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# County Board of Education

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Dear Reader:

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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.

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# 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.

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