

TO: Directors of Schools
FROM: Christy Ballard, General Counsel
DATE: April 17, 2017
SUBJECT: **Commissioner of Education's Obligation to Enforce State Law and State Board of Education Rules**

The Tennessee Department of Education (TDOE) has received questions related to the commissioner of education's obligation and authority to enforce state law and state board of education (SBE) rules.

All local education agencies (LEAs) are expected to comply with all applicable state laws and SBE rules, unless a waiver has been granted by the commissioner in accordance with T.C.A. § 49-1-201(d) or other applicable statute.

Pursuant to T.C.A. § 49-1-201(a), the commissioner of education is responsible for the implementation of law or policies established by the general assembly or the SBE. The LEA Compliance Report is one document used by the TDOE in the annual process of ensuring LEAs are in compliance with all state laws and SBE rules.

Tennessee law confers broad powers upon the commissioner of education to oversee the administration of local education by LEAs and to impose sanctions upon LEAs that fail to meet legal requirements. Tenn. Code Ann. § 49-3-314(a)(1) provides that state education finance funds shall be distributed annually by the commissioner to the LEAs meeting conditions and requirements set forth in the law. In accordance with T.C.A. § 49-3-353, "the commissioner may, in the commissioner's discretion, withhold a portion or all of the Tennessee BEP funds that the system is otherwise eligible to receive."

In addition, SBE Rule 0520-01-03-.01 requires the TDOE to make periodic inspections of the schools under its control to determine the extent to which LEAs operate in compliance with SBE rules and regulations and to verify the information received on reports from local school officials. SBE Rule 0520-01-03-.01 also requires the commissioner to mandate that corrective action be taken by LEAs out of compliance with rules and regulations and impose sanctions, which may include withholding part or all of state school funding, on LEAs that do not take corrective action within the time specified.

The TDOE is committed to working with LEAs by providing guidance and technical assistance to ensure compliance with the law and SBE rules and would only take action to withhold school funding as an absolute last resort to ensure compliance. In the event an LEA is in violation of the law and does not take corrective action within a specified time period, the commissioner would have to consider whether withholding BEP funds is an appropriate means to meet her statutory duty of enforcing state law and SBE rules. Please note that only the commissioner of education has the authority to withhold BEP funding. Therefore, in the rare event a decision to withhold BEP funding is warranted, such decision would only be communicated directly from the commissioner of education to the director of schools verbally and in writing. Any school system from whom funds are withheld by the commissioner has an appeal available to them under the provisions of the Uniform Administrative Procedures Act.