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Opinion No. 06-066

Whether the Tennessee Risk Management Trust is an LEA or "person" under the Education Truth in Reporting and Employee Protection Act of 1989, Tenn. Code Ann. §§ 49-50-1401 *et. seq.*

QUESTIONS

1. Is the Tennessee Risk Management Trust an LEA within the meaning of that term under the Education Truth in Reporting and Employee Protection Act of 1989, Tenn. Code Ann. §§ 49-50-1401 *et. seq.*?

2. Is the Tennessee Risk Management Trust a "person" or are its employees "persons" within the meaning of those terms under the Education Truth in Reporting and Employee Protection Act of 1989, Tenn. Code Ann. §§ 49-50-1401 *et. seq.*?

OPINIONS

1. No. Pursuant to Tenn. Code Ann. §49-3-301(11), a "local education agency" or "LEA" is defined as "any county, city, or special school district, unified school district, school district or any metropolitan form of government or any other school system established by law." The Tennessee Risk Management Trust does not fit within this definition.

2. No. Neither the Tennessee Risk Management Trust nor its employees are "persons" as defined by Tenn. Code Ann. § 49-50-1403(3).

ANALYSIS

1. The Tennessee Risk Management Trust is not an LEA.

"Local education agencies" or "LEAs" are defined in Tenn. Code Ann. §49-3-302(11) as "any county, city, or special school district, unified school district, school district of any metropolitan form of government or any other school system established by law." In order to be considered an LEA, the Tennessee Risk Management Trust ("Trust") would have to fall within at least one of these categories.

The Trust was created through an interlocal agreement of school boards under Tenn. Code Ann. § 12-9-104. It was formed to create and operate a self-insurance pool for school systems under the authority of the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-401. The

risk pool allowed members to share risk as an alternative to purchasing commercial insurance policies. At some point, coverage was expanded to include county government and public utilities in Tennessee in addition to school systems. According to information available to this Office, the Trust is an intergovernmental agency that provides claims management, loss control services and insurance coverage to school systems, county government and public utilities in Tennessee.

Based upon this information, the Trust is not a "school district" or "school system" as described in Tenn. Code Ann. § 49-3-302(11), and thus, does not fall within the definition of an LEA. While the Trust may operate a risk pool for school systems, this relationship is not sufficient to change the character of the Trust such that it could be considered a "school district" or "school system."

2. The Tennessee Risk Management Trust is not a "person" as defined by the Education Truth in Reporting and Employee Protection Act of 1989.

According to the terms of the Education Truth in Reporting and Employee Protection Act of 1989, "'person' or 'persons' includes members of the local board of education, the director of the school system, supervisors, principals and other individual school system employees." Tenn. Code Ann. § 49-50-1403(3). The Trust does not fit within any of these categories.[1] As stated above, the Trust operates a self-insurance pool for the benefit of school systems. The Trust itself is not a member of a board of education, a school system, or an employee of a school system.

The employees of the Trust are not "persons" by virtue of their employment with the organization. Only if the Trust's employees had secondary employment consistent with one of the listed examples could an employee of the Trust be a "person"for the purposes of the statute.

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[1] We note that the statute indicates that the term "person ... includes" the listed examples, but we have no facts or law from which to infer that the Trust is an entity similar to those examples.

Requested by:

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