



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

June 23, 2026

Hollis Holleman, Esq.  
Board Attorney, Mississippi Gulf Coast Community College  
1720 23<sup>rd</sup> Avenue  
Gulfport, Mississippi 39501

Re: Mississippi Code Annotated Section 45-33-26

Dear Mr. Holleman:

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

### **Background**

According to your request, Mississippi Gulf Coast Community College (“MGCCC”) is a public community college established under Mississippi Code Annotated Sections 37-29-1, *et. seq.* MGCCC operates an Early Childhood Center (“Center”) on its Harrison County campus that provides childcare for the children of MGCCC students. While not officially titled a “preschool,” the Center provides structured, curriculum-based pre-kindergarten programming for young children from 12 months old through pre-kindergarten. The Center operates on weekdays throughout the regular academic year. Minor children are present on the MGCCC campus grounds daily during Center operating hours. MGCCC requests guidance on the scope and application of Section 45-33-26 to determine its obligations under Mississippi law when a person required to register as a sex offender seeks to enroll in postsecondary coursework at MGCCC.

### **Questions Presented**

1. Does the Center on the MGCCC campus constitute a “school” as that term is defined in Section 45-33-26(4)(a), which provides that “[f]or the purposes of this section, . . . “[s]chool” means a public or private preschool, elementary school, or secondary school”?
2. If the Center constitutes a school under Section 45-33-26(4)(a), does the MGCCC campus — or any portion thereof— constitute “real property comprising [a] school” within the meaning of Section 45-33-26(1)(a)(i), such that a registered sex offender is prohibited from being present on or about the campus?

3. Does the term “school” as used in subsection (2)(b) carry the same limited definition set forth in subsection (4)(a), such that enrollment in a postsecondary institution does not satisfy the exception?

### **Brief Response**

1. Whether the Center constitutes a school as defined in Section 45-33-26(4)(a) is determination of fact to be made by the MGCCC board of trustees.
2. Please see response to question one.
3. The definition of “school” in Section 45-33-26(4)(a) applies to the term “school” as used in Section 45-33-26(2)(b). Accordingly, a postsecondary institution does not fall within the definition of the term “school” as set forth in Section 45-33-26(4)(a), and the exception set forth in Section 45-33-26(2)(b) is not applicable.

### **Applicable Law and Discussion**

Section 45-33-26(1)(a) places limitations on persons required to register as a sex offender from being present on certain school properties. Specifically, it states:

Unless exempted under subsection (2), it is unlawful for a person required to register as a sex offender under Section 45-33-25:

- (i) To be present in any school building, on real property comprising any school, or in any conveyance owned, leased or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the building, on the grounds or in the conveyance; or
- (ii) To loiter within five hundred (500) feet of a school building or real property comprising any school while persons under the age of eighteen (18) are present in the building or on the grounds.

Miss. Code Ann. § 45-33-26(1)(a).

You first ask if the Center constitutes a “school.” As provided in Section 45-33-26(4)(a), “[f]or the purposes of this section, . . . “School” means a public or private preschool, elementary school or secondary school.” The term “preschool” is not defined in this section; however, Section 37-21-51(1)(a), which is part of the Early Learning Collaborative Act of 2013, provides that “[p]reschool or prekindergarten children’ means any children who have not entered kindergarten but will have obtained four (4) years of age on or before September 1 of a school year.” Similarly, Merriam Webster defines preschool as “a school for children usually younger than those attending elementary school or kindergarten.” MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/preschool> (last visited June 23, 2026). Your request indicates that the Center provides pre-kindergarten programming for children 12 months old through pre-

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kindergarten. Ultimately, whether the Center meets the definition of “school” as provided in Section 45-33-26(4)(a), is a determination of fact to be made by the MGCCC board of trustees. *See* Miss. Code Ann. § 7-5-25 (authorizing this office to opine upon prospective matters of state law only).

You next ask if the MGCCC campus—or any portion thereof—constitutes “real property comprising [a] school” within the meaning of Section 45-33-26(1)(a)(i), such that a registered sex offender is prohibited from being present on or about the campus. Section 45-33-26(1)(a) makes it unlawful for a registrant to be present or loiter within 500 feet of “real property comprising any school . . . while persons under the age of eighteen (18) are present.” While the term “real property” is not defined within Section 45-33-26, in another section of the code, real property is defined as “one or more defined interests, benefits or rights inherent in the ownership of real estate.” Miss. Code Ann. § 73-34-3(i). And Black’s Law Dictionary defines “real property” as “[l]and and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land. . . . Also termed *realty*; *real estate*.” *Real Property*, BLACK’S LAW DICTIONARY (11th ed. 2019). Like question one, whether any portion of MGCCC’s campus constitutes “real property comprising [a] school” is a determination of fact to be made by the MGCCC board of trustees.

Last, you ask if the exception in Section 45-33-26(2)(b) applies to a registrant who is enrolled in MGCCC but is not enrolled in the Center, or stated differently, does the term “school” as used in subsection (2)(b) carry the same limited definition set forth in subsection (4)(a). The definition is the same. The exception in Section 45-33-26(2)(b) provides that Section 45-33-26(1), which places limitations on registered sex offenders’ presence on certain school property, “shall not apply to a sex offender who is legally enrolled in a particular school or is participating in a school-sponsored educational program located at a particular school when the sex offender is present at the school.” The term “school” as used in Section 45-33-26 “means a public or private preschool, elementary school or secondary school.” Miss. Code Ann. § 45-33-26(4)(a). Accordingly, a postsecondary institution does not fall within the definition of the term “school” as set forth in Section 45-33-26(4)(a), so the exception is not applicable.

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/ Maggie Kate Bobo*

Maggie Kate Bobo  
Special Assistant Attorney General