

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
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July 20, 2010

Opinion No. 10-87

Failure of County School Board Members to Attend Annual Training

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**QUESTIONS**

1. May the Commissioner of Education remove a popularly elected school board member from office for failure to attend annual training?
2. May the Commissioner of Education withhold state funding from an LEA<sup>1</sup> for a board member's failure to attend annual training?

**OPINIONS**

1. Yes.
2. Yes. Tennessee law confers broad powers upon the Commissioner of Education to oversee the administration of local education and to impose sanctions upon LEAs that fail to meet legal requirements. One of the sanctions available to the Commissioner is the withholding of part or all of state education funds to LEAs that fail to comply with the law.

**ANALYSIS**

1. Tenn. Code Ann. § 49-2-202(a)(5) provides:

(5) All board members shall be properly trained during their service on the board of education. The minimum requirements for this training shall be established by the state board of education and shall include an annual session for all board members. **The commissioner of education may remove from office any local board member who fails to attend the annual training as prescribed by the state board of education.**

(Emphasis added). State law therefore clearly provides that the commissioner of education may remove a popularly elected school board member from office for failure to attend annual training.

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<sup>1</sup> Tenn. Code Ann. § 49-3-302(11) defines an "LEA" or "Local Education Agency" as any county, city, or special school district, unified school district, school district of any metropolitan form of government or any other school system established by law.

2. With regard to your second question, whether the commissioner of education may withhold state funding from an LEA for a board member's failure to attend annual training, the powers and duties of the commissioner of education are set forth in Tenn. Code Ann. § 49-1-201, and include the following:

(a) The commissioner of education is responsible for the implementation of law or policies established by the general assembly or the state board of education.

\* \* \* \*

(c) The commissioner shall provide direction through administrative and supervisory activities designed to build and maintain an effective organization as follows:

\* \* \* \*

(5) See that the school laws and the regulations of the state board of education are faithfully executed;

\* \* \* \*

(8) Require all state and local public school officers and heads of state educational institutions under the department or the state board of education to submit detailed reports annually; and in case of emergency, the commissioner may require special reports at any time of any officer connected with the public school system[.]

Regulations promulgated by the State Board of Education require the Commissioner of Education to annually inspect schools, as well as to review annual reports submitted by local school systems, in order to ensure that schools are in compliance with Tennessee law. Rule 0520-01-03-.03 states, in part, as follows:

#### **0520-01-03-.01 APPROVAL OF SCHOOLS**

(1) Inspections of Schools.

The Department of Education shall make periodic inspections of the schools under its control. **These inspections shall be made to determine the extent to which local school systems operate in compliance with State Board of Education rules and regulations and to verify the information received on reports from local school officials.**

(2) Approval Classifications for School Systems.

**Each school system shall be classified as approved or non-approved.** School systems classified as non-approved by the Commissioner of Education shall receive a written explanation of the reasons for such classification and shall be afforded the opportunity to respond. The Commissioner's notification shall include a time by which corrective action shall be completed by the school system. **If such corrective action is not taken within the time specified, the**

**Commissioner shall impose sanctions on the school system which may include withholding part or all of state school funding to the non-approved system.**

(3) Reports on School System Compliance with the Rules and Regulations.

The Department of Education shall make an annual report to the State Board of Education regarding each school system's compliance with the rules and regulations. **The report shall include the approval status of each local school system, deficiencies identified by school in the approval process, an assessment of action needed to attain approval, local school system response, and sanctions imposed upon systems which do not comply.**

(Emphasis added). Rule 0520-01-02-.11, in turn, provides as follows:

**0520-01-02-.11 SCHOOL BOARD TRAINING**

(1) **Every member of a local board of education shall participate annually in seven hours of training provided by the School Board Academy.**

(2) **The School Board Academy shall be administered by the State Department of Education.**

(3) The annual program of the School Board Academy will consist of modules approved by the State Board of Education. The Tennessee School Boards Association (TSBA) shall develop and conduct the majority of the approved modules.

(4) A School Board Academy Advisory Committee shall be established by the State Board of Education. The Advisory Committee will be responsible for evaluating academy programs. The Advisory Committee will also be responsible for recommending an annual program plan for the academy prior to the beginning of each school year for approval by the State Board of Education. The Advisory Committee will include the Executive Director and the President of the Tennessee School Boards Association, a member of the State Board of Education, the President of the Tennessee Organization of School Superintendents, and the Commissioner of Education or his designee. It will also include others appointed by the State Board of Education for terms designated by the State Board of Education.

(Emphasis added).

Tennessee Board of Education rules and regulations therefore require that (1) LEAs operate in compliance with Board of Education rules and regulations, (2) LEAs submit annual reports to the Commissioner of Education regarding their compliance with Board of Education rules and regulations, (3) the Commissioner of Education take measures to require corrective

action in the event LEAs are not operating in compliance with applicable rules and regulations and, in the event timely corrective action is not taken, (4) the Commissioner of Education is authorized to impose sanctions on the school system which may include withholding part or all of state school funding to the non-approved system. Accordingly, it appears that the Commissioner of Education is authorized to withhold part or all of state school funding to an LEA for a board member's failure to attend annual training.<sup>2</sup>

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<sup>2</sup> See Tenn. Code Ann. § 49-1-203 and 0520-01-02-.12 of the Rules of the State Board of Education for the Commissioner's authority to grant waivers for noncompliance with applicable rules and regulations.