



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

August 2, 2022

J. Kirkham Povall, Esq.  
Attorney, Town of Boyle  
Post Office Drawer 1199  
Cleveland, Mississippi 38732

Re: Definition of School in Senate Bill 2095

Dear Mr. Povall:

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

### **Background**

According to your request, an individual recently approached officials with the Town of Boyle requesting a permit to operate a medical cannabis dispensary that will be located within 1000 feet of two private dance studios. The dance studios offer private dance lessons to students ages K-4 through high school. The students are taught by the owners of the dance studios. There is no indication that the dance studios have a connection to any kindergarten, elementary, junior high, or high school.

### **Question Presented**

Is a dance studio considered a “school” under the definition provided by the Mississippi Medical Cannabis Act?

### **Brief Response**

It is the opinion of this office that a dance studio is not a “school” as defined by the Mississippi Medical Cannabis Act.

### **Applicable Law and Discussion**

Section 19(2) of Mississippi Medical Cannabis Act (“S.B. 2095”) states, in part, that “[t]he main point of entry of a medical cannabis establishment shall not be located within one thousand (1,000)

feet of the nearest boundary line of any school, church or child care facility.” Senate Bill 2095, 2022 Regular Session.

Under Section 2(gg) of S.B. 2095, “school” is defined as:

. . . an institution for the teaching of children, consisting of a physical location, whether owned or leased, including instructional staff members and students, and which is in session each school year. This definition shall include, but not be limited to, public, private, church and parochial programs for kindergarten, elementary, junior high and high schools. Such term shall not mean a home instruction program.

“All words and phrases contained in the statutes are used according to their common and ordinary acceptance and meaning. . . .” Miss. Code Ann. § 1-3-65. The definition of “school” in S.B. 2095 follows that of the Mississippi Compulsory Attendance Law, codified at Section 37-13-91, which requires all compulsory-school-age children to be enrolled in and attend a public school or legitimate nonpublic school for the period of time the child is of compulsory school age. *See MS AG Op., Johnson* at \*1 (Dec. 3, 2002). “School” is defined as a public school, charter school, or nonpublic school, “which is in session each *school year* for at least one hundred eighty (180) school days, except that the “nonpublic” school term shall be the number of days that each school shall require for promotion from grade to grade.” Miss. Code Ann. § 37-13-91(2)(e) (emphasis added). A nonpublic school is defined as “an institution for the teaching of children, consisting of a physical plant, whether owned or leased, . . . instructional staff members and students, and which is in session each school year.” *Id.* at (2)(i). “This definition shall include . . . private, church, [and] parochial . . . programs.” *Id.*

Like Section 2(gg) of S.B. 2095, the Mississippi Compulsory School Attendance Law similarly uses the phrase “school year” to define a “school,” differentiating it from other programs which may offer some form of instruction to students, whether they are children or adults, but which do not promote children from grade to grade. Miss. Code Ann. § 37-13-91(2)(e). The common and ordinary use of the phrase school year is, as found in the Mississippi Compulsory School Attendance Law, a term of about 180 days. *Id.* *See also* Miss. Code Ann. § 37-13-63(1) (stating school shall be in session at least 180 days a year).

Section 19(2) of S.B. 2095 sets the distance requirement for medical cannabis establishments as 1,000 feet from schools, as well as child care facilities. The Legislature’s inclusion of “child care facility” as well as “school” indicates that “school,” as contemplated here, does not include all places where children may receive instruction.

The definition in S.B. 2095, § 2(gg) declaring that “schools” are physical institutions that provide programs of educational instruction for kindergarten, elementary, junior high, and high schools and in session each school year aligns with the well-understood, ordinary meaning of school. It is the opinion of this office that an independent dance studio is not a “school” as contemplated by the Mississippi Medical Cannabis Act.

J. Kirkham Povall, Esq.

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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/ Misty Monroe*

Misty Monroe  
Assistant Attorney General

OFFICIAL OPINION