to so. *Id*.

After concluding that public schools were not required to pay a licensure fee, 1934 Op. Att'y Gen. No. 2715, vol. I, p. 735 further analyzed the relationship between the fee requirement and the other requirements for licensure, as follows:

> … in my opinion, the State Board of Cosmetology could approve such schools as bona fide schools of cosmetology without the payment of such fee assuming that they meet all the other requirements of the Cosmetology Act. The maintenance of public schools is a state function …. The state should not be required to pay a license fee for the prosecution of its business unless such license statute expressly includes the public schools within its provisions.
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> It might be argued that because of the lack of such power by the boards of education to pay the required fee the legislative intent was not to embrace such public schools as eligible to be approved by the State Board of Cosmetology. This contention is not wholly meritorious in that the whole object of the Cosmetology Act in requiring students to have a certain amount of training in particular subjects in an approved school of cosmetology is to insure [*sic*] adequate training before such students are eligible to take the state board examination. If the public schools in question meet all the requirements laid down in Section 1082-17, General Code, supra, they can evidently train the students with the same degree of competence as private schools of cosmetology and thus the primary object of the legislature is adequately met.

Id. at 739-40.

In analyzing the extent to which public schools were subject to the regulatory authority of the State Board of Cosmetology, the 1934 opinion essentially engaged in a balancing test, finding that the public was best served by requiring school districts to meet the same qualifications and standards of operation as private cosmetology schools, but without the need to expend public funds to pay a licensure fee. This approach and the conclusion reached in the 1934 opinion are consistent with more recent judicial decisions and opinions of the Attorney General, which have engaged in a similar analysis in determining the relative positions of public bodies with potentially competing interests.

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village, local, or joint vocational school district, is eligible to apply for a cosmetologist's or manicurist's license, provided the person has completed the educational requirements of division (A) or (B) of this section." (Enacted as division (E) of R.C. 4713.04 in 1965 by Am. Sub. S.B. 108).

In the seminal case, *Brownfield v. State of Ohio*, 63 Ohio St. 2d 282, 407 N.E.2d 1365 (1980), the court considered whether a halfway house owned by the State of Ohio and located in the City of Akron, was automatically exempt from the city's zoning restrictions. The court noted that "[b]oth the municipality's exercise of its zoning powers and the state's exercise of the power of eminent domain are intended to effectuate public purposes," and that, "[w]henever possible, the divergent interests of governmental entities should be harmonized rather than placed in opposition."[3] 63 Ohio St. 2d at 285-86, 407 N.E.2d at 1367-68. The court rejected the position that the State's property was absolutely immune from the local zoning laws, stating:

> We believe that the correct approach in these cases where conflicting interests of governmental entities appear would be in each instance to weigh the general public purposes to be served by the exercise of each power, and to resolve the impasse in favor of that power which will serve the needs of the greater number of our citizens.

63 Ohio St. 2d at 285, 407 N.E.2d at 1367. The court further noted that in the absence of "a direct statutory grant of immunity in a given instance, the condemning or land-owning authority must make a reasonable attempt to comply with the zoning restrictions of the affected political subdivision," and "[t]he issue of governmental immunity from zoning arises only after efforts to comply with municipal zoning have failed."[4] 63 Ohio St. 2d at 286, 407 N.E.2d at 1368.

In *City of East Cleveland v. Board of County Commissioners*, 69 Ohio St. 2d 23, 430 N.E.2d 456 (1982), the court followed *Brownfield* and its use of a balancing test in order to determine whether a county, which sought to construct a school for the mentally retarded on property it owned in the City of East Cleveland, was required to comply with the city's zoning ordinances and building and fire codes. Finding that the county was required to obtain a building certificate from the city, the court next considered whether the city had the authority to charge the county a fee for the review of plans and specifications by the city's building department.

