



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

September 30, 2021

John S. Hill, Esq.
Attorney for the Starkville Oktibbeha
Consolidated School District
Post Office Box 7120
Tupelo, Mississippi 38802-7120

Re: Official Attorney General's Opinion Regarding the Sale of Laptop
Computers to Twelfth Grade Graduating Students

Dear Mr. Hill:

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

Background Facts

In your request, you state that the Starkville Oktibbeha Consolidated School District (the "District") purchased an unidentified number of laptop computers with funds obtained by a grant administered by the Mississippi Department of Education (the "MDE") under the Equity in Distance Learning Act (the "EDLA"). The computers are less than one year old. Pursuant to the EDLA, the District has adopted a "responsible use policy" that authorizes the "student purchase of district issued technology" by twelfth grade students, to the extent such sale is consistent with state and federal law, and you enclosed with your request a copy of such policy.

Your request also notes that in the grant application submitted by the District to the MDE, the District made the assurance that "[a]ll students and teachers will have access to the above devices through June of 2023 (unless they otherwise leave the district)."

Question Presented

May the District allow graduating seniors to purchase laptop computers assigned to them if they meet the criteria stated in the District's responsible use policy even though those computers are one year old and purchased with EDLA funds?

Brief Response

The EDLA authorizes the sale of “devices and other technology” purchased under the EDLA grant program to students in Grade 12, provided that such sale comports with Mississippi Code Annotated Section 37-7-459.

Applicable Law and Discussion

Pursuant to Section 7-5-25, the Office of the Attorney General is authorized to issue official opinions in response to questions of state law only. Thus, we cannot by official opinion interpret the terms or provisions of the District’s “reasonable use policy,” the grant application referenced in your request, or any guidance or regulations promulgated by the MDE to administer the EDLA grant program. MS AG Op., *Carnathan* at *1 (May 1, 2015) (noting that the Office of the Attorney General does not interpret board or agency policies or regulations by official opinion); MS AG Op., *Myers* at *1 (May 14, 2021) (quoting MS AG Op., *Brett* at *1 (May 31, 1988) (“Under the provisions of Section 7-5-25, Miss. Code of 1972, this office may not interpret local ordinances, resolutions, regulations or rules.”)).

During the 2020 Regular Legislative Session, in the wake of the COVID-19 pandemic, the Mississippi Legislature enacted the EDLA to “provide funding for devices and other technology, including technology related to connectivity and online access, sufficient for students, teachers, and administrators and other staff to engage in grade-appropriate distance learning aligned with the state’s College and Career Readiness Standards, and provide funding for safe classroom or remote instruction.” Miss. Code Ann. § 37-68-3(2)(a). The Legislature empowered the MDE to administer the grant program “for the purpose of reimbursing schools for eligible expenses incurred in funding their distance learning plans, and in facilitating safe classroom and remote instruction.” Miss. Code Ann. § 37-68-7(1). Under the EDLA, school districts are to “submit expenditures [to the MDE] and receive reimbursement for eligible expenses.” Miss. Code Ann. § 37-68-9(1)(b)(i).

The EDLA sets forth various requirements with which a school district must comply to be eligible to receive funds under the grant program. One such requirement mandates districts to develop and submit to the MDE, by September 1, 2020, the following:

A responsible use policy, addressing the use of devices and other technology purchased under this grant program. The policy shall include a provision requiring students, parents or guardians, teachers, administrators and other staff to agree in writing to the provisions in the policy, and may include fines for intentional loss or damage to devices. *The policy shall also include a provision acknowledging that the school shall assume the control of ownership and liability for personal devices and other equipment purchased under this grant program until the personal device or other equipment:*

1. No longer serves the school or related school purposes for which it was acquired and is sold by public auction under Section 17-25-25;

2. *Is sold to students in Grade 12 under the provisions of Section 37-7-459; or*
3. *Is traded in to a vendor as part of a subsequent purchase;*

Miss. Code Ann. § 37-68-11(f)(iii) (emphasis added). The EDLA explicitly envisions school districts selling, to Grade 12 students, devices purchased by such districts with EDLA grant funds. Such sales should be conducted pursuant to Section 37-7-459, which governs the process for selling computers to students.

Accordingly, provided the District has enacted a policy that complies with Section 37-68-11(f)(iii), the sale is consistent with such policy and Section 37-7-459, and the District adheres to assurances made within the grant application to MDE, the District may allow Grade 12 students to purchase the laptop computers—purchased by the District with EDLA grant funds—assigned to them.

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/ Kyle Williams*

Kyle Williams
Special Assistant Attorney General

OFFICIAL OPINION