



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

September 3, 2021

The Honorable Ronnie Brock
Selectman, City of McComb
Post Office Box 667
McComb, Mississippi 39649-0667

Re: Authority of the McComb City's Board of Mayor and Selectman Over the
School District's Board of Trustees

Dear Mr. Brock:

The Office of the Attorney General has received your request for an official opinion.

Background

The City of McComb is governed by a special charter. According to your request, the Board of Trustees for the McComb Municipal Separate School District ("School Board") has five members, four of whom are appointed by the McComb City Board of Mayor and Selectman ("City Board") and one of whom is elected from the added territory of the school district.

Questions Presented

1. What authority, if any, does the City Board have to remove one or all four School Board members and appoint new School Board member(s)?
2. Can the City Board create an ordinance to address School Board trustees' term of service and how the School Board trustees serve?

Preface

The City of McComb is a special charter municipality, and as such, the powers of the municipality flow directly from its charter. Ordinarily, questions about the workings of a municipality operating under a special charter should be answered by reference to the specific provisions of that charter; however, if the special charter is silent on a particular matter, general statutory provisions would apply. MS AG Op., *Carouthers* at *1 (June 28, 2019). Where the provisions of a special charter conflict with general law, generally, the specific provisions of a special charter govern. MS AG

Op., *Barton* at 1* (June 15, 2012). This opinion is premised on the special charter of the City of McComb being silent on your questions; so, this office will apply general statutory provisions.

Brief Response

1. Assuming the City of McComb's special charter is silent on this matter, as set forth above, the City Board has no authority to remove a School Board member during the term for which the member was appointed.
2. Assuming the City of McComb's special charter is silent on this matter, as set forth above, Section 37-7-203 governs the terms of service of school board trustees. The City Board has no authority to adopt an ordinance that conflicts with state statutes.

Applicable Law and Discussion

With respect to your first question, members of the boards of trustees of municipal separate school districts serve five-year terms. Miss. Code Ann. § 37-7-203. We have previously stated that an individual lawfully appointed to an office is entitled to serve the entire term of said office without being subject to removal, as long as he or she remains qualified to hold office. MS AG Op., *Rhodes* at *2 (Jan. 8, 2020) (citing MS AG Op., *Cardin* (Aug. 26, 2005)).

With respect to your second question, we have previously stated that special charter municipalities can adopt any orders, resolutions or ordinances with respect to municipal affairs, property, and finances for which no provision has been made by general or special charter provisions and which is not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code, the special charter of the municipality, or any other statute or law of the State of Mississippi. MS AG Op., *Jones* at *2 (July 27, 2012) (citing Miss. Code Ann. § 21-17-5). As such, the City Board has no authority to adopt any ordinance that conflicts with state statutes.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Abby Cummings*

Abby Cummings
Special Assistant Attorney General