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[3] The operator of the halfway house had argued in *Brownfield v. State of Ohio*, 63 Ohio St. 2d 282, 407 N.E.2d 1365 (1980), that the power to zone was necessarily subordinate to the state's power to condemn property, and that because the state had the power to take the subject property by eminent domain, the proposed halfway house was absolutely immune from local zoning laws. This argument was based on *State ex rel. Ohio Turnpike Comm'n v. Allen*, 158 Ohio St. 168, 107 N.E.2d 345 (1952), which held that zoning restrictions do not apply to state agencies vested with the power of eminent domain. Criticizing *Allen*, the *Brownfield* court refused to apply the absolute immunity argument, stating that "logic and public policy considerations dictate that we reject it." 63 Ohio St. 2d at 284, 407 N.E.2d at 1367.

[4] *Brownfield* was overruled in part, on other grounds, by *Racing Guild of Ohio v. Ohio State Racing Comm'n*, 28 Ohio St. 3d 317, 503 N.E.2d 1025 (1986).

In so doing, the court turned to *Niehaus v. State ex rel. Board of Education*, 111 Ohio St. 47, 144 N.E. 433 (1924), which held that, because municipalities with building inspection departments were required by state statute to approve plans for the construction of public school buildings, a municipality had no authority, despite its home rule power, to "thwart the operation" of the state law by enacting an ordinance requiring the payment of a fee as a condition precedent to approval of construction plans. *Id.* (syllabus, paragraph two). The court in *City of East Cleveland* concluded that, because the General Assembly had not, since the *Niehaus* decision, enacted a statute granting municipalities the right to charge a fee for the review of plans and specifications (while granting the state Board of Building Standards such authority), "we must infer that the General Assembly intends that municipalities not charge a fee for review of plans and specifications."[5] 69 Ohio St. 2d at 32, 430 N.E.2d at 462. *See* 1985 Op. Att'y Gen. No. 85-098 at 2-416 (a board of education, in meeting its statutory obligation under R.C. 3313.20 to post certain signs, is required to attempt compliance with village sign ordinances, including the requirement to obtain a permit, but *East Cleveland,* in reliance on *Niehaus*, "suggests that, in the absence of statutory authorization, a municipality may not require a governmental entity to pay a fee as a condition precedent to the governmental entity's compliance with a state statute"); 1956 Op. Att'y Gen. No. 6326, p. 166, 173 ("had it been the intention of the legislature to authorize municipalities and counties to exact fees for inspection and approval of school building plans, in the event there is local jurisdiction over this subject matter, the legislature could and would have expressly so provided"). *See also* 1994 Op. Att'y Gen. No. 94-044 at 2-227 ("absent express statutory authority, a local board of health may not impose a fee on the Division of Parks and Recreation of the Department of Natural Resources for the operation of beaches under the jurisdiction of the Division"); 1986 Op. Att'y Gen. No. 86-026 (syllabus, paragraph two) ("[a]bsent express statutory authorization, local governmental entities may not assess the Adjutant General fees for permits required by the terms of local zoning, building, and fire codes").

In the situations considered in the *Niehaus* and *City of East Cleveland* decisions, the municipalities lacked statutory authority to charge any person a fee, regardless of whether the applicant was a private or public entity. However, 1988 Op. Att'y Gen. No. 88-042 examined whether R.C. 505.84, which authorizes a township to charge for ambulance or emergency medical services, constituted sufficient authority for a township to charge a state institution,

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[5] R.C. 3781.102 was amended subsequent to *City of East Cleveland v. Board of County Commissioners*, 69 Ohio St. 2d 23, 430 N.E.2d 456 (1982) to read: "The political subdivision associated with each municipal, township, and county building department certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code." *See* 1983-1984 Ohio Laws, Part II, 3397, 3403 (Am. Sub. H.B. 300, eff. Sept. 25, 1984). *See also* Am. Sub. H.B. 434, 123rd Gen. A. (2000) (eff. Sept. 18, 2001); 1995-1996 Ohio Laws, Part VI, 11,344, 11,447-449 (Am. Sub. S.B. 293, eff. Sept. 26, 1996).

located within the township, for such services. The opinion noted that it is "evident that, when the General Assembly has intended that public entities be subject to charges for services, it has expressly so stated," *id.* at 2-203, and that "the requirement of such express statutory authority is not inconsistent with the *Brownfield* and *East Cleveland* cases," *id.* at 2-205. Accordingly, the opinion concluded that the township had no authority to charge the state institution for emergency services because R.C. 505.84 did not expressly authorize it, and there was no clear indication otherwise that the General Assembly intended that state institutions be subject to such charges. *Id.* at 2-204.

