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DISCLAIMER: The information in this book should be used for general information. It should not be relied upon as legal advice. If legal advice is required, the services of an attorney should be obtained.

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Introduction

The Tennessee School Boards' Association created this book to serve as an education resource for the individual running for a position on their local Board of Education. The Board of Education is a body elected by the people within the school district it serves. It is important to ensure that individuals who have a desire to serve have a solid knowledge base from which to begin. This book is intended to serve as that knowledge base and provide School Board Candidates with an informational reference.

This book covers some important topics that a candidate must know in order to start their campaign. The first few sections cover the duties and responsibilities of the local Board of Education, along with the eligibility criteria for candidates. Next is how to start a campaign, and some of the legal requirements of running an election campaign in Tennessee. Campaign finances are then addressed, and finally some things you must do if elected.

This book is not intended to serve as legal advice or as the only source of information for your campaign. Many of the issues you may deal with are very complicated, therefore if legal advice is necessary, then we recommend you contact an attorney. Additionally, campaign finance laws are always changing, and the contents of this book may not provide all the information you need to comply with those various laws. The Tennessee Secretary of State's office and your local county election commission should be contacted to determine which forms you need and to answer any of your questions.

Numerous resources are available to you during your campaign, and you should take advantage of them at every opportunity. The Tennessee Secretary of State's website (www.tn.gov/sos/) has a great deal of information on elections and the steps you need to take to ensure your campaign complies with applicable laws. Another resource is your county's election commission (http://tnsos.org/elections/election_commissions.php) which can provide you with additional information and assist you in conforming to election laws. While the task of running for office may seem overwhelming at first, keep in mind that you are running for a position that oversees the education of our children. It is a privilege that only a few individuals will ever receive the honor of knowing.

Note: The links in the Table of Contents will take you to the beginning of each respective section. Clicking the Title of each section will take you to the Table of Contents. Footnotes are linked to the referenced statute contained within the Appendix. Each page contains a Table of Contents link that will take you directly back to the beginning of the book.

Chapter 1: The School Board

Article 11 Section 12 of Tennessee’s Constitution requires the General Assembly to provide for a system of free public schools. The Legislature chose to do this through a system of locally elected school boards. The Local Board of Education is a policy-making legislative body, which manages and controls the respective local public school system within its district.¹ A School Board’s primary duty is to provide the opportunity for the best and most appropriate education for the children entrusted in its care. Except during an official meeting, a Board member has no more power, authority, or jurisdiction over school matters than any other citizen in the community.

No greater honor can be bestowed upon a citizen than membership on the local School Board. The office calls for the highest character and a dedicated interest in the welfare of all children, youth and adults in the community. The best, most capable and most farsighted citizens of each community should be drafted to serve on the School Board. To be a School Board member is to serve the future of your community, state, nation and world.

What are the duties of a Board of Education?

The two basic premises of School Board operations are:

1. The Board is a corporate body. The authority of a Board member includes expressing an opinion and casting a vote in a Board meeting. Outside a Board meeting, a Board member has no authority over school matters.
2. The Board is a policy-making body. The Board speaks through policy. Matters which the Board chooses not to address through policy are generally left to the discretion of the superintendent. School Boards make policy and superintendents carry out the policy.²

In addition, the legislature has specified the following mandatory duties:

1. Management and Control. The Board of Education is to manage and control all public schools established under its jurisdiction. This gives the Board of Education the primary authority over school matters, but administrative responsibilities are delegated to the superintendent.
2. Employment. The Board has the duty to:
 - Set salaries for employees;
 - Grant tenure to employees;
 - Approve evaluation plans for employees; and
 - Hear appeals of dismissal hearings when appropriate.

¹ [TCA 49-1-103](#)

² [TCA 49-2-203](#)

3. Purchasing. The Board may purchase supplies, furniture, fixtures and material of every kind. All expenditures for such purchases estimated to exceed \$10,000 must be made by competitive bids.
4. Budget Preparation. The Board of Education is required to prepare a budget and to submit it to the appropriate legislative body.
5. Students. The Board of Education has several duties regarding students. The Education Code gives the Board the duty to discipline students after a hearing and the duty to establish standards and policies governing student attendance.
6. Policies. A local Board of Education is required to compile and publish an official policy manual.

Your individual duties as a member of the Board of Education spring from those listed above. You are responsible for ensuring that the Board fulfills these duties.

What makes a good Board Member?

Effective Board Members share a number of common characteristics, but it's important to realize they did not become effective the instant the Member was elected. Newly elected board members may actually feel overwhelmed after they are sworn in. However many of these qualities are acquired through experience and are important to consider:

- A conviction that public education is important;
- The ability to make decisions and live with the consequences;
- Loyalty to the democratic process;
- Time and energy to devote to Board business;
- Ability and grace to accept the will of the majority;
- Courage;
- Professional respect for district staff;
- Ability to communicate well with others.

These are all important qualities that a Board Member must possess, but they are by no means an exhaustive list. Each individual Member brings their own unique skills, perspective, and experience to the Board when they are elected. To get a better understanding, you may want to contact a current or past Board Member in your district and discuss the commitment of time it takes to serve on your local Board.

Who is eligible to run for election, and what are the requirements?

The following list contains the threshold requirements a person must meet in order to be eligible to run for an elected position in Tennessee:³

- A citizen of Tennessee;
- At least 18 years old;
- A resident of the school district;

³ [TCA 8-18-101](#); [TCA 49-2-202](#)

- A high school graduate or G.E.D;
- A registered voter in the county
- Not fall within [TCA 8-18-101\(1\)-\(5\)](#), which are those unable to run for public office.

Candidates must also meet these additional requirements to be elected to the local Board of Education:

- The basic qualification of [TCA 8-18-101](#);
- Shall reside within and be a qualified voter of the district represented;⁴
- Shall file with the county election commission proof of graduation from high school or receipt of a GED, evidence by a diploma or other documentation satisfactory to the commission;⁵
- No member of the county legislative body nor any other county official shall be eligible for election as a member of the county Board of Education;⁶
- File a petition signed by at least 25 qualified voters of the school district. You may pick up a petition at your local election commission office. The signed petition must be filed by the deadline established by the election commission of the county in which you are running.

If I meet the criteria above, are there any other variables I should consider?

Conflicts of interest can arise when least expected and have the ability to place a substantial burden on an individual. Board Members are required to disclose personal interests in matters that affect, or would lead a reasonable person to infer that it would affect, the exercise of discretion of an official or employee. The required disclosure should be detailed and must be disclosed publically. Most Boards have policies on conflicts of interest, and it is in the candidate's best interest to read these policies and determine if any relationship you have applies.

Additionally, Nepotism policies may apply to Board Members; therefore if you are related to a school official, school system employees, or an appointed or elected county official, ensure you understand the policy.

How many people are elected to the Board and what are the terms of office?

The size of the School Board depends on a number of factors. State law does not establish a specific number of seats that each Board must have. For example, Tennessee boards range in size from three (3) to twelve (12).

All county Board Members are elected to four year terms, and may succeed themselves. Municipal and Special School Districts, however, are set by charter or private act. Elections are staggered so that only a certain percentage of Board members are up for election. In the event a vacancy arises, an individual may be appointed to fill the seat until the end of the allotted term. Once the term has ended, the appointed individual must be elected in order to continue serving on the Board.⁷

⁴ [TCA 49-2-201](#)

⁵ [TCA 49-2-202](#)

⁶ [TCA 49-2-202](#)

⁷ [TCA 49-2-201](#)

When are elections held?

Election dates vary from board to board. To ensure you have the correct information contact your local election commission to determine deadlines and elections dates.

Chapter 2: How to Get Started

Once you have decided to run for your local school board, you have to meet certain filing requirements and deadlines. This section will discuss the forms that are required, the petition process, where to file, when to file, and rules that are applicable to certain types of school systems. Your best resource, however, is your [local election commission](#), which has the ability to guide you through the registration process.

How do I become a Candidate?

The first step in becoming a candidate is determining if you are eligible based on the criteria listed in Chapter One. If you are eligible, then you must submit a signed petition and present your high school diploma or G.E.D. to the county election commission prior to the qualifying deadline. Independent and Primary candidates shall qualify by filing a nominating petition by 12:00 p.m. on the third Thursday in the third calendar month before an election. Once these requirements are met, you will be a registered School Board Candidate.

Where do I get the petition, and what are the signature requirements?

