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Education

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Education

Reference Number: CTAS-84

Article XI, Section 12 of the Tennessee Constitution declares that the state of Tennessee recognizes the inherent value of education and encourages its support. The constitution mandates that the General Assembly provide for the maintenance, support and eligibility standards of a system of free public schools. The General Assembly has addressed this constitutional mandate through a complex set of statutes wherein the cost and administration of the public school system for grades kindergarten through 12 is shared among the state and counties and also municipalities that operate school systems as well as some special school districts.

The K-12 Education System in Tennessee

Reference Number: CTAS-85

The present system of providing and funding K-12 education in Tennessee has been in place since the enactment of the Education Improvement Act in 1992. Formerly, public education in this state was funded according to the Tennessee Foundation Program (TFP), a system that was found unconstitutional because it denied children in small school systems the same opportunities provided to those in the larger and more affluent ones. *Tennessee Small School Systems v. McWherter*, 851 S.W.2d 139 (Tenn. 1993). The TFP was replaced with the Basic Education Program (BEP), a funding formula providing increased and more equalized funding among the state's local school systems. T.C.A. § 49-3-351.

The BEP provides for minimum levels of funding at both the state and local level. The BEP has three major categories: instruction, classroom, and non-classroom. The funds generated by the BEP are divided into state and local shares for each of the three major categories. Student enrollment as measured by average daily membership is the primary driver of funds generated by the BEP. The state and local share for each school system is based on an equalization formula. This equalization formula is the primary factor in determining the state's share of funding versus the local share of funding for each local education agency (LEA). The equalization formula determines the fiscal capacity at the county level and is driven primarily by local property values and sales tax. Local school systems are free to raise additional education dollars in addition to the funds generated by the BEP. The statutes pertaining to education funding are found in Tennessee Code Annotated, Title 49, Chapter 3, Part 3.

The state board of education, in consultation with the commissioner of education, establishes performance goals and measures and sets objectives for achievement for the state and for all local education agencies (LEAs). Schools and LEAs are evaluated annually. T.C.A. § 49-1-602.

On the local level, the management and control of the county schools is the responsibility of the county board of education and the director of schools. Counties are required to have a board of education whose members are popularly elected to staggered four-year terms. T.C.A. § 49-2-201. Each board of education is required to employ a director of schools by contract of up to four years' duration. T.C.A. §§ 49-2-203, 49-2-301. The authority of the board of education and the director of schools is subject to state law, rules and regulations adopted by the state board of education, and the express powers given the state commissioner of education. The county board of education establishes local policies and regulations within the authority given to the board. The director of schools serves as the chief administrative officer to implement board policies and manage the county department of education within the guidelines provided by the state and the county board of education.

Title 49 of Tennessee Code Annotated (Volume 9) defines the funding mechanism for education and sets out the duties and authority of the above-mentioned boards and officials as well as those of the county legislative body and county trustee as they relate to education.

County Board of Education

Reference Number: CTAS-86

School board members in each county are required to be elected by the people from districts of substantially equal population. Board members must be elected to staggered four-year terms, and may succeed themselves. Board members in special school districts may serve different terms of office established by private act but must be popularly elected on a staggered term basis. T.C.A. § 49-2-201.

Boards of education may have "no more members than the number of members authorized by general law or private act for boards of education in existence on January 1, 1992, or the number of members actually serving on a board on January 1, 1993," or the General Assembly, by private act, may establish the membership of particular school boards at any number not less than three nor more than eleven. T.C.A.

§ 49-2-201.

Members of the board of education must be residents and voters of the county in which they are elected, and, except in a few counties, must possess a high school degree or G.E.D. Members of the county legislative body and other county officials are not eligible for election to the board of education. T.C.A. § 49-2-202(a). Members of the board of education are not eligible for election as teacher or any other paid position under the board. T.C.A. § 49-2-203(a)(1)(D).

The compensation for the board of education members for attending regular and special meetings and performing duties cannot exceed the compensation fixed by the county legislative body and must be included in the school district budget submitted to the county legislative body. A school board member's compensation shall not be reduced from the prior year. The county trustee is not permitted to pay a voucher issued to members unless the voucher has been approved by the county mayor. School board members may not receive less than four dollars (\$4.00) per day for the member's services. T.C.A. § 49-2-202.

