S T A T E O F T E N N E S S E E
OFFICE OF THE
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February 12, 2001

Opinion No. 01-022

Transfer of Covington City Schools to Tipton County Board of Education

QUESTIONS

1. Does the Tipton County Board of Education acquire any rights to the school buildings and the equipment currently being used by the City of Covington for the operation of its K-8 school system?

2. If the Tipton County Board of Education acquires the city-owned buildings, do they have an obligation to honor any joint-use agreements currently in effect?

3. If the City of Covington voluntarily transfers the buildings to the Tipton County Board Education, does the City maintain a right to determine how the buildings are to be used once the transfer has occurred?

OPINIONS

1. The Tipton County Board of Education acquires whatever rights to the school buildings that the Covington Board of Education enjoys. This Office has found no law addressing the issue of equipment.

2. Tenn. Code Ann. § 49-2-1002 does not require the county to assume such a contract. We have insufficient information to comment further.

3. What right the City might retain to determine how the buildings are used once they are transferred to Tipton County Board of Education would depend on what type of transfer is made. We have insufficient information to comment further.

ANALYSIS

Covington has operated a school system since 1893. In August 2000, the Covington Board of Mayor and Aldermen adopted a resolution to cease maintaining or operating a city school system as of July 1, 2001. The resolution was ratified by the Covington electorate in an election called for that purpose. In

part, the resolution directs " . . . that the City take such measures as necessary to ensure orderly transition of students from the city system to the county system, including, if necessary, permitting county use of school buildings." The transfer of the Covington school system to Tipton County is pursuant to Tenn. Code Ann. § 49-2-1002.

The City of Covington has an elementary school building and a middle school building located on approximately forty acres of land, to which the City of Covington has title.[1] In addition to the school buildings there is an administrative building which housed the Covington Board's staff. Also a health spa is housed in the middle school building operating under a joint-use agreement between the City Board of Education and the City of Covington. The health spa is open to the public.

We understand from the Tipton County Board of Education that it needs additional classroom space to accommodate the approximately 900 students formerly in the city system.

Tenn. Code Ann. § 49-2-1002 does not transfer title to land and school buildings to the county board of education when a city transfers administration of its school system to the county board of education. A county board of education does, however, succeed to the same rights in the land and buildings that a city board of education had. *Shelbyville v. Bedford County Board of Education*, 1984 Tenn. App. Lexis 3014, at 10 (1984) (copy attached). Thus, as of July 1, 2001, the Tipton County Board of Education will have whatever rights the Covington Board of Education has in the land and school buildings. The statute does not address equipment.

There is a joint-use agreement between the City of Covington and the Covington School Board to house a health spa in one of the education buildings. We have no information about the terms of the contract the health spa has with the City or the Covington School Board for use of the space. Tenn. Code Ann. § 49-2-1002 does not require the county to assume any such contract. We have insufficient information to comment further on this issue.

It is suggested that the City of Covington might voluntarily transfer the school buildings to the Tipton County Board of Education. What right the City might retain to determine how the buildings are used once the transfer has occurred will depend on what type of transfer is made, *e.g.*, fee simple, lease.[2] We have insufficient information to comment further on this issue.

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[1] It is not stated but we have assumed that the City owns the school buildings and the administration building.

[2] While the City of Covington owns the buildings, it is responsible for the expenses of repairing and preserving its property. *See Smith v. Chattanooga*, 176 Tenn. 642, 144 S.W.2d 1096, 1097 (1940).

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