STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

August 18, 2026

Opinion No. 26-07

Issues Concerning County Educational Expenditures and the Application of Tenn. Code Ann. § 5-21-111

Question 1

If a county legislative body alters or revises the total expenditures for the county department of education under Tenn. Code Ann. § 5-21-111(e)(1), and the director of schools fails or refuses to submit a revised budget within the ten days prescribed by the statute, what remedy or enforcement mechanism, if any, is available to the county legislative body or other officials to compel compliance or otherwise give effect to the expenditure limitation in Tenn. Code Ann. § 5-21-111(e)(1)?

Opinion 1

Within the context of the statutory scheme at issue, the Tennessee Code addresses violations by providing for "removal from office or position." Tenn. Code Ann. § 5-21-125. This Office has previously explained that a suit to enforce this penalty would be a *quo warranto* action that is ordinarily initiated by the district attorney general. *See* Tenn. Att'y Gen. Op. 15-02 (Jan. 7, 2015). Because courts hearing *quo warranto* actions have remedial flexibility, a court might find it appropriate to order the director of schools to submit a revised budget compliant with the expenditure limitation established by the county legislative body.

Question 2

Tenn. Code Ann. § 5-21-111(i) provides that if the county legislative body and the county school board "fail to agree upon a budget for the county department of education by August 31 of any year, then, by operation of law, the budget for the county department of education shall be equal to the minimum budget required to comply with the local match and maintenance of effort provisions of the TISA." Does Tenn. Code Ann. § 5-21-111(i) mean that the entire default education budget—including total expenditures—must equal the minimum funding level otherwise needed to satisfy local match and maintenance-of-effort requirements? Also, in a situation where the county legislative body has exercised its authority under Tenn. Code Ann. § 5-21-111(e)(1) to set a total expenditure level for the county department of education that is higher than the TISA/local match/maintenance-of-effort minimum, but the parties still "fail to agree upon a budget" by August 31, does Tenn. Code Ann. § 5-21-111(i) nevertheless require that the default budget be reduced to the minimum required to comply with TISA local match and maintenance-of-effort requirements, or may the default budget reflect the higher expenditure level established by the county legislative body under Tenn. Code Ann. § 5-21-111(e)(1)?

Opinion 2

The budget imposed by Tenn. Code Ann. § 5-21-111(i) does not limit a county department of education to county contributions. The budget is set based on the county providing the minimum amount required to comply with "local match" and maintenance-of-effort requirements, but the overall budget number will also consist of State funds. As for the question's second concern, if circumstances trigger the budget imposed under Tenn. Code Ann. § 5-21-111(i), the imposed budget applies regardless of the action taken by the county legislative body under Tenn. Code Ann. § 5-21-111(e)(1).

Question 3

If the county legislative body has set the total expenditures for the county department of education under Tenn. Code Ann. § 5-21-111(e)(1) and the director of schools nonetheless fails to submit a revised budget, what is the legal status of the budget for the county department of education if Tenn. Code Ann. § 5-21-111(i) does not resolve the issue? Specifically, does the prior year's budget continue in effect, does the county legislative body's expenditure figure become operative by itself, or is some other budgeting arrangement required?

Opinion 3

Because Question 3 asks about the status of the educational budget if Tenn. Code Ann. § 5-21-111(i) does not somehow resolve the issue described, we interpret the question as assuming that there still is no approved educational budget by August 31 of a given year. But because Tenn. Code Ann. § 5-21-111(i) *would* resolve the issue described in that scenario, the question is moot as phrased. In the interest of broader completeness, however, it is worth noting that a continuing budget arrangement is triggered under Tenn. Code Ann. § 5-21-111(h) if a budget has not been adopted by July 1 of any year. Thus, before the triggering of the budget imposed under section 5-21-111(i), a county's department of education would first operate under a continuing budget in the question's hypothetical.

ANALYSIS

The request seeks guidance in relation to the County Financial Management System of 1981 ("CFMS")[1] and asks a series of questions about county educational expenditures and associated budgeting matters. Given this context, we assume that the questions concern the CFMS's effect in a county where the CFMS has been adopted and that the CFMS would govern the issues implicated.[2]

[1] *See* Tenn. Code Ann. §§ 5-21-101 to -130.