Vacancies are filled by the county legislative body until the next election. T.C.A. § 49-2-202(e) and Tenn. Const., art. VII, § 2, as interpreted in *Marion County Board of Commissioners v. Marion County Election Commission*, 594 S.W.2d 681 (Tenn. 1980). Members must attend annual training sessions as prescribed by the state board of education which must include an annual session. T.C.A. § 49-2-202.

The board is to elect a chair from among its members annually. T.C.A. § 49-2-202. The chair countersigns all warrants approved by the board and issued by the director of schools. T.C.A. § 49-2-205. The chair of the school board also serves as chair of the executive committee, composed of the chair and the director of schools, which functions as purchasing agent for the school board unless there is a separate purchasing board or purchasing agent otherwise established by law, and also monitors accounts to see that the budget is not exceeded. T.C.A. § 49-2-206.

Meetings of County Board of Education

Reference Number: CTAS-87

The county board of education must hold regular meetings at least quarterly, although the chair may call special meetings. T.C.A. § 49-2-202. All business coming before the county school board must be passed by a majority of the membership of the school board and not just a majority of the quorum. T.C.A. § 49-2-202(g).

County boards of education may allow a member to attend a scheduled board meeting by electronic means if the member is absent due to work, family emergency, or military service, as long as the following requirements are met:

- a quorum is physically present at the meeting
- the absent board member can be visually identified by the chair
- the absent member gives at least 5 days' notice prior to the meeting
- no board member can participate electronically more than twice in a year (except military service)
- the board has a policy in place for conducting electronic meetings

T.C.A. § 49-2-203.

A board member having a relative employed by the board is required to declare the relationship before voting on any matter that affects the employment of the relative, certifying that the vote about to be cast is in the best interest of the school system.. T.C.A. § 49-2-202(a)(3).

School Board Authority During Emergencies

Reference Number: CTAS-2476

During an emergency, as defined in T.C.A. § 58-2-101, local boards of education and governing bodies of a public charter school may consult with state and local health departments when determining whether to open or close in-person instruction. Notwithstanding an executive order issued by the governor or order issued by a health board or public health official, a local board of education or governing body of a public charter school has sole authority to open or close in-person instruction during an emergency. A local board of education or governing body of a public charter school may delegate the authority to the director of schools or administration of the public charter school. If the governor issues an executive order during an emergency with statewide applicability that requires schools to be open for in-person instruction, the executive order supersedes local authority. See Title 49, Chapter 2, Part 2, and Title 49, Chapter 13 of the Tennessee Code Annotated.

School Board Mandatory Duties and Discretionary Powers

Reference Number: CTAS-88

There are certain duties listed in T.C.A. § 49-2-203 that the board of education is required by law to perform. Some of the more significant duties are summarized as follows:

1. To employ a director of schools under written contract of up to four years duration, which may be renewed. This director may be referred to as "superintendent" and replaces the former superintendent of schools. The school board is the sole authority in appointing a director of schools.
2. Upon the recommendation of the director of schools, to elect teachers who have attained or who are eligible for tenure, to fix their salaries, and to make contracts with them.
3. To manage and control all public schools under its jurisdiction.
4. To purchase all supplies, furniture, fixtures, and materials of every kind through the executive committee. Expenditures over \$10,000 must be publicly advertised and competitively bid.
5. To dismiss teachers, principals, supervisors and other employees upon sufficient proof of improper conduct, inefficient service or neglect of duty. Such employees must be given written notice and an opportunity to make their defense.
6. To suspend or dismiss pupils when the progress or efficiency of the school makes it necessary.
7. To require the director of schools and the chair of the local board to prepare a budget on forms furnished by the commissioner of education and, when the budget has been approved by the local board, to submit it to the county legislative body. No school budget may be submitted to the legislative body that directly or indirectly supplants or proposes to use state funds to supplant any local current operation funds, excluding capital outlay and debt service.
8. To develop and implement an evaluation plan for all certified employees in accordance with the guidelines and criteria of the state board of education, and submit such plan to the commissioner of education for approval.
9. Such other duties as are required by law. In addition to the duties specifically required in T.C.A. § 49-2-203, the local board is given certain discretionary powers.

