

**Tenn. Code Ann. § 49-1-201**

TENNESSEE CODE ANNOTATED  
© 2015 by The State of Tennessee  
All rights reserved

\*\*\* Current through the 2015 Regular Session \*\*\*

Title 49 Education  
Chapter 1 State Administration  
Part 2 Department of Education

Tenn. Code Ann. § **49-1-201** (2015)

**49-1-201. Powers and duties of the commissioner.**

(a) The commissioner of education is responsible for the implementation of law or policies established by the general assembly or the state board of education.

(b) The commissioner shall attend all meetings of the state board of education and may speak at the meetings and make recommendations. Any recommendations made by the commissioner shall be made a part of the minutes of the meeting.

(c) The commissioner shall provide direction through administrative and supervisory activities designed to build and maintain an effective organization as follows:

- (1) Employ and supervise the personnel within the department;
- (2) Collect and publish, in accordance with the rules, regulations, policies and procedures of the state publications committee, statistics and other information relative to the public school system;
- (3) Make tours of inspection and survey among the public schools throughout the state and to direct supervision through the divisions of the department;
- (4) Require all teachers to attend county institutes or educational meetings on the date, at the hour and place designated by the county director of schools; provided, that schools shall not be suspended for more than ten (10) days in one (1) year; and provided further, that the place of the meeting shall be in the county where the school is located;
- (5) See that the school laws and the regulations of the state board of education are faithfully executed;
- (6) Prepare and distribute blank forms for all reports required by law or by the commissioner to be made by teachers, boards of education, directors of schools, county trustees and all other state, county and city officers;
- (7) Distribute in electronic format to the local boards of education, at the conclusion of each regular session of the general assembly, copies of newly enacted public chapters pertaining to public education;
- (8) Require all state and local public school officers and heads of state educational institutions under the department or the state board of education to submit detailed reports annually; and, in case of emergency, the commissioner may require special reports at any time of any officer connected with the public school system;

**(9)** Appoint someone to make reports required to be made by the state or local public school officers and heads of state institutions named in this section when such officers fail to make full and accurate reports at the time designated, and to allow the appointee compensation not to exceed five dollars (\$5.00) per day for the time actually employed in making the reports for the appointee's service, which shall be paid by the delinquent public school officer or the head of the state educational institution. Upon the refusal of the delinquent officer or head of the state educational institution to pay the compensation, the commissioner shall deduct that amount out of the state supplement to the delinquent officer's or head's salary or compensation and require the county trustee or other custodian of public school funds to withhold that amount out of any salary that may be due the delinquent officer;

**(10)** Preserve in the commissioner's office all official documents and matters in relation to educational subjects that may come into it;

**(11)** Report to the comptroller of the treasury, on July 1 of each year, the average daily attendance of the preceding year, as determined and taken from the daily attendance reports of the teachers and other officers of the various cities and counties, and on July 1 of odd years, biennially, the school census, as determined by the scholastic census enumeration;

**(12)** Submit annually to the governor a detailed report of the commissioner's official acts for the year ending June 30 preceding, exhibiting a full statistical account of the receipts and disbursements of the public school funds, the condition and progress of the public schools and making recommendations for improvements of the public school system;

**(13)** Prepare and furnish high school diplomas for graduates of senior, public high schools, approved by the state board of education;

**(14)** Revoke, when charges are made and approved by the director of schools and local board of education upon sufficient evidence, the license of any teacher, principal, supervisor or other school official who is guilty of immoral conduct; provided, that the teacher, principal, supervisor or other official shall be given ten (10) days' notice in writing and an opportunity to appear in defense;

**(15) (A)** Whenever it appears to the commissioner from the report of any school official or from any other reliable source that any portion of the school fund has been lost, misappropriated or in any way illegally disposed of or not collected, or is in danger of loss, misappropriation, illegal disposition or failure of collection, the commissioner may call upon the district attorney general, the county mayor or the county attorney to protect, recover or force collection of the funds; provided, that the governor shall first give approval to such action. This subdivision (c)(15)(A), however, shall not prohibit suits by one political subdivision against another political subdivision in the same county, or against the county, when the consent of the commissioner and the governor has not been obtained. The commissioner, with the consent of the governor and with the approval of the attorney general and reporter, is authorized to employ private legal counsel in order to protect, recover or force collection of any school funds; and

**(B)** The commissioner has authority to send a supervisor or supervisors, as provided for in this section, to any local school system to make investigation of public school accounts, records and files of any official handling the school funds or administering the public school system, and to enforce all school laws and regulations of the commissioner; provided, that the duty of the commissioner shall not be exercised until the local board of education has requested the investigation;

**(16)** Supervise high schools and furnish blank forms in accord with this title;

**(17)** Prescribe regulations regarding the display of flags on public school buildings;

**(18)** Require the heads of divisions under the commissioner's direction who handle state funds to give bonds sufficient to cover any liability to the state;

**(19)** Inspect, approve and classify such private schools of grades one through twelve (1-12), as well as nursery schools or kindergartens, or any combination of these, as shall request such inspection, approval and classification; provided, that the same standards as are used for the approval and classification of the public schools shall be used for such inspection, approval and classification;

**(20) (A)** Prepare and present to the state board of education for its approval, disapproval or amendment rules and regulations that are necessary to implement the policies, standards or guidelines of the state board or the education laws of the state;

**(B)** In the absence of the state board, the commissioner shall have, if necessary, the emergency rule-making authority provided for in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

**(C)** The commissioner may prepare and promulgate, without board approval, rules and regulations that are solely necessary for the administrative operation and functions of the department; however, this authority shall not supersede the powers of the state board in policy matters and may be used only in performance of the commissioner's administrative responsibilities;