[2] As a local option act, the CFMS applies in a county once adopted locally. *See* Tenn. Code Ann. § 5-21-126(a) ("This chapter shall be local in effect and shall become effective in a particular county upon a two-thirds . . . majority vote of the county legislative body adopting this chapter, or upon a majority of the voters casting votes in any election held for the purpose of approving this chapter."). A county's department of education, however, can be removed from the ambit of the CFMS under certain circumstances. *See* Tenn. Code Ann. § 5-21-124(a) (outlining circumstances under

The questions relate to Tenn. Code Ann. § 5-21-111(e)(1) and (i). While the former provision concerns the authority of the county legislative body to alter or revise a proposed budget, the latter provision governs what happens when "the county legislative body and the county school board fail to agree upon a budget for the county department of education by August 31 of any year." As we address each of the questions in turn below, we will examine both provisions in more detail.

1. Although the CFMS permits the county legislative body to alter or revise the proposed budget of the county department of education, it also places limitations surrounding those actions. Under the CFMS, "the county legislative body may only alter or revise the total amount of expenditures as proposed" when it reviews the proposed budget of the county department of education. Tenn. Code Ann. § 5-21-111(e)(1). Additionally, the CFMS states that "such alterations or revisions shall comply with state law and regulations." *Id.*

Importantly—and of relevance to the question here—these alterations or revisions are not an end to the budgeting process. "Upon alteration or revision of the proposed budget of the department of education, the director of schools shall submit a revised budget within the total expenditures approved by the county legislative body within ten (10) days." *Id.* Then, if the revised budget complies with the amount of expenditures the county legislative body approved, "the revised budget will become the approved budget for the county department of education." *Id.*

Question 1 assumes that a county legislative body has altered or revised the total amount of expenditures as proposed for its county department of education.[3] But the question also assumes that the director of schools for the county has subsequently failed or refused to submit a revised budget as statutorily prescribed. Ultimately, the question presented simply asks whether any remedy or enforcement mechanism is available under these circumstances to compel compliance with the expenditure limitation set by the county legislative body under Tenn. Code Ann. § 5-21-111(e)(1).[4] As discussed below, although remedial tools exist to address this situation, the direct efficacy of enforcement efforts would invariably depend on when those efforts were pursued.

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which the State Commissioner of Education "shall remove the education department of the county involved from the county financial management system established by this chapter").

[3] Although the request does not directly state whether this alteration or revision complied with "state law and regulations," Tenn. Code Ann. § 5-21-111(e)(1), our discussion in this opinion assumes that the county legislative body's action was legally compliant.

[4] The question is a salient one given the consequences that can result from a county legislative body's failure to adopt a budget. Under Tenn. Code Ann. § 5-21-111(h), for instance, "the operating budget for the year just ended and the appropriation resolution for the year shall continue in effect," at least initially, if "the local fiscal body has not adopted a budget by July 1 of any year." Tenn. Code Ann. § 5-21-111(h)(1). And concerning the educational budget specifically, the CFMS triggers further consequences "[i]f the county legislative body and the county school board fail to agree upon a budget for the county department of education by August 31 of any year." Tenn. Code Ann. § 5-21-111(i). Indeed, in that specific scenario—which is the focus of Question 2—the budget for the county department of education shall, "by operation of law," be "equal to the minimum budget required to comply with the local match and maintenance of effort provisions of the TISA." *Id.* As discussed later in this opinion, the statutory reference to "the TISA" relates to the "Tennessee investment in student achievement formula." *See* Tenn. Code Ann. § 49-3-103.

The CFMS addresses violations of its provisions at Tenn. Code Ann. § 5-21-125, specifically establishing penalties for "[a]ny official or employee of the county, or of any institution or agency thereof, who fails or refuses to perform the duties required by this chapter or who fails or refuses otherwise to conform to this chapter." Tenn. Code Ann. § 5-21-125. In addition to stating that the noncompliant county official or employee "commits a Class C misdemeanor," Tenn. Code Ann. § 5-21-125 provides for "removal from office or position." *Id.* Although this Office has previously noted that a criminal penalty for violation of the CFMS is probably unconstitutional, *see, e.g.*, Tenn. Att'y Gen. Op. 05-017 (Feb. 3, 2005), we have stated that Tenn. Code Ann. § 5-21-125 remains enforceable to the extent it provides for removal, *see, e.g.*, Tenn. Att'y Gen. Op. 12-104 (Nov. 9, 2012).

In our most recent guidance on this penalty, we explained that a *quo warranto* action is the appropriate mechanism to pursue enforcement. Tenn. Att'y Gen. Op. 15-02 (Jan. 7, 2015). We also explained that a *quo warranto* action is generally initiated by the district attorney general. *Id.*[5] The immediate, general answer to Question 1, then, is that a district attorney general could pursue removal of a director of schools for noncompliance with Tenn. Code Ann. § 5-21-111(e)(1).