These are things the board is empowered, but not required, to do. Briefly summarized, these discretionary powers include the following:

1. To consolidate schools under its jurisdiction;
2. To require school children and employees to submit to a physical examination by a competent physician under certain circumstances;
3. To establish night or part-time schools;
4. To permit school buildings and property to be used for public, community or recreational purposes, subject to rules and regulations adopted by the board;
5. To employ legal counsel;
6. To make rules providing for school safety patrols;
7. To establish minimum attendance requirements or standards as a condition for passing a course or grade;
8. To provide written notice to probationary teachers of specific reasons for failure of reelection and provide a hearing to determine the validity of the reasons, upon request;
9. To offer and pay monetary incentives to encourage the retirement of any teacher or other employee who is eligible to retire;
10. To lease or sell buildings and property, or portions thereof, in such a manner as is deemed by the board to be in the best interest of the school system and the community it serves, including sales or leases to public or private entities;
11. To establish and operate before- and after-school care programs in connection with any schools, before and after the regular school day and while school is not in session;
12. To establish and operate evening alternative schools for students in grades 6 through 12; and

13. To provide pre-kindergarten programs for at-risk children who reach the age of four-years by September 30, and for other children when an insufficient number of at-risk children are enrolled to fill a classroom, in accordance with the "Voluntary Pre- K for Tennessee Act of 2005." T.C.A. § 49-6-101 through 49-6-110.
14. To apply for and receive federal or private grants, and unless the grant requires matching funds, in-kind contributions of real property, or expenditures beyond the life of the grant, appropriations of the federal or private grant funds shall be made upon resolution passed by the board of education; the board is required to provide a copy of the resolution as notice to the local legislative body within 7 days of passage.

School Property

Reference Number: CTAS-89

The board of education is empowered to exercise the right of eminent domain for public school purposes. T.C.A. § 49-6-2001. The board has the power to purchase land and to erect and equip buildings for public schools, and the board holds Title to property so acquired. The board has the power to dispose of real property to which it has Title in accordance with T.C.A. § 49-6-2006. Personal property that has become surplus is required to be sold by the board in accordance with T.C.A. § 49-6-2007. The board is permitted to transfer surplus real or personal property to the county or to any municipality within the county for public use, without the requirement of competitive bidding or sale. T.C.A. §§ 49-6-2006 and -2007. The board of education is not authorized to donate surplus real or personal property to charitable or nonprofit organizations; the board may, however, sell or lease surplus property to such organizations. T.C.A. §§ 49-2-203(b)(10), 49-6-2006, 49-6-2007; Op. Tenn. Att'y Gen. 96-046 (March 14, 1996).

Any local education agency (LEA) having underutilized and vacant properties must make those properties available for use by charter schools operating in the LEA. In any LEA in which a charter school operates, the school board must catalog all underutilized and vacant properties owned or operated by the LEA and submit a listing of all such properties to the department of education and the comptroller annually, and this list will be made available to any charter school operating in the LEA or to any sponsor seeking to establish a charter school in the LEA. T.C.A. § 49-13-136.

Donations

Reference Number: CTAS-90

The board of education is authorized to receive donations of money, property or securities from any source for the benefit of the public schools, which the board is to disburse in good faith in accordance with the conditions of those gifts. T.C.A. § 49-6-2006.

Student Transfers

Reference Number: CTAS-91

Local school boards may admit pupils from outside their school systems. They may also arrange for the transfer of pupils residing within their systems to schools located outside their districts, and enter into arrangements with other school boards for admission or transfer of pupils from one school system to another. State school funds follow the transfer student into the receiving school system. T.C.A. § 49-6-3104. The receiving system may charge tuition in an amount determined under T.C.A. § 49-6-3003. Where an LEA has created a regional school with a specific focus on science, technology, engineering, and math (STEM), local BEP school funds also follow the student into the LEA to which the student is transferring and no tuition may be charged by the receiving LEA. T.C.A. § 49-6-3104.

