



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

March 10, 2026

Matt Mayo  
Vice Chair, Mississippi State Board of Education  
Post Office Box 771  
Jackson, Mississippi 39205

Re: “Agency Head” of the Mississippi Department of Education

Dear Mr. Mayo:

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

### **Background**

According to your request, there is an ambiguity in the definition of “agency head” as used in the Mississippi Internal Audit Act, Mississippi Code Annotated Sections 25-65-1 *et seq.*, where there exists both a State Superintendent of Education (“State Superintendent”) and a governing board.

### **Question Presented**

Who is the “agency head” for the Mississippi Department of Education (“MDE”) as defined in Section 25-65-5(d) —the State Superintendent or the State Board of Education— when both an executive director (State Superintendent) and a governing board (State Board of Education) exist?

### **Brief Response**

Applying the plain meaning of Section 25-65-5(d), the State Board of Education (“SBE”) is the agency head of the MDE.

### **Applicable Law and Discussion**

Section 25-65-5(d) of the Mississippi Internal Audit Act defines “[a]gency head” as “an elected official who heads an agency, an executive director or a governing board or commission responsible for heading an agency.” You ask who would be considered the agency head of MDE where there is both a State Superintendent and a governing board.

Mr. Matt Mayo  
March 10, 2026  
Page 2

Section 37-3-9(1) states that the State Superintendent “shall be the Chief Administrative Officer of the State Board of Education.” The State Superintendent is appointed by the SBE “with the advice and consent of the Senate” and “serves at the board’s will and pleasure.” Miss. Code Ann. § 37-3-9(1). The State Superintendent is required to administer MDE “in accordance with the policies established by the” SBE. Miss. Code Ann. § 37-3-9(1). He performs the duties assigned to him by the SBE. *See* Miss. Code Ann. § 37-3-11. It is thus implied that the SBE stands above the State Superintendent given that he is appointed by the board and serves at their pleasure. *See* Miss. Code Ann. § 37-3-9(1).

Therefore, it is the opinion of this office that the SBE, as “a governing board . . . responsible for heading an agency[,]” is the only entity that meets the definition of “agency head” under Section 25-65-5(d). *See* Miss. Code Ann. § 25-65-5(d).

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/ Kristi D. Kennedy*

Kristi D. Kennedy  
Special Assistant Attorney General

OFFICIAL OPINION