In isolation, the mere removal of a director of schools for shirking his or her duty under Tenn. Code Ann. § 5-21-111(e)(1) would promote compliance only indirectly. That is, removal could encourage a *future* director of schools to carry out the obligation that Tenn. Code Ann. § 5-21-111(e)(1) imposes "[u]pon alteration or revision of the proposed budget of the department of education." A *quo warranto* action, however, potentially could also foster more direct recourse. As this Office previously explained, a chancery court exercising jurisdiction in a *quo warranto* action has authority to compel an individual "to restore the *status quo*." Tenn. Att'y Gen. Op. 15-02 (Jan. 7, 2015) (cleaned up). And we noted that a chancery court could, among other things, award a mandatory injunction or a peremptory mandamus. *Id.* (cleaned up). As we further relayed, the court has plenary power in a *quo warranto* suit to compel actions that the "rights of the . . . public require." *Id.* (cleaned up).

Courts therefore have flexibility to address a situation like the one described, and a court could determine that the circumstances require the director of schools to submit a revised budget compliant with the expenditure limitation established by the county legislative body. In our opinion, though, whether that type of relief would be viable with respect to a given fiscal year would depend on the timing of the *quo warranto* action and the court's issuance of any associated orders.

The importance of this timing consideration stems mainly from Tenn. Code Ann. § 5-21-111(i). Indeed, as discussed elsewhere in this opinion, the CFMS provides for an educational budget "by operation of law" if "the county legislative body and the county school board fail to agree upon a budget for the county department of education by August 31 of any year." Tenn. Code Ann. § 5-21-111(i). Therefore, beyond August 31, certain remedial tools available to the

[5] We noted, however, that a private citizen may file a *quo warranto* action in "limited circumstances." Tenn. Att'y Gen. Op. 15-02 (Jan. 7, 2015). For further details on this, see our prior guidance from 2015. *See id.*

court hearing a *quo warranto* action would not appear to be fruitful in promoting immediate compliance with the expenditure limitation set under Tenn. Code Ann. § 5-21-111(e)(1).[6]

2. As just noted, Tenn. Code Ann. § 5-21-111(i) provides for an educational budget "by operation of law" if "the county legislative body and the county school board fail to agree upon a budget for the county department of education by August 31 of any year." *Id.* In that scenario, the statute states that "the budget for the county department of education shall be equal to the minimum budget required to comply with the local match and maintenance of effort provisions of the TISA." *Id.*[7] Here, Question 2 poses two lines of inquiry related to this topic.

First, Question 2 seeks guidance on the meaning of the budget triggered by Tenn. Code Ann. § 5-21-111(i), and on this front, we understand the question as asking whether the *total educational expenditures* under the imposed budget are limited to revenues raised by the county. More specifically, the request appears to ask whether Tenn. Code Ann. § 5-21-111(i) limits the total educational expenditures to an amount commensurate with "local match" and maintenance-of-effort requirements. Beyond this specific compositional question, Question 2 then asks whether the budget triggered by Tenn. Code Ann. § 5-21-111(i) still applies in a situation where the county legislative body has set a higher budget amount when acting under Tenn. Code Ann. § 5-21-111(e)(1).

As discussed in more detail below, we believe that these separate lines of inquiry can be addressed respectively as follows: (1) the budget triggered by the statute does not mean that a county department of education is limited to county contributions and (2) if circumstances trigger the budget imposed under Tenn. Code Ann. § 5-21-111(i), the imposed budget applies regardless of the action taken by the county legislative body under Tenn. Code Ann. § 5-21-111(e)(1). In turning our attention to the former matter first, we begin by summarizing the broader legal landscape pertaining to public-education funding. In doing so, we also provide some initial context by highlighting the specific laws that Tenn. Code Ann. § 5-21-111(i) references.

Funding for Public Education in Tennessee is a Shared Responsibility.

Because "education is fundamentally a State concern," *State ex rel. Weaver v. Ayers*, 756 S.W.2d 217, 222 (Tenn. 1988), it should perhaps be no surprise that public school systems in Tennessee receive funding from the State in addition to local revenues, *see* Tenn. Att'y Gen. Op. 24-009 (June 18, 2024) (noting that Tennessee public schools "receive funding from state and local

[6] This Office has noted that the law does not foreclose alternative remedies when *quo warranto* is not an adequate remedy, Tenn. Att'y Gen. Op. 15-02 (Jan. 7, 2015) (citing *State ex rel. Earhart v. City of Bristol*, 970 S.W.2d 948, 952 (Tenn. 1998)), and depending on timing considerations, the pursuit of a *quo warranto* action may not be adequate.