Therefore, general statutory authority to establish fees or charges does not constitute sufficient authority for the imposition of a fee against a public entity. Rather, the authority for a governmental entity to charge other public bodies must be expressly granted by statute.[6] Although the Board has, in this instance, general authority to charge a fee to applicants who are seeking licensure as a school of cosmetology or renewal of their license, there is no express authorization for the Board to charge public agencies such fees. Therefore, we conclude that the Board may not, under current law, charge and collect licensure fees from public school districts operating schools of cosmetology as part of their mandatory duty to provide vocational education programs.

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[6] There are various statutory provisions that explicitly require governmental entities, along with private entities, to pay a licensure fee or charge for services, thus supporting the proposition that, where the General Assembly has intended to subject public bodies to a fee or charge, it has explicitly so stated. *See, e.g.,* R.C. 343.08(A) (authorizing the board of county commissioners of a county solid waste management district to fix charges "to be paid by every person, municipal corporation, township, or other political subdivision that owns premises" to which services are provided); R.C. 3717.41 ("no person or government entity shall operate a food service operation without a license," and "[n]o person or government entity shall fail to comply with any other requirement of this chapter applicable to food service operations") and R.C. 3717.45 (a licensor must hold a public hearing prior to the establishment of a licensing fee, and must give notice of such hearing to any person or government entity holding a food service operation license that would be affected by the proposed fee); R.C. 3710.04 and 3710.05 (requiring public entities, as well as business entities, to secure an asbestos hazard abatement contractor's license and to pay licensure fees). *See also* note 5, *supra*. *See generally Lake Shore Electric Railway Co. v. Public Utilities Comm'n*, 115 Ohio St. 311, 319, 154 N.E. 239, 242 (1926) (had the legislature intended a particular meaning, "it would not have been difficult to find language which would express that purpose," having used that language in other connections).

In your letter of request you state that the State Board of Cosmetology must pay other state agencies for services rendered, such as payroll, financial and other personnel functions provided by Central Services of the Department of Administrative Services (DAS). R.C. 124.07 specifically requires state agencies to pay DAS for these services.

In support of our conclusion that 1934 Op. Att'y Gen. No. 2715, vol. I, p. 735 reached the correct result, we cite the principle of statutory construction that, "legislative inaction in the face of longstanding judicial interpretations of that section evidences legislative intent to retain existing law." *State v. Cichon*, 61 Ohio St. 2d 181, 183-84, 399 N.E.2d 1259, 1261 (1980). *See also Seeley v. Expert, Inc.,* 26 Ohio St. 2d 61, 72-73, 269 N.E.2d 121, 129 (1971) ("[i]n interpreting the meaning of legislative language, it is not unimportant that the General Assembly has failed to amend the legislation subsequent to a prior interpretation thereof by this court…. [a] reenactment of legislation, without modification after judicial interpretation, is a further indication of implied legislative approval of such interpretation"); *State ex rel. Kilgore v. Industrial Comm'n*, 123 Ohio St. 164, 172, 174 N.E. 345, 347 (1930) ("our construction of [a statutory provision], as shown by our reported decisions, has been or should have been known for many years; and meanwhile there has been ample time for the amendment of the statute if it tends to injustice"). R.C. Chapter 4713 has been amended several times since the issuance of the 1934 opinion, most recently in Am. Sub. H.B. 94, 124th Gen. A. (2001) (eff. June 6, 2001). Although an opinion of the Attorney General is not a judicial decision, the same argument may be made that the 1934 opinion has been known for many years, during which the General Assembly has amended R.C. Chapter 4713 without overturning the conclusion of the 1934 opinion, thus implying legislative approval of the opinion's interpretation of the law.

