

OFFICE OF CHIEF ACCOUNTABILITY OFFICER
Summary of State Board of Education Agenda Items
February 15, 2018

OFFICE OF ACCREDITATION

07. Information: Results of Inclement Weather Survey for 2017-2018 School Year in accordance with Process Standard 13 (requirement of 180 teaching days) of the Mississippi Public Schools Accountability Standards, 2017 and Miss. Code Ann. §§ 37-13-63 (2) and 37-13-64 [Goals 1, 2, 3, 4, and 6 – MBE Strategic Plan]

Background Information: Process Standard 13 of the *Mississippi Public Schools Accountability Standards, 2017* allows schools to request approval from the State Board of Education to operate the schools in its district for less than one hundred eighty (180) days if the Governor has declared an emergency or major disaster. On January 12, 2018, Governor Bryant declared a state of emergency for all school districts for severe weather conditions statewide beginning January 15, 2018.

Mississippi Code Ann. § 37-13-64 provides that local districts are exempt from the 180 day requirement, if they have a local board policy allowing the superintendent to close operation of its schools due to extreme weather conditions. It is within the discretion of these districts to make-up the missed school days.

However, in the absence of a local board policy, Miss. Code Ann. § 37-13-63 applies. This provision grants discretion to the State Board of Education on any school board's request to alter the school term following a disaster or weather emergency. A 2015 Attorney General's opinion explains that the State Board of Education is not 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. The opinion states, "Mississippi Code Ann. § 37-13-63 (2) requires the State Board of Education to make an analysis to determine if an extreme weather event 'caused' the 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."

In an effort to present the most comprehensive information to the State Board of Education, the Office of Accreditation requested all districts respond to a survey indicating the amount of instructional time missed due to inclement weather during the 2017-2018 school year.

- One hundred thirty-three (133) districts responded to the survey (as of February 12, 2018).
- One hundred thirty-three (133) of the districts that responded indicated that they were affected by inclement weather.
- Eleven (11) districts have not responded to the survey (as of February 12, 2018).

- One hundred twenty-eight (128) districts provided a copy of their policy granting the superintendent the authority to close schools due to inclement weather. (MS Code Ann. § 37-13-64)
- Four (4) districts indicated that they do not have a local board policy allowing the superintendent to close operation of its schools due to extreme weather conditions (Mississippi Code Ann. § 37-13-63 (2)).
- One (1) district indicated that they do have a policy but did not provide evidence of a policy allowing the superintendent to close operation of its schools due to extreme weather conditions (Mississippi Code Ann. § 37-13-64).

The results of the survey indicate which districts have a local board policy allowing the superintendent to close operation of its schools due to extreme weather conditions. It is within the discretion of these districts to make-up the missed school days (Mississippi Code Ann. § 37-13-64).

Additionally, this reports lists (by district) the number of early release days, delayed start days, days missed, and number of days the district plans to make up (if any).

This item references Goals 1, 2, 3, 4, and 6 of *Mississippi Board of Education 2016-2020 Strategic Plan*.

Back-up material attached

Inclement Weather 2017-2018 Survey Results
(Miss. Code Ann. § 37-13-64)