[7] This consequence comes with a small caveat that we will touch on later: "[I]f for three (3) consecutive years, the county legislative body and school board fail to agree upon a budget and the department of education receives the minimum required funding for that fiscal year by operation of law," the budget in the third year "shall include a mandatory increase that is equivalent to three percent (3%) of the required funding from local sources for schools." Tenn. Code Ann. § 5-21-111(i). This 3% increase is not required, however, "if during any of those three (3) years the school board failed to submit its budget proposals in accordance with a calendar adopted pursuant to § 5-21-110(a) or the timeline provided in § 5-21-110(e)." *Id.*

governments"). Today, the operative funding formula for public education is contained in the "Tennessee Investment in Student Achievement Act." *See generally* Tenn. Code Ann. §§ 49-3-101 to -115. This legislation replaced the Basic Education Program ("BEP") formula that previously funded public education, *see* 2022 Tenn. Pub. Acts, ch. 966, and of relevance here, it established the "Tennessee investment in student achievement formula," Tenn. Code Ann. § 49-3-103. Known shorthand as "the TISA," *id.*, this enacted formula reveals the General Assembly's continued commitment that public education be funded from both state and local governmental sources, *see generally* Tenn. Code Ann. § 49-3-109 (providing that funds will come from the State and local governments).

The specific local funding required of a local government under the TISA, i.e., the "local contribution,"[8] is commonly referred to as the "local match." But under Tennessee law, local governments must also heed separate maintenance-of-effort obligations regarding educational funding. *See, e.g.*, Tenn. Code Ann. § 49-3-314(c). In general terms, this means that local governments usually cannot reduce educational funding. Indeed, as this Office has explained before, the maintenance-of-effort rule generally means that a local educational agency "cannot use local funds as part of its operating budget and then discontinue this funding and use state funding to fill the gap." Tenn. Att'y Gen. Op. 13-107 (Dec. 20, 2013).

Notably, the legislation that established the TISA acknowledged that local governments have maintenance-of-effort obligations. *See* 2022 Tenn. Pub. Acts, ch. 966. And as currently codified, the Tennessee Investment in Student Achievement Act provides that "[t]his part and [the maintenance-of-effort rule from] § 49-3-314(c) establish the minimum education funding that a local government must contribute." Tenn. Code Ann. § 49-3-109(g). The failure to account for these minimum funding obligations can trigger significant consequences under the associated statutory framework: If a local government does not approve a budget that includes the local government's local contribution and maintenance-of-effort obligations, "the [State Commissioner of Education] shall not distribute TISA funds to the [local educational agency] until the local government approves a budget that includes such obligations." Tenn. Code Ann. § 49-3-109(f).

The Budget Triggered by Tenn. Code Ann. § 5-21-111(i) Does Not Limit a County Department of Education to County Contributions.

With this background in mind, we shift our attention to evaluating the composition of the budget imposed under Tenn. Code Ann. § 5-21-111(i). As noted earlier, the educational budget triggered by this provision "shall be equal to the minimum budget required to comply with the local match and maintenance of effort provisions of the TISA." Tenn. Code Ann. § 5-21-111(i). And as we have alluded to, we believe the provision's reference to "local match and maintenance of effort provisions of the TISA" relates to the "local contribution" and maintenance-of-effort obligations mentioned in Tenn. Code Ann. § 49-3-109. *See* Tenn. Code Ann. § 49-3-109(g) (providing that the Tennessee Investment in Student Achievement Act and Tenn. Code Ann. § 49-3-314(c) "establish the minimum education funding that a local government must contribute").

Although we read Tenn. Code Ann. § 5-21-111(i) to require that the imposed budget include the local contribution required by the TISA, *see* Tenn. Code Ann. § 49-3-109(d), as well

[8] *See* Tenn. Code Ann. § 49-3-109(d).

as adhere to Tenn. Code Ann. § 49-3-314(c)'s maintenance-of-effort rule, we do not understand the triggered budget to consist solely of—and equate to—the minimum local funding required by those laws. The language of Tenn. Code Ann. § 5-21-111(i) does not dictate that result. Having a budget "equal to the minimum budget required to comply with the local match and maintenance of effort provisions of the TISA"[9] simply ensures that the budget will be based on the county providing the minimum amount necessary to comply with "local match" and maintenance-of-effort requirements. But a Tenn. Code Ann. § 5-21-111(i) budget is not limited to such county contributions. Rather, as we interpret the statute, State funds otherwise flowing to a county's schools under the TISA will also be available. After all, the very nature of a compliant local *contribution* under the TISA contemplates that State funds will follow. *See generally* Tenn. Code Ann. § 49-3-109.[10]

In summary, then, the total educational expenditures allowed by a Tenn. Code Ann. § 5-21-111(i) budget are not limited to the county contributions necessary to satisfy "local match" and maintenance-of-effort requirements. The budget is set based on the county providing the minimum amount required to comply with "local match" and maintenance-of-effort requirements, but the overall budget will ultimately consist of both State and local funds.

