

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

December 21, 2018

Holmes S. Adams, Board Attorney
Madison County School District
1018 Highland Colony Parkway, Suite 800
Ridgeland, Mississippi 39157

Re: Miss. Code Ann. Section 29-3-115

Dear Mr. Adams:

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

Issues Presented

In your request, you ask whether the Madison County School Board ("Board") has the authority under Section 29-3-115 of the Mississippi Code Annotated to purchase "technically advanced audio and video equipment for use by students and teachers in their classrooms in teaching, professional development, and school safety" ("equipment") using the District's sixteenth section expendable funds.¹ You state that the Board "has the statutory authority to bid and purchase such equipment pursuant to Miss. Code Ann. Section 37-7-301(d) (equipping school facilities) and Miss. Code Ann. Section 37-7-301.1 (home rule)."

Applicable Law and Response

Our office has consistently noted the restrictive use of sixteenth section principal funds under Section 29-3-113, contrasting this with the broader – though still limited – uses of expendable funds under Section 29-3-115. See MS AG Ops. Young (July 31, 2015) and Caves (November 7, 2014). In your request, you reference the Young opinion wherein we opined that "loan proceeds under Section 29-3-113 cannot be used to purchase computers, computer peripherals, speakers and a camera." However, the Young opinion addressed the authority to borrow sixteenth section principal funds under Section 29-3-113 to pay for such

¹ Your original request includes two questions, the first of which asks about a possible ambiguity in the wording of Section 29-3-115. Because your ultimate question of whether the District has the authority to purchase the equipment using sixteenth section expendable funds can be answered under a different portion of the statute, your first question is moot.

equipment while your request is specific to the authority to use sixteenth section expendable funds under Section 29-3-115. Section 29-3-115 states, in relevant part:

The expendable funds derived from sixteenth section or lieu lands may be expended for the building and repair of schoolhouses, teachers' homes, and other school facilities, the purchase of furniture, school vehicles and equipment for same, the payment of teachers' salaries, **and for all other purposes in operating and maintaining the schools of the district to which such funds belong for which other available school funds may be expended.**

(Emphasis added.)

As you note in your request, school boards have the "responsibility for the erection, repairing and equipping of school facilities and the making of necessary school improvements." Miss. Code Ann. Section 37-7-301(d) (as amended). Accordingly, it is the opinion of this office that if the Board determines that the equipment is needed for the operation and maintenance of schools in the district, the Board would be authorized to purchase the equipment using sixteenth section expendable funds under Sections 29-3-115 and 37-7-301(d).²

If we may be of further service, please let us know.

OFFICIAL OPINION
Very truly yours,
JIM HOOD, ATTORNEY GENERAL

By: 
Beebe Garrard *By: Igrushine*
Special Assistant Attorney General

² In your request, you state that the Board has the authority under Section 37-7-301(d) and home rule, Section 37-7-301.1, to bid and purchase this equipment using funds that are not generated from sixteenth section land. With respect to sixteenth section principal and interest/interest/expendable funds, we opined in the Young opinion:

Restrictive language pertaining to the use and disposition of Sixteenth Section property runs uniformly throughout the law. It is, thus, clear that the Mississippi Legislature intended to limit the use and disposition of Sixteenth Section funds. It is, therefore, our opinion that the laws pertaining to the use of principal funds and interest and income funds should be strictly construed. Consequently, the use of such funds is limited to those expressly set out in the applicable statutes, Sections 29-3-113 and 29-3-115 in particular. While Miss. Code Ann. Section 37-7-301.1, the home rule statute, does allow discretion by the local school board in managing certain school district affairs, that discretion is not unlimited. See MS AG Op., Treadway (July 27, 2007) and MS AG Op., Yoder (February 20, 2009). We do not believe the use of Sixteenth Section funds may be expanded under Section 37-7-301.1.

MS AG Op., Young (July 31, 2015). Thus, this opinion should not be interpreted to authorize the Board solely under home rule to use sixteenth section expendable funds for the referenced equipment. As stated above, the authority for the Board to use expendable funds for the equipment would come from Sections 29-3-115 and 37-7-301(d).