



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

July 9, 2024

Dr. Lisa Karmacharya
Executive Director, Mississippi Charter School Authorizer Board
239 N. Lamar Street, Suite 207
Jackson, Mississippi 39201

Re: Hybrid and Virtual Charter School Models

Dear Dr. Karmacharya:

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

Questions Presented

- 1) Does Mississippi law allow for the creation and operation of a hybrid charter school, which is a school that offers both in-person and virtual, online instruction?
- 2) Does Mississippi law allow for the creation and operation of a charter school that only provides virtual, online instruction?

Brief Response

- 1) The Mississippi Charter Schools Act of 2013 (“Act”) allows charter schools to provide virtual classes to its students subject to the approval of the Mississippi Charter School Authorizer Board (“Authorizer Board”).
- 2) While the Act contemplates a physical location for charter schools, it is silent on the question of virtual-only, online instruction. Thus, the Authorizer Board has the authority to determine whether allowing virtual-only, online instruction complies with the Act. If the Authorizer Board makes such determination, the operation of charter schools with virtual-only, online instruction must comply with the provisions of the Act and any applicable regulations adopted by the Authorizer Board.

Applicable Law and Discussion

The Authorizer Board is the “state agency with exclusive chartering jurisdiction in the State of Mississippi.” Miss. Code Ann. § 37-28-7(1). The powers and duties of the Authorizer Board include, among other things:

- (a) Developing chartering policies and maintaining practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility, including . . . (i) Organizational capacity and infrastructure [and] (ii) Solicitation and evaluation of charter applications . . . ;
- (b) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
- (c) Declining to approve weak or inadequate charter applications[.]

Miss. Code Ann. § 37-28-9(1). As you point out in your request, the Act provides that “[s]ubject to the approval of the authorizer, a charter school may contract with an accredited online course provider for the delivery of virtual courses to students enrolled in the charter school.” Miss. Code Ann. § 37-28-43(6); *see also* Miss. Code Ann. § 37-11-81 (authorizing charter schools to offer digital or online resources or databases to students with certain requirements). In response to your first question, it is the opinion of this office that Mississippi Code Annotated Section 37-28-43(6) allows charter schools to provide in-person and virtual, online instruction if approved by the Authorizer Board.

Other than Section 37-28-43(6)’s brief mention of virtual courses that charter schools may offer, the Act does not specifically allow or prohibit virtual-only, online instruction. However, the following sections of the Act offer support not only for the geographic location of a charter school but also a physical campus or building. Notably, the Act provides for charter schools to be located and serve students within a particular local school district. *See* Miss. Code Ann. §§ 37-28-45(3) (“[A] charter school is geographically located within the boundaries of a particular school district and enrolls students who reside within the school district. . . .”); 37-28-7(2)(a) (stating charter schools are to be authorized “within the geographical boundaries of any school district.”); and 37-28-23(1), (5) (explaining the requirements for students residing within and without the geographical boundaries of the school district where a charter school is located). There also are references throughout the Act to the physical facility or location of charter schools. *See* Miss. Code Ann. §§ 37-28-15(4)(c), (w) (listing elements for requests for proposals, including “[t]he location or geographic area proposed for the school” and “[t]he school’s plans for providing transportation, food service and all other significant operational or ancillary services.”); 37-28-21(3) (stating requirements for obtaining a charter, including “that the school meets all building, health, safety, insurance and other legal requirements before the school’s opening.”); 37-28-41(e) (listing a charter school’s discretionary authority, including “acquir[ing] real property for use as its facility or facilities, from public or private sources. . . .”); 37-28-43(5) (“The terms of each charter school must include a transportation plan for students attending the charter school.”); and 37-28-61 (explaining the process for obtaining real property for use as a charter school).

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Additionally, charter schools are required to comply with Section 37-13-63(1), “which prescribes the minimum number of days which public schools must be kept in session during a scholastic year.” Miss. Code Ann. § 37-28-45(6)(o). Charter schools also must comply with the statewide assessment testing program. Miss. Code Ann. § 37-28-45(2).

In your request, you reference the Mississippi Virtual Public School established pursuant to Section 37-161-3(2) as possible support for allowing a charter school that only provides virtual, online instruction. We note, however, that the Legislature has given responsibility for the Mississippi Virtual Public School Program to the Mississippi Department of Education, separate and apart from the authority granted to the Authorizer Board under the Mississippi Charter Schools Act.

In response to your second question, because virtual-only, online instruction is not statutorily prohibited, and the Authorizer Board has the power and duty to determine chartering policies and practices in Mississippi, the Authorizer Board has the discretion to determine whether the foregoing sections or any other applicable provisions of the Act allow virtual-only online instruction.

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