

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

November 16, 2018

Colmon S. Mitchell, Esq.
Attorney, City of Batesville
Post Office Drawer 1586
Batesville, Mississippi 38606

Re: Boys & Girls Club of the Mississippi Delta and City donations under Section 21-19-67(a) of the Mississippi Code

Dear Mr. Mitchell:

Attorney General Jim Hood has received your request for an opinion and has assigned it to me for research and response.

Issues Presented

You ask whether the City of Batesville may donate to the Boys & Girls Club of the Mississippi Delta pursuant to its authority under Mississippi Code Annotated Section 21-19-67(a). Specifically, you provide the following:

I represent the City of Batesville, Mississippi. The City has historically donated money to the Boys & Girls Club of Northwest Mississippi [a Mississippi non-profit corporation] located within the City under the authority of Section 21-19-67(a).

The Boys & Girls Club of Northwest Mississippi has merged with the Boys & Girls Club of the Mississippi Delta [a Mississippi non-profit corporation] and the Boys & Girls Club of the Mississippi Delta is the surviving corporation. The Secretary of State's website shows the new principal office address of the entity as 748 E. Fifteenth Street, Yazoo City, Mississippi 39194. I am enclosing a copy of the Articles of Merger as they appear online in the Office of the Mississippi Secretary of State. The Boys & Girls Club facility in the City is still operated and maintained as a Boys & Girls Club now the Boys & Girls Club of the Mississippi Delta with the new principal office address in Yazoo City, Mississippi.

My question is may the City of Batesville donate to the Boys & Girls Club of the Mississippi Delta under Section 21-19-67(a) of the Mississippi Code? In other words, is the Boys & Girls Club of the Mississippi Delta

“located within the [City of Batesville]” as set out in the statute?

Response

Section 21-19-67 of the Mississippi Code Annotated grants municipalities express authority to make annual donations out of any funds in the municipal treasury, in its discretion, to the Boys and Girls Clubs of America, the Young Men's Christian Association (YMCA), and farmers' markets. The provision of Section 21-19-67 that authorizes donations to Boys and Girls Clubs of America is subsection (a). Section 21-19-67(a) provides the following:

(a) Boys and Girls Club. **Any chartered chapter of the Boys and Girls Clubs of America located within the municipality**, provided that the cumulative sum of donations to all chapters within the municipality does not exceed the amount generated in the municipality by one-fourth (¼) mill on all of the taxable property within the municipality, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.


(Emphasis added.) Any donations made in accordance with Section 21-19-67(a) must be made to a chartered chapter of the Boys and Girls Club of America located within the municipality. Because Section 21-19-67 provides no guidance on what constitutes a “chartered chapter...located within the municipality,” the municipality must look to the membership requirements and operating standards of the Boys and Girls Clubs of America national organization. In order to be a chartered chapter, the entity must meet and comply with the membership requirements set by the national organization. See www.bgca.org. Of course, the determination of whether the subject club qualifies as a chartered chapter located within the municipality is a factual one to be made by the municipality. As to the requirement that the chartered chapter be “located within the municipality,” the provisions of Section 21-19-67(a) do not mandate that its principal office be located within the municipality. In our opinion, operation of the club within the municipality is sufficient to meet the requirements of Section 21-19-67(a). While the Agreement and Plan of Merger you enclosed in your request indicates that the club facility located in Batesville will continue to operate, whether the subject club continues to be located within the municipality is also a factual determination on which we cannot opine.

If we may be of further assistance, please advise.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:


Leigh Triche Janous
Special Assistant Attorney General