



Education

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal 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 municipal 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 MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

Table of Contents

| | |
|---|---|
| Education | 3 |
| Municipal Operation | 3 |
| Contractual Operations of Municipal Schools | 3 |
| Consolidation of School Systems | 3 |
| Distribution of Funds | 4 |

Education

Reference Number: MTAS-42

The Tennessee Constitution, Article 1, Section 8, and Article 11, Sections 8 and 12, require the General Assembly to maintain and support a system of free public schools that provides equal educational opportunity for all children. (Also see *Tennessee Small School Systems v. McWherter*, 851 S.W.2d 139 (Tenn 1993); also 2002 WL 31247076 (October 8, 2002)). Each county is required (T.C.A. § 49-2-101), and municipalities are permitted (T.C.A. § 49-2-401), to operate a school system.

For more information about policies, guidelines, and standards for school systems, go to the website of the state Board of Education, www.tennessee.gov/education [1].

Municipal Operation

Reference Number: MTAS-44

A number of municipalities operate school systems under either their charters or general laws. In both cases, they are subject to considerable state regulation. A moratorium on the creation of new school systems was in place from May 19, 1998 until April 24, 2013. The ban was lifted by the Tennessee General Assembly with the passage of Public Chapter No. 256.

Pursuant to T.C.A. § 49-2-106, a city school system may be created or reactivated provided the school system is large enough to offer adequate educational opportunities for the pupils of grades one through twelve (1-12) in keeping with standards established by the state board of education, including: (1) the scholastic population of the city district according to the most recent census; (2) the financial ability per pupil of scholastic population; and (3) the expressed willingness of the people of the city school district, as indicated by a majority of its legal voters in a referendum, to raise local funds, which, together with school funds received from the state and other sources, will be sufficient to provide adequate educational opportunities for their children. Cities operating public schools under their charters and levying an additional elementary school tax for operating expenses (other than for grounds, buildings, and equipment) are empowered to continue those operations under their charters, provided there is no transfer of children between city and county schools except by agreement between the respective boards of education. T.C.A. § 49-2-404.

Municipalities that have school systems may, by referendum, levy a municipal school tax above the county school tax. City schools also are entitled to their proportionate share of state funds and county school taxes on the basis of average daily attendance. T.C.A. § 49-2-103, T.C.A. § 49-2-403.

Contractual Operations of Municipal Schools

Reference Number: MTAS-45

Municipalities are authorized to enter into two kinds of contracts for the operation of municipal schools:

- A city school board and a county school board may enter into a contract for the county superintendent of education to supervise the operation of city schools. Such a contract does not alter the distribution of county and state funds to city schools, but the city is authorized to devote its school funds to payment of the proportionate cost of the maintenance of such schools. The indebtedness of the city school system remains the obligation of the city. T.C.A. § 49-2-1001.
- The boards of education of two or more school systems are authorized to enter into a contract to establish, maintain and operate a public school or schools jointly. If the city does not have a school board, the city's governing body may enter into the contract. T.C.A. §§ 49-2-1101, *et seq.*

Consolidation of School Systems

Reference Number: MTAS-46

There are five methods of consolidating city and county school operations in Tennessee (not counting the two contractual methods of operating municipal schools as outlined in MTAS-45 [2]):

- City-county consolidation (T.C.A. §§ 7-1-101, *et seq.*, particularly T.C.A. § 7-1-103, and perhaps T.C.A. §§ 7-21-101, *et seq.*);
- Transfer by referendum of a city school system to the county (T.C.A. § 49-2-1002);

- Formation of a unification educational planning commission. This method involves an elaborate study of, and plans for, consolidation. The plan is subject to approval by the state Department of Education and the electorate in a referendum (T.C.A. § 49-2-1201);
- The municipal school system ceases operation, forcing the county to assume operation of the system (T.C.A. § 49-2-1002); and
- Multi-county consolidation, a method similar to T.C.A. § 49-2-1201 (T.C.A. § 49-2-1251).

Distribution of Funds

Reference Number: MTAS-47

Generally, a city school system is entitled to a pro rata share of funds from the issue of county school bonds (including capital outlay notes) financed by a countywide tax levy, based on average daily attendance in county and city schools. That is true whether the bonds are issued under T.C.A. §§ 49-3-1201, *et seq.*, or T.C.A. §§ 9-21-101, *et seq.* Cities are authorized to waive their right to a share of these funds. T.C.A. § 49-3-1003, T.C.A. § 9-21-129. However, if the county school project is financed by the county through a loan from the Tennessee State School Bond Authority for "qualified zone academy projects" under T.C.A. §§ 49-3-1201, *et seq.*, the county is not required to share the proceeds of the loan with the city school system. A "qualified zone academy project" means "buildings, structures, improvements and equipment for schools of any local government." T.C.A. § 49-3-1206(d)(2). The Office of State and Local Finance in the Comptroller's office serves as staff to the Tennessee State School Bond Authority and is available to assist with questions related to these projects.

T.C.A. § 12-10-115(c) requires counties receiving proceeds from a lease, loan agreement, sales contract, or operating contract with a public building authority for school capital outlay purposes to share those proceeds with city school systems in the county just as capital outlay note proceeds are shared. Proceeds need not be shared by the county until they are received. The requirements of T.C.A. § 12-10-115(c) do not apply in Shelby County.

Links:

[1] <http://www.tennessee.gov/education>

[2] <https://www.mtas.tennessee.edu/node/45>

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

Source URL (retrieved on 09/21/2021 - 2:09pm): <https://www.mtas.tennessee.edu/reference/education>



Municipal Technical Advisory Service
INSTITUTE for PUBLIC SERVICE