A petition can be picked up at the local election commission office. It will contain the candidate's name, and office in which they are seeking election. For the petition to be considered a qualifying petition, it must contain twenty-five (25) nominating signatures, not to include the candidate's signature. The signatures must come from registered voters who are eligible to vote for the candidate. This means that if your school system is divided into districts, only members from your district may sign your petition. Also, most election commissions recommend you get at least twice the number of required signatures because some individuals may not be registered to vote, or be otherwise ineligible.

Each voter must sign their own name on the petition. No person is allowed to sign for any other voter. If this occurs, the signature will not be counted. Voters must also list their residential address. Post office box numbers, business addresses, or incomplete addresses will disqualify the signature on the petition. The county election commission will only accept original documents and will not accept photocopies. Make sure the originals are kept in good condition. There are no filing fees for the nomination process.

Where do I file the forms? Do I need a statement of interest?

A candidate must file their petition at the county election commission office in the county in which he or she resides. If a school district boundary is in multiple counties, a certified copy of the petition must be filed with the election commission in those counties. Candidates are also required to file a statement of interest no later than thirty (30) days following the qualifying deadline. There is no fee required. If a candidate is running for re-election to the same office he/she already holds, and the candidate has filed an annual statement of interest in January of the same year as the election, then another statement may not be required.

Are there different requirements for Special School Districts and Municipal School Districts?

A candidate in one of these types of districts must file the same paperwork with the county election commission as any other candidate. However, in some cases, the election dates are

different from the regular county election dates, which results in the schedule being different. For specific information, check with you county election commission.

Chapter 3: The Campaign

Numerous rules govern how candidates must conduct their campaigns. These rules cover topics such as campaign material and locations, disclosures, and illegal activities. This section will present an overview of each of these topics, and provide you with an idea of what you may or may not do while on the campaign trail. In addition to information provided by your local election commission, the following links might be helpful:

Tennessee Ethics Commission: <http://www.tn.gov/sos/tec/>
Tennessee Secretary of State Elections Page: <http://www.tn.gov/sos/election/index.htm>

What rules apply to candidates running for their local Board of Education?

Elections for a seat on the local School Board are non-partisan and are generally held in conjunction with county general elections.

Can I have campaign literature, signs, and advertisements?

Yes, you can have all three. Check local ordinances before posting signs on public property and along highways. Candidates are responsible for removing all signs within three (3) weeks of the date of the election.⁸

If you or your committee spends money for the purpose of paying for a communication that expressly advocates your election, or the defeat of any other candidate, or solicits for a contribution, then a disclaimer must be present.⁹ Examples are using any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing or any other form of political advertising. The disclaimer must be clear and conspicuous, and allow the reader, observer, or listener adequate notice of the identity of the person(s) who paid for, and in some cases authorized, the communication.¹⁰ The disclaimer may have different requirements based on its contents. To determine specific requirements, refer to Tenn. Code Ann. 2-19-120. Disclaimer requirements, however, “do not apply to bumper stickers, pins, buttons, pens, novelties, and similar small items in which a disclaimer cannot be conveniently printed.”¹¹

Where can I campaign?

Generally you may campaign almost anywhere, but there are exceptions to this rule. For example, any campaign literature, displays, or solicitations are prohibited within 100 feet of a polling location (which generally will include most school buildings).¹² Additionally, displaying campaign paraphernalia in any state building, its premises, or land owned by the state is unlawful.¹³ It is unlawful to campaign at a school unless it is being used as a venue to host a forum for candidates. If you cannot determine whether your actions are in violation of any campaign laws, then contact your attorney or local election commission. In this situation it would be better to err on the side of caution rather than to take unnecessary risks.

⁸ [TCA 2-1-116](#)

⁹ [TCA 2-19-120](#)

¹⁰ [TCA 2-19-120\(a\)](#)

¹¹ [TCA 2-19-120\(b\)\(3\)](#)

¹² [TCA 2-7-111](#)

¹³ [TCA 2-19-206](#); this section allows state employees to display campaign decals and bumper stickers on their cars while parked on state property.

Are there any prohibited activities?

There are several activities that are prohibited under Tennessee law. For a full list, see Tenn. Code Annotated Title 2, Chapter 19.¹⁴ This Chapter covers such things as interfering with meetings, misrepresentations, perjury, and improper registration of voters, to name a few.

Can I file a complaint if I believe another candidate has violated the law?

Any registered voter in the state of Tennessee may file a sworn complaint that alleges “that a statement filed regarding an election...does not conform to law or to the truth or that a [candidate] has failed to file a statement required by law.”¹⁵ The complaint must be submitted to the office of the district attorney general who represents the judicial district in which the voter filing the complaint resides.¹⁶ It is filed with the attorney general’s office because a School Board election is an election for local office, and not state office.¹⁷

¹⁴ Referenced statutes of this title are located in [Appendix A, pages 21-23.](#)

¹⁵ [TCA 2-10-108](#)

¹⁶ [TCA 2-10-108](#)

¹⁷ [TCA 2-10-108](#)

Chapter 4: Campaign Finances

The campaign finance rules and disclosures section is probably the most complicated area of this book. There are numerous rules and regulations that must be followed by a candidate, as well as those in charge of a candidate's finances. This section will highlight some of those rules, and listed below are some essential resources which every candidate should review:

Tennessee Registry of Election Finance: <http://www.tn.gov/tref/>
Tennessee Registry of Election Finance FAQs: http://www.tn.gov/tref/cand/cand_faq.htm
Campaign Finance Guidelines for Candidates:
http://www.tn.gov/tref/CandidateCFDBooklet_2013.07.23.pdf

The Campaign Finance Guidelines for Candidates will most likely serve as your main source of information on campaign finance rules and disclosures. It is always a good idea to consult an attorney on campaign finance laws to ensure you are in compliance.

What paperwork do I need to file?

There are several forms you must file during your campaign. Two of the most important are the Appointment of Political Treasurer Statement and the Campaign Financial Disclosure Statement.

A candidate for the local School Board must file an Appointment of Political Treasurer Statement with the local election commission, certifying the name and address of campaign treasurer. This form must be filed before any contributions may be accepted or money may be spent on the campaign. Additionally a candidate has the option of appointing himself or herself treasurer. If they do not appoint themselves, they must still co-sign all the documents required by the Campaign Financial Disclosure Act.

The Campaign Financial Disclosure Statement is a form that details contributions, in-kind contributions, expenditures, loans, and obligations of your campaign. How much money is received in a reporting period will determine whether a short form or detailed form is filed. A short form is used when contributions during the reporting period do not exceed \$1,000. But a word of caution, it is imperative that a candidate list all contributions in whatever form and not just cash money received.

Reporting periods may differ between counties, therefore, to ensure your campaign is filing the proper paperwork at the correct time, contact your local election commission to determine what you must submit and when it must be submitted. Failure to submit the proper paperwork with the correct information can result in civil penalties up to \$10,000. It is imperative that candidates and board members file the correct paperwork in a timely manner.

Once these items are filed, the candidate must keep the Disclosures and all supporting documentation used to prepare the Campaign Financial Disclosure Statements for a period of two (2) years from the date of the election. Additionally, the local election commission offices will keep all filed paperwork for a period of five (5) years after the date of the election. Any paperwork filed is an open record and may be reviewed by the public.

What is a Contribution?

Contributions to a campaign may be things other than money. While money is the most obvious, state law creates a broader definition:

“any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, personal funds of a candidate, payment, gift, or subscription, of money or like thing of value, and any contract, agreement, promise or other obligation. . . .made for the purpose of influencing a measure or nomination for election or the election of any person for public office.”¹⁸

This broad definition can cover just about anything you can think of that deals with money and finances. That is why it is imperative that a candidate ensures anything that falls within these categories is reported on the Campaign Financial Disclosure Statement.

Are there additional things I must report?

Yes. State law requires that you also report in-kind contributions, expenditures, loans, and obligations. In-kind contributions may be the hardest of these to quantify because they are goods and services provided to your campaign free of charge.

It is equally important to know what is NOT a campaign contribution:

- Volunteer Work
- Publicity (certain rules apply)
- Voter Registration Efforts so long as they are non-partisan
- Internal Communication (certain rules apply)
- Cost of voter registration and get-out-the-vote activities (certain rules apply)
- Day to day costs of political party committees (certain rules apply)
- Educational Campaign Seminars (certain rules apply)
- Other Candidate related activities (certain rules apply)

Certain rules apply in determining whether these activities ARE or ARE NOT contributions. If they fall outside of the requirements for non-campaign activities, then they must be reported on the Campaign Financial Disclosure Statement.

