

OFFICE OF CHIEF SCHOOL PERFORMANCE OFFICER
Summary of State Board of Education Agenda Items
March 19-20, 2015

OFFICE OF ACCREDITATION

14. Discussion of days missed by school districts as a result of inclement weather during the 2014-2015 school year

Pursuant to MS Code §37-13-63(1) and Process Standard 13 of the *Mississippi Public School Accountability Standards, 2014*, all public schools in the state shall be kept in session for at least one hundred eighty days (180) days in each scholastic year.

Emergency weather conditions resulting from sleet, snow, and ice associated with the winter storms have caused several school districts in our state to miss days during the 2014-2015 school year.

Two statutory provisions address exemptions from MS Code §37-13-63(1). They are MS Code §37-13-63(2) and MS Code §37-13-64. MS Code §37-13-63(2) and MS Code §37-13-64 appear to conflict with the requirements for exemption requests from the one hundred and eighty (180) day requirement for each scholastic year, as required by MS Code §37-13-63(1). Consequently, MDE requested and has received an expedited opinion from the Attorney General's Office to provide clarity. The Attorney General's Opinion is included in the back-up material.

In an effort to present the most comprehensive information to the State Board, the Office of Accreditation requested all districts respond to a survey indicating the amount of instructional time missed due to inclement weather during the 2014-2015 school year. A compilation of the survey results is provided in notebooks at the table for the Board's review. Ninety (90) districts were affected by inclement weather. The summary lists the number of early release days, delayed start days, and number of days missed by each district. Thirty-five (36) districts responding were not impacted by the inclement weather. Three (3) district responses were incomplete and seventeen (17) districts did not respond to the survey.

Back-up material attached

Office of Accreditation Inclement Weather 2014-2015 Survey Results

| District Name | # of Days Missed | Early Release | Delayed Start |
|--|-----------------------|---------------|---------------|
| Aberdeen School District | 3 | 1 | 4 |
| Alcorn School District | 7 | 1 | 2 |
| Amite County School District | 0 | 0 | 0 |
| Amory School District | 4 | 2 | 3 |
| Attala County School District | 3 | 0 | 3 |
| Baldwyn School District | 3 | 1 | 1 |
| Bay St. Louis - Waveland School District | 0 | 0 | 0 |
| Benton County School District | 9 | 1 | 0 |
| Biloxi Public School District | Did Not Submit Survey | | |
| Booneville School District | 5 | 1 | 1 |
| Brookhaven School District | 1 | 0 | 0 |
| Calhoun County School District | 5 | 1 | 1 |
| Canton Public School District | 2 | 2 | 1 |
| Carroll County School District | 5 | 0 | 2 |
| Chickasaw County School District | 5 | 1 | 2 |
| Choctaw County School District | 3 | 1 | 1 |
| Claiborne County School District | 3 | 1 | 0 |
| Clarksdale Municipal School District | 4 | 1 | 1 |
| Clay County School District | Incomplete Survey | | |
| Cleveland School District | 4 | 1 | 0 |
| Clinton Public Schools | 2 | 0 | 0 |
| Coahoma County School District | 5 | 0 | 0 |
| Coffeetown School District | 5 | 1 | 1 |
| Columbia School District | 0 | 0 | 0 |
| Columbus Municipal School District | Did Not Submit Survey | | |
| Copiah County School District | 0 | 0 | 0 |
| Corinth School District | 5 | 1 | 2 |
| Covington County School District | 0 | 0 | 0 |
| Desoto County School District | Did Not Submit Survey | | |
| Durant Public School District | 2 | 0 | 1 |
| East Jasper School District | 0 | 0 | 0 |
| East Tallahatchie School District | Did Not Submit Survey | | |
| Enterprise School District | 0 | 0 | 0 |
| Forest Municipal School District | Did Not Submit Survey | | |
| Forrest County AHS School District | Did Not Submit Survey | | |
| Forrest County School District | 0 | 0 | 0 |
| Franklin County School District | 1 | 0 | 0 |
| George County School District | Did Not Submit Survey | | |
| Greene County School District | Did Not Submit Survey | | |
| Greenville Public School District | 5 | 0 | 0 |
| Greenwood Public School District | 4 | 1 | 0 |
| Grenada School District | 4 | 1 | 1 |
| Gulfport School District | 0 | 0 | 0 |
| Hancock County School District | 0 | 0 | 0 |
| Harrison County School District | 0 | 0 | 0 |
| Hattiesburg Public School District | 0 | 0 | 0 |
| Hazlehurst City School District | 1 | 0 | 0 |
| Hinds County School District | 2 | 1 | 1 |

