

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

December 30, 2016

Opinion No. 16-50

Authority of a Priority School to Add Additional Grades

Question

If the commissioner of education assigns a priority school that does not serve all grades pre-K through twelve to the Achievement School District, are there any circumstances under which the school may subsequently add grades other than those that the priority school served when it was assigned to the Achievement School District?

Opinion

No. Once a school has been placed in the Achievement School District the school itself may not add grades because it has no independent control over its operations while it is in the Achievement School District.

ANALYSIS

The Achievement School District (“ASD”) is an organizational unit of the Tennessee Department of Education that is administered by the commissioner of education. Tenn. Code Ann. § 49-1-614(a). The ASD was created by Tennessee’s First to the Top Act of 2010 as a way to improve the state’s lowest performing schools. The ASD is primarily comprised of priority schools, i.e., those schools with academic achievement levels ranking in the bottom five percent in the state. Tenn. Code Ann. § 49-1-602(b)(2). When intervention by the State Board of Education is necessary to improve academic achievement levels, the commissioner may place a priority school within the jurisdiction of the ASD. See Tenn. Code Ann. §§ 49-1-602(b)(2)(C), -614(c).

The commissioner is authorized to provide oversight for the operation of priority schools within the jurisdiction of the ASD. Tenn. Code Ann. § 49-1-614(a). The commissioner has “the authority to directly operate . . . any or all schools placed in the ASD, including, but not limited to, providing direct services to students.” *Id.*, § 49-1-614(b). Alternatively, the commissioner may contract with third parties to operate and manage the schools. *Id.* Either way, the schools themselves have no independent decision-making authority over their operations while they are in the ASD. Since a school within the ASD has no independent decision-making authority, it follows that a school may not itself add grades after it has been placed in the ASD.

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