Are there any limits on contributions?

Yes. Since the position of School Board Member is a local office, certain limits apply. An individual person may only contribute up to \$1,500 to your campaign. A single Political Action Committee (PAC) may only contribute up to \$7,400 to your campaign, while the total you may receive from every PAC that has contributed to your campaign is \$112,300.¹⁹ Other limits apply to special groups such as Political Parties or Political Action Committees. It is important to note, however, that each election is considered a separate election with separate dollar limits. For

¹⁸ [TCA 2-10-102](#)

¹⁹ Political Action Committees are prohibited from making any donations during the nine (9) day period prior to the election.

example, the non-partisan primary is considered a separate election from the general election. If an individual donates \$1,500 in the non-partisan primary election, they can also donate \$1,500 in the general election to the same candidate. Remember these donations must still be reported in your disclosure statements.

Can I use my own money?

Yes, a candidate may use their own funds for the election.

What should I do if there is a mistake in the financial information that has been reported?

A supplemental Campaign Financial Disclosure Statement may need to be filed if there are outstanding balances, or additional information is found that was not reported. If this occurs, contact your local election commission to determine the steps you must take to file the required reports to ensure you are in compliance with State laws.

How do I close the Campaign account after the election?

A Campaign account can be closed at any time so long as the candidate has filed a Campaign Financial Disclosure Statement that shows no unexpended balance, continuing debts, or obligations of expenditure deficit.²⁰ To ensure you meet these requirements, contact the local election commission prior to closing out your campaign account.

What do I do if there are surplus Campaign funds?

[Tenn. Code Ann. 2-10-114](#) contains a list of activities that excess campaign funds may be donated to after the election.²¹ Most are non-profit and educational entities, but it is important to note that there are extensive prohibitions on certain activities. Before a donation of excess campaign finance funds are made, consult your attorney and the relevant laws to ensure you comply with Tennessee laws.

²⁰ [TCA 2-10-107](#)

²¹ [TCA 2-10-114](#)

Chapter 5: Before Taking Office

Is there anything I must do before taking office?

Prior to assuming office, a candidate who has been elected to the local School Board must take an oath to discharge faithfully the duties of the office.²² The oath may be administered by the Board Chairman or other local official.

What are my training requirements once I am a full member of the School Board?

The State Board of Education Rules and Regulations mandate that each member of a local board must annually participate in seven (7) hours of training. The training is provided through the School Board Academy which is administered through the State Department of Education. There are five (5) basic core modules that must be completed within a five-year period after assuming office. They are Policy and Board Operations, Vision, Advocacy, Board/Superintendent Relations, and Finance.

New School Board members must attend a two-day orientation session in Nashville in addition to one of the seven (7) hour core module training sessions in their first year. Once the required session is completed, a Board Member will receive Academy Credit and the appropriate stipend(s) from the State Department of Education.

²² [TCA 49-2-202](#)

Appendix A: Statutes

Tenn. Code Ann. § 2-1-116. Removal of campaign advertising.

(a) After the conclusion of a primary, general, or special election, candidates in such election shall be responsible for the removal of any signs, posters, or placards advocating their candidacy, which have been placed on highway rights-of-way or other publicly owned property. The removal of such materials shall be accomplished within a reasonable period of time following the election, not to exceed three (3) weeks.

(b) Any candidate in a primary election who will also be a candidate in a general or special election following that primary shall not be required to remove any signs advocating such candidate's candidacy until after the conclusion of the general or special election.

(c) This section shall not be construed as being penal in nature. There shall be no punitive measures taken against a candidate or workers if all signs are not removed.

Tenn. Code Ann. § 2-7-111. Posting of sample ballots and instructions -- Arrangement of polling place -- Restrictions.

(a) The officer of elections shall have the sample ballots, voting instructions, and other materials which are to be posted, placed in conspicuous positions inside the polling place for the use of voters. The officer shall measure off one hundred feet (100') from the entrances to the building in which the election is to be held and place boundary signs at that distance.

(b) (1) Within the appropriate boundary as established in subsection (a), and the building in which the polling place is located, the display of campaign posters, signs or other campaign materials, distribution of campaign materials, and solicitation of votes for or against any person, political party, or position on a question are prohibited. No campaign posters, signs or other campaign literature may be displayed on or in any building in which a polling place is located.

(2) Except in a county with a population of not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000) according to the 1990 federal census or any subsequent federal census, a solicitation or collection for any cause is prohibited. This does not include the normal activities that may occur at such polling place such as a church, school, grocery, etc.

(3) Nothing in this section shall be construed to prohibit any person from wearing a button, cap, hat, pin, shirt, or other article of clothing outside the established boundary but on the property where the polling place is located.

(c) The officer of elections shall have each official wear a badge with that official's name and official title.

(d) With the exception of counties having a metropolitan form of government, any county having

a population over six hundred thousand (600,000) according to the 1970 federal census or any subsequent federal census, and counties having a population of between two hundred fifty thousand (250,000) and two hundred sixty thousand (260,000) by the 1970 census, any county may, by private act, extend the one hundred foot (100') boundary provided in this section.

Tenn. Code Ann. § 2-10-102. Chapter definitions. [Edited]

(4) "Contribution" means any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, personal funds of a candidate, payment, gift, or subscription of money or like thing of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, made for the purpose of influencing a measure or nomination for election or the election of any person for public office or for the purpose of defraying any expenses of an officeholder incurred in connection with the performance of the officeholder's duties, responsibilities, or constituent services. "Contribution" shall not be construed to include the following:

(A) Services, including expenses provided without compensation by a candidate or individuals volunteering a portion or all of their time, on behalf of a candidate or campaign committee;

(B) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless such facilities are owned wholly or in part, or controlled by any political party, political committee or candidate;

(C) Nonpartisan activity designed to encourage individuals to register to vote or to vote;

(D) Any written, oral or electronically transmitted communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to public office;

(E) The use of real or personal property and the cost of invitations, food and beverages not exceeding one hundred dollars (\$100), voluntarily provided on an individual's residential premises for candidate related activities; or

(F) For a county executive committee that has annual receipts and expenditures of less than ten thousand dollars (\$10,000), receipts and expenditures, including a reasonable amount for rent, by a state or county executive committee or primary board when performing the duties imposed upon them by law; provided, that such receipts and expenditures are segregated from and maintained in a fund separate and apart from any funds used by the party as a political campaign committee, it being the legislative intent that if no separate fund is maintained, all receipts and expenditures of the committee or board shall be subject to the disclosure provisions of this part;

2-10-107. Content of statements -- Closing out accounts -- Reporting of in-kind contributions.

(a) A statement filed under § 2-10-105 or § 2-10-106 shall consist of either:

(1) A statement that neither the contributions received nor the expenditures made during the period for which the statement is submitted exceeded one thousand dollars (\$1,000). Any statement filed pursuant to § 2-10-106 shall indicate whether an unexpended balance of contributions, continuing debts and obligations or an expenditure deficit exists; or

(2) (A) (i) A statement setting forth, under contributions, a list of all the contributions received, including the full name, complete address, occupation, and employer of each person who contributed a total amount of more than one hundred dollars (\$100) during the period for which the statement is submitted, and the amount contributed by that person;

(ii) When a candidate or the treasurer of a political campaign committee shows that best efforts have been used to obtain, maintain and submit the complete address, occupation, and employer required for contributors, the statement shall be considered in compliance with this subdivision (a)(2)(A). "Best efforts" includes notifying the contributor by first class mail that further information concerning such contributor is required under state law, or by including on a written solicitation for contributions a clear request for the contributor's name, address, occupation and employer and by accurately stating that such information is required under state law for all persons contributing more than one hundred dollars (\$100). Further definitions and guidelines, if any, for what is also considered "best efforts" shall be set by rule promulgated pursuant to § 4-55-103(1);

(iii) The statement of each candidate shall include the date of the receipt of each contribution and the statement of a political campaign committee shall include the date of each expenditure that is a contribution to a candidate. "Date of the receipt", as used in this subdivision (a)(2)(A)(iii), means the date when the contribution was received by the candidate, candidate's committee, or treasurer. The statement shall list as a single item the total amount of contributions of one hundred dollars (\$100) or less; and

(B) A statement setting forth, under expenditures, a list of all expenditures made, including the full name and address of each person to whom a total amount of more than one hundred dollars (\$100) was paid during the period for which the statement is submitted, the total amount paid to that person, and the purpose of the payment which shall clearly identify that it is an allowable expenditure under § 2-10-114. The words "reimbursement", "credit card purchase", "other" and "campaign expense" shall not be considered acceptable descriptions for "purpose". Any purchase made with a credit card shall also be disclosed as a payment to the vendor providing the item or service. Credit card payments to separate vendors shall be disclosed as separate expenditures. The statement shall list the total amount of expenditures of one hundred dollars (\$100) or less each, by category, without showing the exact amount of or vouching for each such expenditure.

