



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

June 24, 2024

Nathaniel Clark, Esq.
Attorney, Tishomingo County School Board
1620 Paul Edmondson Drive
Iuka, Mississippi 38852

Re: Transfer of Out-of-State Students

Dear Mr. Clark:

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

Question Presented

May a Mississippi public school district accept a transfer student who resides out of state under Mississippi Code Annotated Section 37-15-9(2)?

Brief Response

No. Section 37-15-9(2) does not authorize a Mississippi public school district to accept a transfer student who resides out of state.

Applicable Law and Discussion

With limited exceptions, “no minor child may enroll in or attend any school except in the school district of his residence” unless he or she lawfully transfers to another school district in accordance with Mississippi law. Miss. Code Ann. § 37-15-29. Regarding your specific question, Section 37-15-9(2) merely allows a student who moves to Mississippi from out of state to enroll in a Mississippi public school at the same grade level as his or her prior out-of-state enrollment if certain conditions are met. It does not allow an out-of-state student to transfer to a Mississippi public school district while remaining an out-of-state resident. *See MS AG Op., Cooke at *1 (Aug. 1, 1991) (opining that there is no legislative authority for the Tishomingo school board to accept a transfer student who resides out of the state).*

Notably, there is an exception in Section 37-15-31(2)(a), which states, in relevant part:

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Upon the petition in writing of any parent or guardian who is not a resident of Mississippi and who is an instructional or licensed employee of a school district in Mississippi, the school board of the employer school district shall consent to the transfer of such employee's dependent school-age children to its district and shall spread the same upon the minutes of the board.

However, this residency exception is limited to children of licensed Mississippi school district employees. Section 37-15-9(2) does not allow students residing out of Mississippi to transfer to Mississippi public schools.

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

OFFICIAL OPINION