

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

June 24, 2019

Michele H. Floyd, Esq.
Attorney, Itawamba County School District
605 South Cummings Street
Fulton, Mississippi 38843

Re: Years of Experience and Teach Mississippi Institute

Dear Ms. Floyd:

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

Issues Presented

You ask for a clarification of Attorney General Opinions MS AG Op., Morgigno (August 3, 2012) 2012-00304 and MS AG Op., West (July 10, 2015) 2015-00217 and an interpretation of Section 37-3-2(6)(b)(viii) of the Mississippi Code. Specifically, you provide:

We have situations where teachers take longer finishing the Teach Mississippi Institute and actually have two or more years of teaching experience after completing the TMI. These teachers want their salary based on "an additional level of experience" (Attorney General opinion 2012-00304) even though they are at or beyond Step 3 (MS Code Section 37-3-2(6)(b)(viii)). The following are two specific scenarios that we have.

First, we have a person that we hired in August 2016 on a one-year license valid from August 17, 2016 - June 30, 2017. She was later issued a three-year license valid from August 30, 2016 - June 30, 2019. She finished the Teach Mississippi Institute in May 2019. For the 2016-2017 school year, she was paid at 0 years of experience; for the 2017-2018 school year, she was paid at 1 year of experience; and for the 2018-2019 school year, she was paid at 2 years experience, all pursuant to actual years of experience on the teachers' Minimum Salary Schedule. For the 2019-2020 school year, she would be scheduled to be paid for 3 years of experience. However, she believes that she should be compensated for "an additional level of

experience" (Attorney General opinion 2012-00304) and therefore, be paid at 4 years of experience on the teachers' Minimum Salary Schedule.

Under these circumstances, do we pay her at 4 years of experience (literal reading of Attorney General opinion 2012-00304); at 3 years of experience (Minimum Salary Schedule based on actual years of experience); or at Step 3 which is 2 years of experience (literal reading of MS Code Section 37-3-2(6)(b)(viii)?

Second, we have a person that we hired in July of 2017 as a teacher on a three-year license valid from July 27, 2017 - June 30, 2020. He also finished the Teach Mississippi Institute in May 2019. For the 2017-2018 school year, he was paid at 0 years of experience (Step 1) and for the 2018-2019 school year, he was paid at 1 year of experience (Step 2). For the 2019-2020 school year, he would be scheduled to be paid for 2 years of experience pursuant to actual years of experience on the teachers' Minimum Salary Schedule. However, he believes that he should be compensated for "an additional level of experience" (Attorney General opinion 2012-00304) and therefore, be paid at 3 years of experience on the teachers' Minimum Salary Schedule.

Under these circumstances, do we pay him at 3 years of experience (literal reading of Attorney General opinion 2012-00304) or at 2 years of experience, which is Step 3 (Minimum Salary Schedule based on actual years of experience and literal reading of MS Code Section 37-3-2(6)(b)(viii)?

Applicable Law and Response

Opinions of this office are limited to prospective questions of state law. Miss. Code Ann. Section 7-5-25. This office cannot validate or invalidate past actions. Thus, to the extent that your inquiries require this office to opine on past action, we decline to answer and offer the following comments for future guidance.

The requirements of the Teach Mississippi Institute (TMI) are outlined in Section 37-3-2 of the Mississippi Code. Subsection(b)(viii) specifically provides:

The local school district in which the nontraditional teacher intern or provisional licensee is employed shall compensate such teacher interns at Step 1 of the required salary level during the period of time such individual is completing teacher internship requirements and shall compensate such Standard License--Nontraditional Route teachers at Step 3 of the required salary level when they complete license requirements.

According to the plain language of the statute, an individual going through the TMI program would be paid at Step 1 during the period of time that he or she is completing the internship requirements. If a second year of an internship is needed to complete the TMI program, the statute does not provide for an increase on the salary scale. An individual who participates

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in TMI is only to be compensated at Step 3 upon the completion of TMI license requirements. This is consistent with MS AG Op., West (July 10, 2015) in which we opined "that once a TMI teacher obtains a 5-year license, the teacher is compensated at "Step 3", which is the equivalent of 2 years of experience."

Additionally, we note that Section 37-3-2 does not specifically provide for an "additional level of experience" for all teachers who complete the TMI program. Only if an individual completed his or her TMI license requirements after one year of the paid internship would he or she be paid at Step 3 for his or her second year of teaching.

It is our understanding that MS AG Op., Morgigno (August 3, 2012) has been interpreted to mean that all teachers who complete the TMI program are entitled to an "additional level of experience". However, this is an incorrect reading of the opinion. The Morgigno opinion does not address the factual scenario outlined in your request, in which TMI participants are taking two or more years to complete the paid internship requirements. In MS AG Op., Morgigno (August 3, 2012), our office was asked whether an educator who completed the TMI program in one school district and was later hired by a different school district should be paid for the years of experience obtained in the initial school district. We opined: "MS Code Section 37-3-2(6)(b)(viii) requires any local school district employing a TMI educator who has completed licensure requirements and obtained a 5 year Standard License, to compensate the educator for an additional level of experience." It remains the opinion of this office that any years of experience properly credited to a TMI participant should carry over to a school district that later hires the educator. However, the Morgigno opinion should not be interpreted to grant TMI participants with a blanket "additional year of experience" regardless of how long it takes the participant to complete the program.

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