The Educational Budget Triggered by Tenn. Code Ann. § 5-21-111(i) is Imposed by Operation of Law.

As for the remaining concern under Question 2, we believe that the statute leaves no room for doubt as to when the budget specified under Tenn. Code Ann. § 5-21-111(i) is triggered. Under the plain text, the specified budget is imposed by "operation of law" if the county legislative body and the county school board fail to agree upon a budget for the county department of education by August 31 of any year. Tenn. Code Ann. § 5-21-111(i). Under these circumstances, the prior action taken by a county legislative body under Tenn. Code Ann. § 5-21-111(e)(1) is irrelevant. Put simply, the terms of Tenn. Code Ann. § 5-21-111(i) govern.

Section 5-21-111(i) provides the only qualifications for the resulting budget. Namely, "if for three (3) consecutive years, the county legislative body and school board fail to agree upon a budget and the department of education receives the minimum required funding for that fiscal year by operation of law," the budget in the third year "shall include a mandatory increase that is equivalent to three percent (3%) of the required funding from local sources for schools." *Id.* This increase "shall not be required," however, "if during any of those three (3) years the school board

[9] Tenn. Code Ann. § 5-21-111(i).

[10] Legislative history connected to Tenn. Code Ann. § 5-21-111(i) supports our reading of how the provision functions. Although the provision nominally referred to the BEP, not the TISA, upon its initial enactment, its terms were otherwise substantively the same as they are today. *See* 2016 Tenn. Pub. Acts, ch. 1080, § 16. And regardless of the specific funding scheme referentially implicated upon initial enactment, the upshot was clear: Far from a provision meant to limit a county's schools to local funding alone, the provision aimed to ensure that an impasse over the budget would not disrupt the flow of State funds. *See Senate State & Local Gov. Comm.*, 109th Gen. Assem. (Mar. 22, 2016) (statement of Sen. Bailey) (stating that the minimum budget goes into effect to ensure the county school system receives its BEP funding from the State); *House Local Gov. Comm.*, 109th Gen. Assem. (Mar. 29, 2016) (statement of Rep. Keisling) (stating that the minimum budget goes into effect to prevent the shutdown of schools and to ensure the county school system "does receive its BEP funding").

failed to submit its budget proposals in accordance with a calendar adopted pursuant to § 5-21-110(a) or the timeline provided in § 5-21-110(e)." *Id.*

3. Question 3 proceeds from a similar starting point as Question 1. It assumes that a county legislative body has set the total expenditures for the county department of education under Tenn. Code Ann. § 5-21-111(e)(1). And it further assumes that the director of schools has failed to submit a revised budget in response. Unlike Question 1, however, Question 3 does not ask whether enforcement mechanisms are available to address this situation. Instead, Question 3 seeks guidance on the status of the educational budget if Tenn. Code Ann. § 5-21-111(i) does not resolve the situation. The question asks whether the prior year's budget might continue in effect if Tenn. Code Ann. § 5-21-111(i) is not controlling.

As phrased, this question is technically moot. After all, by asking about the status of the budget if *Tenn. Code Ann. § 5-21-111(i)* does not resolve the situation for some reason, the question appears to be asking about the status of the educational budget if there still is no approved educational budget by August 31 of a given year. But Tenn. Code Ann. § 5-21-111(i) would resolve the status of the educational budget in that situation. As we explained in connection with Question 2, when the county legislative body and the county school board fail to agree upon a budget for the county department of education by August 31 of any year, Tenn. Code Ann. § 5-21-111(i) governs.

In the interest of broader completeness, however, we note that a continuing budget arrangement is triggered under Tenn. Code Ann. § 5-21-111(h) if a budget has not been adopted by July 1 of any year. *See* Tenn. Code Ann. § 5-21-111(h). And thus, before the triggering of the imposed budget under Tenn. Code Ann. § 5-21-111(i) in the general scenario apparently posited by the question, a county's department of education would first operate under a continuing budget.

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