School Resource Officers and Security Officers

Reference Number: CTAS-92

The board of education is authorized to enter into an agreement of understanding with a local law enforcement agency to have a school resource officer (SRO) assigned to a school. The SRO must be a law enforcement officer as defined under T.C.A. § 39-11-106, and must be in compliance with all rules and regulations of the POST commission. The SRO is required to complete 40 hours of basic training in school policing within twelve months of assignment and at least 16 hours annually thereafter. T.C.A. § 49-6-4217. LEAs and law enforcement agencies are not required to assign or provide funding for SROs to city school systems within the county; the provision of security or SROs is considered a law enforcement function and not a school operation or maintenance purpose. T.C.A. § 49-6-815.

An LEA is also authorized to create the position of "school security officer," defined as a person employed exclusively by a local school board to (1) maintain order and discipline, (2) prevent crime, (3) investigate violations of school board policies, (4) return students who may be in violation of the law or policies to school property or to a school-sponsored event until the officer can place the student into the custody of the school administrator, the school resource officer, or a law enforcement officer, and (5) ensure the safety, security, and welfare of all students, faculty, staff and visitors in the officer's assigned school. The LEA is authorized to adopt, in consultation with the appropriate local law enforcement agency, a policy authorizing a school security officer to patrol within a one-mile radius of the assigned school but not outside the boundaries of the LEA. A copy of any policy adopted must be filed with the appropriate local chief law enforcement officer. In patrolling the one-mile radius, the school security officer can only patrol for violations of laws involving minors, including truancy, and must immediately notify the appropriate local law enforcement agency of any violation of the law if the officer reasonably believes the perpetrator is a minor. T.C.A. § 49-6-4206.

Under T.C.A. § 49-6-809, local boards of education are authorized to adopt a policy authorizing off-duty law enforcement officers to serve as armed school security officers during regular school hours when children are present on school premises and during school-sponsored events. An LEA adopting such a policy is required to enter into a memorandum of understanding (MOU) with each law enforcement agency that employs the law enforcement officers selected by the chief law enforcement officer of the law enforcement agency to serve as armed school security officers. The requirements for the MOU are set out in the statute. The chief law enforcement officer is required to consider the Fair Labor Standards Act (minimum wage and overtime) in considering officers to serve. Funding for armed security officers may come from a law enforcement agency or from the LEA, including but not limited to local, state, or federal funds received by the LEA. Nothing in this statute requires an LEA or a law enforcement agency to assign or provide funding for an armed security officer.

State Rules and Regulations

Reference Number: CTAS-93

The authority of the county board of education is limited by the rules and regulations of the state board of education as enforced by the commissioner of education. It is the duty of the state board to prescribe rules and regulations for all public schools, kindergarten through the 12th grade, to prescribe curricula, and to approve courses of study adopted by local boards of education. T.C.A. § 49-1-302. The state regulations extend to such matters as personnel evaluation, classroom size, pupil-teacher ratios, building suitability and other matters that directly impact the budget process.

Ethics Policies for School Districts

Reference Number: CTAS-1649

County, municipal and special school districts are considered separate governmental entities and are governed by ethical standards established by the board of education of the school district. T.C.A. § 8-17-102(d). The Tennessee School Boards Association (TSBA) must prepare a model of ethical standards for school officials and employees of school districts and file the model policy with the state ethics commission. If a school board develops and adopts a standard of its own, it must forward a copy of that standard to the state ethics commission and maintain a copy for public inspection. School boards that adopt the standards promulgated by the TSBA are not required to file the policy with the commission, but rather, must notify the commission in writing that the policy has been adopted and the date such action was taken. T.C.A. § 8-17-105.

Director of Schools

Reference Number: CTAS-94

The elected office of county superintendent of public instruction was abolished in 1992, and in its place is a director of schools (who may also be referred to as "superintendent"), who is appointed by the local board of education and is considered an employee of the board. T.C.A. § 49-2-301. A director of schools appointed by the local board of education is only required to have a baccalaureate degree. T.C.A. § 49-2-301(d).