(b) When any candidate or political campaign committee desires to close out a campaign account, it may file a statement to such effect at any time; provided, that the statement shall on its face show no unexpended balance, continuing debts or obligations or deficit.

(c) (1) When filing a statement under § 2-10-105 or § 2-10-106, a contribution, as defined in § 2-10-102, for which no monetary consideration is paid or promised, referred to as an in-kind contribution in this part, shall be listed separately in the disclosure statement and excluded from the lists of contributions and expenditures. The in-kind contribution list shall include:

(A) In-kind contributions of a value of one hundred dollars (\$100) or less may be listed as a single item; and

(B) (i) In-kind contributions of a value of more than one hundred dollars (\$100) during the period for which the statement is submitted, and for each such contribution, the category of the contribution, the name, address, occupation and employer of each person who contributed it.

(ii) When a candidate or the treasurer of a political campaign committee shows that best efforts have been used to obtain, maintain and submit the complete address, occupation, and employer required for contributors, the statement shall be considered in compliance with this subdivision (c)(1)(B). "Best efforts" includes notifying the contributor by first class mail that further information concerning such contributor is required under state law, or by including on a written solicitation for contributions a clear request for the contributor's name, address, occupation and employer and by accurately stating such information is required under state law for all persons contributing more than one hundred dollars (\$100). Further definitions and guidelines, if any, for what is also considered "best efforts" shall be set by rule promulgated pursuant to § 4-55-103(1).

(iii) The statement of each candidate shall include the date of the receipt of each in-kind contribution and the statement of a political campaign committee shall include the date of each expenditure that is an in-kind contribution to a candidate.

(2) Within ninety (90) days of February 15, 2006, by rule promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the registry of election finance shall enumerate a nonexclusive listing of examples of the various categories of contributions that constitute "in-kind contributions" requiring disclosure. Upon promulgating such rule, the registry shall provide a copy of such rule to each member of the general assembly and each qualified candidate for state office. Any changes or revisions to the rules shall be promulgated pursuant to § 4-55-103(1).

(d) An in-kind contribution is deemed to be made and shall be reportable in the period when such contribution is made or performed and not when the cost is billed or paid. The actual cost of the in-kind contribution, if known, shall be reported in the period such contribution is made or performed. If the actual cost of the in-kind contribution is not known, an estimate of the cost shall be reported in the period such contribution is made or performed, and the report shall indicate that the amount reported is estimated. If the actual cost, as indicated on the bill, is different from the amount reported, such amount shall be amended or adjusted on a later report

covering the period in which payment is made.

(e) A statement filed under § 2-10-105 or § 2-10-106 shall also list any unexpended balance, any deficit and any continuing financial obligations of the candidate, campaign or committee.

(f) Payments to a person as reimbursement for expenditures made by the person on behalf of the candidate or committee shall be disclosed as payments to the vendor who provided the item or service to the candidate or committee, not the person who is reimbursed.

Tenn. Code Ann. § 2-10-108. Sworn complaint on statements of candidates -- Penalty for false complaint.

(a) A registered voter of Tennessee may file a sworn complaint alleging that a statement filed regarding an election for which that voter was qualified to vote does not conform to law or to the truth or that a person has failed to file a statement required by law.

(b) All sworn complaints on a statement of a candidate for state public office or a political campaign committee for such candidate must be filed in the office of the registry of election finance.

(c) All sworn complaints on a statement of a candidate for local public office or a political campaign committee for such candidate must be filed in the office of the district attorney general who represents the judicial district in which the voter resides.

(d) Any person who knowingly and willfully files a sworn complaint which is false or for the purpose of harassment is subject to the civil penalties enacted into law by Acts 1989, ch. 585, and is liable for reasonable attorneys' fees incurred by the candidate who was the subject of such complaint.

2-10-114. Campaign funds -- Allocation of unexpended contributions -- Use of funds -- Specifically prohibited uses of funds -- Allocation of funds on death of incumbent or candidate.

(a) Any candidate for public office in this state shall allocate an unexpended balance of contributions after the election to one (1) or a combination of the following:

(1) The funds may be retained or transferred to any campaign fund pursuant to Tennessee reporting requirements;

(2) The funds may be returned to any or all of the candidate's contributors, in accordance with a formula or plan specified in the candidate's disclosure of the allocation;

(3) The funds may be distributed to the executive committee of the candidate's political party;

(4) The funds may be deposited in the volunteer public education trust fund established under title 49, chapter 3, part 4;

(5) The funds may be distributed to any organization described in 26 U.S.C. § 170(c);

(6) The funds may be distributed to an organization that has received a determination of exemption from the United States internal revenue service pursuant to 26 U.S.C. § 501(c)(3) or (4), if such organization is currently operating under such exemption;

(7) The funds may be used to defray any ordinary and necessary expenses incurred in connection with the office of the officeholder. Such expenses may include, but are not limited to, the cost of advertisements, membership fees, and donations to community causes; and

(8) The funds may be distributed to any institution of public or private education in the state, for the purpose of supplementing the funds of an existing scholarship trust or program.

(b) (1) Except as provided in subsection (a), no candidate for public office shall use any campaign funds for any other purpose other than a contribution or expenditure as defined by this part. The disbursement of campaign funds for a candidate's own personal use is not permitted. For the purpose of this section, "personal use" means any use by which the candidate for public office or elected public official would be required to treat the amount of the expenditure as gross income under 26 U.S.C. § 61, or any subsequent corresponding Internal Revenue Code section.

(2) Expenditures that are specifically prohibited under this section include, but are not limited to:

(A) Any residential or household items, supplies or expenditures, including mortgage, rent or utility payments for any part of any personal residence of a candidate or officeholder or a member of the candidate's or officeholder's family;

(B) Mortgage, rent, or utility payments for any part of any nonresidential property that is owned by a candidate or officeholder or a member of a candidate's or officeholder's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage;

(C) Funeral, cremation, or burial expenses related to deaths within a candidate's or officeholder's family;

(D) Clothing, other than items of de minimis value that are used in the campaign;

(E) Tuition payments within a candidate's or officeholder's family other than those associated with training campaign staff or associated with an officeholder's duties;

(F) Dues, fees, or gratuities at a country club, health club, or recreational facility, unless they are part of a specific fundraising event that takes place on the organization's premises;

(G) Salary payments to a member of a candidate's family, unless the family member is providing bona fide services to the campaign. If a family member provides bona fide services to the campaign, any salary payment in excess of the fair market value of the services provided is a prohibited use;

(H) Admission to a sporting event, concert, theater, activity, charitable event or other form of entertainment, unless the event is an expense associated with a legitimate campaign or officeholder activity, where the tickets to such event are provided to students attending schools, guests or constituents of the candidate or officeholder, or persons involved in the candidate's or officeholder's campaign;

(I) Payments for grooming or enhancing one's personal appearance unrelated to campaign activities; or

(J) Payment of any fines, fees, or penalties assessed pursuant to this chapter or title 3, chapter 6.

(3) A violation of this subsection (b) is a Class 2 offense as defined in § 2-10-110(a)(2).

(c) In addition to the manner in which unexpended balances in the campaign account of a candidate may be allocated under the provisions of subsection (a), if an incumbent dies while in office and has an unexpended balance in a campaign account, and if such incumbent's surviving spouse or child is appointed to fill the unexpired term of the deceased incumbent or is elected to the office previously held by the deceased, then the balance remaining in the campaign account of such deceased incumbent shall be transferred to the campaign account of the surviving spouse or child of the deceased incumbent for use by such surviving spouse or child as a candidate for election to public office in accordance with the provisions of this part.

(d) (1) In the event a candidate for public office dies with an unexpended balance of contributions in such candidate's campaign account and the provisions of subsection (c) are not applicable, then the following individuals, in the descending order, are authorized to allocate such unexpended balance to those persons, political parties, or charitable organizations listed in subdivisions (a)(2)-(6) and (a)(8):

(A) The deceased candidate, if the candidate provided for allocation of an unexpended balance through the candidate's will;

(B) The deceased candidate's treasurer, unless the candidate was the treasurer;

(C) The surviving spouse of the deceased candidate, if the candidate was the treasurer; and

(D) The next of kin of the deceased candidate, if the provisions of subdivisions (d)(1)(B) and (C) do not apply.

(2) If a decision is not made by any such individual, or individuals where subdivision (d)(1)(D) applies, within one (1) year of the date of death of the deceased candidate, then the unexpended

balance shall be distributed by the registry of election finance to the volunteer public education trust fund established under title 49, chapter 3, part 4.

(e) Notwithstanding the provisions of subsection (a), if a member of the general assembly raises funds for a local public office during the time the general assembly is in session in accordance with § 2-10-310(a), then any unexpended balance of contributions in the campaign account established by that member of the general assembly for the member's candidacy for local public office shall not be used for or distributed to a campaign fund:

- (1) For the benefit of any election for any candidate for the general assembly;
- (2) For the benefit of any statewide election, or any state, national or other political party;
- (3) For the benefit of any state, national or other political party caucus; or
- (4) For the benefit of any state, national or other political party caucus member.

Tenn. Code Ann. § 2-19-120. Political communications, advertising and solicitations -- Contents -- Applicability -- Penalties.

(a) Whenever any person makes an expenditure for the purpose of financing a communication that expressly advocates the election or defeat of a clearly identified candidate, as defined by § 2-10-102, or that solicits any contribution, through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing or any other form of general public political advertising, a disclaimer meeting the requirements of subdivision (a)(1), (2), (3) or (4) shall appear and be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of persons who paid for and, where required, who authorized the communication. Such person is not required to place the disclaimer on the front face or page of any such material, as long as a disclaimer appears within the communication, except on communications, such as billboards, that contain only a front face.

- (1) Such communication, including any solicitation, if paid for and authorized by a candidate, an authorized committee of a candidate, or its agent shall clearly state that the communication has been paid for by the authorized political committee, in addition to the identity of the person who is the head of such committee, or the identity of the treasurer of such committee.
- (2) Such communication, including any solicitation, if authorized by a candidate, an authorized committee of a candidate or an agent thereof, but paid for by any other person, shall clearly state that the communication is paid for by such other person and is authorized by such candidate, authorized committee or agent.
- (3) Such communication, including any solicitation, if made on behalf of or in opposition to a candidate, but paid for by any other person and not authorized by a candidate, authorized committee of a candidate or its agent, shall clearly state that the communication has been paid for by such person and is not authorized by any candidate or candidate's committee.

(4) (A) For solicitations directed to the general public on behalf of a political committee which is not an authorized committee of a candidate, such solicitation shall clearly state the full name of the person who paid for the communication.

(B) For purposes of this section, whenever a separate segregated fund solicits contributions to the fund from those persons it may solicit, such communication shall not be considered a form of general public advertising. Such advertisements shall also include the name of the printer of such advertisement, and the identity of the person who paid for the advertisement.

(b) (1) [Deleted by 2004 amendment.]

(2) [Deleted by 2004 amendment.]

(3) The requirements of this section do not apply to bumper stickers, pins, buttons, pens, novelties, and similar small items upon which the disclaimer cannot be conveniently printed.

(c) A violation of this section is a Class C misdemeanor.

[Tenn. Code Ann. § 2-19-206. Use of state-owned property for campaign advertising or activities.](#)

(a) It is unlawful for any elected or appointed official of the state, or any employee of the state or any department, division or agency thereof, to display campaign literature, banners, placards, streamers, stickers, signs or other items of campaign or political advertising on behalf of any party, committee or agency or candidate for political office, on the premises of any building or land owned by the state, or to use any of the facilities of the state, including equipment and vehicles, for such purposes.

(b) It is unlawful to use public buildings or facilities for meetings or preparation of campaign activity in support of any particular candidate, party or measure unless reasonably equal opportunity is provided for presentation of all sides or views, or reasonably equal access to the buildings or facilities is provided all sides.

(c) This section shall not be construed to prohibit an employee from displaying a decal or bumper stickers on the employee's personal vehicle while parked on state property.

[Tenn. Code Ann. § 8-18-101. Eligibility to hold office.](#)

All persons eighteen (18) years of age or older who are citizens of the United States and of this state, and have been inhabitants of the state, county, district, or circuit for the period required by the constitution and laws of the state, are qualified to hold office under the authority of this state except:

(1) Those who have been convicted of offering or giving a bribe, or of larceny, or any other offense declared infamous by law, unless restored to citizenship in the mode pointed out by law;

(2) Those against whom there is a judgment unpaid for any moneys received by them, in any official capacity, due to the United States, to this state, or any county of this state;

(3) Those who are defaulters to the treasury at the time of the election, and the election of any such person shall be void;

(4) Soldiers, sailors, marines, or airmen in the regular army or navy or air force of the United States; and

(5) Members of congress, and persons holding any office of profit or trust under any foreign power, other state of the union, or under the United States.

Tenn. Code Ann. § 49-1-103. Title definitions.

As used in this title, unless the context otherwise requires:

(1) "Board," "local board," or "local board of education" means the board of education that manages and controls the respective local public school system; and

(2) "Local education agency (LEA)," "school system," "public school system," "local school system," "school district," or "local school district" means any county school system, city school system, special school district, unified school system, metropolitan school system or any other local public school system or school district created or authorized by the general assembly.

Tenn. Code Ann. § 49-2-201. Election or appointment.

(a) (1) Notwithstanding any other law to the contrary, there shall be a board of education elected by the people. Except in counties with a county charter or metropolitan government charter, the board shall consist of no more members than the number of members authorized by general law or private act for boards of education in existence on January 1, 1992, or the number of members actually serving on a board on January 1, 1993, except during transition periods following district reapportionment. In addition to the membership existing on boards as of January 1, 1992, or January 1, 1993, the general assembly may authorize by private act any number of school board members that is no less than three (3) nor more than eleven (11). The members of the board shall be elected for a term of four (4) years, and may succeed themselves. For the first election held pursuant to this section, in order to establish staggered terms of office, the members from even-numbered districts shall be elected for a term of two (2) years, and the members of odd-numbered districts shall be elected for four (4) years. Members of county boards of education shall be residents of and elected from districts of substantially equal population established by resolution of the local legislative body. Members of special school district boards of education shall be elected according to special or private act, but shall be

popularly elected on a staggered term basis. Vacancies occurring on the board shall be filled by the local legislative body. In special school districts, vacancies on the board arising from death or resignation shall be filled by the special school district school board. Any person so appointed shall serve until a successor is elected and qualifies according to law. The successor shall be elected at the next general election for which candidates have a sufficient time to qualify under the law. All elections for school board members shall be conducted on a nonpartisan basis, and no person seeking a position on a board shall campaign as the nominee or representative of any political party.

(2) Notwithstanding the four-year term set out in this section for school boards, any special school district with a different term established by private act shall retain the existing board term.

(3) To implement subdivision (a)(1), the general assembly by private act, or the local legislative body by resolution, may adopt a plan to accomplish a transition from a method of selecting school board members authorized under prior law to an elected school board that is in compliance with subdivision (a)(1). Nothing in this section shall be construed to require simultaneous election of board members, nor to prevent board members selected under prior law or during a transition period from serving the full term for which they were selected. As part of the implementation process under subdivision (a)(1), the local legislative body may renumber existing school districts. During the transition period, the number of school board members may exceed the number authorized under subdivision (a)(1). A transition plan may not be validly enacted or adopted under this section after September 1, 1996.

(4) A private act enacted by the general assembly or a resolution adopted by a local legislative body prior to March 27, 1995, that established a transition plan as described in subdivision (a)(3), is declared to be in full compliance with the laws of this state. Any and all otherwise valid actions taken by a school board composed of members selected pursuant to such private acts or resolutions are ratified and confirmed.

(5) For any LEA that has failed to implement this section, the general assembly by private act, or the local legislative body by resolution, may adopt a plan to implement four-year staggered terms of election for a local board of education by July 31, 2005. Any plan for staggered terms of election implemented pursuant to this subdivision (a)(5) shall otherwise comply with the requirements of this section, but may vary the staggered sequence provided for in subdivision (a)(1).