**(21)** Conduct, subject to approval of the state board of education, a program of public information concerning public schools, kindergarten through grade twelve (K-12);

**(22)** Approve evaluation plans developed by LEAs;

**(23)** Purchase a uniform liability insurance policy for the benefit of personnel employed by LEAs who are not required by state law or rules of the state board of education for the performance of their duties to hold a teacher's or administrator's certificate or permit issued under chapter 5, part 1 of this title or under the Comprehensive Education Reform Act of 1984, compiled in chapter 5, parts 50-57 of this title. The purchase of the policy shall be based upon a procedure requiring the submission and review of competitive proposals and must be approved by the commissioner of finance and administration before it is effective. Nothing in this subdivision (c)(23) prohibits LEAs from purchasing any other insurance in addition or supplemental to the insurance purchased pursuant to this subdivision (c)(23);

**(24)** Inspect and approve child care centers operated by church-related schools, as defined by § 49-50-801, in accordance with the same health, fire and safety standards as are used in inspecting and approving child care centers operated in public schools;

**(25)** Develop a system to monitor compliance with § 49-6-1006, and to ensure that this legislative mandate is being followed;

**(26)** Construct an annotated bibliography of sources of information, materials, catalogs, audiovisual aids and other activities about the contributions of African-Americans to the development of this state, the United States and the world;

**(27)** Authorize and administer a contract between the department of education and Miss Tennessee regarding safe and drug-free schools, subject to availability of federal funds that may be used for this purpose;

**(28)** Authorize and approve cooperative career and technical training programs, including work experience and career exploration programs, meeting the policies and guidelines of the state board for career and technical education that LEAs or public charter schools propose to operate. The commissioner shall monitor the operation

of the programs and shall require periodic reporting by the LEAs or public charter schools conducting the programs as the commissioner deems appropriate, reasonable and necessary to evaluate the operation and the effectiveness of the programs;

**(29)** File, by January 1, 2009, with the administrator of the wage and hour division of the United States department of labor a letter of application for participation in the federal work experience and career exploration program; and

**(30)** Require each LEA's director of schools to submit to the department of education an annual personnel report, which shall include all non-certificated personnel, part-time or full-time, employed by the school system. The report shall contain, but not be limited to, name, work location, level of education, level of experience, highly qualified status, hourly wage, number of contract days, number of paid holidays, hours per day worked, paid leave accumulation and annual salary.

**(d) (1)** Upon application by the LEA for one (1) or more of its schools, the commissioner of education may waive any state board rule or statute that inhibits or hinders the LEA's ability to meet its goals or comply with its mission. However, the commissioner may not waive regulatory or statutory requirements related to:

- (A)** Federal and state civil rights;
- (B)** Federal, state and local health and safety;
- (C)** Federal and state public records;
- (D)** Immunizations;
- (E)** Possession of weapons on school grounds;
- (F)** Background checks and fingerprinting of personnel;
- (G)** Federal and state special education services;
- (H)** Student due process;
- (I)** Parental rights;
- (J)** Federal and state student assessment and accountability;
- (K)** Open meetings;
- (L)** Educators' due process rights;
- (M)** Reductions in teachers' salaries;
- (N)** Employee rights, salaries and benefits; and
- (O)** Licensure of employees.

**(2)** No provisions of subdivision (d)(1) shall be construed to impact memoranda of understanding under the Professional Educators Collaborative Conferencing Act of 2011, compiled in chapter 5, part 6 of this title.

**(e)** Notwithstanding any law to the contrary, the commissioner shall assist the council on children's mental

health care in developing a plan that will establish demonstration sites in certain geographic areas where children's mental health care is child-centered, family-driven and culturally and linguistically competent and that provides a coordinated system of care for children's mental health needs in this state.

**(f) (1)** The commissioner of education, in collaboration with the state-level school safety team established under § 49-6-802, shall develop guidelines and training for all public school administrators and human resource personnel regarding the prevention of workplace violence. Such guidelines and training shall include outlines and related materials for use in the delivery of in-service training activities for teachers and other school personnel, and to further include materials and training or recognizing and responding to employee alcohol and substance abuse.

**(2)** The commissioner is authorized to direct up to five percent (5%) of the funds appropriated for the Safe Schools Act of 1998, codified in § 49-6-4302(c), to the Tennessee school safety center for the development and delivery of training materials and guidelines as specified under § 49-6-4302(a).

**HISTORY:** Acts 1925, ch. 115, § 4; Shan. Supp., § 1487a23; Code 1932, § 2314; Acts 1933, ch. 129, § 1; C. Supp. 1950, § 2314; impl. am. Acts 1951, ch. 58; Acts 1957, ch. 91, §§ 1, 2; 1961, ch. 106, § 1; 1961, ch. 160, § 1; 1963, ch. 13, § 1; 1974, ch. 654, §§ 2-8; T.C.A. (orig. ed.), § 49-105; Acts 1984 (1st Ex. Sess.), ch. 6, § 8; 1984 (1st Ex. Sess.), ch. 7, § 92; 1984, ch. 928, § 1; 1987, ch. 308, § 9; 1989, ch. 132, § 2; 1990, ch. 948, § 22; 1990, ch. 1024, §§ 21, 23; 1992, ch. 535, §§ 56, 58; impl. am. Acts 1996, ch. 1079, § 158; 2002, ch. 727, § 1; 2003, ch. 88, § 1; 2003, ch. 90, § 2; 2006, ch. 725, § 1; 2006, ch. 727, § 1; 2008, ch. 888, § 3; 2008, ch. 1062, § 9; 2008, ch. 1102, § 1; 2009, ch. 566, § 12; 2010, ch. 1106, § 1; 2011, ch. 378, § 6; 2014, ch. 672, § 1.