DISTRICT	Meets the requirements of MS Code Ann. § 37-13-64	# of Days Missed	# of Early Release Days	# of Delayed Start Days	# of days being made up as approved by the local school board	# of days being waived by the local school board (under the authority of MS Code Ann. § 37-13-64)
Aberdeen School District	Y	2	1	1		
Alcorn School District	Y	5			2	
Amite County School District	Y	3				
Amory School District	Y	4			2	
Attala County Schools	Y	3		1		
Baldwyn Public School	Y	4	1	1		
Bay St. Louis -Waveland School District	Y	2				
Benton County Schools	Y	5				
Biloxi Public School District	Y	1		1		
Booneville School District	Y	4			1	
Brookhaven School District	Y	4				
Calhoun County School District	Y	5			2	3
Canton Public School District	Y	3			2	
Carroll County School District	Y	4		1		
Choctaw County School District	Y	4		1		
Claiborne County School District	Y	7				
Clarksdale Municipal School District	Y	6		1		
Cleveland School District	Y	3		1		
Clinton Public School District	Y	3		3	1	
Coffeetown School District	Y	6				
Columbia School District	Y	2	1			
Copiah County School District	Y	3				
Corinth School District	Y	3				
Covington County School District	Y	2	1	1		
DeSoto County School District	Y	5				
Durant Public School District	Y	2				
East Jasper School District	Y	4	1			
East Tallahatchie School District	Y	5				
Enterprise School District	Y	2	1			
Forest Municipal School District	Y	1	1			
Forrest County AHS	Y	3	1			
Forrest County Schools	Y	3	1			
Franklin County School District	Y	3		1		
George County School District	Y	2	2			
Greene County School District	Y	4	1			
Greenville Public School District	Y	3			1	
Grenada School District	Y	4		1		
Gulfport School District	Y	1		1		
Hancock County School District	Y	3				
Harrison County School District	Y	2	1			
Hattiesburg Public School District	Y	3	1			
Hinds County School District	Y	3				
Hollandale School District	Y	5				
Holly Springs School District	Y	5				
Holmes County School District	Y	2		1		
Houston School District	Y	3	1	1		
Humphreys County School District	Y	1		1		
Itawamba County School District	Y	5				
Jackson Public School District	Y	6	1			
Jefferson County School	Y	8				

Inclement Weather 2017-2018 Survey Results
(Miss. Code Ann. § 37-13-64)

DISTRICT	Meets the requirements of MS Code Ann. § 37-13-64	# of Days Missed	# of Early Release Days	# of Delayed Start Days	# of days being made up as approved by the local school board	# of days being waived by the local school board (under the authority of MS Code Ann. § 37-13-64)
Jefferson Davis County School	Y	4	1	1		
Jones County School District	Y	3	1		1	
Kemper County School District	Y	3				
Kosciusko School District	Y	3		1		
Lafayette County Schools	Y	4				
Lamar County School District	Y	3	1			
Lauderdale County Schools	Y	3				
Laurel School District	Y	2	1			
Lawrence County School District	Y	4				
Leake County School District	Y	2			2	
Lee County Schools	Y	4				
Leflore County School District	Y	3				
Leland School District	Y	4				
Lincoln County School District	Y	4				
Long Beach School District	Y	2				
Louisville Municipal School District	Y	2		1		
Lowndes County School District	Y	2				
Lumberton School District	Y	3	1			
Madison County School District	Y	2		2	2	
Marion County School District	Y	3	1			
Marshall County School District	Y	5				
Meridian Public School	Y	3				
Monroe County School District	Y	4	1	1	2	
Montgomery County School District	Y	4	1		3	1
Moss Point School District	Y	2			2	
Natchez-Adams School District	Y	4		1		
Neshoba County School District	Y	2				
Nettleton School District	Y	5	1			
New Albany School District	Y	4		1		
Newton County School District	Y	2	1			
Newton Municipal School District	Y	1	1			
North Panola School District	Y	5				
North Pike School District	Y	4				
North Tippah School District	Y	5				
Noxubee County School District	Y	6	1			
Ocean Springs School District	Y	2			2	
Oxford Public School District	Y	4		1		
Pass Christian School District	Y	2	1			
Pearl Public School District	Y	3				
Pearl River County School District	Y	3	1			
Perry County Schools	Y	3	1			
Petal School District	Y	3	1			
Philadelphia Public School District	Y	2				
Picayune School District	Y	2	1			
Pontotoc City Schools	Y	4		1		
Pontotoc County Schools	Y	5		1		
Poplarville School District	Y	3	1			
Prentiss County School District	Y	5				
Quitman School District	Y	2	1	1		
Quitman County School District	Y	4		1		
Rankin County School District	Y	3		1	1	

Inclement Weather 2017-2018 Survey Results
(Miss. Code Ann. § 37-13-64)