(6) Any municipal board of education that, as authorized by private act, implemented a transition plan to bring the election of the board members into compliance with subdivision (a)(1), but that failed to comply with the election cycle established by the private act, may, by private act enacted by the general assembly and approved by the municipal legislative body, adopt a plan to restore the election of the board to compliance with subdivision (a)(1); provided, that the plan is adopted and implementation begun prior to January 1, 2009. Any plan for staggered four-year terms of election implemented pursuant to this subdivision (a)(6) shall otherwise comply with the requirements of this section, but may vary the staggered sequence provided for in subdivision (a)(1). Any and all otherwise valid actions taken by the school board during the period of noncompliance with the election cycle required by the private act are ratified

and confirmed.

(b) Only persons who are residents of the area served by an LEA are eligible to serve on the school board in counties with populations of seven hundred thousand (700,000) or more, according to the 1990 federal census or any subsequent federal census.

(c) (1) Except as provided in subdivision (c)(2), members of municipal boards of education may be elected in the same manner, either from districts or at large, or a combination of both, used to elect members of the municipality's governing body, except that municipal school districts whose current board members have been elected from districts as of June 6, 1995, shall continue that method of election.

(2) Subdivision (c)(1) does not apply in counties having a population of not less than five hundred thousand (500,000) nor more than five hundred fifty thousand (550,000), or in counties having a population of not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000), according to the 1990 federal census or any subsequent federal census.

(d) (1) (A) Beginning with the election for members of boards of education to be held in the year 2000, a local governing body in a county that would otherwise conduct a county primary election may elect, by a two-thirds (2/3) vote, to have a nonpartisan primary election for members of the school board at that primary election.

(B) If one (1) candidate for a board of education election receives a majority of votes cast in the nonpartisan primary, then that candidate's name shall appear on the ballot in the general election. If no candidate for a board of education election receives a majority of votes cast in the nonpartisan primary, then the two (2) candidates receiving the two (2) highest vote totals shall run against one another in the regular election.

(2) This subsection (d) shall apply only to counties having a unified school system and a charter form of government.

(3) This subsection (d) shall not apply in any county having a population of not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000), according to the 1990 federal census or any subsequent federal census.

[Tenn. Code Ann. § 49-2-202. Members and meetings.](#)

(a) (1) Members of the board shall be residents and voters of the county in which they are elected and shall be citizens of recognized integrity, intelligence and ability to administer the duties of the office.

(2) No member of the county legislative body nor any other county official shall be eligible for election as a member of the county board of education.

(3) (i) Each member of the board of education who has a relative employed by the board shall declare such relationship prior to voting on any matter of business that shall have an effect upon the employment of the relative. In making the declaration, such board member shall certify that the vote that is about to be cast on the pending matter is in the best interest of the school system. Such matters shall include, but shall not be limited to, the school system annual budget, tenure considerations and personnel policies. The director of schools shall give notice to the board each time there is intent to employ a relative of a school board member. The director of schools of a county school system shall also give notice to the county school board each time there is intent to employ a relative of an elected county official. The director of schools of a city school system shall also give notice to the city school board each time there is intent to employ a relative of an elected city official. In giving such notice, the director of schools shall certify that the prospective employee is duly qualified by training and licensure to occupy the position.

(ii) As used in this subdivision (a)(3), unless the context otherwise requires, "relative" means a spouse, parent, parent-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, or any person who resides in the same household as any of the officials referenced in subdivision (a)(3)(i).

(iii) This subdivision (a)(3) shall not be construed to prohibit two (2) or more relatives from working for the LEA. If two (2) or more employees who are relatives are within the same direct line of supervision, or become within the same direct line of supervision by marriage or promotion, then the director of schools shall attempt to resolve this issue by transfer of one (1) of the employees. If the director finds that transfer is not feasible or is not in the best interest of students, then an alternate evaluation plan shall be devised for one (1) of the employees.

(4) No person shall be eligible to serve on the board unless the person is a bona fide resident of the county and has a practical education; provided, that beginning on October 1, 1990, except in counties having a population of:

Not Less than	Not more than
14,940	15,000
49,100	19,500
74,500	76,000

according to the 1980 federal census or any subsequent federal census, no person shall qualify as a candidate for a position on a county board of education until the person has filed with the county election commission proof that the candidate graduated from high school or received a GED[(R)], evidenced by a diploma or other documentation satisfactory to the commission. Any person serving on a school board as of October 1, 1990, shall be allowed to continue to serve and to seek reelection or reappointment to one (1) additional term even though the person may not have graduated from high school or received a GED[(R)].

(5) If any member ceases to reside in the county, the office of the member shall become vacant.

(6) All board members shall be properly trained during their service on the board of education. The minimum requirements for this training shall be established by the state board of education

and shall include an annual session for all board members.

(b) All members of the local board of education shall take oath to discharge faithfully the duties of the office.

(c) It is the duty of the board of education to:

(1) Hold regular meetings at least quarterly for the purpose of transacting public school business; provided, that the chair may call special meetings whenever in the chair's judgment the interest of the public schools requires it, or when requested to do so by a majority of the board. The chair or the chair's designee shall give reasonable notice of the time and location of all meetings to the president of the local education association or the president's designee; and

(2) Elect one (1) of its members as chair annually.

(d) The compensation of members of the county board shall be fixed by the county legislative body for their services when attending regular and special meetings and discharging the duties imposed by this title; provided, that the county trustee shall pay no voucher issued to members unless the voucher has been approved by the county mayor; and provided, further, that no member of any board shall receive less than four dollars (\$4.00) per day for the member's services.

(e) (1) When a vacancy occurs, the unexpired term shall be filled at the next regular meeting of the county legislative body or at a special meeting of the county legislative body.

(2) Vacancies shall be declared to exist, on account of death, resignation or removal from the county.

(3) A temporary absence of a county board member to serve in the military shall not constitute a vacancy in office and such absence shall not be subject to the requirements of § 8-48-205(5).

(f) Notwithstanding any law to the contrary, the board of education for each LEA that operates one (1) or more high schools may annually select, prior to commencement of the new school year, no less than four (4) high school students to serve as advisory, nonvoting members of the board. One half (1/2) of the students so selected shall be enrolled in the college preparatory track and one half (1/2) of the students so selected shall be enrolled in the technology track. The students shall serve without compensation but may, at the discretion of the board, be reimbursed for reasonable and necessary expenses incurred while engaged in board business.

(g) A majority of all of the members constituting the board, and not merely a majority of the quorum, shall be required to transact all business coming before the board in regular or special meetings.

Tenn. Code Ann. § 49-2-203. Duties and powers.

(a) It is the duty of the local board of education to:

(1) Elect, upon the recommendation of the director of schools, teachers who have attained or are eligible for tenure and fix the salaries of and make written contracts with the teachers;

(A) No individual shall be elected to an interim contract unless the individual so elected is to fill a vacancy created by a leave of absence as set forth in § 49-5-702;

(B) All contracts with educational assistants will be for nonteaching positions;

(C) Educational assistants shall be subject to direct supervision of certificated teachers when directly involved in the instructional program;

(D) No member of any local board of education shall be eligible for election as a teacher or any other position under the board carrying with it any salary or compensation;

(2) Manage and control all public schools established or that may be established under its jurisdiction;

(3) Purchase all supplies, furniture, fixtures and material of every kind through the executive committee;

(A) All expenditures for such purposes may follow the prescribed procedures of the LEA's respective local governing body, so long as that body, through its charter, private act or ordinance has established a procurement procedure that provides for advertisement and competitive bidding, except that, if a newspaper advertisement is required, it may be waived in case of emergency. If the LEA chooses not to follow the local governing body's purchasing procedures, all expenditures for such purposes estimated to exceed ten thousand dollars (\$10,000) or more shall be made on competitive bids, which shall be solicited by advertisement in a newspaper of general circulation in the county, except that the newspaper advertisement may be waived in the event of emergency. School districts that have a purchasing division may use a comprehensive vendor list for the purpose of soliciting competitive bids; provided, that the vendors on the list are given notice to bid; and provided, further, that the purchasing division shall periodically advertise in a newspaper of general circulation in the county for vendors and shall update the list of vendors following the advertisement;

(B) If the LEA chooses not to follow the local governing body's purchasing procedures, all purchases of less than ten thousand dollars (\$10,000) may be made in the open market without newspaper notice, but shall, whenever possible, be based upon at least three (3) competitive bids;