The numerous duties of this position are described in T.C.A. § 49-2-301 and are summarized in part below:

1. Insure that laws relating to education are faithfully executed;
2. Attend all meetings of the school board and serve on its executive committee;

3. Keep records of meetings, actions, and financial transactions of the school board;
4. Issue, within 10 days, all warrants authorized by the board;
5. Make recommendations to the board, although the director of schools may not vote;
6. Supervise and visit the schools;
7. Enforce the regulations of the commissioner of education regarding courses of study and systems of pupil promotion;
8. Sign certificates and diplomas;
9. Recommend teachers eligible for tenure to the school board;
10. Recommend salaries for teachers;
11. Employ school principals under written contract (T.C.A. § 49-2-303);
12. Assign teachers and educational assistants to specific schools;
13. Keep on file all teachers' licenses and contracts of teachers and other employees;
14. Prepare and submit attendance reports;
15. Prepare full quarterly financial reports and monitor school spending;
16. Prepare and submit a school budget;
17. File a copy of the approved school budget with the commissioner of education within ten days after its adoption by the county legislative body;
18. Furnish a list of teachers and salaries to commissioner of education;
19. Approve access to personnel files when necessary;
20. Employ, transfer, suspend, non-renew and dismiss all personnel within the approved budget and applicable statutes and board policies, rules and regulations, contracts and negotiated agreements; and
21. Submit a report to the General Assembly by January 1 each year relative to the number of students in alternative schools.

The director of schools is a full-time position. It is a misdemeanor for the director to enter into any other contract with the board of education, to take any additional compensation from it, or to act as principal or teacher in any school; a director who violates this provision must be dismissed from the position. T.C.A. § 49-2-301(c). A director of schools is ineligible to serve as a member of the county legislative body; however, this prohibition does not apply to a director of schools who was serving as a member of the county legislative body on June 18, 2005. T.C.A. § 5-5-102(c)(2).

County School Budget

Reference Number: CTAS-95

The budget for the county school system is developed by the director of schools and board chair and presented to the full board for its consideration. The budget developed by the director and board chair must be prepared according to the revenue estimates and revenue determinations made by the county legislative body as required in T.C.A. § 49-2-101. When the school budget has been approved by the board, it must be submitted to the county legislative body not later than 45 days prior to the July meeting of the county legislative body or 45 days prior to the actual date the budget is to be adopted, if such adoption is scheduled prior to July 1. T.C.A. § 49-2-203(a)(10). Local option budgeting laws and private acts that may be in effect in a particular county will affect the budgeting process and must be consulted.

Under most circumstances, the legislative body either accepts the school budget as submitted by the school board or rejects it, in which case the budget is sent back to the school board with a specified amount of total funding. The school board then revises the specific items to conform with the total appropriated amount. In counties operating under the County Financial Management System of 1981, T.C.A. § 5-21-101 *et seq.*, the county legislative body may alter or revise the total amount of expenditures proposed by the school board in its budget as long as it is in compliance with state law and regulations, and then the director of schools is required to submit a revised budget with the total expenditures approved by the county legislative body within 10 days. The Local Option Budgeting Law of 1993, T.C.A. § 5-12-201 *et seq.*, contains provisions that allow the county legislative body to revise the school budget under specified circumstances, but this law applies only in counties that have adopted its provisions. Regardless of the procedure used to adopt the budget, once a school budget has passed, amendments must be approved by the school board and by the county legislative body. T.C.A. §§ 5-9-407, 49-2-301(b)(1)(W).

School Budget-Maintenance of Effort

Reference Number: CTAS-96

Of particular interest to local governments is the statutory limitation that prohibits local school boards from submitting a budget that reduces local educational funds, excluding capital outlay and debt service, and then replaces them with money from the state. See T.C.A. §§ 49-2-203(a)(10) and 49-3-314(c). This is commonly known as the "maintenance of effort" requirement or the "supplanting test." These statutes have been consistently interpreted to mean that an LEA cannot use local funds as part of its operating budget and then discontinue this funding and use state funding to fill the gap. See Op. Tenn. Att'y Gen. 09-70 (5/4/09).