DISTRICT	Meets the requirements of MS Code Ann. § 37-13-64	# of Days Missed	# of Early Release Days	# of Delayed Start Days	# of days being made up as approved by the local school board	# of days being waived by the local school board (under the authority of MS Code Ann. § 37-13-64)
Scott County School	Y	1	1			
Senatobia School District	Y	5				
Smith County School District	Y	4				
South Delta School	Y	2				
South Panola School District	Y	5				
South Pike School District	Y	3				
South Tippah School District	Y	2				
Starkville Oktibbeha Consolidated School District	Y	2		1		
Stone County School District	Y	2	2			
Tate County Schools	Y	3				
Tishomingo County Schools	Y	5	2			
Tunica County Schools	Y	4			N/A	N/A
Tupelo Public School District	Y	1				
Union County School District	Y	5				
Union Public School District	Y	2	1			
Vicksburg-Warren School District	Y	3	1			
Walthall County School District	Y	4				
Wayne County School District	Y	3	1			
Webster County School District	Y	4		1		
West Jasper School District	Y	5				
West Point School District	Y	2				
West Tallahatchie School District	Y	3				
Western Line School District	Y	5			2	
Wilkinson County School District	Y	6				
Winona School District	Y	4			1	
Yazoo City Municipal School District	Y	2	2	2		
Yazoo County School District	Y	2				

NOTE: Data is based on survey responses received from districts.

Inclement Weather 2017-2018 Survey Results
Districts with No Evidence of Policy Under MS Code Ann. § 37-13-64

DISTRICT	Meets the requirements of MS Code Ann. § 37-13-64	# of Days Missed	# of Early Release Days	# of Delayed Start Days	# of days being made up as approved by the local school board	# of days being requested for exemption
Hazlehurst City School District	N	3			3	0
Jackson County School District*	N	2	1			
McComb School District	N	2	6	6	2	0
Richton Public Schools	N	3			3	0
Water Valley School District	N	4	1		4	0

NOTE: Data is based on survey responses received from districts.

As of February 12, 2018 there were no districts requesting a waiver from the State Board of Education.

*District's survey response indicated they have a policy, but the District failed to provide evidence of a policy to the Office of Accreditation.

Inclement Weather 2017-2018 Survey Results

Districts Not Responding to Survey

DISTRICT	Survey Received?
Chickasaw County School District	N
Coahoma Agricultural High School	N
Coahoma County School District	N
Columbus Municipal School District	N
Greenwood Public Schools	N
North Bolivar Consolidated School District	N
Okolona School District	N
Pascagoula School District	N
Simpson County School District	N
Sunflower County Consolidated School District	N
West Bolivar Consolidated School District	N

NOTE: Data is based on survey responses received from districts.
As of February 12, 2018, eleven (11) Districts have not responded to the survey.
The deadline to submit surveys was February 2, 2018.

Document: Miss. Code Ann. § 37-13-63

Miss. Code Ann. § 37-13-63

Copy Citation

Current through the 2017 Regular and 1st Extraordinary Sessions

**Mississippi Code of 1972 Annotated TITLE 37. EDUCATION CHAPTER 13. CURRICULUM;
SCHOOL YEAR AND ATTENDANCE SCHOOL YEAR AND ATTENDANCE**

§ 37-13-63. Minimum length of school term

(1) Except as otherwise provided, all public schools in the state shall be kept in session for at least one hundred eighty (180) days in each scholastic year.

(2) 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. SOURCES: Codes, 1942, §§ 6274-10, 6411-12; Laws, 1953, Ex Sess, ch. 16, § 10; ch. 23, § 12; Laws, 1986, ch. 492, § 86; Laws, 1992, ch. 524, § 7; Laws, 2003, ch. 544, § 1; Laws, 2011, ch. 313, § 2, eff from and after passage (approved Feb. 24, 2011.)

Document: Miss. Code Ann. § 37-13-64

Miss. Code Ann. § 37-13-64

Copy Citation

Current through the 2017 Regular and 1st Extraordinary Sessions

**Mississippi Code of 1972 Annotated TITLE 37. EDUCATION CHAPTER 13. CURRICULUM;
SCHOOL YEAR AND ATTENDANCE SCHOOL YEAR AND ATTENDANCE**

§ 37-13-64. Exemption from minimum school term length requirement for certain schools under certain circumstances

(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. SOURCES: Laws, 2011, ch. 313, § 1, eff from and after passage (approved Feb. 24, 2011.)