(C) (i) For construction of school buildings or additions to existing buildings, the LEA may follow prescribed procedures of its respective local governing body, so long as that body, through its charter, private act or ordinance has established a procurement procedure that provides for advertisement and competitive bidding. If the LEA chooses not to follow the local

governing body's procedure, the board shall contract, following open bids, for the construction of school buildings or additions to existing buildings, the expenditure for which is in excess of ten thousand dollars (\$10,000). Public notice shall be given at least ten (10) days in advance of accepting bids for the construction, and the board shall award the contract to the lowest and best bidder. Whether following local governing body procedures or those set forth in this subdivision (a)(3)(C)(i), in the event no bid is within the budgetary limits set by the board for the construction, the board may negotiate with the lowest and best bidder to bring the cost of the construction within the funds available, with the approval of the commissioner of education;

(ii) Construction management services that are provided for a fee and that involve preconstruction and construction administration and management services are deemed to be professional services and may be performed by a qualified person licensed under title 62, chapter 6. Construction management services are to be procured for each project through a written request for proposals process through advertisement made pursuant to subdivision (a)(3)(A). A board may include, in a single written request for proposal process, new school construction or renovation projects at up to three (3) sites, if construction at all sites will occur at substantially the same time. The written request for proposals process will invite prospective proposers to participate and will indicate the service requirements and the factors used for evaluating the proposals. The factors shall include the construction manager's qualifications and experience on similar projects, qualifications of personnel to be assigned to the project, fees and costs or any additional factors deemed relevant by the procuring entity for procurement of the service. Cost is not to be the sole criterion for evaluation. The contract for such services shall be awarded to the best qualified and responsive proposer. A construction manager is prohibited from undertaking actual construction work on a project over which the construction manager coordinates or oversees the planning, bid or construction phases of the project, except in instances where bids have been solicited twice and no bids have been submitted. If the construction manager can document that a good faith effort was made in each bid solicitation to obtain bids and no bids were received, then the construction manager may perform the construction work at a price agreed upon by the construction manager, the architect and the owner of the project. A school system, at its own discretion, may perform work on the project with its own employees, and may include the coordination and oversight of this work as part of the services of the construction manager. Sealed bids for actual construction work shall be opened at the bid opening and the names of the contractors and their bid amounts shall be announced;

(iii) Construction management agent or advisor services for the construction of school buildings or additions to existing buildings in accordance with subdivision (a)(3)(C)(ii) may be performed by:

(a) A general contractor licensed in Tennessee pursuant to title 62, chapter 6; provided, that none of such services performed by a general contractor involve any of the services exempt from the requirements of title 62, chapter 6 as "normal architectural and engineering services" under § 62-6-102(4)(B) or (C), unless, with regard to the performance of any services defined as normal architectural and engineering services, the general contractor is also licensed as an architect or engineer under title 62, chapter 2; or

(b) An architect or an engineer licensed pursuant to title 62, chapter 2; provided, that

none of such services performed by an architect or engineer involve any of the services required to be performed by a contractor within the definition of "contractor" under § 62-6-102, unless with regard to the performance of any services included within the definition of contractor, the architect or engineer is also licensed as a contractor under title 62, chapter 6.

(iv) Construction work that is under the coordination and oversight of a construction manager shall be procured through competitive bids as provided in this subsection (a);

(D) No board of education shall be precluded from purchasing materials and employing labor for the construction of school buildings or additions to school buildings;

(E) Subdivisions (a)(3)(A), (B) and (D) apply to local boards of education of all counties, municipalities and special school districts; provided, however, that subdivisions (a)(3)(A) and (B) shall not apply to purchases by or for a county's or metropolitan government's board of education in counties with a population of not less than two hundred thousand (200,000), according to any federal census, so long as the county, through county or metropolitan government charter, private act, or ordinance, establishes a procedure regarding purchasing that provides for advertisement and competitive bidding and sets a dollar amount for each purchase requiring advertisement and competitive bidding; and provided, further, that purchases of less than the dollar amount requiring advertisement and competitive bidding shall, wherever possible, be based upon at least three (3) competitive bids. Subdivision (a)(3)(C) applies to county and municipal boards of education;

(F) (i) Notwithstanding any law to the contrary, contracts for energy-related services that include both engineering services and equipment, and have as their purpose the reduction of energy costs in public schools or school facilities shall be awarded on the basis of recognized competence and integrity and shall not be competitively bid;

(ii) In the procurement of engineering services under this subdivision (a)(3)(F), the local board may seek qualifications and experience data from any firm or firms licensed in Tennessee and interview such firm or firms. The local board shall evaluate statements of qualifications and experience data regarding the procurement of engineering services, and shall conduct discussions with such firm or firms regarding the furnishing of required services and equipment and then shall select the firm deemed to be qualified to provide the services and equipment required;

(iii) The local board shall negotiate a contract with the qualified firm for engineering services and equipment at compensation which the local board determines to be fair and reasonable to the LEA. In making such determination, the local board shall take into account the estimated value of the services to be rendered, the scope of work, complexity and professional nature thereof and the value of the equipment;

(iv) Should the local board be unable to negotiate a satisfactory contract with the firm considered to be qualified, at a price determined to be fair and reasonable, negotiations shall continue with other qualified firms until an agreement is reached;

(v) A local board having a satisfactory existing working relationship for engineering

services and equipment under this subdivision (a)(3)(F) may expand the scope of the services; provided, that they are within the technical competency of the existing firm, without exercising this subdivision (a)(3)(F); and

(vi) This subdivision (a)(3)(F) shall not prohibit or prevent the energy efficient schools council from establishing required design criteria in accordance with industry standards;

(4) Order warrants drawn on the county trustee on account of the elementary and the high school funds, respectively;

(5) Visit the schools whenever, in the judgment of the board, such visits are necessary;

(6) Except as otherwise provided in this title, dismiss teachers, principals, supervisors and other employees upon sufficient proof of improper conduct, inefficient service or neglect of duty; provided, that no one shall be dismissed without first having been given in writing due notice of the charge or charges and an opportunity for defense;

(7) Suspend, dismiss or alternatively place pupils, when the progress, safety or efficiency of the school makes it necessary or when disruptive, threatening or violent students endanger the safety of other students or school system employees;

(8) Have enumerated the scholastic population of the local school district in May of every odd-numbered year;

(9) Provide proper record books for the director of schools, and should the appropriate local legislative body fail or refuse to provide a suitable office and sufficient equipment for the director of schools, the local board of education may provide the office and equipment out of the elementary and the high school funds in proportion to their gross annual amounts;

(10) (A) (i) Require the director of schools and chair of the local board to prepare a budget on forms furnished by the commissioner, and when the budget has been approved by the local board, to submit it to the appropriate local legislative body;

(ii) No LEA shall submit a budget to the local legislative body that directly or indirectly supplants or proposes to use state funds to supplant any local current operation funds, excluding capital outlay and debt service;

(B) (i) Notwithstanding any other law to the contrary, for any fiscal year, if state funding to the county for education is less than state funding to the county for education during the fiscal year 1990-1991 or less than the previous fiscal year's state funding to the county for education, except that a reduction in funding based on fewer students in the county rather than actual funding cuts shall not be considered a reduction in funding for purposes of this subdivision (a)(10)(B)(i), local funds that were appropriated and allocated to offset state funding reductions during any previous fiscal year are excluded from this maintenance of local funding effort requirement;

(ii) It is the intent of subdivision (a)(10)(B)(i) to allow local governments the option to appropriate and allocate funds to make up for state cuts without being subject to a continuation of funding effort requirement as to those funds for any year during which the state reinstates the funding or restores the previous cuts, and during any subsequent year should the state fail to restore the funding cuts;

(C) Subdivision (a)(10)(A)(ii) shall not apply to a newly created LEA in any county where the county and city schools are being combined for a period of three (3) years after the creation of the LEA. The county board of education shall submit its budget to the county legislative body no later than forty-five (45) days prior to the July term or forty-five (45) days prior to the actual date the budget is to be adopted by the county legislative body if the adoption is scheduled prior to July 1;

(11) Prepare, or have prepared, a copy of the minutes of each meeting of the board of education, and mail a copy of the minutes no more than thirty (30) days after the board meeting or at the time they are mailed to or otherwise provided to members of the board, if such is earlier, to the president of each local education association. Any subsequent corrections, modifications or changes shall be distributed in the same manner;