There are four exceptions to this rule. First, if the school system has a reduction in student population total funding may be calculated on a per pupil level. Second, if there is a reduction in state funding, then local funds used to offset these funding reductions are not subject to the maintenance of local funding requirement. Third, this restriction does not apply for three years after a city and county system have consolidated into one. Fourth, if in any fiscal year the governing body and the school board enter into a written agreement establishing the non-recurring nature of an appropriation, the appropriation may be excluded from maintenance of effort (and from any applicable apportionment requirements). T.C.A. §§ 49-2-203(a)(10), 49-3-314(c). See also, Op. Tenn. Att'y Gen. 13-107 (12/20/13).

If a school budget violates the maintenance of effort requirement, then the Commissioner of Education may, at his or her discretion, withhold state education funds from the LEA under T.C.A. § 49-3-314(c). See Op. Tenn. Att'y Gen. 09-70 (5/4/09).

More information on Maintenance of Effort can be found under Operating Budgets under Accounting/Budget/Finance.

School Budget Fund Balance

Reference Number: CTAS-97

Unexpended education funds remaining at the end of a fiscal year are carried forward in the education fund balance. The fund balance may be used to offset shortfalls of budgeted revenue or, with the approval of the school board and the county legislative body, to meet unforeseen increases in operating expenses. Any accumulated fund balance in excess of three percent of the budgeted annual operating expenses for the current fiscal year may be budgeted and expended for any education purposes, but must be recommended by the board of education prior to appropriation by the county legislative body. In any fiscal year in which state-shared revenues distributed to counties are reduced below the levels distributed to counties in the 2002-2003 fiscal year, any or all of the accumulated fund balance may be used for education purposes without restrictions. T.C.A. § 49-3-352.

School Continuing Budget

Reference Number: CTAS-98

If the county legislative body has not adopted a budget for the operation of the public schools by July 1 of any year, the school budget for the year just ended continues in effect until a new school budget has been approved. Any continuing budget (the previous year's budget as temporary authority to expend funds until new annual budget is adopted) is not valid beyond October 1 of the current fiscal year for purposes of the local education agency's ability to receive state funds. T.C.A. § 49-3-316(d). Therefore, if a budget has not been adopted by October 1, the state may discontinue the county's funding.

Tennessee Investment of Student Achievement (TISA)

Reference Number: CTAS-99

The Tennessee Investment Achievement Act (TISA) became effective on July 1, 2023 and is codified at T. C. A. § 49-3-101 et. seq. The TISA replaces the Basic Education Program (BEP), which was previously the state funding formula for over 30 years. The goals of the program are 1) to support third grade reading proficiency; 2) prepare high school graduates to succeed in a postsecondary program or career of the graduate's choice; and 3) to provide all students, regardless of their circumstances, with the resources they need to succeed. The department of education will publish an annual guide for administering the program. The TISA guide, professional development, and additional resources about the new formula can be found on the Tennessee Department of

Education's website.

The TISA provides for the following funding allocations under T. C. A. § 49-3-105.

Base Funding. The General Assembly will appropriate a base amount of funding for each student.

Weighted Allocations. A student also generates weighted allocations, none of which is mutually exclusive to another, as follow:

- 25% for an economically disadvantaged student.
- 5% for a student who reside in concentrated poverty.
- 5% for a student who resides in a small district.
- 5% for a student that resides in a sparse district.
- Between 15% and 150% for a student with unique learning needs.

The state will fund 70% of the base and weighted allocations. The local government will fund the remaining 30%. T. C. A. § 49-3-109.

Direct Allocations. The department of education is required to set direct allocation amounts which must be submitted to the state board. The state board is required to issue a positive, neutral, or negative recommendation for the proposed direct allocation amounts. The state board's recommendation must be included in the rule filing with the secretary of state. T. C. A. § 49-3-105. The state is required to pay 100% of the direct allocations. T. C. A. § 49-3-109. Direct allocation amounts are generated for the following students.

- Funding for students K-3 to promote literacy.
- Funding for fourth-grade students who are not proficient in the English language arts based on the student's most recent TCAP test.
- Funding for students for career and technical education.
- Funding for postsecondary readiness assessments for high school juniors and seniors.
- Funding for each charter school student.

