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July 27, 2006

Opinion No. 06-118

Allocation of Funds to School Board

QUESTION

May a governing body condition the allocation of funds to a school board or school system?

OPINION

No. A local governing body may refuse to adopt or may reduce a budget proposed by the local school board, but it may not make line-item vetoes or place a condition on the appropriation to the school board's budget.

ANALYSIS

We assume for the purposes of this opinion that "governing body" refers to a county commission or a city council, or like governing body.

Local legislative bodies (county or city, collectively, the "Commission") and local boards of education (Board) have complementary but different roles in the school budget process. *See State ex rel. Brown v. Polk County*, 165 Tenn. 196, 54 S.W.2d 714, 715-16 (1932). The Board is entrusted with the management and control of all schools in its jurisdiction. Tenn. Code Ann. § 49-2-203(a)(2); *see Benson v. Hardin County*, 173 Tenn. 246, 116 S.W.2d 1025, 1026 (1938). Among other responsibilities, the Board must require the director of schools to prepare an itemized budget. Tenn. Code Ann. § 49-2- 301(b)(1)(W). The director prepares the budget and submits it to the Board for approval. Thus, the Board has authority over and reviews and approves the annual budget in detail. After the Board approves a budget, the director then presents the budget to the Commission for inclusion in the city or county budget. *Id*. Once the Commission adopts a budget, the director and the Board must operate within it. Op. Tenn. Att'y Gen. 99-100.

A Commission may adopt or reject a proposed school budget. *See Morgan County Bd. of Comm'rs. v. Morgan County Bd. of Educ.*, No. 03A01-9308-CV-002290, 1994 WL 111457, *3 (Tenn. App. April 6, 1994). A Commission may not, however, control operational aspects of education policy. *Putnam County Educ. Ass'n. v. Putnam County Comm'n*, No. M2003-03031-COA-R3-CV, 2005 WL 1812624, *4 (Tenn. App.). In the latter case, the Putnam County

Commission adopted the Putnam County Education Association's budget after deleting one line-item, in this case, medical benefits for retired teachers. *Putnam*, at *1. The Court opined that, while a county commission has the authority to decrease the overall amount of the proposed school, it does not have the authority to alter or revise line items in a school budget. *Putnam*, at *4. A line-item veto is contrary to the law because it would empower a county commission to control and supervise the Board in its operation of the schools. *Putnam*, at *6.

Placing a condition on an appropriation to the school board would have a similar effect. We have found no case law directly addressing this issue, nor have we found a statute giving a Commission the authority to place conditions on a school board budget appropriation. A condition is defined as "a future and uncertain event upon the happening of which is made to depend the existence of an obligation;" also, "a clause in a contract or agreement which has for its object to suspend, rescind or modify the principal obligation." *Black's Law Dictionary* 293 (6th ed.1990). If a Commission adopts a school budget but places a condition on how the money is to be spent or specifies that if a certain condition occurs, the appropriated funding will not be available, the Commission could effectively control the Board in its operation of the schools.

As noted above, a Commission has authority over the budget, as a whole, but does not have the authority to supervise the Board.

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