(12) Adopt and enforce, in accordance with guidelines prescribed by the state board of education pursuant to § 49-6-3002, minimum standards and policies governing student attendance, subject to availability of funds;

(13) Develop and implement an evaluation plan for all certificated employees in accordance with the guidelines and criteria of the state board of education, and submit the plan to the commissioner for approval;

(14) (A) Notwithstanding any other public or private act to the contrary, employ a director of schools under a written contract of up to four (4) years' duration, which may be renewed. No school board, however, may either terminate, without cause, or enter into a contract with any director of schools during a period extending from forty-five (45) days prior to the general school board election until thirty (30) days following the election. Any vacancy in the office of the director that occurs within this period shall be filled on a temporary basis, not extending beyond sixty (60) days following the general school board election. An option to renew a contract that exists on May 22, 2001, may be exercised within the time period set out in this subdivision (a)(14)(A). Any such person transferred during the term of the person's contract shall not have the person's salary diminished for the remainder of the contract period. The board may dismiss the director for cause as specified in this section or in chapter 5, part 5 of this title, as appropriate. The director of schools may be referred to as the superintendent and references to or duties of the former county superintendents shall be deemed references to or duties of the director of schools employed under this section. The school board is the sole authority in appointing a director of schools;

(B) Each school board shall adopt a written policy regarding the method of accepting and reviewing applications and interviewing candidates for the position of director of schools;

(C) No school board shall extend the contract of a director of schools without giving notice of the intent to do so at least fifteen (15) calendar days prior to the scheduled meeting at which action shall be taken. Further, except in cases concerning allegations of criminal or professional misconduct, no school board shall terminate the contract or remove a director of schools from office without giving notice at least fifteen (15) calendar days prior to the scheduled meeting at which action shall be taken. Notice of extension or termination of a contract of a director of schools shall include the date, time and place of the meeting, and shall comport with all other requirements of §§ 8-44-103 and 49-2-202(c)(1). The proposed action shall be published as a specific, clearly stated item on the agenda for the meeting. Such item, for the convenience of the public attending the meeting, shall be the first item on the agenda;

(15) Adopt policies on the employment of substitute teachers. The policies shall, at a minimum, address qualifications and training and shall ensure substitute teachers are subject to investigation pursuant to § 49-5-413. The policies shall also prohibit hiring any substitute teacher whose records with the state department of education indicate a license or certificate currently in revoked status; and

(16) Develop and implement an evaluation plan to be used annually for the director of schools. The plan shall include, but shall not be limited to, sections regarding job performance, student achievement, relationships with staff and personnel, relationships with board members, and relationships with the community.

(b) The local board of education has the power to:

(1) Consolidate two (2) or more schools whenever in its judgment the efficiency of the schools would be improved by the consolidation;

(2) Require school children and any employees of the board to submit to a physical examination by a competent physician whenever there is reason to believe that the children or employees have tuberculosis or any other communicable disease, and upon certification from the examining physician that the children or employees have any communicable disease, to exclude them from school or service until the child or children, employer or employers, employee or employees furnish proper certificate or certificates from the examining physician or physicians showing the communicable disease to have been cured;

(3) Establish night schools and part-time schools whenever in the judgment of the board they may be necessary;

(4) Permit school buildings and school property to be used for public, community or recreational purposes under rules, regulations and conditions as prescribed from time to time by the board of education;

(A) No member of the board or other school official shall be held liable in damages for any injury to person or property resulting from the use of school buildings or property;

(B) The local board of education may lease buildings and property or the portions of

buildings and property it determines are not being used or are not needed at present by the public school system to the owners or operators of private child care centers and kindergartens for the purpose of providing educational and child care services to the community. The leases may not be entered for a term exceeding five (5) years and must be on reasonable terms that are worked out between the school board and the owner or operator. The leasing arrangement entered into in accordance with this subdivision (b)(4)(B) shall not be intended or used to avoid any school integration requirement pursuant to the fourteenth amendment to the Constitution of the United States. The local board of education shall not execute any lease pursuant to this subdivision (b)(4) that would replace or supplant existing kindergarten programs or kindergarten programs maintained pursuant to the Minimum Kindergarten Program Law, codified in § 49-6-201. This subdivision (b)(4) shall also apply to municipal boards of education;

(5) Employ legal counsel to advise or represent the board;

(6) Make rules providing for the organization of school safety patrols in the public schools under its jurisdiction and for the appointment, with the permission of the parents, of pupils as members of the safety patrols;

(7) Establish minimum attendance requirements or standards as a condition for passing a course or grade; provided, that the requirements or standards are established prior to any school year in which they are to be applicable, are recorded in board minutes and publicized through a newspaper of general circulation prior to implementation and are printed and distributed to students prior to implementation; and provided, further, that the requirements or standards shall not violate § 49-6-3002(b);

(8) Provide written notice to probationary teachers of specific reasons for failure of reelection pursuant to this title; provided, that any teacher so notified shall be given, upon request, a hearing to determine the validity of the reasons given for failure of reelection; provided, that:

(A) The hearings shall occur no later than thirty (30) days after the teacher's request;

(B) The teacher shall be allowed to appear, call witnesses and plead the teacher's cause in person or by counsel;

(C) The board of education shall issue a written decision regarding continued employment of the teacher; and

(D) Nothing contained in this subdivision (b)(8) shall be construed to grant tenure or the expectation of continued employment to any person;

(9) Offer and pay a bonus or other monetary incentive to encourage the retirement of any teacher or other employee who is eligible to retire. For purposes of this subdivision (b)(9), "local board of education" means the board of education of any county, municipal or special school system;

(10) Lease or sell buildings and property or the portions of buildings or property it determines

are not being used or are not needed at present by the public school system in the manner deemed by the board to be in the best interest of the school system and the community that the system serves. In determining the best interest of the community, the board may seek and consider recommendations from the planning commission serving the community. No member of the local or county board or other school official shall be held liable in damages for any injury to person or property resulting from the use of the school buildings or property. No lease or sale shall be used to avoid any school integration requirement. A local board of education may also dispose of surplus property as provided in §§ 49-6-2006 and 49-6-2007, it being the legislative intent that a local board at its discretion may dispose of surplus property to private owners as well as civic or community groups as provided by this subdivision (b)(10);

(11) Establish and operate before and after school care programs in connection with any schools, before and after the regular school day and while school is not in session. No Tennessee foundation program school funds or any required local matching funds shall be used in connection with the operation of these programs, but the board may charge a fee of any child attending a before and after school care program. In these programs, the board may use teachers on such extended program assignments as may be authorized by § 49-5-5209 [repealed] and policies established pursuant to § 49-5-5209 [repealed];

(12) Contract for the management and operation of the alternative schools provided for in § 49-6-3402 with any other agency of local government;

(13) Include in student handbooks, or other information disseminated to parents and guardians, information on contacting child advocacy groups and information on how to contact the state department of education for information on student rights and services;

(14) Cooperate with community organizations in offering extended learning opportunities; and

(15) Apply for and receive federal or private grants for educational purposes. Notwithstanding title 5, chapter 9, part 4, except for grants requiring matching funds, in-kind contributions of real property or expenditures beyond the life of the grant, appropriations of federal or private grant funds shall be made upon resolution passed by the local board of education and shall comply with the requirements established by the granting entity. A county board of education or city board of education shall provide a copy of such resolution to the local legislative body as notice of the board's actions within seven (7) days of the resolution's passage.

(c) (1) (A) Notwithstanding title 8, chapter 44, part 1, a local board of education may conduct a scheduled board meeting by electronic means as long as the member can be visually identified by the chair, including, but not limited to, telephone, videoconferencing or other web-based media, if a member is absent because the member is required to be out of the county in which the LEA is located for the member's work, the member is dealing with a family emergency as determined by the LEA, or because of the member's military service. Only members who are out of the county for work, family emergency or military service may attend and participate in the meeting electronically.

(B) No board meeting shall be conducted with electronic participation unless a quorum of

members is physically present at the location of the meeting.

(C) A board member wishing to participate in a scheduled board meeting electronically who is or will be out of the county because of work shall give at least five (5) days notice prior to the scheduled board meeting of the member's intention to participate electronically.

(D) No board member shall participate electronically in board meetings more than two (2) times per year; except, that this limitation shall not apply to a board member who is out of the county due to military service.

(E) The local board of education shall develop a policy for conducting such meetings.

(2) Subdivision (c)(1) shall not apply in any county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.