We recognize that there are arguments to support your position that public school districts are subject to the fee requirements of R.C. 4713.10 and R.C. 4713.13. Perhaps most compelling is the fact that R.C. 4713.15(E) exempts from the requirement that schools of cosmetology file with the Board a surety bond, "a vocational program conducted by a city, exempted village, local, or joint vocational school district." Thus, it could be argued that, where the General Assembly intends to exempt vocational programs conducted by public school districts from a statutory requirement, it has expressly done so, and the fact that the General Assembly has not expressly exempted school districts from the fee requirements indicates a legislative intent that they be subject thereto. *See generally Lake Shore Electric Railway Co. v. Public Utilities Comm'n*, *supra.*

However, the language of division (E) of R.C. 4713.15 was enacted in 1965,[7] long after the issuance of 1934 Op. Att'y Gen. No. 2715, vol. I, p. 735. In interpreting a statute, it is presumed that the General Assembly acted with full knowledge of the existing law on the subject under consideration. *See generally Geiger v. Geiger,* 117 Ohio St. 451, 468-69, 160 N.E. 28, 33 (1927); *Eggleston v. Harrison*, 61 Ohio St. 397, 404, 55 N.E. 993, 996 (1900) ("[t]he presumption is that laws are passed with deliberation and with knowledge of all existing ones on the subject"). Therefore, presuming that the General Assembly was cognizant of the Attorney General's 1934 opinion that public school districts were not subject to the fee requirements, it is arguable the General Assembly found no need to add language to R.C. Chapter 4713 in order to accomplish that same result.

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[7] 1965 Ohio Laws 1185 (Am. Sub. S.B. 108, eff. Oct. 15, 1965).

We are also aware that there is authority to the effect that the term "person," when used in a statute, does not include governmental entities, such as school districts, unless expressly provided. *See, e.g., Thaxton v. Medina City Board of Education*, 21 Ohio St. 3d 56, 488 N.E.2d 136 (1986) (syllabus) ("[a] public board of education is not a 'person,' as defined in R.C. 1331.01(A), when the board operates within its clear legal authority"); 1981 Op. Att'y Gen. No. 81-092 at 2-351 to 2-352 ("[i]n view of the fact that a board of education is a body politic and an agent of the state … and the fact that such bodies are not expressly included within the definition of 'person' in R.C. 1702.01(I), a board of education cannot be considered a 'person' for purposes of R.C. 1702.04," and therefore has no authority to form a nonprofit corporation); 1981 Op. Att'y Gen. No. 81-055 (a county hospital is not a person, firm, partnership, association, or corporation and thus is not subject to R.C. Chapter 4747 when it engages in the sale of, practice of dealing in, or fitting hearing aids). *See also* R.C. 1.59(C) ("'[p]erson' includes an individual, corporation, business trust, estate, trust, partnership, and association"). As set forth above, R.C. 4713.13 requires every "person" who wishes to operate a school of cosmetology to apply to the Board for a license, and the Board, upon receiving an application, "accompanied by the required fee," issues a license to "the person so applying and otherwise qualifying." *Id.* Thus, it is arguable that a board of education or school district is not a "person" and thus is not required to pay a licensure fee.

Using this analysis, however, we would also be required to conclude that, because a school district is not a "person," it is not subject to *any* of the requirements of R.C. Chapter 4713, and may operate its school of cosmetology without a license and outside the regulatory authority of the Board. This would, in turn, call into question the ability of a school district's cosmetology graduates to qualify for their own license since those who wish to be licensed must complete a specified number of hours of instruction in a *licensed* school of cosmetology. R.C. 4713.04. *See* note 1, *supra*. The possibility that public school districts were not subject to any part of the Cosmetology Act was expressly rejected in the 1934 opinion, as quoted above, and is inconsistent with *Brownfield* and its use of a balancing analysis rather than an "absolute immunity" approach. Such a conclusion would also be inconsistent with R.C. 4713.04(G), *see* note 2, *supra*, and R.C. 4713.15(E), discussed above, since the references therein to vocational programs operated by school districts indicate that they fall within the scope of R.C. Chapter 4713.

