



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

November 17, 2021

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522 West Park Avenue
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Greenwood, Mississippi 38930

Re: School Closures Pursuant to Mississippi Code Annotated Section 37-13-65

Dear Mr. Pulley:

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

Issues Presented

1. Does the phrase “upon application from the school board,” within Mississippi Code Annotated Section 37-13-65, forbid school superintendents from closing schools prior to the board’s approval?
2. Is there any emergency situation that would allow a school superintendent to close school prior to the school board’s approval?

Brief Response

1. Yes. A superintendent may only close schools pursuant to Section 37-13-65 based upon an application from the school board.
2. No. A superintendent is only granted authority to close schools in emergency situations in accordance with Sections 37-13-64 and 37-13-65, both of which require prior school board action.

Applicable Law and Discussion

As an initial matter, we note that opinions of this office are issued on prospective questions of state law pursuant to Section 7-5-25. Your request indicates that the superintendent may have closed a

Kelvin Pulley, Esq.
November 17, 2021
Page 2

school in the past. Official opinions do not validate or invalidate past actions. MS AG Op., *Magee* at *1 (Aug. 29, 2008). This opinion is intended for future guidance only.

The local school board is the governing authority of a school district. Miss. Code Ann. § 37-6-7. Both the Governor and the local school boards have statutory authority to close schools pursuant to Title 37, Chapter 65. The general responsibilities and powers of superintendents, which are listed in Section 37-9-14, do not include authority to close schools.

In response to your first question, with respect to emergency closures, Section 37-13-65 provides, in relevant part: “Upon application from the school board, the superintendent of schools may close any school because of an epidemic prevailing in the school district or because of the death, resignation, sickness or dismissal of a teacher or teachers or because of any other emergency necessitating the closing of the school.” Based on a plain reading of the statute, the superintendent does not have authority under Section 37-13-65 to close schools prior to official action being taken by the school board.

In addition to the authority to close schools under Section 37-13-65, superintendents also have authority to close schools due to extreme weather conditions, pursuant to Section 37-13-64. However, as with emergency closures under Section 37-13-65, the superintendent must first be granted authority by the local school board to close schools for extreme weather. *See* MS AG Op., *Wright* at *3 (Mar. 18, 2015) (opining that the school board must pre-authorize the superintendent to close schools due to extreme weather conditions and that the school board may not retroactively grant such authority.) Accordingly, in response to your second question, it is the opinion of this office that a superintendent does not have independent authority under Sections 37-13-64 or 37-13-65 to close schools in an emergency situation.

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/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General