| District Name | # of Days Missed | Early Release | Delayed Start |
|--|-----------------------|---------------|---------------|
| Hollandale School District | 4 | 1 | 1 |
| Holly Springs School District | 7 | 2 | 0 |
| Holmes County School District | 3 | 1 | 0 |
| Houston School District | 4 | 1 | 2 |
| Humphreys County School District | 4 | 1 | 0 |
| Itawamba County School District | 5 | 1 | 1 |
| Jackson County School District | 0 | 0 | 0 |
| Jackson Public Schools | 1 | 0 | 2 |
| Jefferson County School District | 1 | 0 | 0 |
| Jefferson Davis County School District | 0 | 0 | 0 |
| Jones County School District | 0 | 0 | 0 |
| Kemper County School District | 3 | 0 | 0 |
| Kosciusko School District | 1 | 0 | 1 |
| Lafayette County Schools | 5 | 1 | 2 |
| Lamar County School District | 0 | 0 | 0 |
| Laurel School District | 0 | 0 | 0 |
| Lauderdale County School District | 1 | 1 | 1 |
| Lawrence County School District | 1 | 0 | 0 |
| Lee County School District | 5 | 2 | 0 |
| Leflore County School District | 4 | 1 | 0 |
| Leland School District | 4 | 1 | 0 |
| Lincoln County School District | Did Not Submit Survey | | |
| Long Beach School District | 0 | 0 | 0 |
| Louisville Municipal School District | 4 | 0 | 0 |
| Lowndes County School District | 1 | 1 | 0 |
| Lumberton Public School District | Did Not Submit Survey | | |
| Madison County School District | 2 | 0 | 0 |
| Marion County School District | 0 | 0 | 0 |
| Marshall County School District | 8 | 0 | 0 |
| McComb Separate School District | 0 | 0 | 0 |
| Meridian Public School District | Did Not Submit Survey | | |
| Mississippi School for Mathematics and Science | 3 | 0 | 0 |
| Mississippi School for the Blind | 0 | 0 | 0 |
| Mississippi School for the Deaf | 0 | 0 | 0 |
| Mississippi School of the Arts | 1 | 1 | 0 |
| Monroe County School District | 5 | 1 | 1 |
| Montgomery County School District | 4 | 1 | 4 |
| Moss Point School District | 0 | 0 | 0 |
| Natchez-Adams School District | 0 | 1 | 0 |
| Neshoba County School | 2 | 0 | 2 |
| Nettleton School District | 5 | 2 | 2 |
| Newton County School District | 1 | 1 | 1 |
| Newton Municipal School District | 2 | 0 | 1 |
| North Bolivar Consolidated School District | Did Not Submit Survey | | |
| North Panola School District | 9 | 1 | 0 |
| North Pike School District | 0 | 0 | 0 |
| North Tippah School District | 9 | 0 | 0 |
| Noxubee County School District | 4 | 1 | 0 |
| Ocean Springs School District | 0 | 0 | 0 |
| Okolona Separate School District | Did Not Submit Survey | | |

| District Name | # of Days Missed | Early Release | Delayed Start |
|---|-----------------------|---------------|---------------|
| Oktibbeha County School District | 3 | 1 | 0 |
| Oxford School District | 4 | 1 | 3 |
| Pascagoula School District | Did Not Submit Survey | | |
| Pass Christian Public School District | 0 | 0 | 0 |
| Pearl Public School District | 2 | 1 | 1 |
| Pearl River County School District | 0 | 0 | 0 |
| Perry County School District | 0 | 0 | 0 |
| Petal School District | 0 | 0 | 0 |
| Philadelphia Public School District | 2 | 0 | 1 |
| Picayune School District | 0 | 0 | 0 |
| Pontotoc City School District | 5 | 0 | 2 |
| Pontotoc County School District | 5 | 0 | 0 |
| Poplarville School District | 0 | 0 | 0 |
| Prentiss County School District | Incomplete Survey | | |
| Quitman Consolidated School District | 0 | 0 | 1 |
| Quitman County School District | 6 | 2 | 0 |
| Rankin County School District | 2 | 0 | 0 |
| Richton School District | 0 | 0 | 0 |
| Scott County School District | 1 | 1 | 2 |
| Senatobia Municipal School District | 8 | 1 | 0 |
| Simpson County School District | 1 | 1 | 1 |
| Smith County School District | Did Not Submit Survey | | |
| South Delta School District | 5 | 1 | 0 |
| South Panola School District | 8 | 0 | 0 |
| South Pike School District | 0 | 0 | 0 |
| South Tippah School District | 8 | 1 | 1 |
| Starkville School District | 3 | 0 | 0 |
| Stone County School District | 0 | 0 | 0 |
| Sunflower County Consolidated School District | 4 | 1 | 0 |
| Tate County School District | 9 | 1 | 1 |
| Tishomingo County School District | 8 | 1 | 1 |
| Tunica County School District | 7 | 2 | 0 |
| Tupelo Public School District | 3 | 1 | 4 |
| Union County School District | 4 | 2 | 4 |
| Union Public School District | 1 | 1 | 2 |
| Vicksburg Warren School District | 3 | 1 | 0 |
| Walthall County School District | Did Not Submit Survey | | |
| Water Valley School District | 5 | 1 | 1 |
| Webster County Schools | 4 | 1 | 1 |
| West Bolivar Consolidated School District | 4 | 2 | 2 |
| West Jasper School District | 0 | 0 | 0 |
| West Point School District | 4 | 2 | 1 |
| West Tallahatchie School District | 0 | 1 | 2 |
| Western Line School District | Incomplete Survey | | |
| Wilkinson County School District | 1 | 0 | 0 |
| Winona Public School District | 3 | 1 | 1 |
| Yazoo City Municipal School District | 2 | 0 | 1 |
| Yazoo County School District | Did Not Submit Survey | | |

Office of Accreditation Inclement Weather 2014-2015 Survey Results

| District Name | # of Days Missed | Early Release | Delayed Start |
|--|-----------------------|---------------|---------------|
| Aberdeen School District | 3 | 1 | 4 |
| Alcorn School District | 7 | 1 | 2 |
| Amite County School District | 0 | 0 | 0 |
| Amory School District | 4 | 2 | 3 |
| Attala County School District | 3 | 0 | 3 |
| Baldwyn School District | 3 | 1 | 1 |
| Bay St. Louis - Waveland School District | 0 | 0 | 0 |
| Benton County School District | 9 | 1 | 0 |
| Biloxi Public School District | Did Not Submit Survey | | |
| Booneville School District | 5 | 1 | 1 |
| Brookhaven School District | 1 | 0 | 0 |
| Calhoun County School District | 5 | 1 | 1 |
| Canton Public School District | 2 | 2 | 1 |
| Carroll County School District | 5 | 0 | 2 |
| Chickasaw County School District | 5 | 1 | 2 |
| Choctaw County School District | 3 | 1 | 1 |
| Claiborne County School District | 3 | 1 | 0 |
| Clarksdale Municipal School District | 4 | 1 | 1 |
| Clay County School District | Incomplete Survey | | |
| Cleveland School District | 4 | 1 | 0 |
| Clinton Public Schools | 2 | 0 | 0 |
| Coahoma County School District | 5 | 0 | 0 |
| Coffeeville School District | 5 | 1 | 1 |
| Columbia School District | 0 | 0 | 0 |
| Columbus Municipal School District | Did Not Submit Survey | | |
| Copiah County School District | 0 | 0 | 0 |
| Corinth School District | 5 | 1 | 2 |
| Covington County School District | 0 | 0 | 0 |
| Desoto County School District | Did Not Submit Survey | | |
| Durant Public School District | 2 | 0 | 1 |
| East Jasper School District | 0 | 0 | 0 |
| East Tallahatchie School District | Did Not Submit Survey | | |
| Enterprise School District | 0 | 0 | 0 |
| Forest Municipal School District | Did Not Submit Survey | | |
| Forrest County AHS School District | Did Not Submit Survey | | |
| Forrest County School District | 0 | 0 | 0 |
| Franklin County School District | 1 | 0 | 0 |
| George County School District | Did Not Submit Survey | | |
| Greene County School District | Did Not Submit Survey | | |
| Greenville Public School District | 5 | 0 | 0 |
| Greenwood Public School District | 4 | 1 | 0 |
| Grenada School District | 4 | 1 | 1 |
| Gulfport School District | 0 | 0 | 0 |
| Hancock County School District | 0 | 0 | 0 |
| Harrison County School District | 0 | 0 | 0 |
| Hattiesburg Public School District | 0 | 0 | 0 |
| Hazlehurst City School District | 1 | 0 | 0 |
| Hinds County School District | 2 | 1 | 1 |

| District Name | # of Days Missed | Early Release | Delayed Start |
|--|-----------------------|---------------|---------------|
| Hollandale School District | 4 | 1 | 1 |
| Holly Springs School District | 7 | 2 | 0 |
| Holmes County School District | 3 | 1 | 0 |
| Houston School District | 4 | 1 | 2 |
| Humphreys County School District | 4 | 1 | 0 |
| Itawamba County School District | 5 | 1 | 1 |
| Jackson County School District | 0 | 0 | 0 |
| Jackson Public Schools | 1 | 0 | 2 |
| Jefferson County School District | 1 | 0 | 0 |
| Jefferson Davis County School District | 0 | 0 | 0 |
| Jones County School District | 0 | 0 | 0 |
| Kemper County School District | 3 | 0 | 0 |
| Kosciusko School District | 1 | 0 | 1 |
| Lafayette County Schools | 5 | 1 | 2 |
| Lamar County School District | 0 | 0 | 0 |
| Laurel School District | 0 | 0 | 0 |
| Lauderdale County School District | 1 | 1 | 1 |
| Lawrence County School District | 1 | 0 | 0 |
| Lee County School District | 5 | 2 | 0 |
| Leflore County School District | 4 | 1 | 0 |
| Leland School District | 4 | 1 | 0 |
| Lincoln County School District | Did Not Submit Survey | | |
| Long Beach School District | 0 | 0 | 0 |
| Louisville Municipal School District | 4 | 0 | 0 |
| Lowndes County School District | 1 | 1 | 0 |
| Lumberton Public School District | Did Not Submit Survey | | |
| Madison County School District | 2 | 0 | 0 |
| Marion County School District | 0 | 0 | 0 |
| Marshall County School District | 8 | 0 | 0 |
| McComb Separate School District | 0 | 0 | 0 |
| Meridian Public School District | Did Not Submit Survey | | |
| Mississippi School for Mathematics and Science | 3 | 0 | 0 |
| Mississippi School for the Blind | 0 | 0 | 0 |
| Mississippi School for the Deaf | 0 | 0 | 0 |
| Mississippi School of the Arts | 1 | 1 | 0 |
| Monroe County School District | 5 | 1 | 1 |
| Montgomery County School District | 4 | 1 | 4 |
| Moss Point School District | 0 | 0 | 0 |
| Natchez-Adams School District | 0 | 1 | 0 |
| Neshoba County School | 2 | 0 | 2 |
| Nettleton School District | 5 | 2 | 2 |
| Newton County School District | 1 | 1 | 1 |
| Newton Municipal School District | 2 | 0 | 1 |
| North Bolivar Consolidated School District | Did Not Submit Survey | | |
| North Panola School District | 9 | 1 | 0 |
| North Pike School District | 0 | 0 | 0 |
| North Tippah School District | 9 | 0 | 0 |
| Noxubee County School District | 4 | 1 | 0 |
| Ocean Springs School District | 0 | 0 | 0 |
| Okolona Separate School District | Did Not Submit Survey | | |

| District Name | # of Days Missed | Early Release | Delayed Start |
|---|-----------------------|---------------|---------------|
| Oktibbeha County School District | 3 | 1 | 0 |
| Oxford School District | 4 | 1 | 3 |
| Pascagoula School District | Did Not Submit Survey | | |
| Pass Christian Public School District | 0 | 0 | 0 |
| Pearl Public School District | 2 | 1 | 1 |
| Pearl River County School District | 0 | 0 | 0 |
| Perry County School District | 0 | 0 | 0 |
| Petal School District | 0 | 0 | 0 |
| Philadelphia Public School District | 2 | 0 | 1 |
| Picayune School District | 0 | 0 | 0 |
| Pontotoc City School District | 5 | 0 | 2 |
| Pontotoc County School District | 5 | 0 | 0 |
| Poplarville School District | 0 | 0 | 0 |
| Prentiss County School District | Incomplete Survey | | |
| Quitman Consolidated School District | 0 | 0 | 1 |
| Quitman County School District | 6 | 2 | 0 |
| Rankin County School District | 2 | 0 | 0 |
| Richton School District | 0 | 0 | 0 |
| Scott County School District | 1 | 1 | 2 |
| Senatobia Municipal School District | 8 | 1 | 0 |
| Simpson County School District | 1 | 1 | 1 |
| Smith County School District | Did Not Submit Survey | | |
| South Delta School District | 5 | 1 | 0 |
| South Panola School District | 8 | 0 | 0 |
| South Pike School District | 0 | 0 | 0 |
| South Tippah School District | 8 | 1 | 1 |
| Starkville School District | 3 | 0 | 0 |
| Stone County School District | 0 | 0 | 0 |
| Sunflower County Consolidated School District | 4 | 1 | 0 |
| Tate County School District | 9 | 1 | 1 |
| Tishomingo County School District | 8 | 1 | 1 |
| Tunica County School District | 7 | 2 | 0 |
| Tupelo Public School District | 3 | 1 | 4 |
| Union County School District | 4 | 2 | 4 |
| Union Public School District | 1 | 1 | 2 |
| Vicksburg Warren School District | 3 | 1 | 0 |
| Walthall County School District | Did Not Submit Survey | | |
| Water Valley School District | 5 | 1 | 1 |
| Webster County Schools | 4 | 1 | 1 |
| West Bolivar Consolidated School District | 4 | 2 | 2 |
| West Jasper School District | 0 | 0 | 0 |
| West Point School District | 4 | 2 | 1 |
| West Tallahatchie School District | 0 | 1 | 2 |
| Western Line School District | Incomplete Survey | | |
| Wilkinson County School District | 1 | 0 | 0 |
| Winona Public School District | 3 | 1 | 1 |
| Yazoo City Municipal School District | 2 | 0 | 1 |
| Yazoo County School District | Did Not Submit Survey | | |

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

March 18, 2015

Dr. Carey Wright
State Superintendent of Education
Mississippi Department of Education
359 N. West Street
Post Office Box 771
Jackson, MS 39205-0771

Re: Request for Attorney General's Opinion on MCA § 37-13-63 and §37-13-64

Dear Superintendent Wright:

Attorney General Jim Hood has received your request for an official opinion and has assigned it to the undersigned for research and response.

Issues Presented

Your letter seeks the opinion of this office on the requirements for public school districts to receive "extreme weather" exemptions from the minimum school sessions of one hundred eighty (180) days mandated by MCA § 37-13-63 (1).

There are two statutory provisions that address exemptions from MCA § 37-13-63 (1). The relevant portion of MCA § 37-13-63 (2) provides:

If the school board of any school district shall determine that it is not economically feasible or practicable to operate any school within the district for the full one hundred eighty (180) days required for a scholastic year as contemplated due to an enemy attack, a man-made, technological or natural disaster or ***extreme weather emergency in which the Governor has declared a disaster or state of emergency*** under the laws of this state or the President of the United States has declared an emergency or major disaster to exist in this state, the school board may notify the State Department of Education of the disaster or weather

emergency and submit a plan for altering the school term. ***If the State Board of Education finds the disaster or extreme weather emergency to be the cause of the school not operating for the contemplated school term and that such school was in a school district covered by the Governor's or President's disaster or state of emergency declaration, it may permit that school board to operate the schools in its district for less than one hundred eighty (180) days;*** however, in no instance of a declared disaster or state of emergency under the provisions of this subsection shall a school board receive payment from the State Department of Education for per pupil expenditure for pupils in average daily attendance in excess of ten (10) days.

(Emphasis added). Mississippi Code Ann. § 37-13-64 provides:

(1) Beginning with the 2010-2011 school term, any school district required to close the operation of its schools ***by decision of the superintendent, under the authority provided by the local school board, due to extreme weather conditions,*** in the best interests of the health and safety of the students, administration and staff of the school district, ***shall be exempt from the requirement that schools be kept in session a minimum of one hundred eighty (180) days.*** Any school district that closes its schools for reasons authorized under this section shall receive payment from the State Department of Education for per pupil expenditure for pupils in average daily attendance not to exceed ten (10) days.

(2) In the event weather conditions are cause for the closure of operations of schools in any local school district in any instance in which a state of emergency has **not** been declared pursuant to Section 37-151-7(3)(c), the State Board of Education may consider, on a case-by-case basis, requests submitted by local school districts to alter the school calendar consistent with the provision of that section.

As to "extreme weather" events, you specifically pose the following questions:

1. Does MCA § 37-13-63 (2) require the Governor to have declared an extreme weather emergency as a prerequisite to a school district receiving consideration for an exemption from the required minimum school session of one hundred eighty (180) days from the State Board of Education (SBE) following an extreme weather event?
2. Considering the provisions of MCA § 37-13-63 (2) and assuming the Governor has made an extreme weather emergency declaration, is the SBE required to approve a request for an exemption from the minimum

- required school session made by a school district within the area included in the Governor's declaration?
3. Considering MCA § 37-13-64 and assuming the Governor has made an extreme weather declaration, do school districts within the area included in the Governor's declaration have to notify the Mississippi Department of Education (MDE) and/or seek the approval of the SBE to be exempt from the minimum required school session in MCA § 37-13-63 (1)?
 4. Considering MCA § 37-13-64 and assuming the Governor has not made an extreme weather declaration, may school districts declare "extreme weather conditions" and automatically exempt themselves from the minimum required school session in MCA § 37-13-63 (1) or are they required to first obtain the approval of the SBE?
 5. Considering MCA § 37-13-64, is a school board required to have given pre-authorization to the school superintendent in advance of any extreme weather to declare an extreme weather condition?
 6. Considering question number 5, if a school board has not specifically empowered the school superintendent to declare a weather emergency prior to the actual weather event, may the school district retroactively grant the authority and exempt itself from the minimum required school session in MCA § 37-13-63 (1)?
 7. If a school district is exempted from the minimum required school session in MCA § 37-13-63 (1), under what authority may teachers in the affected school districts be compensated for days that they did not report for duty?

Response and Analysis

The rules of statutory construction dictate that the interpretation of a statute by the agency charged with enforcing it is entitled to deference by the courts unless that interpretation is repugnant to the plain meaning of the statute. *Ricks v. Mississippi State Department of Health*, 719 So.2d 173, 179 (Miss. 1998). The rules of construction further provide that when two statutes encompass the same subject matter, one being general and the other specific, the latter will control, *McCrary v. State*, 210 So.2d 877, 977-88 (Miss. 1968), citing 1 Sutherland, *Statutory Construction* Section 2022 (3rd ed. 1943), one caveat being that statutes on the same subject, although in apparent conflict, should, if possible be construed in harmony with each other, to give effect to each. *Lamar County School Board v. Saul*, 359 So.2d 350, 353 (Miss. 1978). Where the words or provisions of a statute differ from those of a previous statute on the same subject, they are presumably intended to have a different construction or meaning, and to denote an intention to change the law. *Stidham v. State*, 750 So.2d 1238 (Miss. 1999). In construing and interpreting these statutes in order to resolve the conflict, the words in the statutes should be given their plain, usual and ordinary meaning, and the object is to determine the legislative intent. *Mississippi State Tax Commission v. Columbia Gulf Transmission Co.*, 161 So.2d 173 (Miss. 1964). In determining legislative intent, whatever the legislature says in the text of the statute is considered the best

evidence of the legislative intent. *Mississippi Gaming Commission v. Imperial Palace of Mississippi, Inc.* 751 So.2d 1025 (Miss. 1999).

With these rules of statutory construction in mind, the response to each of your questions is as follows:

1. Does MCA § 37-13-63 (2) require the Governor to have declared an extreme weather emergency as a prerequisite to a school district receiving consideration for an exemption from the required minimum school session of one hundred eighty (180) days from the SBE following an extreme weather event?

Response: Yes.

2. Considering the provisions of MCA § 37-13-63 (2) and assuming the Governor has made an extreme weather emergency declaration, is the SBE required to approve a request for an exemption from the minimum required school session made by a school district within the area included in the Governor's declaration?

Response: No. Mississippi Code Ann. § 37-13-63 (2) requires the SBE to make an analysis to determine if an extreme weather event "caused" the school district to not operate for the contemplated school term and that the school district was within the area of the Governor's state of emergency declaration. The conclusion following the analysis is within the statutory discretion of the SBE.

3. Considering MCA § 37-13-64 and assuming the Governor has made an extreme weather declaration, do school districts within the area included in the Governor's declaration have to notify the MDE and/or seek the approval of the SBE to be exempt from the minimum required school session in MCA § 37-13-63 (1)?

Response: Strictly reviewing MCA § 37-13-64, the answer is "No." Mississippi Code Ann. § 37-13-64 does not contemplate or require any notice to the SBE by school districts affected by an extreme weather event and within the Governor's extreme weather declaration to receive an exemption from the minimum required school session in MCA § 37-13-63 (1). However, there may be other reasons why a school district may need or may be required to notify the SBE of the reduced minimum school session that are beyond the scope of the present inquiry.

4. Considering MCA § 37-13-64 and assuming the Governor has not made an extreme weather declaration, may school districts declare "extreme weather conditions" and automatically exempt themselves from the minimum required school session in MCA § 37-13-63 (1) or are they required to first obtain the approval of the SBE?

Response: Strictly reviewing MCA § 37-13-64, the answer is "No," school districts are not required to first obtain the approval of the SBE to be exempt from the minimum required school session in MCA § 37-13-63 (1). Mississippi Code Ann. § 37-13-64 (1) does not contemplate nor require a weather emergency declaration from the Governor. Rather, MCA. § 37-13-64 (1) authorizes the superintendents of school districts that have received authority from their "local school board" to declare the closure of school due to "extreme weather conditions." While no "approval of the SBE" is required, there may be other reasons why a school district may need or may be required to notify the SBE of the reduced minimum school session that are beyond the scope of the present inquiry.

5. Considering MCA § 37-13-64, is a school board required to have given pre-authorization to the school superintendent in advance of any extreme weather to declare an extreme weather condition?

Response: Yes. Mississippi Code Ann. § 37-13-64 (1) only authorizes superintendents who have received authorization from their local school board to close schools due to "extreme weather conditions." This would necessitate pre-authorization.

6. Considering question number 5, if a school board has not specifically empowered the school superintendent to declare a weather emergency prior to the actual weather event, may the school district retroactively grant the authority and exempt itself from the minimum required school session in MCA § 37-13-63 (1)?

Response: No. Mississippi Code Ann. § 37-13-64 (1) requires local school boards to pre-authorize superintendents to close schools due to "extreme weather conditions."

7. If a school district is exempted from the minimum required school session in MCA § 37-13-63 (1), under what authority may teachers in the affected school districts be compensated for days that they did not report for duty?

Response: The Mississippi Attorney General's Office has previously opined that MCA § 37-7-307 authorizes local school boards to enact policies on administrative leave, including leave with pay. MS AG Op., Smith (November 15, 2002); MS AG Op., Carnathan (April 10, 1991). The authority includes the ability to provide for leave with pay following an "extreme weather" emergency.

Dr. Carey Wright
March 18, 2015
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I hope that the above information is responsive to your question. If this office can provide any further assistance, please do not hesitate to contact us.

Sincerely,

Jim Hood
Attorney General



By: Liz Bolin
Special Assistant Attorney General