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

A handwritten signature in cursive script, appearing to read "Liz Bolin".

By: Liz Bolin
Special Assistant Attorney General

OFFICIAL OPINION

**Mississippi Department of Education
Mississippi School Boards Association**

**Joint Advisory Memorandum Regarding
School Closings**

To: School Board Members and School Board Attorneys

Date: March 27, 2015

MSBA and the MDE have received numerous inquiries concerning issues created regarding school closings due to extreme weather. The purpose of this correspondence is to assist school boards and superintendents in clarifying what is legally permissible concerning the school closings.

The two issues created by the school closings are:

1. Can the days missed by students be excused? *(Yes, with proper policies in place.)*
2. Can school districts pay personnel for the days missed due to the school closings? *(Not without proper policies in place as explained under **Issue 2** below)*

Issue 1: Missed days by students

School boards have the authority to determine, through policy, whether or not the days students missed due to extreme weather shall be made up (Code Sections 37-13-63 and 37-13-64; AG Opinion dated March 18, 2015(attached).

In light of the Literacy Based Promotion Act and the administration of the third grade summative assessment, it is strongly recommended that consideration be given to utilizing time that needs to be made up by providing additional instructional time.

Issue 2: Paying school personnel for days not worked

If a school district is exempted from the minimum required school days in Code Section 37-13-63(1), under what authority may school employees in the affected school districts be compensated for days that they did not report for duty? An AG Opinion states: *Code Section 37-7-307 authorizes local school boards to enact policies on administrative leave, including leave with pay. The authority includes the ability to provide for leave with pay following an "extreme weather" emergency.* (MS AG Opinions Smith, November 15, 2002 (attached); Carnathan, April 10, 1991(attached).

However, a 2006 AG opinion (MS AG Opinions Cowgill, May 19, 2006 (attached) specifies that a policy regarding leave for specific reasons such as inclement weather would have to

be in place prior to the event taking place. *The granting of leave or additional compensation to employees absent a policy providing for such has been determined to be in violation of Section 96 the Mississippi Constitution of 1890. Section 96 prohibits payment of any salary or benefits to employees in excess of the established salary. Granting of additional leave without a duly enacted policy would also constitute a violation of Section 66 of the MS Constitution of 1890, which prohibits donations which are not specifically authorized by law. This means that a district cannot enact a policy and apply it retroactively.* If your district does not have an existing policy, you can adopt a policy to cover these events in the future but it cannot retroactively cover any past events.

If it is determined that a public entity paid employees for time they did not work without proper leave being granted, then the governing body of the public entity may become personally liable for any unauthorized payments. This means that if a local school district pays its employees for days missed due to inclement weather, and the district does not have a proper leave policy in place to do so, the board members could be required to personally repay the amount paid to employees for time not worked. It is strongly suggested that all school districts review their administrative leave policies and consult with their board attorneys to insure that they have the proper authorization to pay district employees for any missed days of work due to inclement weather. We are asking for an AG opinion on whether school districts can use their existing personal leave policy and increase the number of personal leave days to retroactively cover the days missed.

School boards and superintendents are advised to work closely with their school attorney to ensure proper policies are in place allowing any action.

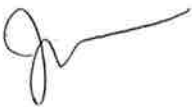
Dr. Carey Wright
State Superintendent of Education
Mississippi Department of Education

Dr. Mike Waldrop
Executive Director
Mississippi School Boards Association



Date: January 30, 2018

TO: Superintendents

From: Jo Ann Malone, Ed.D.
Office of Accreditation 

Re: 2017-2018 - School Closure Survey

Cc: Paula A. Vanderford, Ph.D.
Carey M. Wright, Ed.D.
Erin Meyer, Special Assistant Attorney General

Attached is a survey regarding school closures, delayed start, and early release days for the 2017-2018 school year (to date). We need every district to please complete this survey and submit it, along with a copy of your district's inclement weather and make-up day policies to Ken Stamps at KStamps@mdek12.org or 601-359-1979 (fax) no later than 4:30 p.m., Friday, February 2, 2018. The MDE needs this information even if your district has not had any school closures, delayed starts, or early release days this year. We will compile the information for review by the State Board of Education during their upcoming meeting currently scheduled for **Thursday, February 15, 2018**.