Furthermore, previous decisions have applied the "person" analysis on a very fact specific basis, narrowly drawn to consider the language and purpose of the statutory scheme at issue. *Compare, e.g., Thaxton v. Medina City Board of Education* (a board of education is not a "person" as defined in R.C. 1331.01(A), and thus may not be a defendant in an antitrust action under R.C. Chapter 1331) *with State ex rel. Fisher v. Louis Trauth Dairy, Inc.*, 856 F. Supp. 1229 (S.D. Ohio 1994) (a board of education *is* a "person" for purposes of bringing an antitrust action under R.C. Chapter 1331); *compare Hamilton County Board of Mental Retardation and Developmental Disabilities v. Professionals Guild of Ohio*, 46 Ohio St. 3d 147, 149-50, 545 N.E.2d 1260, 1264 (1989) ("[a] political subdivision of a state is embraced within the meaning of the word 'person' by a statute such as R.C. 119.01(F) defining 'person' as including a corporation, association or partnership") *with Department of Administrative Services v. State*

Employment Relations Board, 54 Ohio St. 3d 48, 562 N.E.2d 125 (1990) (a state agency is not a "person" for purposes of R.C. 119.01(F)). *See also* 1978 Op. Att'y Gen. No. 78-030 at 2-72 (although R.C. 5515.01 requires an individual, firm, or corporation to receive a permit from the Director of Transportation prior to occupying a state highway, and a county is neither a legal person nor corporation, the Director "has broad supervisory duties with respect to the state highway system, and he may, in the exercise of that responsibility … require counties to apply for a permit prior to such occupation," and "it is irrelevant whether a county is an 'individual, firm, or corporation' under R.C. 5515.01"). A determination of whether a school district is a "person" for purposes of R.C. Chapter 4713 is, therefore, not a reliable approach in this instance.

Conclusion

In conclusion, it is our opinion that 1934 Op. Att'y Gen. No. 2715, vol. I, p. 735 struck the proper balance between the public purposes served by both the regulation of schools of cosmetology and the provision of public vocational education in concluding that public school districts were required to be licensed and to meet the specified operational qualifications and standards established in the cosmetology act, but were not required to pay the licensure fees set forth therein. 1934 Op. Att'y Gen. No. 2715, vol. I, p. 735 is hereby approved and followed.[8]

It is, therefore, my opinion, and you are hereby advised that, the authority of the State Board of Cosmetology under R.C. 4713.10 and R.C. 4713.13 to charge and collect fees from schools of cosmetology seeking licensure or renewal of their license does not empower the Board to charge and collect such fees from a city, exempted village, local, or joint vocational school district that operates a school of cosmetology as part of its vocational education program. A public school district must, however, comply with all other requirements of R.C. Chapter 4713 in the operation of its school of cosmetology, except as provided in R.C. 4713.15(E). (1934 Op. Att'y Gen. No. 2715, vol. I, p. 735, approved and followed.)

Respectfully,

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[8] You have noted in your opinion request that when 1934 Op. Att'y Gen. No. 2715, vol. I, p. 735 was issued, the Board was funded by general revenue funds "and payment by other state-funded programs did not make sense," while today the Board is self-funded through the collection of fees that are deposited in the Occupational Licensing and Regulatory Fund. *See* R.C. 4713.19; R.C. 4743.05. *See also* 1993-1994 Ohio Laws, Part II, 3989 and Part III, 4015 (Am. Sub. H.B. 152, eff. July 1, 1993); 1997-1998 Ohio Laws, Part I, 1473, 1531 (Am. Sub. H.B. 215, eff. June 30, 1997). You have further explained that the Board is dependent upon the fees it collects to cover its operational costs, including the regulatory activities it conducts with respect to school districts, and that it must increase its fees if it has inadequate funds. *See* R.C. 4713.22. While we appreciate the concerns you have raised, these are matters best raised with the General Assembly, which has the authority to expressly subject school districts to the fee requirements if it deems such action is appropriate. *See* notes 5 and 6, *supra*.

BETTY D. MONTGOMERY
Attorney General