

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

February 1, 2019

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

Re: Enrollment of Student in Charter School and Cost to Local School District

Dear Mr. Adams:

Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and reply.

Facts

In your letter, you explain that the Mississippi Department of Education (hereinafter "MDE") has informed the Madison County School District that the District owes local support to Smilow Prep Charter School (hereinafter "Smilow") for a student residing in the Madison District who is currently enrolled in Smilow. The Madison County School District is an "A" rated school district and was an "A" rated school district at the time Smilow was approved by the Mississippi Charter School Authorizer Board (hereinafter "MCSAB") and at the time the student enrolled in Smilow. Smilow is located within the Jackson Public School District. The MDE has explained that it is required to withhold the payment amount for the student from the District's January MAEP allocation and redirect the funds to Smilow.

Questions Presented

1. Is a student eligible to enroll in a Mississippi charter school when the student resides in a school district rated "A" at the time the charter school was approved and/or the school district was rated "A" at the time the student enrolled in the charter school?
2. Is an "A" rated school district required to pay local funds to a charter school for serving a student who resides in that school district, when the school district was rated "A" at the time the charter school was approved by the MCSAB?

Response

Section 37-28-23 of the Mississippi Code provides:

- (1) A charter school must be open to:
 - (a) Any student residing in the geographical boundaries of the school district in which the charter school is located; and
 - (b) Any student who resides in the geographical boundaries of a school district that was rated "C," "D" or "F" at the time the charter school was approved by the authorizer board, or who resides in the geographical boundaries of a school district rated "C," "D" or "F" at the time the student enrolls.

Regarding the payment that is to be made to the charter school in a school district in which the student does not reside, Section 37-28-55 of the Mississippi Code Annotated provides:

(3) For students attending a charter school located in a school district in which the student does not reside, the State Department of Education shall pay to the charter school in which the student is enrolled an amount as follows: the pro-rata ad valorem receipts and in-lieu payments per pupil for the support of the local school district in which the student resides under Sections 37-57-1 (local contribution to the adequate education program) and 37-57-105 (school district operational levy), however, not including any taxes levied for the retirement of the local school district's bonded indebtedness or short-term notes or any taxes levied for the support of vocational-technical education programs. The amount of funds payable to the charter school by the school district must be based on the previous year's enrollment data and ad valorem receipts and in-lieu receipts of the local school district in which the student resides. The pro rata amount must be calculated by dividing the local school district's months one (1) through nine (9) average daily membership into the total amount of ad valorem receipts and in-lieu receipts, as reported to the State Department of Education by the transferor local school district. The payable amount shall be equal to this pro rata amount multiplied by the number of students enrolled in the charter school, based on the charter school's end of first month enrollment for the current school year. The State Department of Education shall reduce the school district's January transfer of Mississippi Adequate Education Program funds by the amount owed to the charter school and shall redirect that amount to the charter school. Any such payments made under this subsection (3) by the State Department of Education to a charter school must be made at the same time and in the same manner as adequate education program payments are made to school districts under Sections 37-151-101 and 37-151-103.

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To enroll in a particular charter school, the student must reside in the geographical boundaries of the school district in which the charter school is located or reside in a geographical boundary of a school district that was rated "C", "D" or "F" either at the time the charter school was approved by the Authorizer Board or at the time the student enrolls in the charter school. A student residing in a school district with an "A" rating, both at the time the charter school was approved by the Authorizer Board and at the time the student attempts to enroll in the charter school, is not authorized to enroll in a charter school located outside of the school district in which the student resides. Consequently, if a student is not eligible to enroll in the charter school, neither the Mississippi Department of Education nor the school district in which the student resides owes any funds to the charter school.

If this office may be of any further assistance to you, please let us know.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Avery Mounger Lee
Special Assistant Attorney General

OFFICIAL

OPINION