Student Membership. A student's membership in an LEA begins on the first day of the student's membership and ends on the last day of the student's membership in the LEA, except that the membership of a student who graduates early is extended to the student's expected graduation date for funding purposes. Funding allocations are based on data collected for an LEA during the immediately preceding school year. T. C. A. § 49-3-105.

Pay Raises. A portion of any annual increase in the base funding amount may be restricted by the general assembly for the sole purpose of providing salary increases to existing educators. If a portion of an annual increase in the base funding amount is restricted, then an LEA or public charter school must use the portion restricted to provide salary increases to existing educators. The state board shall increase the minimum salary on the state salary schedule, as appropriate, based on the amount of funds restricted for salary increases, if any. T. C. A. § 49-3-105.

Student Outcome Incentives. The department of education will allocate student-generated outcome

incentive dollars to an LEA based on the achievement of member students in the LEA's public schools when funds are appropriated. Outcome incentive dollars are based on the prior year's data. T. C. A. § 49-3-106.

Fast-Growth Stipend. Stipends may be available to fast growing school systems when funds are appropriated. An LEA that experiences growth in the total allocation generated by students in non-virtual schools in the current year in excess of 1.25%, as compared to the prior year, is eligible for a fast-growth stipend equal to the increase in allocations in excess of 1.25%. If funds appropriated are insufficient to provide for an LEA's fast-growth stipend, then the commissioner will apply a proportional reduction to the stipend amount each LEA is otherwise eligible to receive. T.C.A. § 49-3-107.

Additionally, subject to available appropriations, an LEA that experiences average daily membership (ADM) growth in non-virtual schools exceeding 2% for each year of a three-consecutive-year period is eligible for an infrastructure stipend. The infrastructure stipend is a per-student flat dollar amount based on the number of member students in non-virtual schools in the LEA for the current school year in excess of a 2% ADM growth in non-virtual schools from the prior year. An infrastructure stipend in a given year must be uniform for all eligible LEAs. T.C.A. § 49-3-107.

Distribution of Funds. The commissioner and each local government will distribute allocated education funding periodically throughout the school year according to a schedule established by the commissioners of education and finance and administration, subject to all applicable restrictions prescribed by law. T. C. A. § 49-3-108.

T. C. A. § 49-3-104 defines baseline funding, in part, as the BEP allocations an LEA received in the 2022--2023 school year. Under T. C. A. § 49-3-108, distributions will be allocated as follows:

- Year 1 - If, during the first year of the TISA, an LEA's allocated TISA funds total less than the LEA's baseline funding amount, then the department will allocate additional funds in an amount equal to 100% of the difference between the LEA's baseline funding amount and the LEA's allocated TISA amount.
- Year 2 – If, during the second year of the TISA, the LEA's allocated TISA funds total less than the LEA's baseline funding amount, then the department will allocate additional funds to the LEA in an amount equal to 75% of the difference between the LEA's baseline funding amount and the LEA's allocated TISA amount.
- Year 3 - If, during the third year of the TISA, the LEA's allocated TISA funds total less than the LEA's baseline funding amount, then the department will allocate additional funds to the LEA in an amount equal to 50% of the difference between the LEA's baseline funding amount and the LEA's allocated TISA amount.
- Year 4 - If, during the fourth year of the TISA, the LEA's allocated TISA funds total less than the LEA's baseline funding amount, then the department will allocate additional funds to the LEA in an amount equal to 25% of the difference between the LEA's baseline funding amount and the LEA's allocated TISA amount.

An LEA's allocated education funding will not decrease more than five percent (5%) from one (1) year to the next year. T. C. A. § 49-3-108(c).

Subject to appropriations, the department will distribute additional grants to LEAs that meet the conditions outlined in T. C. A. § 49-3-108.

If a local government fails to include the local contribution in the local government's budget, then the comptroller of the treasury will not approve the local government's budget. T. C. A. § 49-3-108 (f).

