



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

April 26, 2023

Ben L. Gilbert, Jr., Esq.
Attorney, Town of Summit
Post Office Drawer 1919
McComb, Mississippi 39649-1919

Re: Proposed Donation to the Boys and Girls Club of Southwest Mississippi

Dear Mr. Gilbert:

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

Background

According to your request, the town of Summit (the “Town”) has proposed a donation to the Boys and Girls Club of Southwest Mississippi (the “Club”). The Club is duly chartered and registered with the Mississippi Secretary of State charities division. The Club’s main location is in the neighboring municipality of McComb, and there is another Club location in Tylertown. There are no brick-and-mortar locations in the Town, but the Club serves children throughout Southwest Mississippi, including a number of children from the Town.

Question Presented

Is it legal for the town of Summit to make a donation to the Boys and Girls Club of Southwest Mississippi?

Brief Response

The town of Summit may make a donation to the Boys and Girls Club of Southwest Mississippi, provided the Town determines that the Club qualifies as a chartered chapter located within the municipality.

Applicable Law and Discussion

Mississippi Code Annotated Section 21-19-67 provides, in pertinent part:

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The governing authority of any municipality in the state, in its discretion, is authorized to donate annually, out of any funds in the municipal treasury, to:

- (a) **Boys and Girls Club.** Any chartered chapter of the Boys and Girls Clubs of America located within the municipality, provided that the cumulative sum of donations to all chapters within the municipality does not exceed the amount generated in the municipality by one-fourth ($\frac{1}{4}$) mill on all of the taxable property within the municipality, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

This office has previously opined that whether a subject club qualifies as a chartered chapter located within the municipality is a factual determination to be made by the municipality. MS AG Op., *Mitchell* at *1 (Nov. 16, 2018). Additionally, this office opined that Section 21-19-67(a) does not require that a chartered chapter have its principal office located within the municipality; thus, “operation of the club within the municipality is sufficient to meet the requirements of Section 21-19-67(a).” *Id*; see also MS AG Op., *McGee* at *1 (July 3, 2009) (opining that the language of Section 21-19-57 regarding donations to the American Red Cross “does not restrict donations to only those chapters that are physically headquartered within the municipal boundaries,” and whether the subject American Red Cross qualified as a “local chapter” was a factual determination to be made by the governing authority).

This office remains of the opinion that if the Town makes the factual determination that the Club qualifies as a chartered club operating within the municipality, then the Town may make a donation pursuant to Section 21-19-67(a).

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