Also attached is a copy of the Attorney General's opinion (March, 2015) that MDE provided earlier this month along with the joint guidance that was communicated in 2015 by the MS School Boards Association and the MS Department of Education. The MDE encourages you to have your local school board attorney review your policies pertaining to the authority given to the superintendent by the school board to close schools due to extreme weather conditions, state statutes (Miss. Code Ann. §§ 37-13-63 and 37-13-64), and the AG's opinion before submitting your survey response. Please try to ensure that the survey is complete and accurate before you submit it and that only one copy/version is submitted.

Note: Even if you have already sent a copy of your policy to someone at the MDE, we ask that you send another copy directly to Ken Stamps.

Thank you.

**OFFICE OF ACCREDITATION
DATA COLLECTION FORM
DAYS MISSED FOR 2017-2018**

Date: _____

District Name: _____

District Code: _____

Address: _____

Superintendent: _____ Phone: _____

Superintendent's Email: _____ Fax: _____

1. To-date, for school year 2017-2018, did any school in your district release early, delay its start, or miss any full days of school?

No (Proceed to question 6)

Yes (Proceed to question 2)

2. To-date, for school year 2017-2018 did your district/school have any early release days due to unexpected circumstances?

No (Proceed to question 3)

Yes If "Yes", list the dates for early release, the dismissal time for each day, and the reason(s) for the early release.

NAME OF SCHOOL(S) (if not District-Wide)	EARLY RELEASE DATE	EARLY RELEASE TIME	REASON FOR EARLY RELEASE

3. To-date, for school year 2017-2018 did your district/school have any delayed start school days due to unexpected circumstances?

No (Proceed to question 4)

Yes If “Yes”, list the dates for delayed start, beginning and ending times for those days, and reason(s) for delayed start.

NAME OF SCHOOL(S) (if not District-Wide)	DELAY START DATE	BEGINNING TIME	ENDING TIME	REASON FOR DELAYED START

4. Did your district/school miss any full days of school due to unexpected circumstances?

No (Proceed to question 5)

Yes If “Yes”, list the dates your district/school missed full days and the reason(s) why?

NAME OF SCHOOL(S) (if not District-Wide)	DATES OF FULL DAYS MISSED	REASON

5. If any school(s) in your district closed because of inclement weather, was a State of Emergency declared for the area in which the school(s) are located?

No (Proceed to question 5)

Yes If “Yes”, list the dates applicable.

NAME OF SCHOOL(S) (if not District-Wide)	DATES

6. Does your district comply with the requirements of MS Code Ann. § 37-13-64? (*Superintendent has been empowered by the school board to close schools due to extreme weather conditions as documented in school board policy.*)

No (Proceed to question 7)

Yes If “Yes”, STOP. Do not answer the remaining questions.

The following questions should be answered ONLY if your district does NOT comply with the requirements of MS Code Ann. § 37-13-64? (*Superintendent has been empowered by the school board to close schools due to extreme weather conditions as documented in school board policy.*)

7. What is the number of contractual days for teachers in your district’s original calendar? _____
8. What is the number of student days in your district’s original calendar? _____
9. What is the number of *inclement weather* days built into your district’s original calendar? _____
10. What is the number of days to be made-up by your district? _____

11. Has the local school board approved a schedule/plan (revised calendar) for make-up days?
No (Proceed to question 12)
Yes If “Yes”, please describe the District’s plan for making up days.

The District’s plans to make up the delayed start, early release and/or full days missed due to inclement weather during 2017-2018 school year

12. If the District believes it is not economically feasible or practical to make up any early release, delayed start, or full days missed due to inclement weather during school year 2017-2018, briefly state the rational for your position. An explanation is required by the State Board of Education before any requests may be considered for districts/schools to operate for less than one hundred eighty (180) days.

Reason(s) why the District believes it is not economically feasible or practical to make up any early release, delayed start, or full days missed due to inclement weather during 2017-2018 school year

Please email a copy of this form along with a copy of your district's inclement weather closure policies to KStamps@mdek12.org or fax it to 601-359-1979 no later than **Friday, February 2, 2018.**