

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

April 5, 2019

Christopher Hemphill, Esq.
Attorney, Columbus Municipal School District
Post Office Drawer 1426
Columbus, Mississippi 39703-1426

Re: School board election for added territory

Dear Mr. Hemphill:

Attorney General Jim Hood has received your opinion request and has assigned it to me for research and reply. On March 1, 2019, our office issued you an opinion regarding elections for school board members from the added territory of a municipal separate school district. Your current request asks two follow up questions.

Issues Presented

According to your March 1, 2019 original request: "The Columbus Municipal School District ("CMSD") has 'added territory' as defined in the Mississippi Code. Although the census of the number of students in the added territory varies depending on when the census is made, it appears that CMSD is very nearly at the 15% threshold pursuant to Section 37-7-203(1) that will require an election of a school board trustee from the 'added territory.'" In your current request, you ask:

(1) Our first question in the previous opinion request was "what date should be used for the student census to determine whether the 15% threshold is met or not? Should a census be taken more than one time during a school year?" The response was "a determination of the percentage of students residing in the added territory should be made annually." Our follow up question is: should the CMSD use the census on the first day of school to determine whether the threshold is met or not? Should another day during the school year be used?

(2) If the first day of school should be the census day, should the first day of school in August of this year (2019-2020 school year) be used to determine if an election should be held in November 2019 or should the first day (or

some other day) of school for the 2018-2019 school year be used to determine if an election should be held for an "added territory" trustee in November 2019? If first day of school this year (2019) is the day, our concern is whether we have enough time statutorily for the election to be conducted in November 2019.

Applicable Law and Response

As noted in our prior opinion, board members from the added territory are elected on the general election day in November and take office in January. See Sections 37-7-203 and 37-7-215. Section 37-7-211 provides:

The name of any qualified elector who is otherwise eligible under the provisions of subsection (1) of Section 37-7-203 who shall desire to be a candidate for the office of trustee must qualify in the following manner in order to be allowed to be considered for election. By 5:00 p.m. no more than ninety (90) days and not less than sixty (60) days before the election, he shall file with the county election commissioners a petition signed by not less than fifty (50) qualified electors of the area represented by the office which he seeks, either for a full term or an unexpired term, as the case may be, and an affidavit by the candidate offering for election stating his qualifications under the terms of the section. Where there are less than one hundred (100) qualified electors in said area represented by the trustee, it shall only be required that said petition of nomination be signed by at least twenty percent (20%) of the qualified electors in said area. The petition shall contain an affidavit certifying that all signatures are the personal signatures of each person whose name appears on the petition and that each person is a qualified elector.

Thus, using this year as an example, the qualifying period for candidates running for municipal separate school district trustee begins August 7, 2019, and ends September 6, 2019. The general election will be held November 5, 2019, and the general runoff election, if needed, would be November 26, 2019.

As you point out in your request, using student population data from the first day of school in August of a given year may not allow for enough time to conduct an election in November. Section 37-7-203 does not provide any guidance on when during the year a determination should be made of the population of students residing in the added territory. We suggest that you make the determination of the percentage of students residing in the added territory annually in sufficient time to allow the county election officials to prepare for

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and conduct the election in accordance with the applicable election deadlines.

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

Very truly yours,

JIM HOOD, ATTORNEY GENERAL

By:



Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION