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Opinion No. 01-158

Education: Use of Confidential Information About Juvenile Delinquent

QUESTION

May a local education agency (LEA) use the information obtained as a result of the notification required in Tenn. Code Ann. § 49-6-3051 and § 37-1-131 for decisions regarding the program and placement of a student (i.e., alternative school or homebound services)?

OPINION

The persons within an LEA[1] who may use the referenced information are the principal of the school in which the child will be enrolled and the employees of the school who are responsible for the child's classroom instruction. No other person in an LEA can know or use the information.

ANALYSIS

This opinion concerns confidential information about certain delinquent juveniles who are or will be enrolled in a local school system. Tenn. Code Ann. § 37-1-131 gives a juvenile court judge the authority to decide whether the principal of a child's school should be notified when the child has been adjudicated delinquent for an offense involving certain serious crimes.[2]

Tenn. Code Ann. § 49-6-3051 places an affirmative duty on the parents or guardian of a child adjudicated delinquent for certain serious crimes to notify the principal of the child's school of the nature

[1]Local education agency or LEA normally means the school board for the local school system. *See, e.g.,* Tenn. Admin. Rules, *State Board of Education*, 0520-1-9-.01. For this opinion, we assume you are using the term "LEA" broadly to include all personnel in the local school system.

[2] First degree murder, second degree murder, rape, aggravated rape, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, especially aggravated kidnapping, aggravated assault, or felony reckless endangerment. Tenn. Code Ann. § 37-1-131.

of the offense. This statutory provision closely tracks Tenn. Code Ann. § 37-1-131.

> Tenn. Code Ann. § 37-1-131(a)(2) reads in part as follows:
> Such information shall be shared only with employees of the school having responsibility for classroom instruction of the child, but such information is otherwise confidential and shall not be shared by school personnel with any other person or agency except as may otherwise be required by law. Such notification . . . shall not become a part of such child's student record. A violation of the confidentiality provisions of the preceding sentence is a Class C misdemeanor; . . . .
>
> Tenn. Code Ann. § 49-6-3051 contains the following language:
>
> Notwithstanding any provision of law to the contrary, ... Such information shall be shared only with employees of the school having responsibility for classroom instruction of the child, but such information is otherwise confidential and shall not be shared by school personnel with any other person or agency except as may otherwise be required by law. This written notification shall not become a part of such child's student record.

A plain reading of the two statutory provisions leads this Office to conclude that the confidential information can and should be disclosed only to limited personnel within an LEA. Both statutes mandate confidentiality and are specific about the persons with whom the principal may share the information. The principal can tell the school personnel who are responsible for the child's classroom instruction. If the persons who would decide the program and the placement of such a student are not school employees responsible for the child's classroom instruction, they may not know about or use the information.[3]

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[3] The statutes do allow disclosure of the information "as may otherwise be required by law." This Office is not aware of any provision in Title 49 (Education) which requires disclosure to other education personnel.

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Requested by:

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