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Opinion No. 12-64

Apportionment of Local Education Funding

QUESTION

If a municipal school district is created in Shelby County, is the County required to apportion funding from countywide property taxes to the municipal school district on an average daily attendance (ADA) basis?

OPINION

Shelby County would be required to apportion funding from countywide property taxes to the municipal school district based on "weighted full-time equivalent average daily attendance" (WFTEADA).

ANALYSIS

The Tennessee Constitution requires that the General Assembly provide for the maintenance and support of a system of free public schools. *See* Tenn. Const., art. XI, § 12. Under this constitutional provision, the General Assembly has extensive power and discretion regarding the methods and means used to provide for the public school system. *See, e.g.*, *Tennessee Small School Systems v. McWherter*, 851 S.W.2d 139, 156 (Tenn. 1993). The current statutory public school system is based upon the delivery of educational services by local school systems or local education agencies (LEAs). *See* Tenn. Code Ann. §§ 49-2-101 to -2101.

Tenn. Code Ann. § 49-3-315(a) addresses the local taxes levied to support a county's public schools, stating in pertinent part: "[a]ll school funds for current operation and maintenance purposes collected by any county . . . shall be apportioned by the county trustee among the LEAs in the county on the basis of the WFTEADA maintained by each, during the current school year." WFTEADA means the "weighted full-time equivalent average daily attendance," defined as "one (1) full-time equivalent average daily attendance multiplied by the cost differential for a program." Tenn. Code Ann. § 49-302(18). A local education agency, or LEA, is defined as "any county, city, or special school district, unified school district, school district of a metropolitan form of government or any other school system established by law." Tenn. Code Ann. § 49-3-302(11). Thus, per the unambiguous provisions of these interrelated statutes, if a municipal school district is created in Shelby County, then the County is required to

apportion funding from countywide property taxes to the municipal school district on the basis of the WFTEADA. *See Mills v. Fulmarque, Inc.*, 360 S.W.3d 362, 368 (Tenn. 2012) (stating the general rule of statutory construction that "[w]hen the language of the statute is clear, courts look no further to ascertain its meaning").

This Office has previously addressed a question similar to the one posed, but relating to a different factual scenario. In Op. Tenn. Att'y Gen. 10-58 (April 28, 2010), the question was: "In a county in which a county school system and a separate special school district are operated, what is the responsibility of the County Commission to provide funding to the special school district?" This Office opined that "[i]n a county in which there is both a county school system and a *separate special school district which is funded by property taxes levied by the General Assembly*, the county commission has no responsibility to provide funding to the special school district" (emphasis added). The opinion relied on *City of Humboldt v. McKnight*, 2005 WL 2051284, at *16, 21-27 (Tenn. Ct. App., Aug. 25, 2005), in which the Tennessee Court of Appeals held that in the educational structure presented by the specific facts of that case the county had no obligation to assess a county-wide property tax for school funding. The question addressed by Op. Tenn. Att'y Gen. 10-58 did not specify the structure of the local education system involved or explain its funding mechanism.

The *Humboldt* case dealt with the unique factual situation, not applicable to Shelby County, where under Tennessee law Gibson County since 1981 had not operated a county school system and all K-12 students attended schools operated by the municipal and special school systems. *Humboldt*, 2005 WL 2051284, at *1. The Tennessee legislation creating each of the Gibson County municipal and special schools levied a property tax at a specified rate on property in the schools' respective districts to fund these schools. *Id.* at *3. There was no evidence in *Humboldt* that disparities existed in educational opportunities among the school systems within the county. The Court of Appeals concluded that the establishment of this unique school system in Gibson County was constitutional and, under these circumstances, the county had no obligation to assess a county-wide property tax for school funding. *Id. at* *17-27. Thus, *Humboldt* did not address the specific question raised in this request regarding the proper operation of Tenn. Code Ann. § 49-3-315(a), which concerns the apportionment of funding for LEAs located in a county where the county is responsible for the funding of all LEAs.

Accordingly, a county commission is required to apportion funding from county-wide property taxes to all school districts within the county on the basis of the WFTEADA in accordance with Tenn. Code Ann. § 49-3-315(a) unless the local government has been authorized by either general law or private act to structure its education system and funding mechanisms otherwise.

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