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Opinion No. 06-102

Municipal Resident's Eligibility for Enrollment in County School

QUESTION

May a county school system decline to permit a county resident who is also a resident of a municipality to enroll in the county school system or decline to continue to provide services to the student due to the simple fact that they reside inside the municipality?

OPINION

No state law requires a county school system to enroll students who are residents of a municipality with a separate school system. While the type of service might affect this opinion, as a general rule, the county would not have to continue to provide services for students who are enrolled in municipal school systems.

ANALYSIS

A local board of education manages and controls the schools in its jurisdiction. Tenn. Code Ann. § 49-2-203(a)(2). School boards must adhere to statutory and regulatory requirements regarding pupil assignment. *See* Op. Tenn. Att'y Gen. 00-109 (June 20, 2000). In none of these laws, however, is there a requirement that a county school system enroll a student who is resident in a municipality with a separate school system. *See* Op. Tenn. Att'y Gen. 98-090 (April 15, 1998). A city student could apply to transfer to the county system, and while the county could accept the transfer student, it does not have to do so. To the contrary, Tenn. Code Ann. § 49-2-404 states, in relevant part, "[N]o transfer of children between city and county schools shall be made except by agreement between the respective boards of education."[1]

We are uncertain to what "services" you refer, and our answer might be affected by the type of service in question. In this context, "services" could mean curriculum. If so, as a general rule, a

[1] *See also* Tenn. Code Ann. § 49-6-3102(b), which states in pertinent part:
Except as otherwise provided by this part and part 32 of this chapter [challenges to student assignments; judicial review of board's decision], the authority of each and every local school board in the matter of enrollment of pupils within its local school system shall be full and complete and its decision as to the enrollment of any pupil in any such school shall be final.

student may be required to enroll in a school with less or different services so long as the student has access to a substantially equal educational opportunity. *See* Op. Tenn. Att'y Gen. 99-055 (March 9, 1999); *Tennessee Small School Systems v. McWherter*, 851 S.W.2d 139, 156 (Tenn. 1993).

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