Accountability Requirements. T. C. A. § 49-3-112 requires each LEA to produce an accountability report that:

- Establishes goals for student achievement, including 70% of the LEA's students in third grade taking the English language arts (ELA) portion of the Tennessee comprehensive assessment program (TCAP) tests achieving a performance level rating of “on track” or “mastered” on the ELA portion of the TCAP tests, in the current school year and explains how the goals can be met within the LEA's budget; and
- Describes how the LEA's budget and expenditures for prior school years enabled the LEA to make progress toward the student achievement goals established for the prior school years. Note that this does not apply to the report submitted for the 2023-2024 school year.

The report must be presented to the public for comment before the report is submitted to the department. The report must be submitted to the department by November 1, 2023, and each November 1 thereafter.

Additionally, an LEA that operates a public school that receives a “D” or “F” letter grade pursuant to § 49-1-228 may be required to appear for a hearing before the state board, or a committee of the state board appointed by the chair of the state board, to report on the public school's performance and how the LEA's spending decisions may have affected the ability of the LEA's public schools to achieve certain performance goals. At the conclusion of a hearing, the board may recommend that the department impose corrective actions as provided in T. C. A. § 49-3-112.

Charter Schools

Reference Number: CTAS-103

Tennessee's charter schools are public schools that are part of the state's program of public education. A charter school may be formed by creating a new school or by converting an eligible existing public school. Charter schools are operated by independent, non-profit governing bodies. Chartering authorities authorize, monitor, and, when necessary, revoke or non-renew charter schools that fail to meet high academic and fiscal standards. In exchange for the opportunity to meet these standards, charter school operators are given greater autonomy to make decisions at the school level. Charter schools are governed by the Tennessee Public Charter Schools Act of 2002, T.C.A. § 49-13-101 *et seq.* The state department of education provides information on its website on how a public charter school is organized and operated.

Charter schools are entitled to receive 100 percent of the per-pupil expenditure allocated in the LEA and may also be funded by grants, gifts and donations. Pupil transportation may be provided at the election of the charter school, and if transportation is provided the LEA must provide the charter school with all funds the LEA would have spent to provide transportation to those students. Each LEA must include as part of its budget the per pupil amount of local money it will pass through to charter schools within the LEA

during the school year.

Miscellaneous Education Issues

Reference Number: CTAS-2486

Paid Leave for Childbirth and Adoption

Reference Number: CTAS-2485

T. C. A. § 8-50-814 allows a teacher, principal, supervisor, or other individual required to hold a license in a local education agency (LEA) who has been employed by the LEA for at least 12 months, to take up to six weeks of paid leave after the birth, stillbirth, or adoption of a child. The employee must give at least 30 days advance notice to the LEA. Employees using leave pursuant to T. C. A. § 8-50-814 are not required to use sick, annual, or similar leave, but this leave will be counted against the employee's Family and Medical Leave. The leave does not have to be taken consecutively as long as it is used in a 12-month period. The state will reimburse an LEA in amount equal to leave paid by the LEA to the employee.

Personal Injury Caused by Assault

Reference Number: CTAS-2484

T. C. A. § 49-5-714 requires a local education agency (LEA) to pay a teacher's full salary and benefits if a teacher is absent from work due to a personal injury caused by a violent assault on the teacher during the teacher's employment activities. The LEA must pay the teacher's full salary and benefits until the teacher is released by a physician to return to work or is permanently and totally disabled from returning to work. A teacher is required to apply for workman's compensation or similar benefits if eligible. The LEA must pay the difference between the teacher's full salary and the workman's compensation, or similar benefits received. A leave of absence due to violent assault may not be charged against a teacher's sick leave, personal leave, or professional leave. The LEA is not required to pay the full salary and benefits of a teacher assaulted during employment activities for more than one year.

Reference Materials on County Departments of Education

Reference Number: CTAS-104

The educational system at the county level is a complex and extensive area of the law. The reader is referred to the following publications for additional information:

1. Tennessee Code Annotated, Volume 9, Title 49.
2. Rules, Policies and Guidance of the State Board of Education.
3. Annual Statistical Report and other reports published by the state department of education are available at the web site of the Department of Education.
4. Numerous publications by the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) relative to education funding in Tennessee are available on the TACIR Web site.

You can also check with your local board of education.

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