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TO: Directors of Schools

FROM: Christy Ballard, General Counsel

DATE: June 29, 2016

RE: Guidance on 17-Year-Old Students Attending Adult Education Programs

Over the years, the Tennessee Department of Education (TDOE) has received many calls from local education agencies (LEAs) on how they should proceed when a 17-year-old student wishes to enroll in an adult education program operated by the Tennessee Department of Labor and Workforce Development (TLWD). Here are two examples of different scenarios that have triggered questions:

Scenario 1: A student moves into the jurisdiction of a new LEA just to attend an adult education program:

In this scenario, a 17-year-old student moves out of the jurisdiction of LEA A and into the jurisdiction of LEA B and, because he has few credits, wants to enroll in a TLWD adult education program rather than in LEA B. In the past, the TLWD's position, reflected on all of the agency's forms, was that for 17-year-old applicants to be eligible for adult education services, they must provide **proof of official withdrawal from school**. Of course, students who withdraw from an LEA and only earn a High School Equivalency Exam (HSEE) count as drop outs against the LEA where the student was last enrolled pursuant to the federal law. Therefore, the TLWD's past position created a situation where a student was required to be enrolled and immediately withdrawn merely to be allowed to attend a TLWD HSEE program. Once enrolled and immediately withdrawn, the student counted as a drop out for LEA B rather than LEA A where the student actually previously attended. Please note that the student may have even moved to Tennessee from out of state.

Scenario 2: A private school student wishes to attend an adult education program:

In this scenario, a 17-year-old student enrolled in a private K-12 school chooses to take the HSEE. In the past, TLWD policy required the student to enroll in the LEA in their county of residence. The director of schools would then have to officially withdraw the student from public school to allow them to enroll in the TLWD adult education program to prepare for the HSEE. The student would then count as a drop out for the LEA that the student never attended previously.

Current Tennessee law, T.C.A. § 49-6-3001(c) (2) (B), makes it clear that students enrolled in HSEE programs are **not also required to be enrolled in school**.

More specifically, T.C.A. § 49-6-3001(c) (2) provides the following:

The provisions of subdivision (c) (1) [requiring attendance for children 6-17, inclusive] do not apply to any child who:

...

(B) Is enrolled and making satisfactory progress in a course leading to a general educational development certificate (GED) from a state-approved institution or organization, or who has obtained such certificate. Any institution or organization which enrolls a child who is under eighteen (18) years of age shall provide a report to the local board of education at least three (3) times each year relative to the progress of all such persons under eighteen (18) years of age. If the local board of education determines any child under eighteen (18) years of age is not making satisfactory progress, then such child shall be subject to the provisions of subdivision (c)(1);

In addition, the State Board of Education's rules require "a child [to] attend school until his/her 18th birthday unless: . . . he or she is enrolled in a course of instruction leading to a GED."

The State Board of Education Rules also require a director of schools to sign a recommendation before a 17-year-old student may take the HSEE.

Keep in mind that the above rule does not require the recommendation of the director prior to a 17-year-old student enrolling in an adult education program. The recommendation is only to take the test. The above referenced state law and rules contain no requirement that a 17-year-old student be enrolled in the school district before a director may recommend he or she be allowed to take the HSEE.

Based on the above scenarios and in compliance with both state and federal law, the TDOE and the TLWD have worked together to revise TLWD guidance for LEAs and adult education programs. At the following link you will find a recent memorandum sent out by the TLWD along with updated forms clarifying the TLWD's new position: <http://www.tennessee.gov/education/topic/legal-resources>. **The memorandum clarifies that a 17-year-old student may enroll in an adult education program without the requirement that the LEA first enroll and drop said student.** The TLWD policy going forward will be that a 17-year-old student may be enrolled in an adult education program with documentation from the director of schools recommending the student for the HSEE.

You may direct questions regarding these issues to Tennessee Department of Education's General Counsel, Christy Ballard, at Christy.Ballard@tn.gov.